



CDPP

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Your Reference: -

Our Reference: -

5 March 2021

The Proper Officer
NSW Law Reform Commission
By email: nsw-lrc@justice.nsw.gov.au

Dear Sir/Madam

Re: NSW Law Reform Commission – Consultation Paper – Open Justice

Thank you for the opportunity to provide a submission to the NSW Law Reform Commission in relation to the consultation paper concerning the review of Open Justice – Court and tribunal information: access, disclosure and publication.

This Office makes the following comments for your consideration:

1. In relation to Question 3.1 of the Law Reform Consultation Paper (LRC Paper), whilst this Office agrees it may be appropriate to have automatic statutory prohibitions for certain categories of victims, it notes that there may be victims (e.g. in investor fraud or terrorism matters) where the same sensitivities do not apply, and a prohibition on publishing or disclosing certain information will not always be automatically required.
2. Question 4.2 of the LRC Paper asks, '*Are the current provisions that identify the types of information that may be the subject of a suppression or non-publication order, adequate? Why or why not?*' and '*What changes, if any, should be made to these provisions?*'

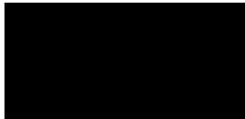
Under section 7 of the *Court Suppression and Non-Publication Orders Act* (CSNOP Act), although a court may make a non-publication/suppression order about a person's identity or evidence, the definition of evidence is limited to 'evidence or information about evidence given in proceedings before the court'. As a result, there have been circumstances where it was difficult for the Prosecution to obtain a non-publication order in relation to evidence that *will* be served as part of the brief of evidence, but it has not yet been given in proceedings before the court. It is therefore requested that the Law Reform Commission consider amending s7(b) to include information that comprises evidence that may be given in proceedings before the court.

3. In relation to Question 4.13 of the LRC Paper, given the difficulties this Office has observed practitioners sometimes have in framing suppression and non-publication orders, and the

different requirements for each of them, this Office supports the Regulations providing a separate standard form for a suppression order and a separate standard form for a non-publication order.

If you have any queries in relation to the above or require any further information, please do not hesitate to contact [REDACTED] on [REDACTED].

Yours sincerely,

A large black rectangular redaction box covering the signature of the sender.

Berdj Tchakerian

Deputy Director