



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our Ref: RBG592644

16 April 2012

Ms Penny Musgrave  
Director  
Criminal Law Review  
NSW Department of Attorney General and Justice  
GPO Box 6  
Sydney NSW 2001

Dear Ms Musgrave,

**Statutory review of the Crimes (Appeal and Review) Amendment (DNA Review Panel) Act 2006**

The Law Society's Criminal Law Committee (Committee) welcomes the opportunity to make a submission to the review of Division 6 of Part 7 of the *Crimes (Appeal and Review) Act 2001*. The Division established the DNA Review Panel (Panel) to provide a targeted mechanism for convicted persons to have aspects of their conviction reinvestigated on the basis that justice may require that older cases be subjected to fresh scrutiny.<sup>1</sup>

Section 97(1) provides that the Panel will be abolished after the seventh anniversary of its establishment (23 February 2014) or at a later date (not later than the tenth anniversary of establishment) proclaimed before the seventh anniversary.

The Committee supports the continuation of the Panel and submits that the category of 'eligible convicted person' should be widened.

Under section 89 a convicted person is only eligible to apply to the Panel if he or she was convicted of a relevant offence prior to 19 September 2006 and the person's claim of innocence may be affected by DNA information specified in the application. A 'relevant offence' is an offence punishable by imprisonment for life or for 20 years or more, or punishable by imprisonment in respect of which the Panel considers that there are special circumstances which warrant the application.

The Committee supports the Panel's recommendation that section 89(3) of the Act be amended so as to remove the condition that convicted persons are only eligible to make an application if they were convicted before 19 September 2006.<sup>2</sup> The Panel considers it unlikely that this would lead to many more applications and the work of the Panel would be enhanced if it could deal with cases more recently decided.<sup>3</sup>

<sup>1</sup> Second Reading Speech of the Hon Morris Iemma, Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill, 19 September 2006 NSW Legislative Assembly, Hansard.

<sup>2</sup> DNA Review Panel Annual Report 2009-2010, p4.

<sup>3</sup> Ibid.

After five years of operation any fears of a flood gate being opened should now be alleviated, and the praiseworthy campaign to correct miscarriages of justice can continue without dire economic consequences.

I trust these comments are of assistance.

Yours sincerely,



Justin Dowd  
**President**