

Dr Maeghan Toews  
Commissioner, Review of Human Tissue Laws  
Australian Law Reform Commission (ALRC)  
Email: [REDACTED]

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**NSW Health response to the Australian Law Reform Commission (ALRC) Review of Human Tissue Laws Discussion Paper 2025**

Dear Dr Toews,

Thank you for meeting with me and staff from NSW Health on 4 February 2026 to discuss the recent ALRC Review of Human Tissue Laws Discussion Paper 2025 (Discussion Paper).

We appreciate the opportunity provided by the ALRC to discuss the reform proposals set out in the Discussion Paper.

NSW Health supports the engagement undertaken to date by the ALRC and we look forward to continuing our dialogue with you and your team.

In addition to the range of nuanced perspectives put forth during our meeting, we have identified these additional considerations:

**Valid Consent (Proposal 23; Question 17)**

NSW Health supports the removal of human tissue after death with written consent for the purpose of organ donation or transplantation or other medical or scientific purposes. Consent should be obtained from the deceased prior to death. If the deceased did not consent prior to death, the consent should then be able to be obtained from a substituted decision maker (see further below).

However, NSW Health's preference is that a definition of consent is not included in the human tissue legislation. In NSW, determining a valid consent for treatment is generally determined by common law principles and not legislation.

It may create inconsistencies to include a legislative definition of "valid consent" in the human tissue laws.

**Removal of tissue from children for use in research (Proposal 35)**

Consideration of the circumstances in which removal of tissue from a child should occur requires careful consideration. In general, any procedure or treatment should only be carried out on a child when it is in their best interest.

However, there may be some circumstances in which removal of tissue from a child that is not in their interests can be ethically justified. The provision of section 22B of the *Tasmanian Human Tissue Act 1985*, as proposed in the Discussion Paper, could be used as a basis to permit removal of tissue from a child for research purposes.

Once again, thank you for the opportunity to respond to the Discussion Paper. We remain committed to engaging with the review as your work progresses.

For more information, please contact Sophie Tyner, Director, Chief Health Officer's Strategic Programs Branch at [Sophie.Tyner@health.nsw.gov.au](mailto:Sophie.Tyner@health.nsw.gov.au) or on [REDACTED]

Yours sincerely

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**Dr Kerry Chant AO PSM**

Chief Health Officer and Deputy Secretary, Population and Public Health

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