11th, May 2017

Mr Alan Cameron AO
Chairperson
NSW Law Reform Commission
OX 1227 SYDNEY

By email: nsw lrc@agd.nsw.gov.au

Dear Mr Cameron,

Review of the Guardianship Act 1987 - Question Paper 4: Safeguards and procedures.

Thank you for the opportunity to provide this submission to the review of the Guardianship Act 1987 ("Act") on Question Paper 4, question 5.2: The supervision of private managers. What if anything should change about the NSW Trustee and Guardian's supervisory role under the NSW Trustee and Guardian Act 2009(NSW)? The Act.

As you have noted the NSW Trustee charges fees for supervising the management of the estate by a private financial manager. In addition, a fee must be paid out of the estate into a "surety bond scheme". A surety bond company will then reimburse the estate if the private manager's mismanagement causes a loss to the estate.

As you may be aware, Trustee & Guardian's authority to implement a surety bond scheme under the Act is currently subject to challenge in the NSW Civil and Administrative Tribunal.

I respectfully ask the Commission to be aware of the challenge to Trustee and Guardian's authority to implement this scheme and in due course to consider the arguments presented by both parties.

Yours faithfully.

Bill Kelly

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