



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: DHLb1562635

13 July 2018

Mr Stephen Bray
Acting Director, Civil Law
Justice Strategy and Policy
Department of Justice
Level 3, 20 Lee Street
SYDNEY NSW 2000

By email: phillip.wardle@justice.nsw.gov.au

Dear Mr Bray,

NSW Law Reform Commission – Liability of beneficiaries of trusts

The Law Society of NSW appreciates the opportunity to comment on the report of the NSW Law Reform Commission (“LRC”) on laws relating to the beneficiaries of trusts (“LRC Report”). The Law Society’s Business Law Committee contributed to this submission.

Liability of beneficiaries

We support Recommendation 2.1 for the reasons set out in the LRC Report. This is consistent with the position adopted in our earlier submission to the LRC in response to its consultation paper on this topic.¹

Oppression remedy

Our earlier submission supported the introduction of oppression remedies for beneficiaries of all trading trusts by amendment of the *Trustee Act 1925* (NSW) as recommended by the Victorian Law Reform Commission.²

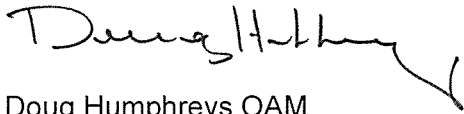
However, we note the arguments set out in the LRC Report in relation to the issue, primarily that existing relief available to beneficiaries is adequate and appropriate. On this basis, we also support Recommendation 3.1, that oppression remedies available to shareholders under company law should not be extended to beneficiaries of trading or other trusts under the law of trusts.

¹ Law Society of NSW “Review of laws relating to beneficiaries of trusts”, 2 February 2018 available at: <https://www.lawsociety.com.au/sites/default/files/2018-03/1437592.pdf>.

² Victorian Law Reform Commission, *Trading Trusts-Oppression Remedies*, January 2015.

Once again, we thank you for the opportunity to comment on the report. If you have any questions in relation to this submission, please contact Liza Booth, Principal Policy Lawyer, on 02 9926 0202 or liza.booth@lawsociety.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Doug Humphreys". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

Doug Humphreys OAM
President