Ms Elizabeth Lee MLA

Chair

Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)

Legislative Assembly

GPO Box 1020

CANBERRA ACT 2601

Dear Ms Lee

I write about comments made by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (Committee) in its *Scrutiny Report 18* published on 29 May 2018, in relation to Disallowable Instrument DI2018-53 (the instrument), being the  
*Domestic Violence Agencies (Council) Appointment 2018 (No 1)* made under section 6 of the  
*Domestic Violence Agencies Act 1986* (the Act).

The instrument appoints a specified person as a community member of the Domestic Violence Prevention Council (the Council). The appointment is made under section 6 of the Act.

I note the Committee’s concerns that the explanatory statement for the instrument does not meet the technical or stylistic standards expected by the Committee, contrary to principle (2) of the Committee’s terms of reference. The explanatory statement for the instrument states that, in accordance with section 6 (3) of the Act, the instrument *states the capacity in which the specified person is appointed*. The Committee is concerned that:

“*the instrument merely states that the specified person is appointed as a “community member” [and] ... does not indicate that the Minister considers that the person is familiar with the views and interests of the community on matters related to family violence and is capable of representing those views and interests for subsection 6(3).”* (p.16 Scrutiny Report 18).

In response, the instrument does not include any further statement about the capacity in which the person is appointed (i.e. as described under section 6 (2) (a) (i) – (iii) of the Act) because the specified person is appointed only as a community member and not, for example, a community member who is “capable of representing the views and interests of people of Aboriginal and Torres Strait Islands descent”, or “capable of representing the views and interests of people of non-English speaking background”.

The capacity in which the specified person is appointed is therefore accurately stated in the instrument, as required by section 6 (3), which is consistent with previous instruments appointing other community members to the Council (see for example disallowable instruments DI2017-35, DI2016-184 and DI2016-15).

In addition, I consider that the instrument is not required to *“indicate that the Minister considers that the person is familiar with the views and interests of the community on matters related to family violence and is capable of representing those views and interests for subsection 6(3)”* (p.16 Scrutiny Report 18). This consideration is a requirement that must be met for a person to be appointed as a community member, as stated in section 6 (4) of the Act. The requirement is appropriately addressed in the explanatory statement for the instrument (at paragraph 6), rather than the instrument itself. This is consistent with previous explanatory statements (see for example explanatory statements for disallowable instruments DI2017-35, DI2016-184 and DI2016-15) as well as the Committee’s ‘Subordinate Legislation – Technical and Stylistic Standards’, which indicates that requirements that appointees must meet to be appointed should be stated in the Explanatory Statement for the appointment (see paragraph 2, p.3).

For these reasons, I consider that the instrument and explanatory statement for the instrument are appropriate. I trust that this response answers the Committee’s concerns and I thank the Committee for its observations.

Yours sincerely

Yvette Berry MLA

Minister for the Prevention of Domestic and Family Violence