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Justice Robert Benjamin AM
Mr Jeremy Culshaw
Ms Jennie Hannan
Dr Rae Kaspiew
Judge Kevin Laphorn
Ms Colleen Wall

Family Law Council

Our Ref: 15/5154

Your ref: COR 2014 000855

8 December 2015

Judge Ian Gray, State Coroner
Coroners Court of Victoria
65 Kavanagh Street
Southbank VIC 3006

Dear Judge Gray

Re: Investigation into the death of Luke Batty

Thank you for your letter of 28 September 2015, regarding your findings of the investigation into the death of Luke Batty. In particular, Recommendation 12, directed to the Family Law Council as set out below:

I recommend that the Family Law Council consider the merits of amending section 68R of the *Family Law Act 1975* to provide that where a parenting order is suspended, revoked or varied pursuant to section 90 of the *Family Violence Protection Act*, that such suspension, revocation or variation operates until further order of a Court, and is not time-limited.

In Council's interim report to the Attorney-General on Families with Complex Needs and the Intersection of the Family Law and Child Protection Systems (terms 1 & 2), delivered on 30 June 2015 (released on 21 August 2015), Council made a recommendation in similar terms to Recommendation 12, being:

That the government implement the relevant part of Recommendation 16–5 of the Australian and NSW Law Reform Commissions' 2010 report, namely that:

Section 68T of the *Family Law Act 1975* (Cth) should be amended to provide that, where a state or territory court, in proceedings to make an interim protection order under state or territory family violence legislation, revives, varies or suspends a parenting order under s 68R [...] that parenting order has effect until:

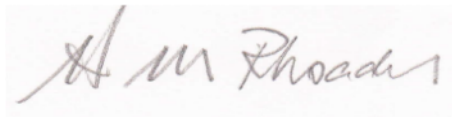
- (a) the date specified in the order;
- (b) the interim protection order expires; or
- (c) further order of the court.

The Council was pleased to hear on 25 November 2015, that the Attorney-General introduced the Family Law Amendment (Financial Agreements and Other Measures) Bill 2015. Among other things, the Bill will enable state and territory courts making an interim family violence protection order to suspend or vary existing parenting orders until either a time specified by the Court or another Court order is made. This will remedy the problem identified in Council's report and your findings that, as currently drafted in the Family Law Act, such suspension or variation arrangements expire after 21 days, potentially putting children and family members at renewed risk of further violence.

The Family Law Council appreciates your interest in improving the safety of vulnerable people, in particular, children in the family law system.

The Council also would like to take this opportunity to thank you for taking the time on 27 November 2015 to meet with Council to discuss our current terms of reference on Families with Complex Needs and the Intersection of the Family Law and Child Protection Systems. Your input into Council's discussion was a valuable contribution towards improving the family law system. Council's final report on this reference is due to be delivered to the Attorney-General by 30 June 2016.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'H M Rhoades', written in dark ink on a light-colored background.

Professor Helen Rhoades
Chair