



The Law Reform Commission  
of Western Australia

# **ANNUAL REPORT**

1 July 2005 – 30 June 2006

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Hon. J A McGinty MLA  
Attorney General  
Level 4, London House  
216 St Georges Terrace  
Perth WA 6000

Dear Minister,

In accordance with section 66 of the *Financial Administration and Audit Act 1985*, I hereby submit for your information and presentation to the Parliament the Annual Report of the Law Reform Commission of Western Australia for the year ending 30 June 2006.

This report has been prepared in accordance with the provisions of the *Financial Administration and Audit Act 1985*.

Yours sincerely

A handwritten signature in black ink, appearing to read 'H Kay'.

Heather Kay  
Executive Officer  
Law Reform Commission of Western Australia

18 September 2006

## MESSAGE FROM THE CHAIR



*Gillian Braddock SC*

In February 2006 the Law Reform Commission released its ground-breaking Discussion Paper on Aboriginal Customary Laws in which it made 93 proposals for substantive, procedural and policy reform to provide practical and effective recognition of Aboriginal customary laws and of the cultural concerns of Aboriginal people in Western Australia. Proposals cover such areas as inheritance; evidence and procedure of courts; guardianship and administration; funerary practices; community governance; police and prisons; customary harvesting; coronial inquests; criminal justice issues (including community justice mechanisms, Aboriginal courts, bail, sentencing and criminal responsibility); cultural and intellectual property; family law and the care and custody of Aboriginal children; family violence; Indigenous disadvantage; and human rights.

The Commission hopes that the findings of its comprehensive inquiry will assist in resolving some of the fundamental issues with the interaction of Western Australian law and Aboriginal law and culture and with respect to relationships between Aboriginal and non-Aboriginal people. Clearly the Western Australian criminal justice system is failing Aboriginal people and the time for a new approach is long overdue. Appropriate recognition of Aboriginal customary law may well assist in reducing the unacceptable and disproportionate rate of Aboriginal imprisonment and detention in this state. Customary law processes have the potential to reduce the level of over-representation by invoking more effective and appropriate ways to address law and order issues in Aboriginal communities. The Commission's proposals have therefore emphasised an

approach that seeks to remedy systematic bias, embrace Aboriginal culture, and enhance cultural authority.

The success of the Commission's Discussion Paper and proposals for reform is reliant upon constructive feedback and detailed submissions. Many have been received from interested parties. Return visits to several remote and regional communities ensured the direct receipt of feedback from Aboriginal community members; while briefing sessions, lectures and focus group meetings encouraged submissions from Aboriginal organisations and other relevant agencies.

The Commission has been overwhelmed by the positive response to its Discussion Paper and proposals for reform. The submissions in respect of the Commission's proposals will assist in the formulation of effective and practical recommendations to Parliament to be outlined in the Commission's Final Report on Aboriginal customary laws, which is due for release in September 2006.

During 2006, the Commission commenced a new reference on a vastly different area of the law, Compensation for Injurious Affection to Land. This reference represents an important opportunity for the Commission to fulfil its fundamental role in keeping the law up-to-date and relevant to the needs of society. A specialised project team has been engaged to deliver a Discussion Paper and Final Report in 2007. The Commission is excited by this new reference and the prospect of developing an innovative model for reform which will open up an area of the law previously only accessible to those with specialised expertise.

Work on the Review of the Law of Homicide has continued throughout 2005–2006. The Commission released a thought-provoking Issues Paper which posed some controversial and challenging questions. By its very nature, the topic of homicide has encouraged passionate debate; particularly in relation to the distinction between wilful murder and murder, the defences of provocation and self-defence and the issue of 'battered women's syndrome'. The Commission has received a significant number of submissions and has granted a number of extensions to enable relevant bodies to respond to the issues raised. The Commission looks forward to presenting its recommendations and Final Report in December 2006.

The Commission attended several significant conferences throughout the 2005–2006 financial year. In September 2005 Commissioner Ilse Petersen attended the Commonwealth Law Conference in London, and in April 2006 my fellow Commissioners and I attended the Australasian Law Reform Agencies Conference in Sydney where I presented a paper on the Commission's Aboriginal Customary Laws reference. The Commission also had the opportunity to participate in the Australian Law Reform Commission's Workshop on the Joint Review of the Uniform Evidence Act, the University of Western Australia's Justice Research Conference and the Therapeutic Jurisprudence Conference. Attendance at these conferences provided the Commission with the opportunity to discuss a variety of existing and emerging legal issues with both national and international delegates.

The Commission gratefully acknowledges the Attorney General for his support of our work and continued commitment to implement our recommendations, both past and present. We would also like to take the opportunity to thank all the individuals and organisations for their contribution and assistance throughout the year.

Gillian Braddock SC

# EXECUTIVE SUMMARY



## LAW REFORM COMMISSION OVERVIEW

The Law Reform Commission of Western Australia's (the Commission) role is to keep the law up to date and relevant to the needs of society. The Commission achieves this by receiving terms of reference and reviewing selected legislation at the request of the Attorney General to identify the opportunities for reform.

References may result from proposals submitted by the Commission, suggestions made by the public or topics of interest to the Attorney General. The Attorney General determines the order of priority in which the Commission deals with references. The Attorney General presents the Commission's reports to Parliament as soon as practicable after the Commission completes its work on each reference.

The Commission's output measures the progress of a reference against target timelines. The extent to which the Commission meets the timeframes set by the Attorney General is therefore considered to be a key performance indicator that measures the extent to which the Commission is contributing to keeping the law up-to-date. This gives the Commission responsibility for achieving outcomes by which its performance can be measured.

The Executive Officer, Heather Kay, has charge of the day-to-day business of the Commission. Through a tender process, the Commission engages the services of consultants who have expertise in the area being investigated. This enables individuals who would not previously have been able to participate in the process of law reform to bring their unique and special skills to the Commission's law reform activities.

## ABORIGINAL CUSTOMARY LAWS

- In February 2006 the Commission reached an important milestone on the Aboriginal Customary Laws reference with the release of the Discussion Paper and the Discussion Paper Overview. The Discussion Paper presents a thoroughly researched report that acknowledges the information and submissions received from Aboriginal communities and the issues identified by the Background Papers.
- The Commission launched the Discussion Paper at a reception held at the Kings Park Tearoom and Function Centre. The launch was attended by the Attorney General, members of the judiciary and the legal profession, academics, prominent Aboriginal leaders and representatives from various Indigenous organisations.
- In order to facilitate the feedback process and to encourage submissions from Indigenous people, the Commission published a series of eight plain English pamphlets providing information on key proposals in relation to Sentencing, Alcohol and Substance Abuse, Burial Rights, Constitutional Change, Community Groups, Bail, Court Procedure and Inheritance.
- The Commission identified the need to conduct several return visits to various remote and regional communities previously consulted. The purpose of these return visits was to distribute the Discussion Paper and present the Commission's proposed recommendations. This greatly enhanced the feedback process by allowing submissions on

the proposed recommendations to be received directly from community members.

- The Commission provided a three-month submissions period for interested parties to respond to the proposals contained in the Discussion Paper. Lengthy and detailed comments and submissions were received, with the vast majority of people and organisations providing positive feedback for the proposed reforms.
- Several extensions were granted to various agencies and organisations to enable them to adequately respond to the Commission's call for submissions. The delay in receiving these submissions, however, resulted in an extension to the Commission's timeframe for the completion of the reference. Work has commenced on drafting the Final Report and recommendations, with a completion date anticipated in September 2006.
- The Commission completed the Aboriginal Customary Laws Background Paper series by republishing the 15 papers into a single reference volume.

## PROBLEM ORIENTED COURTS REFERENCE

- The Commission has encountered challenges on the Problem Oriented Courts reference, not least of which has been the rapid expansion and development of this area of the law. This has resulted in the need for the Commission to reassess the project methodology and to undertake a further, more in-depth review of the current research available.
- The Commission now anticipates the release of an Issues Paper in February 2007, followed by a submission and consultation period and the release of the Final Report in October 2007.

## COMPENSATION FOR INJURIOUS AFFECTION

- The Commission's new reference on Compensation for Injurious Affection was received on 29 November 2005. Work is now underway, following a tender evaluation process and the engagement of a project team to write a Discussion Paper and Final Report. Both papers are anticipated for release some time in 2007.

## REVIEW OF THE LAW OF HOMICIDE

- Since receiving the Review of the Law of Homicide reference on 26 April 2005, the Commission has conducted an extensive research exercise which culminated in the release of its Issues Paper in May 2006. The paper invited interested parties to present submissions on the issues raised by 15 June 2006.
- The Commission has consulted with and received submissions from members of the judiciary, prominent criminal practitioners, academics and other interested parties. The Commission has also granted lengthy extensions to various organisations to enable them to draft detailed submissions on the issues raised.
- These extensions have had a significant impact on the overall timeframe of the project and have resulted in a delay in the completion date. The Commission now anticipates the publication and launch of the Final Report in December 2006.

## FINANCIAL FORECAST

- The various delays in project completion dates as outlined above have had a consequential effect on the Commission's financial forecast for the 2006/07 Financial Year. The Commission originally anticipated that Review of the Law of Homicide and the Problem Oriented & Judicial Case Management references would be completed by the end of the 2005–2006 Financial Year. As this is not to be the case, the Commission will have to carry over significant unexpended funds to the 2006–2007 financial year to cover the associated costs related to the editing, printing, distribution, launch and promotion of the reports.
- In addition to these expenses, the Commission expects to have the cost of two further references in 2006–2007. Work on the Commission's reference on Compensation for Injurious Affection was always expected to commence in the 2006–2007 Financial Year, therefore the associated budget for this reference has been allocated accordingly. Although the Commission made a start on this reference in 2005–2006, the main expenses associated with the project will not be realised until 2006–2007. The Commission is also in the process of developing terms of reference for a new project it hopes to receive sometime during 2006–2007. The costs associated with this project will account for the remainder of the budget allocated for references.

## NATIONAL AND INTERNATIONAL CONFERENCES

- The Commission attended the following conferences and workshops in an effort to keep pace with innovations and developments in the justice system and the area of law reform: The Commonwealth Law Conference 2005; the Australian Law Reform Commission's Workshop on the Joint Review of the Uniform Evidence Act; Justice Research Conference; the Australasian Law Reform Agencies Conference (ALRAC) 2006; and the Therapeutic Jurisprudence Conference.
- Attendance at these conferences provided the Commission with valuable opportunities to make vital contacts with other law reform agencies and to discuss issues relevant to the Commission's current references on Aboriginal Customary Laws, Problem-Oriented Courts & Judicial Case Management, the Review of the Laws of Homicide and Compensation for Injurious Affection.

## TECHNOLOGICAL AND ADMINISTRATIVE IMPROVEMENTS

- The Commission has endeavoured to produce all Aboriginal Customary Laws reference findings in a culturally appropriate and visually appealing print format.
- The Commission continues to utilise CD-ROM technology as an alternative publishing format and has also made all its reports and papers available electronically on its website for ease of reference and increased accessibility for interested members of the general public.
- During the past year the Commission's staff handled over 16,000 letters, faxes, e-mail messages and telephone calls – many from members of the public concerned about legal issues and problems they had experienced with the justice system.
- The Commission website received approximately 167,950 hits throughout 2005–2006.



# PART I: ANNUAL REPORT 2005-2006

The Law Reform Commission of Western Australia (the Commission) reviews areas of the law upon reference from the Attorney General to identify the opportunities for reform. References may result from proposals submitted by the Commission, suggestions made by the public or topics of interest to the Attorney General. Section 11 of the *Law Reform Commission Act 1972* (the 'Act') sets out the functions of the Commission. The Attorney General determines the order of priority in which the Commission deals with references. The Attorney General presents the Commission's reports to Parliament as soon as practicable after the Commission completes its work on each reference.

## THE MISSION AND PERFORMANCE INDICATORS

The Commission's mission is to assist in keeping the law up to date and relevant to the needs of society. The performance indicators help to measure the Commission's efforts in achieving its mission. Part II of this Annual Report reports these indicators.

The performance indicators have recently been reviewed to reflect the changing role of the Commission. The Commission formerly considered implementation of its recommendations as a performance indicator but the use of this standard has been discontinued. While it is important, implementation is beyond the Commission's area of responsibility and under the control of others. The Commission now considers that the extent to which it meets the Attorney General's requests to review an area of the law in a timely manner is an appropriate performance indicator of the measurement of its effectiveness.

## THE COMMUNITY SERVED

The people of Western Australia are the Commission's primary clients or customers. This must be the case for a law reform organisation funded by the taxpayers in a society governed by law. To be meaningful and effective, law reform must make every effort to be inclusive and fair.

The law reform process should include communication and consultation with the public and the relevant stakeholders concerned with particular projects. Moreover, the Commission's work must be completed in a reasonably timely fashion in order to be efficient and effective.

## STAKEHOLDERS

The Commission's stakeholders include those governed by particular laws and those charged with enforcing them. With each reference the Commission makes an effort to identify stakeholders concerned with the specific topic. The stakeholders' list changes from project to project. While farmers and country residents may be concerned about stock straying on highways, parents and physicians may be interested in medical treatment for minors. Merchants and finance companies may seek changes to the *Sale of Goods Act 1895* while builders and suppliers may be concerned with financial protection in the building and construction industry. Once an issue is identified the Commission often invites stakeholders' submissions when developing its recommendations.

# Current assignments



## Aboriginal Customary Laws

In February 2006, the Commission launched its comprehensive Discussion Paper and Discussion Paper Overview on Aboriginal Customary Laws. As part of the Discussion Paper submissions process, the Commission also published a series of eight plain English pamphlets to provide information on key proposals. In order to facilitate feedback and encourage submissions from Indigenous people, the Commission conducted several return visits to various regional and remote communities previously consulted.

A three-month submissions period concluded on 30 April 2006. Many interested parties responded with lengthy and detailed comments and submissions on the Commission's proposed recommendations. The Commission received positive feedback from the majority of people and organisations who took the time to respond to the issues raised.

Work has since commenced on the Final Report and recommendations, with the Commission anticipating the publication of the report in early September 2006.

The Commission republished the 15 Background Papers previously released throughout 2004–2005 into a single Background Paper volume for ease of reference.

## Problem Oriented Courts and Judicial Case Management

The reference on Problem Oriented Courts and Judicial Case Management has met with unexpected delays. The Commission has now revised its current deadlines and anticipates releasing an Issues Paper in February 2007, followed by an extensive submissions and research period from March until May, with a Final Report to be published in October 2007.

## Review of the Law of Homicide

In May 2006 the Commission released its Issues Paper on the Review of the Law of Homicide, calling for submissions on the matters raised by 15 June 2006. The Commission conducted a thorough consultation process with members of the judiciary, prominent criminal practitioners, academics and other interested parties. Many interested stakeholders requested lengthy extensions in order to present detailed submissions on the topic. The Commission was happy to grant all reasonable requests, but as a result, significant delays have resulted in the commencement of the draft Final Report and recommendations. The Commission now anticipates the publication of the Final Report by the end of December 2006.

## Compensation for Injurious Affection

The Commission received a new reference on Compensation for Injurious Affection on 29 November 2005. A project team has since been engaged to complete a Discussion Paper and Final Report. It is anticipated that the Discussion Paper will be available early in 2007 with the Final Report to follow shortly thereafter.

## DIVERSIFICATION

The Commission engages consultants for research, writing and editing. This permits individuals who would not previously have been able to participate in the process of law reform to bring their unique and special skills to the Commission's law reform activities on less than a full-time basis. The Commission endeavours to use the public tender procedure to select writers, editors and researchers for each project.

## RESEARCH AND PUBLICATIONS

The Commission's core activities traditionally have been research and development of recommendations for reform. Appendix I provides current Terms of Reference. All references to the Commission since its establishment in 1972 and to its predecessor, the Law Reform Committee, are identified in Appendix III. Appendix II lists all the Commission's publications beginning with the most recent. Publication information is available on the Commission's website: <[www.lrc.justice.wa.gov.au](http://www.lrc.justice.wa.gov.au)>. All previous publications are available for purchase from the State Law Publisher: <[www.slp.wa.gov.au](http://www.slp.wa.gov.au)>.

## LEGISLATION AFFECTING THE COMMISSION'S ACTIVITIES

In the performance of its functions, the Commission complies with the following relevant Acts:

- *Disability Services Act 1993*;
- *Electoral Act 1907*;
- *Equal Opportunity Act 1984*;
- *Evidence Act 1906*; and *Acts Amendment (Evidence) Act 2000*;
- *Freedom of Information Act 1992*;
- *Financial Administration and Audit Act 1985*;
- *Government Employees Superannuation Act 1987*;
- *Industrial Relations Act 1979*;
- *Interpretation Act 1984*;
- *Library Board of Western Australia Act 1951*;
- *Limitation Act 1935*;
- *Minimum Conditions of Employment Act 1993*;
- *Occupational Safety and Health Act 1984*;
- *Public Interest Disclosure Act 2003*
- *Public Sector Management Act 1994*;
- *Salaries and Allowances Act 1975*;
- *State Supply Commission Act 1991*;
- *State Records Act 2000*;
- *State Records (Consequential Provisions) Act 2000*; and
- *The Criminal Code Act 1913*.

## LEGISLATIVE CHANGE

There were no statutory changes or significant judicial decisions affecting the Commission in 2005–2006.

# Structure and membership of the Commission

The Commission may consist of up to five members, two full-time and three part-time, appointed by the Governor of Western Australia. Of the part-time members, one is to be a private legal practitioner with not less than eight years' experience, one must be engaged in teaching law at a university in Western Australia with a status not less than that of Senior Lecturer, and the third is to be a legal officer of the State Solicitor's Office with not less than eight years' experience. Full-time members are to be legal practitioners of at least eight years' standing, or persons suitable for appointment by reason of their legal qualifications and experience, whether in Western Australia or elsewhere.

## MEMBERS' TERMS

Each of the present members of the Commission was appointed initially for a term of one year.

Member	Appointment Date	Reappointment	Appointment Expiry/ Resignation
Ms G Braddock SC	22 October 2002	22 October 2005	22 October 2006
Ms I Petersen	17 December 2001	17 December 2005	17 December 2006
Ms MA Kenny	15 February 2006		15 February 2007

## CHAIRMAN

Pursuant to section 5 of the *Law Reform Commission Act 1972*, the Commission elects its Chairman from among the members. The Chairman may hold office for a term not exceeding one year, but shall be eligible for re-election.



On 1 June 2006, Gillian Braddock SC was reappointed Chairman of the Law Reform Commission. Ms Braddock has been a member of the independent bar since 1990 and was appointed Senior Counsel in September 2001. Ms Braddock holds a BA in Law from Cambridge University, England and came to Western Australia from Hong Kong where she was employed as Crown Counsel from 1985-1987. Ms Braddock has previously served as President of the Western Australian Bar Association and practices primarily in criminal and family law.

## MEMBERS

Ilse Petersen has been the State Solicitor's Office representative on the Law Reform Commission since late 2001. Ms



Petersen is a Senior Assistant State Solicitor and has served in the State Solicitor's Office for over 10 years. Prior to commencing with the State Solicitor's Office she served with the Australian Government Solicitor. She was formerly a member of the Council of the Law Society of Western Australia and is presently the convener of its Equal Opportunity Committee. Ms Petersen holds degrees in Jurisprudence and Law from the University of Western Australia.

Mary Anne Kenny was appointed to the Commission on 15 February 2006 as the academic member. Ms Kenny is a Senior Lecturer in Law at Murdoch



University. Ms Kenny has been at Murdoch University since 1997 where she was involved in establishing the clinical legal education program at SCALES and later as Director of the clinical program from 2000-2005. Prior to working at Murdoch University Ms Kenny worked for Legal Aid WA and for the Youth Legal Service. Ms Kenny is a graduate of the University of Western Australia (BJuris, LLB (Hons)) and the University of Iowa (LLM International and Comparative Law). She was admitted as a Barrister and Solicitor of the Supreme Court of Western Australia in 1993 and is a registered Migration Agent.

## MEMBERS' FEES

Fees payable to part-time members from private practice and academia are determined on a formula related to the salaries paid to university lecturers. The State Solicitor's Office representative receives no fee. Former members of the Commission are listed in the 30th Anniversary Reform Implementation Report 1972–2002.

## MEETINGS OF THE COMMISSION

The Commission held 11 Project Meetings, three Commission Meetings, and five Working Meetings during the 2005/06 financial year. These were devoted primarily to discussing the Aboriginal Customary Laws reference and in particular, the publication and drafting of the discussion paper. More recently, the Commission has met to discuss its new references on Problem Oriented Courts & Judicial Case Management, the Review of the Laws of Homicide and the Compensation for Injurious Affection reference. The Commission also met with the Attorney General once during 2005-2006 to discuss the progress of these various references.

## THE STAFF

The Executive Officer coordinating administrative and legal research activities and managing the various references for the Law Reform Commission is Heather Kay, LLB (University of Western Australia), LLM (University of Western Australia). The Commission has two other permanent administrative employees, a part-time Finance Officer, Ms Saras Mohann and a full-time Executive Assistant, Ms Sharne Cranston

The Commission engages other staff from time-to-time on a casual basis. The Commission receives payroll and other assistance from the Human Resources Branch of the Department of The Attorney General. Flexibility enables the Commission to add personnel as necessary to manage the volume of work.

The day-to-day operations of the Commission include dealing with public, managing the regular operations of a government agency, processing submissions, maintaining the

Commission's website, and assisting consulting writers, editors and researchers.

## Staff 2005–2006

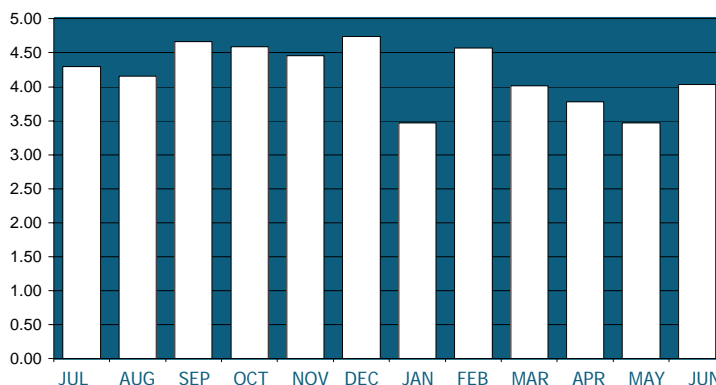
Other staff members throughout 2005/06 were: Olivia Barr, Danielle Davies, Dr Tatum Hands, Julian Hosgood, Yuki Kobayashi, Alana McCarthy, Cheryl MacFarlane, Miriam McKenna, James Newton-Palmer, Carla Yazmadjian and Victoria Williams.

The diagram below illustrates the varying numbers of employees engaged during the past year to produce the Commission's publications and operate the agency.

## OFFICE

The Commission may be reached by telephone on (08) 9321 4833; fax (08) 9321 5833; and e-mail: [lrcwa@justice.wa.gov.au](mailto:lrcwa@justice.wa.gov.au). The Commission's website is located at: [www.lrc.justice.wa.gov.au](http://www.lrc.justice.wa.gov.au). The administrative office is located at Level 3 of The BGC Centre, 28 The Esplanade, Perth.

Equivalent Full-Time Employees 2005–2006



## CORPORATE SUPPORT

The Commission receives corporate support from the Department of the Attorney General through a service level agreement. This arrangement includes a host of services, including information technology, human resources and financial management and involves the sharing of library facilities with other Department of the Attorney General Library users.

The Commission acknowledges the valuable contribution made by staff within the Department of the Attorney General for the provision of these services in 2005-2006.

## CUSTOMER FOCUS OUTCOMES

The Commission's operations focus on delivering services to the public, the stakeholders and the Attorney General. The elimination of an expensive operational infrastructure enables the Commission to utilise its resources more effectively for law reform and public education purposes.

## OCCUPATIONAL HEALTH AND SAFETY

The Commission is committed to meeting its obligations and responsibilities under the *Occupational Safety and Health Act 1984* and the *Occupational Safety and Health Regulations 1996* in such a manner it ensures the provision and maintenance of a safe and healthy work environment for its employees and the general public.

The Commission continues to provide a safe and secure working environment for employees. There were no worker's compensation claims lodged during the year, and no time was lost from work.

## DISABILITY SERVICES

The Commission is committed to ensuring professional and appropriate services are provided to meet the needs of community members with physical, intellectual, sensory or cognitive disabilities, their carers and families.

The Commission's office located on Level 3 of the BGC Centre, at 28 The Esplanade, Perth has wheelchair access, with lift access to the upper floors and convenient public parking nearby.

The Commission's mode of operation with the work of research and writing no longer being carried out by full-time research officers, but by consultants appointed for particular projects, has created greater flexibility in the Commission's working arrangements.

In accordance with the Commission's community outreach program, all public meeting venues are selected with disabled access in mind, including special facilities for the hearing impaired and the projection of discussion notes on large screens so that people attending the meeting can see what is being recorded. Electronic publishing allows documents to be enlarged at will or projected. Modern technology may assist the visually or hearing impaired access to Commission publications.

## CULTURAL DIVERSITY AND LANGUAGE SERVICES OUTCOMES

The Commission continues to be sensitive to people's requirements in respect of language and cultural diversity and ensures that relevant specialists and services are utilised whenever necessary to assist people providing information or submissions to the Commission.

## SUBSTANTIVE EQUALITY

Although the Commission is not required to negotiate annually the scope of implementation for *The Policy Framework for Substantive Equality* with the Commissioner for Equal Opportunity, the Commission is aware of the intent and substance of the Policy Framework.

The Commission supports the objective of the Policy Framework to achieve substantive equality in the Western Australian public sector by:

- eliminating systematic racial discrimination in the provision of public sector services; and
- promoting sensitivity to the different needs of client groups.

## YOUTH OUTCOMES

By virtue of the nature of the Commission's business, the agency does not have activities specifically targeted to youth, but staff are mindful of having to deal appropriately with any young people who have dealings with the Commission.

## WASTE PAPER RECYCLING

Consistent with the Government's and the Commission's commitment to waste reduction and recycling, all staff follow the guidelines for recycling as set out in the Western Australia Waste Reduction and Recycling Policy. Waste paper recycling is made easy through the provision of a paper collection bin located in the Commission's office.

## ENERGY SMART GOVERNMENT POLICY

Although the Energy Smart policy does not apply to the Law Reform Commission, by virtue of the size of the agency, the Commission has adopted the principles of the policy as an integral part of our business and as a way of contributing to Western Australia's broad environmental outcomes while pursuing good business practice.

## REGIONAL DEVELOPMENT POLICY

The Commission does not undertake any activities that have specific application to the Regional Development Policy.

## EVALUATIONS

No major evaluations were undertaken in 2005–2006 in relation to s 7(e) of the *Public Sector Management Act 1994*. In April 2006, the Commission provided the Department of Premier and Cabinet with brief information relating to its functions. This information will be used, in conjunction with the criteria described in the *Guidelines for Public Sector Reviews and Evaluations*, to assess whether or when the Commission should be reviewed at a later date.

## INFORMATION STATEMENT

Pursuant to sections 94–97 of the *Freedom of Information Act 1992* the Commission must publish annually an information statement. This Annual Report endeavours to present the required information. A formal information statement is also published separately in the Department of the Attorney General Handbook. The handbook is produced annually and is also available online at <www.justice.wa.gov.au>.

The Commission uses *The Australian Guide to Legal Citation* (Melbourne University Law Review Association Inc, 1998) in its publishing and editing work.

The Commission maintains only current files and records in its office. Its publications are available in the JS Battye Library of Western Australian History at the Alexander Library in Perth. All historical records and publication stock are in storage in Welshpool.

Except for submissions, correspondence or other information of a confidential nature covered by exemptions in the *Freedom of Information Act*, material is available for inspection. Any requests for access to documents or amendment of any personal information in any document should be addressed to the Executive Officer who is responsible for initial decisions about access or amendment. Appeals from the Executive Officer's decisions would be referred to the Commission.

## RECORDKEEPING PLAN

In accordance with the *State Records Act 2000*, sections 19 and 61 and *State Records Commission Standards*, Standard 2, Principle 6, the Law Reform Commission has submitted and received approval for its Recordkeeping Plan (RKP). The Commission's RKP provides an accurate reflection of its recordkeeping program and is complied with by all staff. The efficiency and effectiveness of Commission's recordkeeping systems will be evaluated every five years.

As the Commission is a small organisation, with only three employees based in the office, a training program is unnecessary. However, an induction manual for new employees has been created, which sets out the recordkeeping system and identifies employees' roles and responsibilities regarding their compliance with the RKP. Both the Commission's induction manual and its RKP will be reviewed periodically or when there are any significant changes to the Commission's functions.

## ADVERTISING AND SPONSORSHIP

In accordance with section 175ZE of the *Electoral Act 1907*, the Law Reform Commission incurred the following expenditure in relation to advertising and sponsorship during the 2005/06 Financial Year.

Advertising agencies	Nil
Market research organisations	Nil
Polling organisations	Nil
Direct mail organisations	Nil
Media advertising organisations	\$7,250.40
Total (excluding GST)	7,250.40

### Media Advertising Organisations

Marketforce	\$7,250.40 (excluding GST)
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## SUSTAINABILITY

Premiers Circular 2004/14 (27 September 2004) requires that all Departments of State and Senior Executive Service (SES) organisations comply with the State's Sustainability Code of Practice by developing a *Sustainability Action Plan* and reporting on the progress of the implementation in annual reports from year ending June 2005.

Despite its size, the Law Reform Commission remains committed to sustainable practices wherever possible and practicable. On 16 December 2004, the LRC lodged its Sustainability Action Plan for 2005–2007, outlining the Commission's sustainability principles and actions and the priority commitments it has for the future. The Sustainability Action Plan supports these principles and commitments by providing practical guidelines on how the Commission can continue to apply sustainability principles in its operations. The plan sets out actions and timeframes that ensure the Commission considers future demands and has strategies in place to meet those challenges.

With the Commission's primary role being to research areas of the law and to publish reports outlining its recommendations for reform, there has been a need for the Commission to consider a more sustainable way of producing its publications. For the last four years the Commission has utilised CD-ROM technology wherever possible, which in turn has created significant savings for the Commission. In the future, other visual or aural media will also be considered, in addition to the usual print media format.

The Commission, as a law reform agency, also has a responsibility to the community, and this responsibility extends to the management and maintenance of resources. To this end, the Commission will strive to report on its sustainability achievements, to utilise sustainability assessment in planning and decision-making and where appropriate, actively engage stakeholders and the public in transparent policy development and decision-making processes.

## EQUAL EMPLOYMENT OPPORTUNITY

The Commission seeks to promote equal opportunity for all persons. The Commission is committed to eliminating and ensuring the absence of discrimination in employment on the ground of sex, marital status, pregnancy, family responsibility or family status, race, religious or political conviction, impairment or age. The Commission currently employs two full time regular employees and one part-time Finance Officer, and all are women. During the 2005–2006 Financial Year the Commission employed 11 temporary staff, nine of whom were women.

As the Commission has less than 50 employees, it is not required to provide numerical performance objectives to the Office of Equal Employment Opportunity. Nevertheless, the Commission does have in place a current EEO and Diversity Management Plan, which recognises that a diverse workforce and diversity management is part of the solution to the successful implementation of workplace reform and cultural change. The Commission aims to promote equity

and diversity outcomes under the Governments Equity and Diversity Plan through ensuring a suitably diverse workplace that provides equity and equality of opportunities in all respects, is free from bias and discrimination, and does not tolerate any form of harassment.

## PUBLIC SECTOR STANDARDS AND CODE OF ETHICS

The Commission has complied with Section 31(1) of the *Public Sector Management Act 1994* in the administration of the Commission's human resource management practices relating to Public Sector Standards, Western Australian Public Sector Code of Ethics and the Commission's Code of Conduct. The Commission utilises the Department of the Attorney General's (DotAG) human resource services and is confident that DotAG's human resource management principles have adequate checks in place to ensure compliance requirements are met. No applications for breach of standards review have been lodged for the reporting period.

## CODE OF CONDUCT

The Commission has adopted a template Code of Conduct for government boards. The Commission's Code of Conduct is available to all employees and compliance is monitored by the Executive Officer. There have been no complaints relating to non-compliance received during the reporting year.

## CORRUPTION PREVENTION

In April 2001, the Law Reform Commission developed its Risk Management Plan. The plan identifies all the risks associated with running an independent government research agency, including the issues of corruption and misconduct. The Commission's reliance on the Department of the Attorney General (DotAG) for the provision of corporate services, namely information technology, human resources and financial management, has also provided an additional level of checks and balances. This ensures that personnel who are independent of the Commission review all procurement transactions.

The Commission has policies and procedures that ensure compliance with the Financial Administration and Audit Act 1985 and associated Treasurer's Instructions. Such policies cover issues such as procurement and purchasing, use of corporate credit card, cab charge and asset procurement.

As discussed above, the Commission also has a Code of Conduct that informs staff of their rights, responsibilities and obligations in their respective roles. The Code covers such issues as the accountability for public expenditure; the use of public sector resources and facilities; the security and use of confidential information; conflict of interests; and receipt of gifts and gratuities.

## PUBLIC INTEREST DISCLOSURES

To comply with the Public Interest Disclosure Act 2003 (WA), the Law Reform Commission has a dedicated officer to deal with its public interest disclosure enquires and has established procedures in accordance with the guidelines issued by the Office of the Public Sector Standards Commissioner to enable employees to become aware of their rights and responsibilities under the Act. If an employee at the Commission has an enquiry about the Act, or wishes to make a disclosure under the Act, then this can be done with the assistance of the PID officer, in confidence.

The Commission provides information to the Commissioner on an annual basis setting out the number of public interest disclosures received, the findings of any investigations conducted and the action taken as a result of each investigation.

In 2005–2006 no PID claims were handled under the Act by the Commission.

## DECLARATION OF INTERESTS

No member of the Commission or its staff had any interest in or benefit from any contract entered into by the Commission.

## PART II: PERFORMANCE INDICATORS

### GOVERNMENT STRATEGIC GOAL

To enhance the quality of life and wellbeing of all people throughout Western Australia

The Commission's Strategic Objective:

#### MISSION:

To assist in keeping the law up to date and relevant to the needs of society

#### OUTCOME:

The law reviewed as requested by the Attorney General, with stakeholders to be kept informed.

The Commission receives its terms of reference from the Attorney General and performs reviews of selected legislation at the request of the Attorney General. The extent to which the Commission meets the timeframes set is therefore considered to be a key performance indicator (KPI) that measures the extent to which the Commission is contributing to keeping the law up-to-date.

#### EFFECTIVENESS INDICATOR: Progress against target timelines

The extent to which the Commission is meeting the Attorney General's law reform requests in a timely manner.

The Law Reform Commission carried out work on four references in the year 2005–2006. The effectiveness of each of the reference is measured separately as shown below.

# Aboriginal Customary Laws

## ABORIGINAL CUSTOMARY LAWS (ACL)

### Table A Key:

- (a) Original planned completion date: The December 2004 completion date was revised to June 2005, to take into account the need to produce additional background papers on other topics identified after the Background Paper series commenced.
- (b) Anticipated completion date: The Commission originally estimated the need for nine Background Papers to cover the various relevant topics, however, following on from community consultations and detailed submissions received, it became clear that additional papers were required. This prompted the Commission to seek the expertise of other specialist writers to complete a further six Background Papers. The engagement of these specialist writers and the delays experienced in completing the additional Background Papers prompted the revision of the June 2005 anticipated completion date.
- (c) Revised completion date: The December 2005 completion date was revised due to the delays experienced in completing the Discussion Paper. This delay was the direct result of the delay in the completion of the Background Paper series as much of the content of the Discussion Paper was reliant on the research material identified in the papers and the subsequent feedback they generated. Additional research undertaken by the project writers also resulted in an extension of the scope and the length of the Discussion Paper, which in turn extended the time required to complete the paper.
- (d) Extended completion date: The Commission expects to complete the draft Final Report by 31 August 2006, with the publication, tabling and launch to take place in September 2006. The delay has occurred as a result of the Commission's need to take into account the need to consult widely and obtain feedback from all interested parties. The Commission conducted several return visits to various remote Aboriginal communities previously consulted, to distribute the Discussion Paper, present the proposed recommendation and receive submissions directly from community members. The Commission also had many requests from private individuals and government agencies for an extension of the deadline for submissions on the Discussion Paper published in February 2006. This resulted in a delay in the commencement of the Final Report, as writers had to wait on several significant submissions before being in a position to commence work on drafting the Commission's final recommendations.

Table A shows the progress to date, the phases completed and the revised completion date for the Commission's Aboriginal Customary Laws (ACL) reference in 2005-2006.

### Table A – Progress Towards ACL Project Outcomes

January 2001	Aboriginal Customary Law Terms of Reference received
May 2002	Tendering
December 2004 <sup>(a)</sup>	Community Consultation completed Background Papers commenced
June 2005 <sup>(b)</sup>	Completed Background Paper Series Commenced work on Discussion Paper
December 2005 <sup>(c)</sup>	Further Phases to be completed: <ul style="list-style-type: none"> <li>• Discussion Paper</li> <li>• Feedback</li> <li>• Final report</li> </ul>
June 2006	Completed Discussion Paper Feedback Received Commenced work on the Final Report
September 2006 <sup>(d)</sup>	Final Report to be completed

Table B shows the percentage of the project completed in terms of elapsed time, and should be read in conjunction with Table A above.

### Table B – Percentage of ACL project completed (elapsed time)

At 30 June 2006	Target	100%
	Actual	95.65%
	Variance	- 4.35%

As noted above, the planned project completion date has been revised to 30 September 2006 due to several significant developments in the project, which in turn have resulted in unavoidable delays. At June 2006, the project was estimated to be 95.65% complete in terms of elapsed time (see Table B above).

# Problem Oriented Courts and Judicial Case Management

## PROBLEM ORIENTED COURTS AND JUDICIAL CASE MANAGEMENT (POC)

### Table C Key:

- (a) Original planned completion date: The December 2005 completion date was revised after the draft Discussion Paper was commenced and it became apparent that a change in the project methodology was required. The Commission determined that the project was better suited to the development of a detailed Issues Paper to encourage submissions followed by the release of a Final Report outlining the Commission's final recommendations.
- (b) Anticipated completion date of the Issues Paper: After an additional research period, the Commission will commence the process of drafting the Issues Paper, which it anticipates will be completed in February 2007.
- (c) Anticipated completion date of the Final Report: There will be an extensive submissions and consultation period from March until May 2007, with a Final Report to be published in October 2007.

Table C show the progress to date, phases completed and target completion dates for the Problem Oriented Courts and Judicial Case Management (POC) project in 2005-2006.

**Table C – Progress Towards POC Project Outcomes**

28 August 2004	Problem Oriented Courts and Judicial Case Management Terms of Reference received
March 2005	Tendering for Project Writer Appointment of Research Assistant
June 2005	Detailed research and consultation phase undertaken
December 2005 <sup>(a)</sup>	Further Phases to be completed: <ul style="list-style-type: none"> <li>• Discussion Paper</li> <li>• Feedback</li> <li>• Final report</li> </ul>
June 2006	Draft outline completed Project methodology revised
February 2007 <sup>(b)</sup>	Publish Issues Paper
October 2007 <sup>(ac)</sup>	Further Phases to be completed: <ul style="list-style-type: none"> <li>• Submission and consultation period</li> <li>• Final Report</li> </ul>

Table D shows the percentage of the project completed in terms of elapsed time, and should be read in conjunction with Table C above.

**Table D – Percentage of POC project completed (elapsed time)**

At 30 June 2006	Target	100%
	Actual	56.76%
	Variance	- 43.42%

As noted above, the original planned project completion date has been revised due to a change in project methodology. The Commission anticipates completing the project Issues Paper in February 2007, with the Final Report to be completed by October 2007. At June 2006, the project was estimated to be 56.76% complete in terms of elapsed time (see Table D above).

# Review of the Law of Homicide

## REVIEW OF THE LAW OF HOMICIDE

Table E shows the progress to date, phases completed and target completion dates for the Review of the Law of Homicide project in 2005-2006.

### Table E Key:

(a) Original planned completion date: The April 2006 completion date was revised due to a delay in the release of the Issues Paper, the need to consult widely with interested parties and the various requests received for lengthy extensions to the submissions deadline.

(b) Anticipated completion date: The Commission anticipates the Final Report and recommendations will be completed by December 2006.

**Table E – Progress Towards Homicide Project Outcomes**

26 April 2005	Review of the Law of Homicide Terms of Reference received
June 2005	Preliminary research phase undertaken
December 2005	Detailed research and consultation phase to be undertaken
April 2006 <sup>(a)</sup>	Further Phases to be completed: <ul style="list-style-type: none"> <li>• Issues Paper</li> <li>• Feedback</li> <li>• Final report</li> </ul>
June 2006	Completed: <ul style="list-style-type: none"> <li>• Issues Paper</li> <li>• Feedback</li> <li>• Commenced work on Final Report</li> </ul>
December 2006 <sup>(b)</sup>	Final Report to be completed.

Table F shows the percentage of the project completed in terms of elapsed time, and should be read in conjunction with Table E above.

**Table F – Percentage of Homicide project completed (elapsed time)**

At 30 June 2006	Target	100%
	Actual	70%
	Variance	- 30%

As noted above, the original planned project completion date has been revised due to a delay in the release of the Issues Paper, the need for additional consultation and an extension of the submissions phase. The Commission anticipates that the project on Review of the Law of Homicide will be completed by the revised target date of December 2006.

# Compensation for Injurious Affection

## COMPENSATION FOR INJURIOUS AFFECTION (CIA)

Table G shows the progress to date, phases completed and target completion dates for the Compensation for Injurious Affection (CIA) project in 2005-2006.

Table G – Progress Towards CIA Project Outcomes

29 November 2005	Compensation for injurious affection to land in Western Australia terms of reference received
April 2006	Tendering of services for research and writing report on the reference
June 2006	Tender evaluation and appointment of successful tender
January 2007	Completion of Discussion Paper Receive feedback and submissions
July 2007	Final Report to be completed

Table H – Percentage of CIA project completed (elapsed time)

At 30 June 2006	Target	35%
	Actual	35%
	Variance	Nil

## SERVICE: PUBLICATIONS ON LAW REFORM

### EFFICIENCY INDICATOR: Publications on Law Reform

The extent to which the efforts of the Commission resulted in recommendations and public awareness.

#### Service: Publications on Law Reform

The delivery of the Commission's service 'Publications on Law Reform' is achieved through the production of various papers and reports (printed reports, web notes, journal articles, leaflets etc) compiled in relation to references and the extent to which the Commission was able reach the stakeholders and inform them on matters of law reform.

	Target 2005–2006	2005–2006	2004–2005	2003–2004
<b>SERVICE:</b>				
Total publications	4	8	14	10
Average cost per publication	\$275,625	\$122,056	\$56,332	\$79,187
Total community contacts	10,000	16,080	17,969	15,005
Average cost per contact	\$12.25	\$6.75	\$4.88	\$5.86

The comprehensive nature and length of the Commission's ACL Discussion Paper necessitated additional publications in excess of the Commission's target for 2005-2006; these included a Background Paper Volume compiling all 15 Background Papers into a single reference work, a concise Discussion Paper Overview, and a series of plain English pamphlets describing key proposals. The aim of these additional publications was to encourage public submissions on the Commission's proposals for reform. The increase in publications has largely contributed to the lower average cost per publication.



LAW REFORM COMMISSION OF WESTERN AUSTRALIA

**CERTIFICATION OF PERFORMANCE INDICATORS  
FOR THE YEAR ENDED 30 JUNE 2006**

We hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the performance of the Law Reform Commission of Western Australia, and fairly represent the performance of the Law Reform Commission of Western Australia for the year ending 30 June 2006.



AG BRADDOCK SC  
Chair  
22 August 2006



Ilse Petersen  
Member  
22 August 2006



Mary Anne Kenny  
Member  
22 August 2006

# PART III: FINANCIAL STATEMENTS

## INCOME STATEMENT

For the Year Ended 30 June 2006

	Note	2006 \$	2005 \$
<b>COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefit expenses	4	612,458	429,090
Supplies and services	5	185,413	269,815
Depreciation expense	6	8,863	7,341
Accommodation expenses	7	51,024	41,325
Capital user charge	8	63,560	59,400
Other expenses	9	163,622	69,306
<b>Total cost of services</b>		<u>1,084,940</u>	<u>876,277</u>
<b>Income</b>			
Revenue:			
Sales	10	1,114	457
Other revenue	12	–	523
<b>Total revenue</b>		<u>1,114</u>	<u>980</u>
Gains:			
Gains on disposal of non-current assets	11	60	14
<b>Total gains</b>		<u>60</u>	<u>14</u>
<b>Total Income other than income from State Government</b>		<u>1,174</u>	<u>994</u>
<b>NET COST OF SERVICES</b>		<u>1,083,766</u>	<u>875,283</u>
<b>INCOME FROM STATE GOVERNMENT</b>			
Service appropriation	13	869,000	884,000
Resources received free of charge		73,600	66,544
<b>Total income from State Government</b>		<u>942,600</u>	<u>950,544</u>
<b>SURPLUS/(DEFICIT) FOR THE PERIOD</b>		<u>(141,166)</u>	<u>75,261</u>

The Income Statement should be read in conjunction with the accompanying notes.

## BALANCE SHEET

As at 30 June 2006

	Note	2006 \$	2005 \$
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and Cash equivalents	22(a)	731,882	844,633
Receivables	14	8,969	17,582
Amounts receivable for services	15	20,000	10,000
<b>Total Current Assets</b>		<u>760,851</u>	<u>872,215</u>
<b>Non-Current Assets</b>			
Restricted cash and cash equivalents	16	1,767	–
Amounts receivable for services	15	3,000	10,000
Property, Plant and Equipment	17	9,848	15,946
<b>Total Non-Current Assets</b>		<u>14,615</u>	<u>25,946</u>
<b>Total Assets</b>		<u>775,466</u>	<u>898,161</u>
<b>LIABILITIES</b>			
<b>Current Liabilities</b>			
Payables	18	6,322	10,509
Provisions	19	46,981	32,596
Other current liabilities	20	5,233	–
<b>Total Current Liabilities</b>		<u>58,536</u>	<u>43,105</u>
<b>Non-Current Liabilities</b>			
Provisions	19	16,788	13,748
<b>Total Non-Current Liabilities</b>		<u>16,788</u>	<u>13,748</u>
<b>Total Liabilities</b>		<u>75,324</u>	<u>56,853</u>
<b>Net Assets</b>		<u>700,142</u>	<u>841,308</u>
<b>Equity</b>			
Contributed equity	21	11,000	11,000
Accumulated surplus/(deficiency)		<u>689,142</u>	<u>830,308</u>
<b>Total Equity</b>		<u>700,142</u>	<u>841,308</u>

The Statement of Financial Position should be read in conjunction with the accompanying notes.

## STATEMENT OF CHANGES IN EQUITY

For the Year Ended 30 June 2006

	Note	2006 \$	2005 \$
<b>Balance of equity at start of period</b>		841,308	766,047
<b>CONTRIBUTED EQUITY</b>			
Balance at start of period	21	11,000	11,000
Capital contribution		–	–
Distribution to owners		–	–
Balance at end of period		<u>11,000</u>	<u>11,000</u>
<b>ACCUMULATED SURPLUS</b>			
Balance at start of period		830,308	755,047
Net adjustment on transition to AIFRS		(141,166)	75,261
Surplus/(deficit) for period		–	–
Balance at end of period		<u>689,142</u>	<u>830,308</u>
<b>Balance of equity at end of period</b>		<u>700,142</u>	<u>841,308</u>
<b>Total Income and Expense for period</b>		(141,166)	75,261

The Statement of Changes in Equity should be read in conjunction with the accompanying notes.

## CASH FLOW STATEMENT

For the Year Ended 30 June 2006

	Note	2006 \$	2005 \$
<b>CASH FLOWS FROM STATE GOVERNMENT</b>			
Service appropriation		856,000	871,000
Holding account drawdowns		10,000	10,000
<b>Net cash provided by State Government</b>		<u>866,000</u>	<u>881,000</u>
Utilised as follows:			
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Payments:</b>			
Employee benefits		(540,833)	(387,776)
Supplies and Services		(322,458)	(398,820)
Accommodation expenses		(51,023)	(41,325)
Capital user charge		(63,560)	(59,400)
GST payments on purchases		(28,878)	(25,814)
GST payments to taxation authority		–	–
<b>Receipts:</b>			
Sale of goods and services		1,227	927
GST receipts on sales		133	330
GST receipts from taxation authority		31,173	28,426
<b>Net cash provided by/(used in) operating activities</b>	22(b)	<u>(974,219)</u>	<u>(883,452)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Proceeds from sale of non-current physical assets		–	14
Purchase of non-current physical assets		(2,765)	(8,206)
<b>Net cash provided by/(used in) investing activities</b>		<u>(2,765)</u>	<u>(8,192)</u>
<b>Net increase/decrease in cash and cash equivalents</b>		(110,984)	(10,644)
Cash and cash equivalents at the beginning of period		844,633	855,277
<b>CASH AND CASH EQUIVALENTS AT THE END OF PERIOD</b>	22(a)	<u>733,649</u>	<u>844,633</u>

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

# Notes to Financial Statements

For the Year Ended 30 June 2006

## 1. First time adoption of Australian equivalents to International Financial Reporting Standards

### General

This is the Commission's first published financial statements prepared under Australian Equivalents to International Financial Reporting Standards (AIFRS). AASB 1 'First-time adoption of Australian Equivalents to International Financial Reporting Standards' has been applied in preparing these financial statements. The financial statements of the Commission until 30 June 2006 had been prepared under the previously Australian Generally Accepted Accounting Principles (AGAAP).

The Australian Accounting Standards Board (AASB) adopted the Standards of the International Accounting Standards Board (IASB) for application to reporting periods beginning on or after 1 January 2005 by issuing AIFRS which comprise a Framework for the Preparation and Presentation of Financial Statements, Australian Accounting Standards and the Urgent Issues Group (UIG) Interpretations.

In accordance with the option provided by AASB 1 paragraph 36A and exercised by Treasurer's Instruction (TI) 1101 'Application of Australian Accounting Standards and Other Pronouncements', financial instrument information prepared under AASB 132 and AASB 139 will apply from 1 July 2005 and consequently comparative information for financial instruments is presented on the previous AGAAP basis. All other comparative information has been prepared under the AIFRS basis.

### Early adoption of standards

The Commission cannot early adopt an Australian Accounting Standard or UIG Interpretation unless specifically permitted by TI 1101 'Application of Australian Accounting Standards and Other Pronouncements'. This TI requires the early adoption of revised AASB 119 'Employee Benefits' as issued in December 2004, AASB 2004-3 'Amendments to Australian Accounting Standards' and 2005-3 'Amendments to Australian Accounting Standards [AASB 119]'; AASB 2005-4 'Amendments to Australian Accounting Standard [AASB 139, AASB 132, AASB 1, AASB 1023 & AASB 1038]' and AASB 2005-6 'Amendments to Australian Accounting Standards [AASB 3]' to the annual reporting period beginning 1 July 2005. AASB 2005-4 amends AASB 139 'Financial Instruments: Recognition and Measurement' so that the ability to designate financial assets and financial liabilities at fair value is restricted. AASB 2005-6 excludes business combinations involving common control from the scope of AASB 3 'Business Combinations'.

## 2. Summary of significant accounting policies

### (a) General Statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board as applied by the Treasurer's Instructions. Several of these are modified by the Treasurer's Instructions to vary the application, disclosure, format and wording.

The Financial Administration and Audit Act and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over the Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board. The modifications are intended to fulfil the requirements of general application to the public sector, together with the need for greater disclosure and also satisfy accountability requirements.

Where any such modification is required and has a material or significant financial effect upon the reported results, details of that modification and where practicable, the resulting financial effect is disclosed in individual notes to the financial statements.

### (b) Basis of preparation

The financial statements have been prepared in accordance with Accounting Standard AAS29 'Financial Reporting by Government Departments' on the accrual basis of accounting using the historical cost convention, modified by the revaluation of land, buildings and infrastructure which have been measured at fair value.

The accounting policies adopted in the preparation of the financial statements have been consistently applied throughout all periods presented unless otherwise stated.

The financial statements are presented in Australian dollars and all values are rounded to the nearest dollar.

(c) **Reporting entity**

The reporting entity comprises the Commission and no other related bodies.

(d) **Contributed Equity**

UIG 1038 "Contributions by Owners Made to Wholly-Owned Public Sector Entities" transfers in the nature of equity contributions must be designated by the Government (the owner) as contributions by owners (at the time of, or prior to transfer) before such transfers can be recognised as equity contributions in the financial statements. Capital contributions (appropriations) have been designated as contributions by owners and have been credited directly to Contributed Equity.

(e) **Income**

*Revenue*

Revenue is measured at the fair value of consideration received or receivable. Revenue is recognised for the major business unit as follows:

*Sale of goods*

Revenue is recognised from the sale of goods and disposal of other assets when the significant risks and rewards of ownership transfer to the purchaser.

*Rendering of services*

Revenue is recognised upon delivery of the service to the client or by reference to the stage of completion.

*Interest*

Revenue is recognised as the interest accrues.

*Service Appropriations*

Service Appropriations are recognised as revenue in the period in which the Commission gains control of the appropriated funds. The Commission gains control of appropriated funds at the time those funds are deposited into the Commission's bank account or credited to the holding account held at the Department of Treasury and Finance.

*Grants, donations, gifts and other non-reciprocal contributions*

Revenue is recognised at fair value when the Commission obtains control over the assets comprising the contributions which is usually when cash is received.

"Other non-reciprocal contributions that are not contributions by owners are recognised at their fair value. Contributions of services are only recognised when a fair value can be reliably determined and the services would be purchased if not donated.

Where contributions recognised as revenues during the reporting period were obtained on the condition that they be expended in a particular manner or used over a particular period, and those conditions were undischarged as at the reporting date, the nature of, and amounts pertaining to, those undischarged conditions are disclosed in the notes.

*Gains*

Gains may be realised or unrealised and are usually recognised on a net basis. These include gains arising on the disposal of non-current assets and some revaluations of non-current assets.

## NOTES TO THE FINANCIAL STATEMENTS (CONT'D)

For the Year Ended 30 June 2006

### (f) Property, Plant and Equipment

#### *Capitalisation/Expensing of assets*

Items of property, plant and equipment costing over \$1,000 are recognised as assets and the cost of utilising assets is expensed (depreciated) over their useful lives. Items of property, plant and equipment costing less than \$1,000 are immediately expensed direct to the Income Statement (other than where they form part of a group of similar items which are significant in total).

#### *Initial recognition and measurement*

All items of property, plant and equipment are initially recognised at cost. For items of property, plant and equipment acquired at no cost or for nominal consideration, the cost is their fair value at the date of acquisition.

#### *Subsequent measurement*

After recognition as an asset, the Commission uses the cost model for property, plant and equipment. Items of property, plant and equipment are carried at historical cost less accumulated depreciation and accumulated impairment losses.

Refer to note 15 'Property, plant and equipment' for further information on revaluations.

Assets acquired at no cost or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

#### *Depreciation*

All non-current assets having a limited useful life are systematically depreciated over their estimated useful lives in a manner which reflects the consumption of their future economic benefits.

Depreciation is calculated on the straight line basis, using rates which are reviewed annually. Expected useful lives for each class of depreciable asset are:

Office equipment and computers	3 to 10 years
--------------------------------	---------------

### (g) Impairment of Assets

Property, plant and equipment assets are tested for any indication of impairment at each reporting date. Where there is an indication of impairment, the recoverable amount is estimated. Where the recoverable amount is less than the carrying amount, the asset is considered impaired and is written down to the recoverable amount and an impairment loss is recognised. As the Commission is a not-for-profit entity, unless an asset has been identified as a surplus asset, the recoverable amount is the higher of an asset's fair value less costs to sell and depreciated replacement cost.

The risk of impairment is generally limited to circumstances where an asset's depreciation is materially understated or where the replacement cost is falling. Each relevant class of assets is reviewed annually to verify that the accumulated depreciation/amortisation reflects the level of consumption or expiration of asset's future economic benefits and to evaluate any impairment risk from falling replacement costs.

Intangible assets with an indefinite useful life and intangible assets not yet available for use are tested for impairment at each reporting date irrespective of whether there is any indication of impairment.

The recoverable amount of assets identified as surplus assets is the higher of fair value less costs to sell and the present value of future cash flows expected to be derived from the asset. Surplus assets carried at fair value have no risk of material impairment where fair value is determined by reference to market evidence. Where fair value is determined by reference to depreciated replacement cost, surplus assets are at risk of impairment and the recoverable amount is measured. Surplus assets at cost are tested for indications of impairment at each reporting date.



(h) **Leases**

The Commission has entered into an operating lease for the rent of the building. The lessors effectively retain all of the risks and benefits incidental to ownership of the items held under the operating leases. Lease payments are expensed on a straight line basis over the lease term as this is representative of the pattern of benefits to be derived from the leased property.

(i) **Financial Instruments**

The Commission has two categories of financial instrument:

- Loans and receivables (cash and cash equivalents, receivables); and
- Non-trading financial liabilities (payables, Treasurer's advance).

(j) **Cash and Cash equivalents**

For the purpose of the Cash Flow Statement, cash and cash equivalents includes restricted cash and cash equivalents. These are comprised of cash on hand and short-term deposits with original maturities of three months or less that are readily convertible to a known amount of cash, and which are subject to insignificant risk of changes in value.

(k) **Accrued salaries**

Accrued salaries (refer note 18) represent the amount due to staff but unpaid at the end of the financial year, as the end of the last pay period for that financial year does not coincide with the end of the financial year. The Commission considers the carrying amount approximates net fair value.

(l) **Receivables**

Receivables are recognised and carried at original invoice amount less an allowance for uncollectible amounts (i.e. impairment). The collectability of receivables is reviewed on an ongoing basis and any receivables identified as uncollectible are written-off. The allowance for uncollectible amounts (doubtful debts) is raised when there is objective evidence that the Commission will not be able to collect the debts. The carrying amount is equivalent to fair value as it is due for settlement within 30 days.

(m) **Payables**

Payables are recognised when the Commission becomes obliged to make future payments as a result of a purchase of assets or services. The carrying amount is equivalent to fair value, as they are generally settled within 30 days.

(n) **Provisions**

Provisions are liabilities of uncertain timing and amount and are recognised where there is a present legal, equitable or constructive obligation as a result of a past event and when the outflow of economic benefits is probable and can be measured reliably. Provisions are reviewed at each balance sheet reporting date. See note 22 'Provisions'.

**Provisions- Employee Benefits**

*Annual Leave and Long Service Leave*

This entitlement is recognised at the reporting date in respect to employees' services up to that date and is measured at the nominal amounts expected to be paid when the liabilities are settled.

A liability for long service leave is recognised after an employee has completed four years of service. An actuarial assessment of long service leave undertaken by Price Waterhouse Coopers in 2004 determined that the liability measured using the short hand method was not materially different from the liability measured using the present value of expected future payments.

This method of measurement of the liability is consistent with the requirements of Australian Accounting Standards AASB 119 "Employee Benefits".

NOTES TO THE FINANCIAL STATEMENTS (CONT'D)  
For the Year Ended 30 June 2006

All annual leave and unconditional long service leave provisions are classified as current liabilities as the Commission does not have an unconditional right to defer settlement of the liability for at least 12 months after the reporting date.

*Superannuation*

The Government Employees Superannuation Board (GESB) administers the following superannuation schemes. Employees may contribute to the Pension Scheme, a defined benefit pension scheme now closed to new members or the Gold State Superannuation Scheme (GSS), a defined benefit lump sum scheme also closed to new members. The Commission has no liabilities for superannuation charges under the Pension or the GSS Schemes as the liability has been assumed by Treasurer.

Employees who are not members of either the Pension or the GSS Schemes become non-contributory members of the West State Superannuation Scheme (WSS), an accumulation fund. The Commission makes concurrent contributions to GESB on behalf of employees in compliance with the Commonwealth Government's Superannuation Guarantee (Administration) Act 1992. These contributions extinguish the liability for superannuation charges in respect of the WSS Scheme. The GESB makes all benefit payments in respect of the Pension and GSS Schemes, and is recouped by the Treasurer for the employer's share.

(o) *Superannuation expense*

The superannuation expense is comprised of the following elements:

- (i) Defined benefit plans- Change in the unfunded employer's liability in respect of current employees who are members of the Pension Scheme and current employees who accrued a benefit on transfer from that Scheme to the Gold State Superannuation Scheme; and
- (ii) Defined contribution plans - Employer contributions paid to the Gold State Superannuation Scheme and West State Superannuation Scheme.

The superannuation expense does not include payment of pensions to retirees, as this does not constitute part of the cost of services provided by the Commission in the current year.

A revenue "Liabilities assumed by the Treasurer" equivalent to (i) is recognised under Revenues from State Government in the Statement of Financial Performance as the unfunded liability is assumed by the Treasurer. The GESB makes the benefit payments and is recouped by the Treasurer.

Defined contribution plans - in order to reflect the Commission's true cost of services, the Commission is funded for the equivalent of employer contributions in respect of the GSS Scheme (excluding transfer benefits). These contributions were paid to the GESB during the year and placed in a trust account administered by the GESB on behalf of the Treasurer. The GESB subsequently paid these employer contributions in respect of the GSS Scheme to the Consolidated Fund.

The GSS Scheme is a defined benefit scheme for the purposes of employees and whole-of-government reporting. However, apart from the transfer benefit, it is a defined contribution plan for agency purposes because the concurrent contributions (defined contributions) made by the agency to GESB extinguishes the agency's obligations to the related superannuation liability.

(p) *Resources Received Free of Charge or for Nominal Cost*

Resources received free of charge or for nominal value which can be reliably measured are recognised as revenues and as assets or expenses as appropriate at fair value.

(q) *Comparative figures*

Comparative figures have been restated on the AIFRS basis except for financial instruments information, which has been prepared under the previous AGAAP Australian Accounting Standard AAS 33 'Presentation and Disclosure of Financial Instruments'.

The transition date to AIFRS for financial instruments is 1 July 2005 in accordance with the exemption allowed under AASB 1, paragraph 36A and Treasurer's Instruction 1101.

### 3. Disclosure of changes in accounting policy and estimates

#### Future impact of Australian Accounting Standards not yet operative

The Commission cannot early adopt an Australian Accounting Standard or UIG Interpretation unless specifically permitted by TI 1101 'Application of Australian Accounting Standards and Other Pronouncements'. As referred to in Note 2, TI 1101 has only mandated the early adoption of revised AASB 119, AASB 2004-3, AASB 2005-3, AASB 2005-4 and AASB 2005-6. Consequently, the Commission has not applied the following Australian Accounting Standards and UIG Interpretations.

1. AASB 7 'Financial Instruments: Disclosures' (including consequential amendments in AASB 2005-10 'Amendments to Australian Accounting Standards [AASB 132, AASB 101, AASB 114, AASB 117, AASB 133, AASB 139, AASB 1, AASB 4, AASB 1023 & AASB 1038]'). This Standard requires new disclosures in relation to financial instruments. The Standard is required to be applied to annual reporting periods beginning on or after 1 January 2007. The Standard is considered to result in increased disclosures of an entity's risks, enhanced disclosure about components of financial position and performance, and changes to the way of presenting financial statements, but otherwise there is no financial impact.
2. AASB 2005-9 'Amendments to Australian Accounting Standards [AASB 4, AASB 1023, AASB 139 & AASB 132]' (Financial guarantee contracts). The amendment deals with the treatment of financial guarantee contracts, credit insurance contracts, letters of credit or credit derivative default contracts as either an "insurance contract" under AASB 4 'Insurance Contracts' or as a "financial guarantee contract" under AASB 139 'Financial Instruments: Recognition and Measurement'. The Commission does not undertake these types of transactions resulting in no financial impact when the Standard is first applied. The Standard is required to be applied to annual reporting periods beginning on or after 1 January 2006.
3. UIG Interpretation 4 'Determining whether an Arrangement Contains a Lease'. This Interpretation deals with arrangements that comprise a transaction or a series of linked transactions that may not involve a legal form of a lease but by their nature are deemed to be leases for the purposes of applying AASB 117 'Leases'. At reporting date, the Commission has not entered into any arrangements as specified in the Interpretation resulting in no impact when the Interpretation is first applied. The Interpretation is required to be applied to annual reporting periods beginning on or after 1 January 2006.

	2006	2005
	\$	\$
<b>4. Employee benefit expenses</b>		
Salaries and wages	531,628	377,530
Annual and long service leave	31,863	15,951
Superannuation – West State	48,967	35,609
	<u>612,458</u>	<u>429,090</u>
<b>5. Supplies and services</b>		
Goods and supplies	8,183	9,182
Services and contracts	103,630	194,089
Resources received free of charge (note 11)	73,600	66,544
	<u>185,413</u>	<u>269,815</u>

NOTES TO THE FINANCIAL STATEMENTS (CONT'D)

For the Year Ended 30 June 2006

	2006	2005
	\$	\$
<b>6. Depreciation expense</b>		
Office equipment and furnishings	8,863	7,341
	<u>8,863</u>	<u>7,341</u>
<b>7. Accommodation expense</b>		
Building rent operating lease expense	51,024	41,325
	<u>51,024</u>	<u>41,325</u>
<b>8. Capital user charge</b>		
Capital user charge	63,560	59,400
<p>A capital user charge rate of 8% has been set by the Government for 2005-06 and represents the opportunity cost of capital invested in the net assets of the Commission used in the provision of services. The charge is calculated on the net assets adjusted to take account of exempt assets. Payments are made to the Department of Treasury and Finance on a quarterly basis.</p>		
<b>9. Other expenses</b>		
Printing	86,768	29,129
Insurance	10,415	13,758
Advertising	8,071	2,866
Communication expenses	7,967	5,830
Other expenses (a)	50,401	17,723
	<u>163,622</u>	<u>69,306</u>
<p>(a) Includes workers compensation insurance, computing licenses, staff travel and accommodation and staff training.</p>		
<b>10. Sale of goods</b>		
Publication sales	1,114	457
	<u>1,114</u>	<u>457</u>
<b>11. Net gain/(loss) on disposal of non-current assets</b>		
Gain on Disposal of Non-Current Assets:		
Office equipment and computers	60	14
	<u>60</u>	<u>14</u>
Net gain/(loss)	<u>60</u>	<u>14</u>
<b>12. Other revenues from ordinary activities</b>		
Other revenue	-	523
	<u>-</u>	<u>523</u>

	2006 \$	2005 \$
<b>13. Income from State Government</b>		
Appropriation revenue received during the year:		
Service appropriations (I)	869,000	884,000
Resources received free of charge (II)		
Determined on the basis of the following estimates provided by agencies:		
Department of Attorney General		
Accounting, human resources and information technology services	70,681	64,211
Department of Housing and Works		
Property management services	2,919	2,333
	<u>73,600</u>	<u>66,544</u>

(I) Service appropriations are accrual amounts reflecting the full cost of services delivered. The appropriation revenue comprises a cash component and a receivable (asset). The receivable (holding account) comprises the depreciation expense for the year and any agreed increase in leave liability during the year.

(II) Where assets or services have been received free of charge or for nominal consideration, the Commission recognises revenues (except where the contribution of assets or services is in the nature of contributions by owners, in which case the Commission shall make a direct adjustment to equity) equivalent to the fair value of the assets and/or the fair value of those services that can be reliably determined and which would have been purchased if not donated, and those fair values shall be recognised as assets or expenses, as applicable.

#### 14. Receivables

Prepayments	325	6,457
Trade debtors	–	53
GST receivable	8,644	11,072
	<u>8,969</u>	<u>17,582</u>

#### 15. Amounts receivable for services

Current	20,000	10,000
Non Current	3,000	10,000
	<u>23,000</u>	<u>20,000</u>

This asset represents the non-cash component of service appropriations. It is restricted in that it can only be used for asset replacement.

#### 16. Restricted cash and cash equivalents

Non-current		
Accrued salaries suspense account (I)	1,767	–
	<u>1,767</u>	<u>–</u>

(I) Amount held in the suspense account is only to be used for the purpose of meeting the 27th pay in a financial year that occurs every 11 years

NOTES TO THE FINANCIAL STATEMENTS (CONT'D)  
For the Year Ended 30 June 2006

	2006 \$	2005 \$
<b>17 Property, Plant and Equipment</b>		
Property, Plant and Equipment		
At cost	81,159	94,203
Accumulated depreciation	(71,311)	(78,257)
	<u>9,848</u>	<u>15,946</u>
Reconciliations:		
Property, Plant and Equipment		
Carrying amount at start of year	15,946	15,081
Additions	2,765	8,206
Disposals	-	-
Depreciation	(8,863)	(7,341)
Carrying amount at end of year	<u>9,848</u>	<u>15,946</u>
<b>18 Payables</b>		
Trade and other creditors	<u>6,322</u>	<u>10,509</u>
<b>19 Provisions</b>		
<b>Current</b>		
Annual leave	15,690	8,319
Long service leave	25,732	20,898
Superannuation on-cost	4,216	2,402
	<u>45,638</u>	<u>31,619</u>
<b>Other Provisions</b>		
<b>Employment on-cost provision:</b>		
Carrying amount at start of year	977	628
Additional provisions recognised	366	349
Carrying amount at end of year	<u>1,343</u>	<u>977</u>
	<u>46,981</u>	<u>32,596</u>
<b>Non-current</b>		
Long service leave	14,727	11,961
Superannuation on-cost	1,579	1,375
	<u>16,306</u>	<u>13,336</u>
<b>Other Provisions</b>		
<b>Employment on-cost provision</b>		
Carrying amount at start of year	412	297
Additional provisions recognised	70	115
Carrying amount at end of year	<u>482</u>	<u>412</u>
	<u>16,788</u>	<u>13,748</u>

The Commission considers the carrying amount of employee entitlements approximates the net fair value.

## 20 Other liabilities

Current

Accrued Salaries

4.5% salary increase accrual (I)

1-day salary accrual (II)

2006

\$

2,486

2,747

5,233

2005

\$

–

–

–

(I) As part of the Public Service General Agreement (PSGA), a 4.5% salary increase for all PSGA employees was effective from the first pay period commencing on or after 26 February 2006 (this being the payroll of 10 March, 2006). As none of this remuneration had been paid at 30 June 2006, a salary accrual for all PSGA employees was taken up.

(II) The last pay day of the 2005/06 financial year was on 29 June 2006. A salary accrual of one working day's pay was required to be taken up. (2005, Nil working days accrued to 30 June 2005).

## 21 Equity

Equity represents the residual interest in the net assets of the Commission. The Government holds the equity interest in the Commission on behalf of the community.

Contributed equity

Opening balance

11,000

11,000

Capital contributions (I)

–

–

Closing balance

11,000

11,000

(I) Capital Contributions have been designated as contributions by owners and are credited directly to equity in the Balance Sheet

Accumulated surplus / (deficiency)

Opening balance

830,308

755,047

Change in net assets

(141,166)

75,261

Closing balance

689,142

830,308

## 22 Notes to the Statement of Cash Flows

### (a) Reconciliation of cash

Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Balance Sheet as follows:

Cash and cash equivalents

731,882

844,633

Restricted cash and cash equivalents (Note 16)

1,767

–

733,649

844,633

NOTES TO THE FINANCIAL STATEMENTS (CONT'D)  
For the Year Ended 30 June 2006

	2006 \$	2005 \$
(b) Reconciliation of net cost of services to net cash flows provided by/ (used in) operating activities		
Net cost of services	(1,083,766)	(875,283)
Non-cash items:		
Depreciation	8,863	7,341
Resources received free of charge	73,600	66,544
Loss on sale of property, plant and equipment	-	(14)
(Increase) / decrease in assets:		
Receivables	53	(53)
Other current assets	6,132	(6,457)
Increase / (decrease) in liabilities:		
Payables	(4,187)	(81,895)
Other current liabilities	5,233	(12,050)
Current provisions	14,385	11,648
Non-current provisions	3,040	3,824
Change in GST receivables	2,428	2,943
Net cash provided by/(used in) operating activities	(974,219)	(883,452)

### 23 Commitments for expenditure

#### Capital expenditure commitments

Capital expenditure commitments, being contracted capital expenditure additional to the amounts reported in the financial statements, are payable as follows:

Within 1 year	12,100	-
	<u>12,100</u>	<u>-</u>

#### Lease commitments

Commitments in relation to leases contracted for at the reporting date but not recognised as liabilities are payable as follows:

Within 1 year	47,750	29,820
Later than 1 year and not later than 5 years	190,487	-
	<u>238,237</u>	<u>29,820</u>

These commitments are all inclusive of GST.



## 24 Remuneration of Members of the Accountable Authority and Senior Officers

### Remuneration of Members of the Accountable Authority

The number of members of the Accountable Authority, whose total of fees, salaries, superannuation and other benefits for the financial year fall within the following bands are:

	2006 \$	2005 \$
\$0 - \$10,000	2	*1
\$10,001 - \$20,000	1	–
\$20,001 - \$30,000	–	2
\$30,000 - \$40,000	1	–

\* The prior year figure has been adjusted to include members whose remuneration is zero

The total remuneration of the members of the Accountable Authority is:	\$57,162	\$ 55,550
--	----------	-----------

The superannuation included here represents the superannuation expense incurred by the Commission in respect of members of the Accountable Authority.

No members of the Accountable Authority are members of the Pension Scheme.

### Remuneration of Senior Officers:

The number of Senior Officers other than senior officers reported as members of the Accountable Authority, whose total of fees, salaries, superannuation and other benefits for the financial year fall within the following bands are:

\$100,001 - \$110,000	1	1
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The total remuneration of senior officers is:	\$106,162	\$102,463
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The superannuation included here represents the superannuation expense incurred by the Commission in respect of Senior Officers other than senior officers reported as members of the Accountable Authority.

No Senior Officers are members of the Pension Scheme.

## 25 Remuneration of Auditor

Remuneration to the Auditor General for the financial year is as follows:

Auditing the accounts, financial statements and performance indicators	\$8,900	\$8,500
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## 26 Financial instruments

### (a) Financial Risk Management Objectives and Policies

Financials instruments held by the Commission are cash and cash equivalents, finance leases, Treasurer' advances and receivables and payables. The Commission has limited exposure to financial risks. The Commission's overall risk management program focuses on managing the risks identified below.

## NOTES TO THE FINANCIAL STATEMENTS (CONT'D)

For the Year Ended 30 June 2006

### *Credit risk*

The Commission trades only with recognised, creditworthy third parties. The Commission has policies in place to ensure that sales of products and services are made to customers with an appropriate credit history. In addition, receivable balances are monitored on an ongoing basis with the result that the Commission's exposure to bad debts is minimal. There are no significant concentrations of credit risk.

### *Liquidity risk*

The Commission has appropriate procedures to manage cash flows including drawdowns of appropriations by monitoring forecast cash flows to ensure that sufficient funds are available to meet its commitments.

### *Cash flow interest rate risk*

The Commission is not exposed to interest rate risk because cash and cash equivalents and restricted cash are non-interest bearing and have no borrowings other than the Treasurer's advance (non-interest bearing).

## (b) Financial Instrument disclosures

Financial instrument information for the year ended 2005 has been prepared under the previous AGAAP Australian Accounting Standard AAS 33 'Presentation and Disclosure of Financial Instruments'. Financial instrument information from 1 July 2005 has been prepared under AASB 132 'Financial Instruments: Presentation' and AASB 139 'Financial Instruments: Recognition and Measurement'.

### *Interest rate risk exposure*

The Commission's exposure to interest rate risk, repricing maturities and the weighted average interest rates on financial instruments at balance date are as follows:

	Weighted average interest rate	Floating interest rate	Fixed interest rate maturities			Non interest bearing	Total
			1 year or less	2 to 5 years	Over 5 years		
	%	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>2006</b>							
<b>Financial assets:</b>							
Cash and cash equivalent assets						733,649	733,649
Receivables						8,969	8,969
Other assets						23,000	23,000
<b>Total financial assets</b>						<b>765,618</b>	<b>765,618</b>
<b>Liabilities:</b>							
Payables						6,322	6,322
Finance lease liabilities						-	-
<b>Total financial liabilities</b>						<b>6,322</b>	<b>6,322</b>
<b>Net financial asset/(liabilities)</b>						<b>759,296</b>	<b>759,296</b>

	Weighted average interest rate	Floating interest rate	Fixed interest rate maturities			Non interest bearing	Total
			1 year or less	2 to 5 years	Over 5 years		
2005	%	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Financial assets:</b>							
Assets						844,633	844,633
Receivables						17,582	17,582
Amounts receivable for services						20,000	20,000
Total financial assets						882,215	882,215
<b>Liabilities:</b>							
Payables						10,509	10,509
Finance lease liabilities						-	-
Total financial liabilities						10,509	10,509
Net financial assets						871,706	871,706

#### Net fair values

The carrying amount of financial assets and financial liabilities recorded in the financial statements are not materially different from their net fair values.

## 27 Supplementary financial information

- There were no losses of public moneys or other public property through theft or default during the financial year (2005, nil).
- There were no write offs of public money or other public property during the financial year (2005, nil).
- There were no gifts of public property during the financial year (2005, nil).
- There were no contingent liabilities as at 30 June 2006 (2005, nil).
- The Commission had no related bodies during the financial year (2005, nil).
- The Commission had no affiliated bodies during the financial year (2005, nil).
- There were no events occurring after the balance date at the end of the financial year.

## 28 Explanatory Statement

### (i) Significant variations between estimates and actual results for the financial year

Details and reasons for significant variations between actual results with the corresponding items of the preceding year are detailed below. Significant variations are considered to be those greater than 5% and \$7,000.

	Actual 2006 \$	Estimate 2006 \$	Variance
Employee benefit expenses	612,458	410,000	202,458
Supplies and services	185,413	689,000	(503,587)
Capital user charge	63,560	17,000	46,560
Other expenses	163,622	43,000	120,622

NOTES TO THE FINANCIAL STATEMENTS (CONT'D)  
For the Year Ended 30 June 2006

Employee benefit expenses

The increase in employee expenses is due to the Commission's preference to engage the many research, writing and editing services under short term casual employment contracts rather than as fixed priced contract for services.

Supplies and services

The decrease is due to the delay in the progress of the references undertaken by the Commission. Another contributory factor for the variance is that actual payments relating to services (such as editing, writing and researching) were made under employment contracts as detailed in the note above.

Capital user charge

The increase is due to the Commission's increased asset balances resulting from the delay in the progress of the Commission's references.

Other expenses

The increase is largely due to significant amounts of expenses that were classified as "Supplies and services" for the estimate but were actually recorded as "Other expenses".

**(ii) Significant variations between actual revenues and expenditures for the financial year and revenues and expenditures for the immediately preceding financial year**

Details and reasons for significant variations between actual results with the corresponding items of the preceding year are detailed below. Significant variations are considered to be those greater than 5% and \$7,000.

	2006	2005	Variance
	\$	\$	\$
Employee benefit expenses	612,458	429,090	183,368
Supplies and services	185,413	269,815	(84,402)
Other expenses	163,622	69,306	94,319

Employee benefit expenses

The increase is largely due to the significant amounts paid to the writers and editors for a number of publications that were produced by the Commission when compared to the previous financial year.

Supplies and services

The decrease is due to the Commission's references reaching the 'writing phase' of the discussion paper and final report where the writers were paid under contract of employment as stated above. In the previous financial year many background papers were written and each paper was paid under a fixed priced contract for service.

Other expenses

The increase is largely due to a significant amount spent on printing in relation to the publications. In 2005/06 printing costs amounted to \$90,000 compared to \$25,000 in 2004/05.

## 29. Reconciliations explaining the transition to Australian equivalents to International Financial Reporting Standards (AIFRS)

### RECONCILIATION OF EQUITY AT DATE OF TRANSITION TO AIFRS:1 JULY 2004

	<b>AGAAP</b>			<b>AIFRS</b>
	1 July 2004	reclass	reclass	1 July 2004
	\$	employee	intangibles	\$
		benefits	AASB 138	
		AASB 119		
<b>Current assets</b>				
Cash and cash equivalents	848,553			848,553
Restricted cash and cash equivalents	6,723			6,723
Receivables	14,015			14,015
Amounts receivable for services	10,000			10,000
<b>Total Current Assets</b>	<b>879,291</b>	-	-	<b>879,291</b>
<b>Non-Current Assets</b>				
Amounts receivable for services	7,000			7,000
Property, plant and equipment	15,081			15,081
<b>Total Non-Current Assets</b>	<b>22,081</b>	-	-	<b>22,081</b>
<b>TOTAL ASSETS</b>	<b>901,372</b>	-	-	<b>901,372</b>
<b>Current Liabilities</b>				
Payables	92,404			92,404
Provisions	24,479	(3,530)		20,949
Other current liabilities	12,050			12,050
<b>Total Current Liabilities</b>	<b>128,933</b>	<b>(3,530)</b>	-	<b>125,403</b>
<b>Non-Current Liabilities</b>				
Provisions	6,393	3,530		9,923
<b>Total Non-Current Liabilities</b>	<b>6,393</b>	<b>3,530</b>	-	<b>9,923</b>
<b>Total Liabilities</b>	<b>135,326</b>	-	-	<b>135,326</b>
<b>Net Assets</b>	<b>766,046</b>	-	-	<b>766,046</b>
<b>Equity</b>				
Contributed equity	11,000			11,000
Accumulated surplus/(deficiency)	755,046			755,046
<b>Total Equity</b>	<b>766,046</b>	-	-	<b>766,046</b>

NOTES TO THE FINANCIAL STATEMENTS (CONT'D)

For the Year Ended 30 June 2006

RECONCILIATION OF EQUITY AT DATE OF TRANSITION TO AIFRS AS AT 30 JUNE 2005

	<b>AGAAP</b>			<b>AIFRS</b>
	2005	reclass	reclass	2005
	\$	employee	intangibles	\$
		benefits	AASB 138	
		AASB 119		
<b>Current assets</b>				
Cash and cash equivalents	844,633			844,633
Receivables	11,125			11,125
Amounts receivable for services	10,000			10,000
Other current assets	6,457			6,457
<b>Total Current Assets</b>	872,215	-	-	872,215
<b>Non-Current Assets</b>				
Amounts receivable for services	10,000			10,000
Property, plant and equipment	15,946			15,946
<b>Total Non-Current Assets</b>	22,946	-	-	22,946
<b>TOTAL ASSETS</b>	898,161	-	-	898,161
<b>Current Liabilities</b>				
Payables	10,509			10,509
Provisions	25,194	7,402		32,596
<b>Total Current Liabilities</b>	35,703	7,402	-	43,105
<b>Non-Current Liabilities</b>				
Provisions	21,150	(7,402)		13,748
<b>Total Non-Current Liabilities</b>	21,150	(7,402)		13,748
<b>Total Liabilities</b>	56,853	-	-	56,853
<b>Net Assets</b>	841,308	-	-	841,308
<b>Equity</b>				
Contributed equity	11,000			11,000
Accumulated surplus/(deficiency)	830,308	-		830,308
<b>Total Equity</b>	841,308	-	-	841,308

RECONCILIATION OF INCOME STATEMENT UNDER AGAAP TO AIFRS AS AT 30 JUNE 2005

	AGAAP			AIFRS	
	2005 \$	reclass employee benefits AASB 119	reclass intangibles AASB 138	reclass gain/loss on sale of assets AASB 116	2005 \$
<b>COST OF SERVICES</b>					
<b>Expenses</b>					
Employee benefits expenses	437,153	(8,063)			429,090
Supplies and services	269,815				269,815
Depreciation and amortisation expense	7,341				7,341
Accommodation expenses	41,325				41,325
Capital user charge	59,400				59,400
Other expenses	61,243	8,063			69,306
<b>Total cost of services</b>	<b>876,277</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>876,277</b>
<b>Income</b>					
Revenue:					
Sale of goods	457				457
Other Revenues	523				523
<b>Total Revenue</b>	<b>980</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>980</b>
Gains:					
Gains on disposal of non-current assets	14				14
<b>Total Gains</b>	<b>14</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>14</b>
<b>Total income other than income from the State Government</b>	<b>994</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>994</b>
<b>NET COST OF SERVICES</b>	<b>875,283</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>875,283</b>
<b>INCOME FROM STATE GOVERNMENT</b>					
Service appropriations	884,000				884,000
Liabilities assumed by the Treasurer	-			-	-
Resources received free of charge	66,544				66,544
<b>Total income from State Government</b>	<b>950,544</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>950,544</b>
<b>SURPLUS/(DEFICIT) FOR THE PERIOD</b>	<b>75,261</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>75,261</b>

NOTES TO THE FINANCIAL STATEMENTS (CONT'D)  
For the Year Ended 30 June 2006

RECONCILIATION OF CASH FLOW UNDER AGAAP TO AIFRS AS AT 30 JUNE 2005

	Note	AGAAP 30 June 2005 \$	ADJUSTMENTS	AIFRS 30 June 2005
<b>CASH FLOWS FROM STATE GOVERNMENT</b>				
Service appropriation		871,000		871,000
Holding account drawdowns		10,000		10,000
<b>Net cash provided by State Government</b>		881,000	-	881,000
<b>Utilised as follows:</b>				
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
<b>Payments</b>				
Employee Costs		(387,776)		(387,776)
Supplies and services		(398,820)		(398,820)
Accommodation expenses		(41,325)		(41,325)
Capital user charge		(59,400)		(59,400)
GST payments on purchases		(25,814)		(25,814)
<b>Receipts</b>				
Receipts from sale of goods and services		927		927
GST receipts on sales		330		330
GST receipts from taxation authority		28,426		28,426
<b>Net cash provided by/(used in) operating activities</b>	22(b)	(883,452)	-	(883,452)
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Proceeds from sale of non-current assets		14		14
Purchase of non-current assets		(8,206)		(8,206)
<b>Net cash provided by/(used in) investing activities</b>		(8,192)	-	(8,192)
<b>Net increase in cash held</b>		(10,644)		(10,644)
Cash and cash equivalents at the beginning of period		855,277		855,277
<b>CASH AND CASH EQUIVALENTS AT THE END OF PERIOD</b>	22(a)	844,633	-	844,633



LAW REFORM COMMISSION OF WESTERN AUSTRALIA

**CERTIFICATION OF FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2006**

The accompanying financial statements of the Law Reform Commission of Western Australia have been prepared in compliance with the provisions of the *Financial Administration and Audit Act 1985* from proper accounts and records to present fairly the financial transactions for the financial year ending 30 June 2006 and the financial position as at 30 June 2006.

At the date of signing we are not aware of any circumstances which would render any particulars included in the financial statements misleading or inaccurate.



Mark Woodcock  
A/Director Financial Management  
Chief Finance Officer  
5 September 2006



AG BRADDOCK SC  
Chair  
Accountable Authority  
7 September 2006



ID Petersen  
Member  
6 September 2006



## AUDITOR GENERAL

### INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

#### LAW REFORM COMMISSION OF WESTERN AUSTRALIA FINANCIAL STATEMENTS AND PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2006

##### Audit Opinion

In my opinion,

- (i) the financial statements are based on proper accounts and present fairly the financial position of the Law Reform Commission of Western Australia at 30 June 2006 and its financial performance and cash flows for the year ended on that date. They are in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions;
- (ii) the controls exercised by the Commission provide reasonable assurance that the receipt and expenditure of moneys, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (iii) the key effectiveness and efficiency performance indicators of the Commission are relevant and appropriate to help users assess the Commission's performance and fairly represent the indicated performance for the year ended 30 June 2006.

##### Scope

The Commission is responsible for keeping proper accounts and maintaining adequate systems of internal control, preparing the financial statements and performance indicators, and complying with the Financial Administration and Audit Act 1985 (the Act) and other relevant written law.

The financial statements consist of the Income Statement, Balance Sheet, Statement of Changes in Equity, Cash Flow Statement, and the Notes to the Financial Statements.

The performance indicators consist of key indicators of effectiveness and efficiency.

##### Summary of my Role

As required by the Act, I have independently audited the accounts, financial statements and performance indicators to express an opinion on the financial statements, controls and performance indicators. This was done by testing selected samples of the evidence. Further information on my audit approach is provided in my audit practice statement. Refer "<http://www.audit.wa.gov.au/pubs/Audit-Practice-Statement.pdf>".

An audit does not guarantee that every amount and disclosure in the financial statements and performance indicators is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements and performance indicators.

D D R PEARSON  
AUDITOR GENERAL  
15 September 2006

4th Floor Dumas House 2 Havelock Street West Perth 6005 Western Australia Tel: 08 9222 7500 Fax: 08 9322 5664

# APPENDIX I: CURRENT REFERENCES

The Commission makes recommendations for the reform of areas of the law, referred to it by the Attorney General. Once the terms of reference are settled, the work generally goes through a number of stages.

## THE TRADITIONAL APPROACH TO LAW REFORM IN WESTERN AUSTRALIA

The approach varies according to the nature of each reference. In the past primary responsibility for a particular project was allocated to an individual research officer, under the general direction of the Executive Officer and Director of Research and the members of the Commission. An alternative but infrequently used procedure was to engage a consultant with expertise in the subject-matter of the project. A preliminary paper was generally prepared on the scope of the project and the approach to be taken by the Commission.

## A NEW APPROACH FOR AN IMPROVED COMMISSION

In an effort to keep pace with changing societal demands and law reform requirements, the Commission underwent a restructure in the years 1997–1999. The restructure enabled the Commission to engage specialists with experience and expertise and to increase the overall efficiency of reviews. This structure has since been improved upon, with the Commission adopting a project-based model, allowing for the management of multiple references.

The Commission presently employs a full-time Executive Officer, a full-time Executive Assistant and a part-time Finance Officer and engages additional temporary staff as needed to assist with particular projects. The Commission engages consultants for research, writing and editing. This permits individuals who would not previously have been able to participate in the process of law reform to bring their unique and special skills to the Commission's law reform activities on less than a full-time basis. The Commission endeavours to use the public tender procedure to select writers, editors and researchers for each project.

## ABORIGINAL CUSTOMARY LAWS – PROJECT 94

In February 2006, the Commission released its comprehensive Discussion Paper and Discussion Paper Overview on the Aboriginal Customary Laws reference. The completion and distribution of these papers was followed by a three-month submissions period which was later extended by a further two months upon the request of several interested parties.

In order to facilitate the feedback process and to encourage submissions from Indigenous people, the Commission also conducted several return visits to various regional and remote communities previously consulted. The Commission received positive feedback from the majority of people and organisations who took time to respond to the issues raised.

The Commission is now working on its final recommendations and hopes to have published the Final Report in September 2006.

The Commission also republished the 15 Background Papers previously released throughout 2004-2005 into a single Background Paper volume for ease of reference.

Recognising that all persons in Western Australia are subject to and protected by this State's legal system; and there may be a need to recognise the existence of, and take into account within this legal system, Aboriginal customary laws:

The Law Reform Commission of Western Australia is to enquire into and report upon Aboriginal customary laws in Western Australia other than in relation to Native Title and matters addressed under the *Aboriginal Heritage Act 1972 (WA)*.

Particular reference will be given to:

1. how those laws are ascertained, recognised, made, applied and altered in Western Australia;
2. who is bound by those laws and how they cease to be bound; and
3. whether those laws should be recognised and given effect to; and, if so, to what extent, in what manner and on what basis, and in particular whether:
  - (a) the laws of Western Australia should give express recognition to Aboriginal customary laws, cultures and practices in the administration or enforcement of Western Australian law;
  - (b) the practices and procedures of the Western Australian courts should be modified to

recognise Aboriginal customary laws;

- (c) the laws of Western Australia relating to the enforcement of criminal or civil law should be amended to recognise Aboriginal customary laws; and
- (d) whether other provisions should be made for the identification and application of Aboriginal customary laws.

For the purposes of carrying out this inquiry, the Commission is to have regard to:

- matters of Aboriginal customary law falling within state legislative jurisdiction including matters performing the function of or corresponding to criminal law (including domestic violence); civil law (including personal property law, contractual arrangements and torts); local government law; the law of domestic relations; inheritance law; law relating to spiritual matters; and the laws of evidence and procedure;
- relevant Commonwealth legislation and international obligations;
- relevant Aboriginal culture, spiritual, sacred and gender concerns and sensitivities; and
- of Aboriginal persons in Western Australia.

PETER FOSS QC MLC  
2 December 2000

PROBLEM ORIENTED COURTS  
AND JUDICIAL CASE  
MANAGEMENT – PROJECT 96

I, Jim McGinty, Attorney General for the State of Western Australia, HAVING REGARD TO the fact that the laws of Western Australia make some provision in respect of the principles, practices and procedures pertaining to problem-oriented courts and judicial case management hereby refer the following matter to the Law Reform Commission of Western Australia.

The Law Reform Commission of Western Australia is to inquire into and Report upon whether, and if so in what manner, the principles, practices and procedures pertaining to problem-oriented courts and judicial case management require reform, and in particular, and without detracting from the generality of this reference:

- (i) the extent to which, and the circumstances in which persons are referred to problem-oriented courts and judicial case management;

- (ii) the extent to which problem-oriented courts and judicial case management fit within the traditional court model; and

- (iii) any related matter

AND TO REPORT on the adequacy thereof and on any desirable changes to the existing law, practices and administration in relation thereto.

In carrying out this reference the Commission is to have regard to the development of problem oriented courts and judicial case management, their philosophy and structures, as well as the jurisprudential, ethical and practical issues arising from their operation.

The Commission is requested to deliver its report and recommendations not later than December 2005 or such later date as I might direct.

JIM MCGINTY MLA  
28 August 2004

On 28 August 2004, the Commission received a new reference on Problem Oriented Courts and Judicial Case Management. The appointed project writer and research assistant undertook an extensive research and consultation phase, with work progressing on a draft paper. The project has, however, since

met with unexpected delays. The Commission now anticipates completing an Issues Paper in February 2007, followed by an extensive submissions and research period from March until May, with a Final Report to be published in October 2007.

## A REVIEW OF THE LAW OF HOMICIDE – PROJECT 97

I, Jim McGinty, Attorney General for the State of Western Australia, HAVING REGARD TO the fact that the Criminal Code of Western Australia makes various provisions for the offences of homicide, the defences to homicide and the penalties that are applied, hereby refers the following matter to the Law Reform Commission of Western Australia.

The Law Reform Commission of Western Australia is to examine and Report upon the law of homicide and to give consideration to:

- (i) the distinction between wilful murder and murder;

- (ii) the defences to homicide, including self-defence and provocation;
- (iii) current penalty provisions relating to the law of homicide; and
- (iv) any related matter

AND TO REPORT on the adequacy thereof and on any desirable changes to the existing law, practices and procedures in relation thereto.

The Commission is requested to deliver its report and recommendations not later than April 2006 or such later date as I might direct.

JIM MCGINTY MLA, 26 April 2005

On 26 April 2005 the Commission received a reference to review the law of homicide, with particular consideration to be given to the distinction between wilful murder and murder; the defences to homicide, including self-defence and provocation; and current penalty provisions.

At present, Western Australia is the only Australian jurisdiction that maintains a distinction between the offences of wilful murder and murder. This distinction is artificial, requiring juries to weigh the issue of intent to kill, in the case of wilful murder, against the issue of intent to do grievous bodily harm, in the case of murder. Other jurisdictions have only one offence of murder, which in effect incorporates both intentions and thus reduces the complexity and confusion often faced by juries when deliberating on such cases.

Following the release of the Review of the Law of Homicide Issues Paper in May 2006, the Commission undertook an in-

depth examination of the issues surrounding the law of homicide, including the consideration of the removal of the distinction between wilful murder and murder and the effect that such a change might have. The Commission conducted a thorough consultation process, inviting submissions from members of the judiciary, prominent criminal practitioners, academics and other interested parties, as well as holding focus groups with these stakeholders.

Many interested stakeholders requested lengthy extensions to the submission's period. As the Commission is keen to hear from those organisations who have an involvement in the area of homicide law, it has granted all reasonable requests. This, however, has resulted in a considerable delay in the commencement of the Final Report. The Commission is currently working on a draft report and anticipates the publication of the Final Report and recommendations by the end of December 2006.

## COMPENSATION FOR INJURIOUS AFFECTION – PROJECT 98

I, Jim McGinty, Attorney General for the State of Western Australia, HEREBY REFER the following matter to the Law Reform Commission of Western Australia.

The Law Reform Commission of Western Australia is to inquire into and Report upon whether, and if so in what manner, the principles, practices and procedures pertaining to the issue of compensation for injurious affection to land in Western Australia require reform, and in particular, and without detracting from the generality of this reference:

(a) the provisions of s241(7) of the Land Administration Act 1997, including particularly the rights affected thereby of persons whose land is, or is proposed to be, acquired by compulsory process by the State or by an instrumentality of the State or by any other instrumentality otherwise authorised or directed by statute to acquire interests in land compulsorily, and the extent to which the adjacent land of such

persons is affected by such acts and resulting works;

- (b) the law and practices in relation to compensation payable or other accommodations capable of being extended to owners and other persons with interests in alienated land where such land is to be regarded as injuriously affected under the terms of those statutes set out in Schedule 1 regulating land for public purposes or the implementation of works of a public character;
- (c) the continued use and application of the expression 'injurious affection'; and
- (d) any related matter

AND TO REPORT on the adequacy thereof and on any desirable changes to the existing law and practices in relation thereto.

The Commission is requested to deliver its report and recommendations not later than July 2007 or such later date as I might direct.

JIM MCGINTY MLA, 29 November 2005

On 29 November 2005, the Commission received a new reference on Compensation for Injurious Affection. The reference requires the Commission to inquire into and report upon whether the principles, practices and procedures pertaining to the issues of compensation for injurious affection to land in Western

Australia require reform. Since receiving the reference, the Commission has gone out to tender and engaged a project team to complete a Discussion Paper and Final Report. It is anticipated that a Discussion Paper will be available early in 2007 with a Final Report to follow shortly thereafter.

# APPENDIX II: PUBLICATIONS

FOLLOWING IS A LIST OF REPORTS AND DISCUSSION PAPERS PRODUCED BY THE COMMISSION.

Year	Topic	Ref No	Publication type
2006	Review of the Law of Homicide	97	Issues Paper
	Aboriginal Customary Laws: Discussion Paper Overview	94	
	Aboriginal Customary Laws: Background Papers (complete volume)	94	Background Papers
2005	Aboriginal Customary Laws: Discussion Paper	94	Discussion Paper
	Aboriginal Customary Laws: Background Papers Nos. 4–15 Annual Report 2004–2005	94	12 Background Papers
2004	Aboriginal Customary Laws: Thematic Summaries – Metropolitan Consultations	94	Consultation Report
	Aboriginal Customary Laws: Thematic Summaries – Community Consultations	94	Consultation Reports
	Aboriginal Customary Laws: Background Paper No. 3 Annual Report 2003–2004	94	Background Paper
2003	Aboriginal Customary Laws: Background Papers Nos. 1 & 2 Annual Report 2002–2003	94	2 Background Papers Report
	Contempt	93	Report & CD-ROM
	Aboriginal Customary Laws ('ACL')	94	Video
	Judicial Review of the Administrative Decisions	95	Report
	Contempt by Disobedience	93(III)	Discussion Paper
	Final Report on the Law of Contempt Annual Report 2002–2003	93	Report
2002	30th Anniversary Reform Implementation Report		Report
	Reports and Working Papers 1972–2002		CD-ROM
	Boxed set containing all LRCWA publications – Project Nos 1–92		CD-ROM
	Judicial Review of the Administrative Decisions	95	Discussion Paper
	Contempt in the Face of the Court	93(I)	Discussion Paper
Contempt by Publication	93(II)	Discussion Paper	
Annual Report 2001–2002		Report	
2001	Writs and Warrants of Execution	67	Report
	Annual Report 2000–2001		Report
2000	19th Australian Law Reform Agencies Conference		CD-ROM
	Annual Report 1999–2000		Report
1999	Review of the Criminal and Civil Justice System:	92	
	• Final Report		Report
	• Consultation Drafts (2 volumes)		Report
	• Project Summary		Report
	• Executive Summary		
	• Submissions Summary		Report
• 2 CDs, containing reports in electronic format	CD-ROM		
Annual Report 1998–1999		Report	
1998	Financial Protection in the Building and Construction Industry	82	Report
	Sale of Goods Act 1895	89	Report
	Reforming the Justice System	92	Issues Paper
	Annual Report 1997–1998		Report
1997	Limitation and notice of actions	36 Pt II	Report
	Restrictive covenants	91	Report
Annual Report 1996–1997		Report	
1996	Annual Report 1995–1996		Report



Year	Topic	Ref No	Publication type
1995	Enforcement of judgments of Local Courts	16 Pt II	Working Paper
	Enforcement of judgments of Local Courts	16 Pt II	Report
	Restrictive covenants	91	Discussion Paper
	Implied terms in the Sale of Goods Act 1895	89	Discussion Paper
	Equitable rules in contracts for the sale of goods	89	Discussion Paper
	Financial protection in the building and construction industry Annual Report 1994–1995	82	Discussion Paper
1994	Annual Report 1993–1994	55 Pt III	Report
	Enforcement of orders of Courts of Petty Sessions	75	Report
	United Kingdom statutes in force in Western Australia	77 Pt II	Report
	Consent to sterilisation of minors Joint tenancy and tenancy in common	78	Report
1993	Annual Report 1992–1993		
	Professional privilege for confidential communications	90	Report
1992	Limitation and notice of actions	36 Pt II	Discussion Paper
	Police Act offences	85	Report
	Annual Report 1991–1992		
1991	Criminal process and mental disorder	69	Report
	Effect of marriage or divorce on wills	76 Pt II	Report
	Medical treatment for the dying	84	Report
	Evidence of children and other vulnerable witnesses	87	Report
	Professional privilege for confidential communications	90	Discussion Paper
	Annual Report 1990–1991		
1990	Confidentiality of medical records and medical research	65 Pt II	Report
	Effect of marriage or divorce on wills	76 Pt II	Discussion Paper
	Administration Act	88	Report
	Evidence of children and other vulnerable witnesses	87	Discussion Paper
	Annual Report 1989–1990		Report
1989	Confidentiality of medical records and medical research	65 Pt II	Discussion Paper
	Payment of witnesses in civil proceedings	83	Report
	Police Act offences	85	Discussion Paper
	Incitement to racial hatred	86	Issues Paper
	Incitement to racial hatred	86	Report
	Annual Report 1988–1989		Report
1988	Local Courts	16 Pt I	Report
	Minors' contracts	25 Pt II	Report
	Administration of assets	34 Pt VII	Report
	Medical treatment for minors	77	Research Paper
	Payment of witnesses in civil proceedings	83	Discussion Paper
	Medical treatment for the dying Annual Report 1987–1988	84	Discussion Paper Report
1987	Criminal process and mental disorder	69	Discussion Paper
	Annual Report 1986–1987		Report
1986	Judicial review of administrative decisions	26 Pt II	Report
	Alteration of ground levels	44	Report
	Courts of Petty Sessions	55 Pt II	Report
	Problem of old convictions	80	Report
	Annual Report 1985–1986		
1985	Wills: substantial compliance	76 Pt I	Report
	Pawnbrokers Act	81	Discussion Paper
	Pawnbrokers Act	81	Report
	Annual Report 1984–1985		Report

Year	Topic	Ref No	Publication type
1984	Recognition of interstate and foreign grants of probate and administration	34 Pt IV	Report
	Trustees' powers of investment	34 Pt V	Report
	Alteration of ground levels	44	Discussion Paper
	Courts of Petty Sessions	55 Pt II	Discussion
	Paper		
	Wills: substantial compliance	76 Pt I	Discussion Paper
	Problem of old convictions	80	Discussion Paper
	Annual Report 1983–1984		Report
1983	Local Courts	16 Pt I	Working Paper
	Annual Report 1982–1983		Report
1982	Appeals from administrative decisions	26 Pt I	Report
	Limitation and notice of actions: latent disease and injury	36 Pt I	Report
	Strata Titles Act	56	Report
	Annual Report 1981–1982		Report
1981	Liability for stock straying on to the highway (2nd report)	11	Report
	Judicial review of administrative decisions	26 Pt II	Working Paper
	Trustees' powers of investment	34 Pt V	Working Paper
	Liability of highway authorities for non-feasance	62	Report
	Privacy	65	Working Paper
	Interest on judgments	70	Report
	Absconding Debtors Act	73	Report
	Annual Report 1980–1981		Report
1980	Liability for stock straying on to the highway (2nd W/P)	11	Working Paper
	Admissibility in evidence of computer records	27	Report
	Recognition of interstate and foreign grants of probate and administration	34 Pt IV	Working Paper
	Unclaimed money	51	Report
	Privilege for journalists	53	Report
	Exemption from jury service	71	Report
	Retention of court records	72	Report
	Absconding Debtors Act	73	Working Paper
	Annual Report 1979–1980		Report
1979	Annual Report 1978–1979		Report
	Defamation	8	Report
	Appeals from Courts of Petty Sessions	55 Pt I	Report
	Small Debts Court	63	Report
	Bail	64	Report
	Retention of court records	72	Working Paper
1978	Minors' contracts	5 Pt II	Working Paper
	Appeals from administrative decisions	26 Pt I	Working Paper
	Admissibility in evidence of computer records	27	Working Paper
	Official attestation of forms and documents	28	Report
	Administration of deceased insolvent estates	34 Pt III	Report
	Appeals from Courts of Petty Sessions	55 Pt I	Working Paper
	Liability of highway authorities for non-feasance	62	Working Paper
	Small Debts Court	63	Working Paper
	Fatal accidents	66	Working Paper
	Fatal accidents	66	Report
	Exemption from jury service	71	Working Paper
	Annual Report 1977–1978		Report
1977	Official attestation of forms and documents	28	Working Paper
	Competence and compellability of spouses as witnesses	31	Report
	Administration of deceased insolvent estates	34 Pt III	Working Paper
	Compensation for new street alignments	39	Report
	Suitors' Fund Act Part B: criminal proceedings	49	Report

Year	Topic	Ref No	Publication type
1977	Privilege for journalists	53	Working Paper
	Strata Titles Act	56	Working Paper
	Section 2 of the Gaming Act	58	Report
	Enforcement of judgment debts	61	Report
	Bail	64	Working Paper
	Annual Report 1976–1977		Report
1976	Administration bonds and sureties	34 Pt II	Report
	Compensation for persons detained in custody	43	Working Paper
	Suitors' Fund Act Part A: civil proceedings	49	Report
	Unclaimed money	51	Working Paper
	Section 2 of the Gaming Act	58	Working Paper
	Protection of money awarded as damages	-	Report
Annual Report 1975–1976		Report	
1975	Special constables	29	Report
	Dividing fences	33	Report
	Administration bonds and sureties	34 Pt II	Working Paper
	Production of medical and technical reports in court proceedings	40	Report
	Tenancy bonds	41	Report
	Criminal injuries compensation	46	Working Paper
	Criminal injuries compensation	46	Report
	Suitors' Fund Act	49	Working Paper
	Local body election practices	52	Working Paper
	Local body election practices	52	Report
	Alternatives to cautions	60	Working Paper
	Alternatives to cautions	60	Report
	Annual Report 1974–1975		Report
1974	Commercial arbitration and commercial causes	18	Report
	Special constables	29	Working Paper
	Competence and compellability of spouses as witnesses	31	Working Paper
	Land Agents Act	37	Report
	Production of medical and technical reports in court proceedings	40	Working Paper
	Tenancy bonds	41	Working Paper
	Mortgage brokers	45	Working Paper
	Mortgage brokers	45	Report
	liens	54	Working Paper
	Contractors' liens	54	Report
Annual Report 1973–1974		Report	
1973	Protection for purchasers of home units	1 Pt III	Report
	Innocent misrepresentation	22	Report
	Immunity of suit between spouses	32	Working Paper
	Immunity of suit between spouses	32	Report
	Dividing fences	33	Working Paper
	Distribution on intestacy	34 Pt I	Report
	Land Agents Act	37	Working Paper
	Sale of undivided shares in land	38	Working Paper
	Sale of undivided shares in land	38	Report
	Annual Report 1972–1973		Report
1972	Retention of trust money by land agents	1 Pt II	Working Paper
	Protection for purchasers of home units	1 Pt III	Working Paper
	Defamation: privileged reports	8	Report
	Motor vehicle insurance	10	Working Paper
	Motor vehicle insurance	10	Report

Year	Topic	Ref No	Publication type
1972	Payment of costs in criminal cases	12	Working Paper
	Payment of costs in criminal cases	12	Report
	Evidence of criminal convictions in civil proceedings	20	Report
	Associations Incorporation Act	21	Report
	Innocent misrepresentation	22	Working Paper
	Legal representation of children	23	Working Paper
	Legal representation of children	23	Report
	Legal capacity of minors	25 Pt I	Report
	Legal capacity of minors	25 Pt I	Working Paper
Distribution on intestacy	34 Pt I	Working Paper	
1971	Offices of profit under the Crown	14	Report
	Imposition of driving disqualifications	15	Working Paper
	Imposition of driving disqualifications	15	Report
	Commercial arbitration and commercial causes	18	Working Paper
	Evidence of criminal convictions in civil proceedings	20	Working Paper
	Associations Incorporation Act	21	Working Paper
	Succession rights of adopted children	24	Working Paper
	Succession rights of adopted children	24	Report
1970	Testator's Family Maintenance Act	2	Report
	Succession rights of illegitimate children	3	Report
	Committal proceedings	4	Report
	Summary trial of indictable offences	6	Report
	Disposal of uncollected goods	7	Report
	Liability for stock straying on to the highway (1st working paper)	11	Working Paper
	Liability for stock straying on to the highway (1st report)	11	Report
	Affiliation proceedings	13	Report
	Motor car manslaughter	17	Report
	Motor car manslaughter	17	Working Paper
1969	Protection for purchasers of land	1 Pt I	Report
	Interim hearings in personal injury cases	5	Report
	Defamation: privileged reports	8	Working Paper
1968	Protection for purchasers of land	1 Pt I	Working Paper
	Testator's Family Maintenance Act	2	Working Paper
	Succession rights of illegitimate children	3	Working Paper
	Committal proceedings	4	Working Paper
	Interim hearings in personal injury cases	5	Working Paper
	Summary trial of indictable offences	6	Working Paper
	Disposal of uncollected goods	7	Working Paper

# APPENDIX III: HISTORY OF REFERENCES

FOLLOWING IS THE HISTORY OF REFERENCES RECEIVED BY THE LAW REFORM COMMISSION OF WESTERN AUSTRALIA AND THE LEGISLATIVE ACTION ON THE REPORTS FROM 1968–2006.

No.	Project	Recommendations	Legislative Action
I (Pt I)	<b>Protection for Purchasers of Land</b> Referred: 1968 WP: October 1968 Report: September 1969	(1) In a terms contract for the sale of land the purchaser be given notice before the vendor can act against the purchaser on default; (2) (Supplementary report) A person be prohibited from selling subdivisational land containing five or more lots unless that person is the registered proprietor of that land.	Sale of Land Act 1970
I (Pt II)	<b>Retention of Trust Money by Land Agents</b> WP: June 1972 [see Ref No 37]	The Commission's recommendations were included in its Report on Project No 37 (see below).	
I (Pt III)	<b>Protection for Purchasers of Home Units</b> WP: June 1972 Report: March 1973	Part III of the Sale of Land Act 1970 be amended so as to apply to the sale of strata title lots. <sup>1</sup>	Acts Amendment (Strata Titles) Act 1985
2	<b>Testator's Family Maintenance Act</b> Referred: 1968 WP: December 1968 Report: August 1970	The classes of possible claimants under the Testator's Family Maintenance Act be widened as specified.	Inheritance (Family and Dependants Provision) Act 1972
3	<b>Succession Rights of Illegitimate Children</b> Referred: 1968 WP: December 1968 Report: August 1970	Illegitimate children be treated as legitimate for all purposes relating to succession.	Administration Act Amendment Act 1971; Property Law Act Amendment Act 1971; Wills Act Amendment Act 1971
4	<b>Committal Proceedings</b> Referred: 1968 WP: December 1968 Report: May 1970	Subject to prescribed limitations, written statements of witnesses be admitted in evidence for purposes of the committal, trial and sentencing of persons charged with indictable offences, and that an accused person be permitted to elect to go to trial without any preliminary hearing.	Justices Act Amendment Act 1976
5	<b>Interim Hearings in Personal Injury Cases</b> Referred: 1968 WP: October 1968 Report: May 1969	The court be empowered to decide the issue of liability before the issue of damages, and to order interim payments meanwhile. <sup>2</sup>	
6	<b>Summary Trial of Indictable Offences</b> Referred: 1968 WP: December 1968 Report: June 1970	The jurisdiction of courts to deal with indictable offences summarily be extended as specified.	Criminal Code Amendment Act 1972; Justices Act Amendment Act 1972; Child Welfare Act Amendment Act (No 2) 1972
7	<b>Disposal of Uncollected Goods</b> Referred: 1968 WP: December 1968 Report: April 1970	Legislation be enacted dealing with the disposal of uncollected goods along specified lines.	Disposal of Uncollected Goods Act 1970
8	<b>Defamation Privileged Reports</b> Referred: 1968 WP: July 1969 Report: August 1972	The class of privileged reports of legislative and judicial proceedings, conferences and meetings be extended in specified ways.	Criminal Code Amendment Act 1977 section 2

1. This recommendation (extended so as to include the sale of two or more strata lots) was endorsed in the Commission's report on the *Strata Titles Act* (Project No 56).

2. The Motor Vehicle (Third Party Insurance) Act Amendment Act (No 2) 1969 enacts legislation covering one of the recommendations in this report.

No.	Project	Recommendations	Legislative Action
8	<b>Defamation</b> Report: October 1979	A uniform defamation code be enacted which reforms the law both in respect of matters of substance and of procedure. <sup>3</sup>	Defamation Act 2005 (WA)
9	<b>Statute Law Revision</b> Referred: 1968	Withdrawn	
10	<b>Motor Vehicle Insurance</b> Referred: 1968 WP: May 1972 Report: December 1972	That the law of motor vehicle insurance be amended in specified ways in the interests of the insured. <sup>4</sup>	
11	<b>Liability for Stock Straying on to the Highway</b> 1st Referred: 1969 1st WP: June 1970 1st Report: Dec 1970 2nd Referred: 1978 2nd WP: August 1980 2nd Report: June 1981	1st Report: legislation be enacted to provide that liability for stock straying on to the highway be in accordance with ordinary principles of negligence. 2nd Report: liability for stock straying on to the highway be determined according to the law of negligence only, but that a maximum limit be imposed on the amount of damages recoverable by a successful claimant.	Highways (Liability for Straying Animals) Act 1983  Dog Amendment Act 1983
12	<b>Payment of Costs in Criminal Cases</b> Referred: 1969 WP: March 1972 Report: August 1972	This report recommended introducing legislation making the Crown liable to pay costs when a complaint is dismissed or withdrawn in summary proceedings. <sup>5</sup>	Official Prosecutions (Defendants' Costs) Act 1973
13	<b>Affiliation Proceedings</b> Referred: 1969 Report: March 1970	That statutory provision be made for blood tests in affiliation proceedings.	Family Court Act 1975 section 82E
14	<b>Offices of Profit Under The Crown</b> Referred: 1969 Report: March 1971	That the law be modified as to the circumstances in which persons who hold offices of profit under the Crown, or who have contracts with the Government, can be members of Parliament.	Acts Amendment and Repeal (Disqualification for Parliament) Act 1984
15	<b>Imposition of Driving Disqualifications</b> Referred: 1969 WP: February 1971 Report: June 1971	The Commission was asked to consider the need for legislation imposing driving disqualifications on persons who committed crimes involving the use of a motor vehicle. No legislative action was called for in this report.	
16 (Pt I)	<b>Local Courts Act and Rules</b> Referred: 1969 <b>Local Courts</b> WP: April 1983 Report: June 1988	That Local Courts and Courts of Petty Sessions be merged, <sup>6</sup> and that the jurisdiction, procedure and administration of Local Courts be reformed along specified lines.	Magistrates Court Act 2004; Courts Legislation Amendment and Repeal Act 2004; Magistrates Court (Civil Proceedings) Act 2004

3. This report, and the report of the Australian Law Reform Commission on the same subject, *Unfair Publication: Defamation and Privacy* (ALRC 11, 1979), together with a draft uniform Defamation Bill, were considered by the Standing Committee of Attorneys General. In 2005–2006, each state and territory enacted their respective Defamation Acts with identical provisions, unifying defamation legislation nationally as of 1 January 2006.

4. The major recommendations in this report were implemented administratively by the State Government Insurance Commission.

5. The Family Court Act 1975 s82E (added 1988) provides that when the parentage of a child is in issue in proceedings under the Act (which include proceedings for maintenance and findings of parenthood), the court may order a parentage testing procedure and make other necessary or desirable orders. It is therefore unnecessary to take any further action on the Commission's Report.

6. A similar recommendation was made earlier in Project No 55 Part II. A Ministry of Justice Report published in October 1996 contains proposals that would implement this recommendation: Ministry of Justice: *Court Services Amalgamation of Courts of Summary Jurisdiction Draft Report* (1996).

No.	Project	Recommendations	Legislative Action
16 (Pt II)	<b>Enforcement of Judgments of Local Courts</b> DP: February 1995 Report: December 1995	That the means of enforcing judgments of Local Courts be reformed as specified; that attachment of earnings be introduced, and imprisonment for debt abolished. <sup>7</sup>	
17	<b>Motor Car Manslaughter</b> Referred: 1969 WP: June 1970 Report: August 1970	That except for minor drafting amendments, the relevant provisions of the Criminal Code be left unaltered.	Criminal Code Amendment Act 1972 (WA) ss 277, 291A, 595 Road Traffic Act 1974 (WA) s 59
18	<b>Commercial Arbitration and Commercial Causes</b> Referred: 1969 WP: October 1971 Report: January 1974	That the Arbitration Act be revised as specified.	Commercial Arbitration Act 1985
19	<b>Chattel Securities and the Bills of Sale Act</b> Referred: 1970	Withdrawn 1983	
20	<b>Evidence of Criminal Convictions In Civil Proceedings</b> Referred: 1970 WP: September 1971 Report: April 1972	That in defamation actions conviction after trial be made conclusive evidence that the party committed the offence. <sup>8</sup>	
21	<b>Associations Incorporation Act</b> Referred: 1971 WP: June 1971 Report: March 1972	That the Associations Incorporation Act be revised as specified.	Associations Incorporation Act 1987
22	<b>Innocent Misrepresentation</b> Referred: 1971 WP: May 1972 Report: October 1973	That the legal remedies available for an innocent misrepresentation inducing a contract be revised. <sup>9</sup>	
23	<b>Legal Representation of Children</b> Referred: 1971 WP: March 1972 Report: June 1972	That courts be empowered to order the separate representation of children.	Legal Representation of Infants Act 1977; Suitors' Fund Act Amendment Act 1977
24	<b>Succession Rights of Adopted Children</b> Referred: 1971 WP: April 1971 Report: July 1971	That the Adoption Act be amended to provide for the complete assimilation of the legal position of adopted children to that of the legitimate children of the adopting parents.	Adoption of Children Act Amendment Act 1971, ss 13, 14, 15 Adoption Act 1994 Property Law Act 1969

7. A Ministry of Justice Report published in June 1997 contains proposals for a uniform civil judgment debt recovery system for all courts, adopting many of the Commission's recommendations: Ministry of Justice: Court Services Division *Civil Judgment Debt Recovery System: Part 1 Legislative Recommendations: Report* (1997).

8. In September 1985, the Attorney General (Hon J M Berinson) announced that the Government had decided that it was now unnecessary to act on this report, in view of the decision of the Supreme Court of Western Australia (Full Court) in *Mickelberg v Director of the Perth Mint* [1986] WAR 365 in which it was held that evidence of a criminal conviction could be admissible as prima facie evidence of the facts on which the conviction depended: Media Statement from Attorney General, 26 September 1985.

9. In September 1984, the Attorney General (Hon J M Berinson) announced that the Government had decided not to take any further action on this report in view of developments in the law since it had been submitted: News Statement from Attorney General, 5 September 1984.

No.	Project	Recommendations	Legislative Action
25 (Pt I)	<b>Legal Capacity of Minors</b> Referred: 1971 WP: January 1972 Report: April 1972	That the age of majority be lowered to 18 years.	
25 (Pt II)	<b>Minors' Contracts</b> WP: June 1978 Report: May 1988	That all contracts made by minors be recognised as binding, but that courts be empowered to grant various kinds of relief to minors where the contract is prejudicial to the minor's best interests.	Age of Majority Act 1972
26 (Pt I)	<b>Appeals From Administrative Decisions</b> Referred: 1971 WP: November 1978 Report: January 1982	That the existing rights of appeal from administrative decisions be rationalised along suggested lines. <sup>10</sup>	
26 (Pt II)	<b>Judicial Review of Administrative Decisions</b> WP: June 1981 Report: January 1986	That the procedure and remedies for obtaining judicial review be reformed along specified lines, and that a right to reasons for decisions be created. <sup>11</sup>	
26 (Pt III)	<b>New Rights of Appeal</b>	Withdrawn 1986	
27 (Pt I)	<b>Admissibility in Evidence of Computer Records</b> Referred: 1971 WP: May 1978 Report: July 1980	That the range of cases in which computer records and other documentary statements are admissible in evidence be extended as specified.	Evidence Amendment Act 1987
27 (Pt II)	<b>Admissibility in Evidence of Reproductions</b>	Withdrawn 1983	
28	<b>Formalities of Oaths, Declarations and Attestation of Documents</b> Referred: 1972		
28 (Pt I)	<b>Official Attestation of Forms and Documents</b> WP: April 1977 Report: November 1978	That legislation be introduced to provide for an unattested statutory declaration; and that the signing of affidavits with a rubber stamp be prohibited.	
28 (Pt II)	<b>Formalities of Oaths, Declarations and Attestation of Documents</b>	Withdrawn 1983	
29	<b>Special Constables</b> Referred: 1972 WP: June 1974 Report: March 1975	That the law and practice as to appointment and control of special constables be revised as specified.	Police Amendment Act 1980
30	<b>Imposition of Fines</b> Referred: 1972	Withdrawn 1982	
31	<b>Competence and Compellability of Spouses as Witnesses</b> Referred: 1972 WP: February 1974 Report: January 1977	That the law in this area be amended in certain respects.	Acts Amendment (Evidence) Act 1991

10. The State Administrative Tribunal was established under the State Administrative Tribunal Act 2004.

11. See Project No. 95.



No.	Project	Recommendations	Legislative Action
32	<b>Immunity of Suit Between Spouses</b> Referred: 1972 WP: June 1973 Report: September 1973	That immunity of action in tort between spouses be abolished. <sup>12</sup>	
33	<b>Dividing Fences</b> Referred: 1972 WP: December 1973 Report: November 1975	That the Dividing Fences Act 1961 be amended in certain respects.	
34	<b>Trusts and Administration of Estates</b> Referred: 1972		
34 (Pt I)	<b>Distribution on Intestacy</b> WP: December 1972 Report: May 1973	That the law relating to the distribution of intestate estates be amended in certain respects and enacted in local legislation.	
34 (Pt II)	<b>Administration Bonds And Sureties</b> WP: June 1975 Report: March 1976	That administration bonds be abolished, the duties of personal representatives be specified by statute and the Supreme Court be empowered to require sureties to guarantee the due administration of the estate.	
34 (Pt III)	<b>Administration of Deceased Insolvent Estates</b> WP: April 1977 Report: December 1978	That the Administration Act be amended to provide for the administration of deceased insolvent estates as specified.	Administration Act Amendment Act 1976; Administration Amendment Act 1984
34 (Pt IV)	<b>Recognition of Interstate and Foreign Grants of Probate and Administration</b> WP: December 1980 Report: November 1984	That the rules governing resealing of grants of probate and administration in each Australian jurisdiction be unified, and that a system of automatic recognition of grants within Australia be introduced. <sup>13</sup>	Administration Act Amendment Act 1976 Acts Amendment (Insolvent Estates) Act 1984
34 (Pt V)	<b>Trustees' Powers of Investment</b> WP: December 1981 Report: January 1984	That the investment powers of trustees contained in section 16 of the Trustees Act be amended in specified ways.	Trustees Amendment Act 1987 <sup>14</sup>
34 (Pt VI)	<b>Charitable Trusts</b>	Withdrawn 1996	
34(Pt VII)	<b>Administration of Assets</b> Report: June 1988	That the old order of application of assets of a solvent deceased estate towards the payment of debts and legacies be replaced by a statutory order modelled on the <i>Queensland Succession Act 1981</i> . <sup>15</sup>	
34(Pt VIII)	<b>Protection and Remuneration of Trustees</b>	Withdrawn 1996	
35	<b>Unauthorised Disposal of Goods Interstate: Right to Repossession</b> Referred: 1972	Withdrawn 1983	

12. The Family Law Act 1975 (Cth) s 119 provides that "either party to a marriage may bring proceedings in contract or tort against the other party".

13. Implementation of the Commission's recommendations is being discussed by the Queensland Law Reform Commission in its reference on Uniform Succession Law. This matter is currently being considered by the Attorney General's Working Group on Succession.

14. Note also the Public Trustee Amendment Act 1984, which extended the Public Trustee's power to invest in land in terms generally in line with the recommendations in the report.

15. This matter is currently being considered by the Attorney General's Working Group on Succession.

No.	Project	Recommendations	Legislative Action
36	<b>Limitation and Notice of Actions</b> Referred: 1972		
36 (Pt I)	<b>Latent Disease and Injury</b> Report: October 1982	The limitation period for all personal injury actions continue to be six years, but that this period should not apply where a court determines that it is just for it not to apply.	Acts Amendment (Asbestos Related Diseases) Act 1983 <sup>16</sup>
36 (Pt II)	<b>Limitation and Notice of Actions</b> DP: February 1992 Report: January 1997	A new Limitation Act be enacted providing for most causes of action to be governed by two standard limitation periods, with a possibility of extension in exceptional cases where the interests of justice so required.	Limitation Act 2005; Limitation Legislation Amendment and Repeal Act 2005
37	<b>Land Agents Act</b> Referred: 1972 WP: June 1973 Report: January 1974	That a new real estate and business agents authority be established, empowered to license and regulate agents in ways specified in the report.	Real Estate and Business Agents Act 1978
38	<b>Sale of Undivided Shares in Land</b> Referred: 1972 WP: March 1973 Report: May 1973	That the Sale of Land Act be amended to regulate the sale of undivided shares in land.	Sale of Land Act Amendment Act 1974
39	<b>Compensation for New Street Alignments</b> Referred: 1973 Report: March 1977	The Commission was asked to comment in this report on proposed amendments to section 364 of the Local Government Act. No legislative action was called for in the report.	
40	<b>Production of Medical and Technical Reports in Court Proceedings</b> Referred: 1973 WP: June 1974 Report: July 1975	That provision be made for medical and expert reports to be produced to the other party before trial.	Acts Amendment (Expert Evidence) Act 1976
41	<b>Tenancy Bonds</b> Referred: 1973 WP: June 1974 Report: January 1975	That changes be made to the Small Claims Tribunals Act 1974 to facilitate the hearings of claims in respect of tenancy bonds.	Small Claims Tribunals Amendment Act 1975, s 2
42	<b>Unrepresented Defendants</b> Referred: 1973	Withdrawn 1982	
43	<b>Compensation for Persons Detained in Custody</b> Referred: 1973	Withdrawn 1983	
44	<b>Alteration of Ground Levels</b> Referred: 1973 DP: September 1984 Report: February 1986	That common law rights of support for land should be extended to buildings, and that the statutory and by-law powers of local authorities to deal with alterations of ground levels should be widened in specified ways. <sup>17</sup>	

16. This Act extended the limitation period for claims for death or injury caused by asbestos-related diseases. It did not implement the wider reforms recommended by the Commission.

17. In September 1992 the Working Party on the Integrated Building Act reported to the Minister for Local Government in respect of a proposed Western Australia Building Act. The Working Party considered the Commission's report in part, but its recommendation on the right of support for the land of an adjoining owner does not adopt the Commission's recommendation.

No.	Project	Recommendations	Legislative Action
45	<b>Mortgage Brokers</b> Referred: 1973 WP: February 1974 Report: September 1974	That mortgage brokers should be subject to statutory control in specified ways.	Finance Brokers Control Act 1975
46	<b>Criminal Injuries Compensation</b> Referred: 1974 WP June 1975 Report: October 1975	That the Criminal Injuries (Compensation) Act 1970 be revised in specified ways.	Criminal Injuries (Compensation Act) Amendment Act 1976; Criminal Injuries Compensation Act 1982
47	<b>Jailing of First Offenders</b> Referred: 1973	Withdrawn 1982	
48	<b>Appeals from Courts of Petty Sessions</b> Referred: 1973	Became No 55 (Pt I)	
49	<b>Suitors' Fund Act</b> Referred: 1973 WP: March 1975 Report: • Pt A (civil proceedings) Mar 76 • Pt B (criminal proceedings) May 77	That the Suitors' Fund Act 1964 be revised to extend the classes of civil proceedings for which compensation for costs may be claimed, and that provision for compensation for costs in criminal proceedings be removed from that Act and re-enacted, with amendments, in the Official Prosecutions (Defendants' Costs) Act 1973.	Suitors' Fund Act Amendment Act 1978; Suitors' Fund Act Amendment Act (No 2) 1978
50	<b>Appeals to the Privy Council</b> Referred: 1973	Withdrawn 1976	
51	<b>Unclaimed Money</b> Referred: 1973 WP: October 1976 Report: December 1980	That the Unclaimed Moneys Act be revised and consolidated to enable unclaimed money to be used for public purposes.	Unclaimed Money Act 1990
52	<b>Local Body Election Practices</b> Referred: 1974 WP: May 1975 Report: October 1975	That the law in this area should be tightened in certain respects.	Local Government Act 1995 s 4.87
53	<b>Privilege for Journalists</b> Referred: 1974 WP: June 1977 Report: February 1980	That journalists called to give evidence in judicial proceedings should not be granted a statutory right to refuse to disclose the sources of their information. <sup>18</sup>	
54	<b>Contractors' Liens</b> Referred: 1974 WP: August 1974 Report: October 1974	That legislation providing for the registration of contractors' liens or for the creation of contractors' charges should not be introduced.	
55	<b>Justices Act</b> Referred: 1974	That the Justices Act be amended to provide for a single mode of appeal.	Justices Amendment Act 1989
55 (Pt I)	<b>Appeals from Courts of Petty Sessions</b> Referred: 1974 WP: February 1978 Report: April 1979	That Courts of Petty Sessions and Local Courts be merged and that the rules relating to justices of the peace and procedure in Courts of Petty Sessions be reformed along specified lines.	Miscellaneous Repeals Act 1991 <sup>19</sup>

18. The Commission reconsidered this issue in its report on *Professional privilege for confidential communications* (Project No 90).

19. This Act repeals imperial enactments relating to justices, as recommended in the report. A Ministry of Justice Report published in October 1996 contains

No.	Project	Recommendations	Legislative Action
55 (Pt II)	<b>Courts of Petty Sessions</b> Referred: 1974 WP: June 1984 Report: November 1986	The report commented on proposals of a Ministry of Justice Project dealing with methods of enforcing the payment of fines. It recommended changes designed to ensure that indigent fine defaulters were not disadvantaged.	Magistrates Court Act 2004; Courts Legislation Amendment and Repeal Act 2004; Criminal Procedure Act 2004.
55 (Pt III)	<b>Enforcement of Orders of Courts of Petty Sessions</b> Referred: 1974 Report: April 1994		Fines, Penalties and Infringement Notices Enforcement Act 1994; Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994
56	<b>Strata Titles Act</b> Referred: 1974 WP: February 1977 Report: December 1982	That the Strata Titles Act 1966 be revised as specified.	Strata Titles Act 1985; Acts Amendment (Strata Titles) Act 1985
57	<b>Enforcement of Custody Orders</b> Referred: 1974	Withdrawn 1976	
58	<b>Section 2 of The Gaming Act</b> Referred: 1975 WP: February 1976 Report: January 1977	That section 2 of the Gaming Act 1835 be repealed and section 1 of that Act and section 841 of the Police Act 1892 be amended.	Betting Control Act Amendment Act 1978; Gaming & Betting (Contracts & Securities) Act 1985; Acts Amendment (Gaming & Related Provisions) Act 1985
59	<b>Audit Provisions of the Local Government Act</b> Referred: 1975	Withdrawn 1982	
60	<b>Alternatives to Cautions</b> Referred: 1975 WP: August 1975 Report: November 1975	That the court's power to dismiss a proved charge without conviction, or discharge a convicted offender without penalty after conviction, should be extended as specified.	Criminal Code Amendment Act 1979
61	<b>Enforcement of Judgment Debts</b> Referred: 1975 Report: April 1977	This report was a commentary on a draft report entitled 'Enforcement of judgment debts' prepared for the Commonwealth Commission of Enquiry into Poverty. No legislative action was called for in the report.	
62	<b>Liability of Highway Authorities for Non-Feasance</b> Referred: 1975 WP: March 1978 Report: May 1981	That the non-feasance rule be abolished and highway authorities be required to take such care as is reasonable in all the circumstances to safeguard persons using their highways against dangers which make them unsafe for normal use. <sup>20</sup>	
63	<b>Small Debts Court</b> Referred: 1976 WP: July 1978 Report: April 1979	That the Local Courts Act and Rules be amended to create a special Small Debts Division in Local Courts.	Local Courts Amendment Act 1982
X <sup>21</sup>	<b>Protection of Money Awarded as Damages</b> Referred: 1976 Report: August 1976	That the power of the court to make a protection order in respect of money awarded as damages be revised as specified.	

proposals that would implement the recommendation that Courts of Petty Sessions and Local Courts be merged: Ministry of Justice: Court Services *Amalgamation of Courts of Summary Jurisdiction Draft Report* (1996).

20. See the High Court's decision in *Brodie v Singleton Shire Council*, which abolished the nonfeasance immunity. See also Civil Liability Act 2002 s 5Z.

21. This reference was not given a project number.

No.	Project	Recommendations	Legislative Action
64	<b>Bail</b> Referred: 1976 WP: November 1977 Report: March 1979	That a Bail Act be enacted to deal comprehensively with bail.	Bail Act 1982; Bail Amendment Act 1984; Bail Amendment Act 1988
65 (Pt I)	<b>Privacy</b> Referred: 1976 WP: 1981	Withdrawn 1993	
65 (Pt II)	<b>Confidentiality of Medical Records and Medical Research</b> DP: March 1989 Report: August 1990	That the law be clarified to control the disclosure of patient-identifiable information for medical research purposes.	
66	<b>Fatal Accidents</b> Referred: 1976 WP: February 1978 Report: December 1978	That the Fatal Accidents Act be amended to extend the class of claimants, to provide for an award for loss of assistance and guidance and various other matters.	Fatal Accidents Amendment Act 1985
67	<b>Writs and Warrants of Execution</b> Referred: 1976 Report: 2001	That the law relating to writs and warrants be revised in specified ways including the implementation of a unified civil debt recovery system for the Local, District and Supreme Courts and the amendment of s 133 of the <i>Transfer of Land Act 1895</i> .	
68	<b>Illegitimacy</b> Referred: 1976	Withdrawn 1986	
69	<b>Criminal Process and Mental Disorder</b> Referred: 1976 DP: February 1987 Report: August 1991	That the law relating to the defence of insanity, fitness to stand trial and review of the detention of those acquitted under the insanity defence or found unfit to stand trial be revised in specified ways.	Criminal Law (Mentally Impaired Defendants) Act 1996; Mental Health (Consequential Provisions) Act 1996
70	<b>Interest on Judgments</b> Referred: 1977		
70 (Pt I)	<b>Pre-judgment Interest</b> Report: August 1981	That sections 32 and 33 of the Supreme Court Act be replaced by a new provision giving courts a broader power to award pre-judgment interest.	Supreme Court Amendment (No 2) Act 1982
70 (Pt II)	<b>Interest on Judgments</b>	Withdrawn 1987	
71	<b>Exemption from Jury Service</b> Referred: 1977 WP: 29 August 1978 Report: June 1980	That the Juries Act be amended in a number of respects, in particular so as to replace the notion of exemption from jury service with the notions of ineligibility and excusal as of right.	Juries Amendment Act 1984
72	<b>Retention of Court Records</b> Referred: 1977 WP: March 1979 Report: June 1980	With certain exceptions, Courts of Petty Sessions and Local Courts should be empowered to destroy their records after they have been kept for 15 years.	Local Courts Amendment Act 1981; Justices Amendment Act 1982; District Court of WA

No.	Project Recommendations	Legislative Action	
73	<b>Absconding Debtors Act</b> Referred: 1978 WP: December 1980 Report: November 1981	The Absconding Debtors Act should be repealed and replaced by a new Act to allow a creditor, in certain circumstances, to prevent a debtor from leaving the State or removing assets.	Restraint of Debtors Act 1984
74	<b>Limited Partnerships</b> Referred: 1978	Withdrawn 1992	
75	<b>United Kingdom Statutes in Force in Western Australia</b> Referred: 1978 Report: October 1994	That various statutes passed in England between 1235 and 1829 which are still in force in Western Australia should be either repealed, preserved or reenacted in modern Western Australian legislation. <sup>22</sup>	
76 (Pt I)	<b>Wills: Substantial Compliance</b> Referred: 1979/80 DP: November 1984 Report: November 1985	That the Supreme Court should be given power to dispense with Wills Act formalities if satisfied that there is no doubt that testator intended the document to constitute his/her will.	Wills Amendment Act 1987; Wills Amendment Act 1989
76 (Pt II)	<b>Effect of Marriage or Divorce on Wills</b> DP: March 1990 Report: December 1991	That the exceptions to the rule that a will is revoked on marriage be widened, and that on divorce a gift in a will in favour of a former spouse should be revoked. <sup>23</sup>	Wills Act 2006
77 (Pt I)	<b>Medical Treatment for Minors</b> Referred: 1981 DP: 1988 Report: December 1992	Withdrawn 1998	
77 (Pt II)	<b>Consent to Sterilisation of Minors</b> Referred: 1981 Report: Oct 1994	A scheme should be established for decisions about sterilisation of minors to be made by an appropriate decision-making body, in an informal setting, applying the principle that it should act in the child's best interests.	
78	<b>Joint Tenancy and Tenancy in Common</b> Referred: 1980 Report: November 1994	The law relating to whether a joint tenancy or tenancy in common is created should be made more certain, the common law right to sever a joint tenancy secretly should be abolished and notice should become a statutory precondition for severance.	
79	<b>Prescribed Interests Under the Companies Code</b> Referred: 1981	Withdrawn 1984	
80	<b>Problem of Old Convictions</b> Referred: April 1982 DP: March 1984 Report: June 1986	A legislative scheme (set out in detail in the report) should be adopted to limit the effects of convictions which have become "spent".	Spent Convictions Act 1988; Spent Convictions Amendment Act 1988
81	<b>Pawnbrokers Act</b> Referred: 1984 DP: January 1985 Report: June 1985	The Pawnbrokers Act should be redrafted in modern terms, with amendments as specified.	Pawnbrokers and Secondhand Dealers Act 1994

22. Work is proceeding on the Draft Bill.

23. The Commission has been consulted by the Crown Solicitor's Office concerning proposals for legislation to implement this report.

No.	Project	Recommendations	Legislative Action
82	<b>Financial Protection in the Building &amp; Construction Industry</b> Referred: 1985 DP: December 1995 Report: March 1998	That the law be amended to regulate the payment of those working in the building and construction industry, by the setting up of a trust scheme, with payment bonds available as an alternative.	
83	<b>Payment of Witnesses in Civil Proceedings</b> Referred: 1986 DP: February 1988 Report: July 1989	No changes should be made to the law relating to payment of witnesses in civil proceedings.	
84	<b>Medical Treatment for the Dying</b> Referred: 1986 DP: June 1988 Report: February 1991	Persons should be able to appoint an agent to make treatment decisions on their behalf if they are terminally ill and unable to make such decisions for themselves. <sup>24</sup>	
85	<b>Police Act Offences</b> Referred: 1986 DP: June 1989 Report: August 1992	Specified offences in the Police Act be abolished, and that the surviving offences be incorporated in a Summary Offences Act. <sup>25</sup>	Criminal Law Amendment (Simple Offences) Act 2004
86	<b>Incitement to Racial Hatred</b> Referred: 1988 DP: May 1989 Report: October 1992	New provisions should be included in the Criminal Code to outlaw certain kinds of racially inflammatory activity.	Criminal Code Amendment (Racist Harassment and Incitement to Racial Hatred) Act 1990
87	<b>Evidence of Children and Other Vulnerable Witnesses</b> Referred: 1989 DP: April 1990 Report: April 1991	The Evidence Act should be amended to reform the rules relating the giving of evidence by children, and that new procedures to assist the court to receive children's evidence should be introduced.	Acts Amendment (Sexual Offences) Act 1992; Acts Amendment (Evidence of Children and Others) Act 1992
88	<b>Administration Act</b> Referred: 1989 Report: August 1990	The Administration Act 1903 repealed and replaced. <sup>26</sup>	
89	<b>Sale of Goods Act 1895</b> Referred: 1989 DPs: Aug & Oct 1995 Report: June 1998	The Sale of Goods Act 1895 should be reformed in several minor ways.	
90	<b>Professional Privilege for Confidential Communications</b> Referred: 1990 DP: December 1991 Report: May 1993	Judges should be given a discretion to excuse witnesses from disclosing information in breach of a confidential relationship. <sup>27</sup>	

24. The Medical Care for the Dying Bill, which implements some of the recommendations in this report, was introduced into the Legislative Assembly by an opposition member in March 1995. It was considered in Committee in May 1996; see Western Australia Parliamentary Debates, Legislative Assembly, 15 May 1996, 2027-2036. The Commission has been asked to give advice on drafts of the Medical Treatment for the Dying Bill, a Government Bill which would implement most of the recommendations in the report. This Bill has recently been introduced into Parliament.

25. In 1995 Parliamentary Counsel prepared a first draft of legislation (the Simple Offences Bill, the Criminal Investigation and Procedure Bill, the Simple Offences and Criminal Investigation (Consequential Provisions) Bill and the Intoxicated Persons Bill) to implement this report.

26. This report is currently being considered by the Attorney General's Working Group on Succession.

27. This matter was considered by the Standing Committee of Attorneys General: Western Australia Parliamentary Debates, 16 May 1995, 2967.

No.	Project	Recommendations	Legislative Action
91	<b>Restrictive Covenants</b> Referred: 1995 DP: June 1995 Report: June 1997	The law relating to the extinguishment, modification and enforcement of restrictive covenants should be reformed in specified ways.	
92	<b>Review of the Criminal and Civil Justice System</b> Referred: 1997 Issues Paper: June 1998 Consultation Drafts: 1999 Final Report: October 1999 Project Summary: 1999 Submissions Summary: 1999	447 recommendations for reform of the criminal and civil justice system.	
93(Pt I)   93(Pt II)   93(Pt III)	<b>Contempt in the Face of the Court</b> Referred: 2000 DP: August 2001 Report: June 2003  <b>Contempt by Publication</b> Referred: 2000 DP: March 2002 Report: June 2003  <b>Contempt by Disobedience to the Orders of the Court</b> Referred: 2000 DP: Nov 2002 Report: June 2003	The law of contempt of court in Western Australia, other than as applicable under the Family Court Act, should be codified and the procedures for prosecution made uniform.	
94	<b>Aboriginal Customary Laws</b> Referred: 2000 Background papers: 2003-2005 DP: Dec 2005 DP Overview: Feb 2006	Project is ongoing.	
95	<b>Judicial Review of Administrative Decisions</b> Referred: 2001 DP: June 2002 Report: Dec 2002	The law relating to the judicial review of administrative action in Western Australia should be reformed in specified ways.	
96	<b>Problem Oriented Courts and Judicial Case Management</b> Referred: 2005	Project is ongoing.	
97	<b>Review of the Law of Homicide</b> Referred: 2005 Issues P: Mar 2006	Project is ongoing.	
98	<b>Compensation for Injurious Affection</b> Referred: Nov 2005	Project is ongoing.	