



The Law Reform Commission  
of Western Australia

# **ANNUAL REPORT**

1 July 2006 – 30 June 2007

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# STATEMENT OF COMPLIANCE



## Statement of Compliance with the Financial Management Act

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

Dear Minister,

In accordance with section 61 of the *Financial Management Act 2006*, 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 2007.

This report has been prepared in accordance with the provisions of the *Financial Management Act 2006*.

Yours sincerely

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

Heather Kay  
Executive Officer  
Law Reform Commission of Western Australia

19 September 2007

## MESSAGE FROM THE CHAIR



*Gillian Braddock SC*

October 2006 saw the release of the Law Reform Commission's long awaited Final Report on Aboriginal Customary Laws. This ground breaking Report was the culmination of 6 years extensive research and inquiry into the recognition of Aboriginal customary laws and culture within the Western Australian legal system.

The Commission made over 131 recommendations in the Final Report, covering areas as diverse as inheritance; evidence and procedure in courts; guardianship and administration; funerary practices; community governance; police and prisons; customary harvesting; coronial inquests; criminal justice issues; cultural and intellectual property; family law and the care and custody of Aboriginal children; family violence; Aboriginal disadvantage; and human rights.

Many of the recommendations involved policy reform to provide practical recognition of Aboriginal customary laws and Aboriginal people in Western Australia. It is important to note that a great number of the recommendations also apply to non Aboriginal people and if adopted will result in a more just and accessible legal system thereby enhancing the wellbeing of all Western Australians.

Not only does the Aboriginal Customary Laws Final Report and its recommendations demonstrate the endeavours of the Commission to make the law reform process as meaningful and effective as possible, but the manner in which the work was done has had a positive effect itself. The Commission has received considerable recognition for the extensive process of consultation with Indigenous peoples and communities undertaken during the inquiry. This recognition has taken many forms and has come from many sources not only within Western Australia, but also nationally and internationally.

The current justice system clearly fails Aboriginal people. The Commission's suggested approach seeks to remedy systematic bias, embrace Aboriginal culture, and enhance cultural authority has struck a chord with many. As a result, our principal project writer and project team have been invited to attend various speaking engagements to present a detailed overview of the project and to outline and discuss specific recommendations.

The project team's hard work was ultimately rewarded when the Commission became the recipient of a

2006 Premiers Award for Excellence in Public Sector Management for the Aboriginal Customary Laws Project.

Work on the Review of the Law of Homicide has continued throughout 2006-2007, with the Commission anticipating the release of its Final Report and recommendations in September 2007. The Final Report will provide a thorough analysis of an area of the law which sits at the heart of the criminal justice system. It will also present a reasoned and balanced response to many of the controversial and challenging questions raised by the Issues Paper, released in May 2006.

The Commission's other current reference on Compensation for Injurious Affection to Land has presented some interesting challenges, not least of which has been the need to open up an area of the law previously only known and accessible to those with particular expertise. A draft Discussion Paper is now close to completion, with publication anticipated in early September 2007. The Commission looks forward to receiving submissions on this paper. The work on this reference should conclude in December 2007, with the Final Report to be released shortly thereafter.

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

# OVERVIEW OF THE LAW REFORM COMMISSION

## EXECUTIVE SUMMARY

The Law Reform Commission's 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 Law Reform 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.

## 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 (WA)*, 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.

# OVERVIEW OF THE LAW REFORM COMMISSION

## ABORIGINAL CUSTOMARY LAWS

- On 27 October 2006 the Commission launched the Aboriginal Customary Laws Final Report outlining 131 recommendations for legislative, constitutional, administrative and policy reform. The launch was held in Kings Park and was attended by the Attorney General, the Chief Justice of Western Australia, other members of the judiciary and legal profession, prominent members of the Aboriginal community; representatives of various Aboriginal organisations, agencies and government departments, academics, and representatives of the Western Australia Police.
- The Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Tom Calma, addressed guests who attended the launch and praised the Commission for the extensive consultation process undertaken with Indigenous people and communities throughout the inquiry.
- The Final Report presents a thoroughly researched document that acknowledges the need to provide practical and effective recognition of Aboriginal customary laws and of the cultural concerns of Aboriginal people in Western Australia.
- The Law Reform Commission received a High Commendation at the 2006 Premiers Awards for the project's ground-breaking research and consultation methodology.
- The Commission's Principal Project Writer, Dr Tatum Hands, was invited to attend the 35th Australian Legal Convention and to participate as a member of the Customary Law Panel, in the Indigenous Legal Issues Forum. The Aboriginal Customary Law Project was highly praised and the recommendations enthusiastically supported.
- Dr Hands also wrote an article for the March 2007 edition of the *Alternative Law Journal* entitled *Aboriginal customary law: The challenge of recognition*.



## 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 a Background Paper in November 2007, followed by a submission and consultation period and the release of the Final Report in November 2008.

## REVIEW OF THE LAW OF HOMICIDE

- The Commission took time to evaluate the submissions received in response to the Issues Paper released in May 2006 and the extensive consultation period that followed.
- Drafting of the *Review of the Law of Homicide* Final Report commenced in the later half of 2006. The Commission anticipates the release of its recommendations and Final Report in September 2007.

## COMPENSATION FOR INJURIOUS AFFECTION

Work on the Commission's reference on Compensation for Injurious Affection continued throughout the 2006/07 Financial Year. The release of the Discussion Paper is anticipated in October 2007, after which the Commission will invite submissions to maximise feedback on the proposals for reform. The Final Report outlining the Commission's recommendations is expected in December 2007.

## 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.
- In May 2007, the Commission launched its new user-friendly website at <[www.lrc.justice.wa.gov.au](http://www.lrc.justice.wa.gov.au)>. All the Commission's publications are now available for free download from the website immediately upon release.

- The new website also features an e-news subscription service that will inform subscribers when reports and papers are released, as well as keeping subscribers up-to-date with the Commission's activities. The service also enabled the Commission to maintain an up-to-date database of organisations and individuals who wish to receive LRC materials electronically.
- The Commission website received approximately 448,596 hits throughout 2006–07.
- During the past year the Commission's staff handled over 11,500 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 also rationalised and reduced historic materials held in an off-site storage facility as part of a significant cost cutting exercise.

## FINANCIAL FORECAST

- The delays in project completion dates as outlined above have had a consequential effect on the Commission's financial forecast for the 2007–08 financial year. The Commission will have to carry over significant unexpended funds to the 2007–08 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 additional references in 2007–08. The Commission is currently in the process of developing terms of reference we hope to receive sometime during 2007–08. The costs associated with these projects will account for the remainder of the budget allocated for references.



# OVERVIEW OF THE LAW REFORM COMMISSION

## OPERATIONAL STRUCTURE

### ENABLING LEGISLATION

The Law Reform Commission was established as a Statutory Authority under the *Law Reform Commission Act 1972 (WA)* on 31 October 1972.

### RESPONSIBLE MINISTER

The Hon. Jim McGinty MLA, Attorney General.

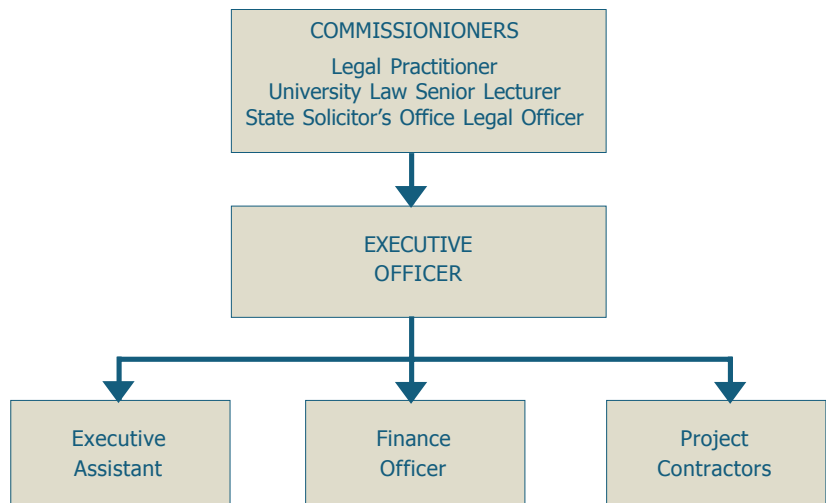
The Law Reform Commission of Western Australia (the 'Commission' or 'LRCWA') reviews areas of the law upon reference from the Attorney General to identify the opportunities for reform. References may result from proposals submitted by the Commission, suggestions made by the public or topics of interest to the Attorney General. Section 11 of the *Law Reform Commission Act 1972 (WA)* (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.

### MISSION

The Commission's mission is to assist in keeping the law up-to-date and relevant to the needs of society.

### 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.





## Chairman

Pursuant to section 5 of the *Law Reform Commission Act 1972* (WA), 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.

In November 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 1985–87. Ms Braddock has previously served as President of the Western Australian Bar Association and practises 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 15 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 2000–05. 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 LRCWA's *30th Anniversary Reform Implementation Report 1972-2002* and on the Commission's website <[www.lrc.justice.wa.gov.au](http://www.lrc.justice.wa.gov.au)>.

## Senior Officer

Heather Kay, LLB (UWA), LLM (UWA) (Executive Officer) has been with the Commission for seven years and is responsible for coordinating administrative and legal research activities and managing the various references.



# OVERVIEW OF THE LAW REFORM COMMISSION

## ADMINISTERED LEGISLATION

### Key Legislation Impacting on the Law Reform Commission's Activities:

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

- Disability Services Act 1993;
- Electoral Act 1907;
- Equal Opportunity Act 1984;
- Evidence Act 1906; 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.

In the financial administration of the Law Reform Commission, we have complied with the requirements of the *Financial Management Act 2006* (WA) and every other relevant written law, and exercised controls which provide reasonable assurance that the receipt and expenditure of moneys and the acquisition and disposal of public property and incurring of liabilities have been in accordance with legislative provisions.

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

## DIVERSIFICATION

The LRCWA 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 LRCWA endeavours to use the public tender procedure to select writers, editors and researchers for each project.

## PUBLICATIONS

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 LRCWA 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)>.

## LEGISLATIVE CHANGE

There were no statutory changes or significant judicial decisions affecting the LRCWA in 2006–07.

## MEETINGS OF THE COMMISSION

The Commission held 16 project meetings, eight Commission Meetings and two working meetings during the 2006–07 financial year. These were primarily devoted to discussing the progress of the Commission's references on Aboriginal Customary Laws, the Review of the Laws of Homicide and Compensation for Injurious Affection, and coordinating the publication of the Aboriginal Customary Laws Final Report.

## THE STAFF

The Commission has two 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 the public, managing the regular operations of a government agency, processing submissions, maintaining the Commission's website, and assisting consulting writers, editors and researchers.

## Staff 2006–07

Other staff members throughout 2006–07 were: Breony Allen, Danielle Davies, Dr Tatum Hands, Jessica Harris, Julian Hosgood, Yuki Kobayashi, Paul Lyons, Alana McCarthy, Cheryl MacFarlane, Miriam McKenna, James Newton-Palmer, Robert Owen, Peter Phillips, Cal Pruiti, Ian Repper, Joanne Scott, Stella Tarrant, David Vile, Victoria Williams and Mimi Yeung.

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: <Ircwa@justice.wa.gov.au>. The Commission's website is located at: <www.Irc.justice.wa.gov.au>. The administrative office is located at Level 3 of the BGC Centre, 28 The Esplanade, Perth.

## 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.

The Commission acknowledges the valuable contribution made by staff within the Department of the Attorney General for the provision of these services in 2006–07.

## CUSTOMER FOCUS OUTCOMES

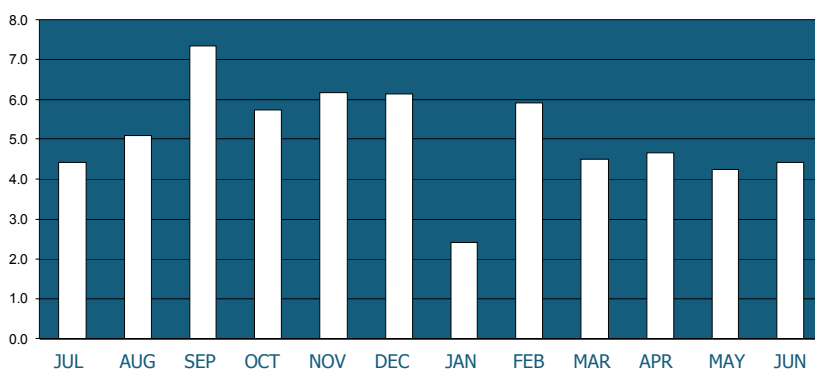
The Commission's operations focus on delivering services to the public, the stakeholders and the Attorney General. The elimination of an expensive operational infrastructure enables the Commission to utilise its resources more effectively for law reform and public education purposes.

## OCCUPATIONAL HEALTH AND SAFETY

The Commission is committed to meeting its obligations and responsibilities under the *Occupational Safety and Health Act 1984 (WA)* and the Occupational Safety and Health Regulations 1996 (WA) in such a manner to ensure 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.

Equivalent Full-Time Employees 2006–2007



# OVERVIEW OF THE LAW REFORM COMMISSION

## PERFORMANCE MANAGEMENT FRAMEWORK

### **OUTCOME BASED MANAGEMENT FRAMEWORK**

The Government's *Better Planning: Better Futures – A Framework for the Strategic Management of the Western Australian Public Sector* (2006) sets out a number of goals for agencies.

#### **The Law Reform Commission's Strategic Objective of Mission**

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

This mission is best aligned with the Government's Goal 1: Better Services – Enhancing the quality of life and wellbeing of all people throughout Western Australia by providing high quality, accessible services.

#### **The Commission's Desired Outcome**

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

To achieve this outcome, 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.

The Commission provides publications on Law Reform as its service to the Western Australian community. In performing this service the Commission, upon receipt of references from the Attorney General to review particular areas of the law, examines current law and practice, consults widely, issues discussion papers for public comment and prepares reports making recommendations for reform.

### **CHANGES TO OUTCOME BASED MANAGEMENT FRAMEWORK**

The Law Reform Commission's Outcome Based Management Framework did not change during 2006–07.

### **SHARED RESPONSIBILITIES WITH OTHER AGENCIES**

The Law Reform Commission did not share any responsibilities with other agencies in 2006–07.

# SIGNIFICANT ISSUES AND TRENDS

## CURRENT AND EMERGING ISSUES AND TRENDS

The most fundamental issue for the Law Reform Commission is to assist in keeping the law up-to-date and relevant to the needs of society.

An issue that emerges from this is the need to make law reform as meaningful and effective as possible.

## ECONOMIC AND SOCIAL TRENDS

To achieve that end, the Commission endeavours to address the following issues:

- The need to ensure the research and analysis of the subject is wide ranging and unbiased.
- The need to broadcast the subject of references to a widespread audience.
- The need to achieve effective communication and consultation with the public and stakeholders.
- The need to maintain a comprehensive and user friendly web-site allowing easy access to current and past references.
- The need to produce publications that are inclusive of all sections of the community, through the use of plain English and other user friendly formats.

## CHANGES IN WRITTEN LAW

There were no changes in any written law that affected the Commission during the financial year.

Likely development and forecast results of operations

- The main issue for the Commission, namely keeping the law up-to-date and relevant to the needs of society will be facilitated by the anticipated release of the Final Report on *Review of the Law of Homicide* in October and the Final Report on the *Compensation for Injurious Affection* reference in December 2007.
- The structure of the Commission allows it to conduct research on more than one reference at a time. The Commission currently has capacity to undertake additional references and can sustain future references within its current budget structure.

# DISCLOSURES AND LEGAL COMPLIANCE



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 2007

I have audited the accounts, financial statements, controls and key performance indicators of the Law Reform Commission of Western Australia.

The financial statements comprise the Balance Sheet as at 30 June 2007, and the Income Statement, Statement of Changes in Equity and Cash Flow Statement for the year then ended, a summary of significant accounting policies and other explanatory Notes.

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

#### Commission's Responsibility for the Financial Statements and Key Performance Indicators

The Commission is responsible for keeping proper accounts, and the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Treasurer's Instructions, and the key performance indicators. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements and key performance indicators that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; making accounting estimates that are reasonable in the circumstances; and complying with the Financial Management Act 2006 and other relevant written law.

#### Summary of My Role

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the financial statements, controls and key performance indicators based on my audit. This was done by testing selected samples of the audit evidence. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion. 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 key 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 key performance indicators.

#### 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 2007 and its financial performance and cash flows for the year ended on that date. They are in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Treasurer's Instructions;
- (ii) the controls exercised by the Commission provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (iii) the key 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 2007.

A handwritten signature in black ink, appearing to read 'C. Murphy'.

COLIN MURPHY  
AUDITOR GENERAL  
19 September 2007

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

# FINANCIAL STATEMENTS

LAW REFORM COMMISSION OF WESTERN AUSTRALIA

## **CERTIFICATION OF FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2007**

The accompanying financial statements of the Law Reform Commission of Western Australia have been prepared in compliance with the provisions of the *Financial Management Act 2006* from proper accounts and records to present fairly the financial transactions for the financial year ending 30 June 2007 and the financial position as at 30 June 2007.

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.



Alan Anderson  
Chief Finance Officer  
13 September 2007



AG BRADDOCK SC  
Chair  
13 September 2007



ID Petersen  
Member  
13 September 2007

# FINANCIAL STATEMENTS

## INCOME STATEMENT

For the Year Ended 30 June 2007

	Note	2007 \$	2006 \$
<b>COST OF SERVICES</b>			
<b>Expenses</b>			
Employee benefit expenses	4	733,495	612,458
Supplies and services	5	221,239	185,413
Depreciation	6	8,165	8,863
Accommodation expenses	7	52,269	51,024
Capital user charge	8	1,080	63,560
Other expenses	9	76,516	163,622
<b>Total cost of services</b>		<u>1,092,764</u>	<u>1,084,940</u>
<b>Income</b>			
Revenue:			
Sales	10	2,130	1,114
Other revenue	12	391	–
<b>Total revenue</b>		<u>2,521</u>	<u>1,114</u>
Gains:			
Gains on disposal of non-current assets	11	91	60
<b>Total gains</b>		<u>91</u>	<u>60</u>
<b>Total Income other than income from State Government</b>		<u>2,612</u>	<u>1,174</u>
<b>NET COST OF SERVICES</b>		<u>1,090,152</u>	<u>1,083,766</u>
<b>INCOME FROM STATE GOVERNMENT</b>			
Service appropriation	13	878,000	869,000
Resources received free of charge		76,794	73,600
<b>Total income from State Government</b>		<u>954,794</u>	<u>942,600</u>
<b>SURPLUS/(DEFICIT) FOR THE PERIOD</b>		<u>(135,358)</u>	<u>(141,166)</u>

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



## BALANCE SHEET

As at 30 June 2007

	Note	2007 \$	2006 \$
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and Cash equivalents	22	605,479	731,882
Receivables	14	2,724	8,969
Amounts receivable for services	15	14,000	20,000
<b>Total Current Assets</b>		<u>622,203</u>	<u>760,851</u>
<b>Non-Current Assets</b>			
Restricted cash and cash equivalents	16	–	1,767
Amounts receivable for services	15	1,000	3,000
Property, Plant and Equipment	17	18,860	9,848
<b>Total Non-Current Assets</b>		<u>19,860</u>	<u>14,615</u>
<b>Total Assets</b>		<u>642,063</u>	<u>775,466</u>
<b>LIABILITIES</b>			
<b>Current Liabilities</b>			
Payables	18	33,548	6,322
Provisions	19	28,993	46,981
Other current liabilities	20	2,663	5,233
<b>Total Current Liabilities</b>		<u>65,204</u>	<u>58,536</u>
<b>Non-Current Liabilities</b>			
Provisions	19	12,075	16,788
<b>Total Non-Current Liabilities</b>		<u>12,075</u>	<u>16,788</u>
<b>Total Liabilities</b>		<u>77,279</u>	<u>75,324</u>
<b>Net Assets</b>		<u>564,784</u>	<u>700,142</u>
<b>Equity</b>			
Contributed equity	21	11,000	11,000
Accumulated surplus		<u>553,784</u>	<u>689,142</u>
<b>Total Equity</b>		<u>564,784</u>	<u>700,142</u>

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

## FINANCIAL STATEMENTS

### STATEMENT OF CHANGES IN EQUITY

For the Year Ended 30 June 2007

	Note	2007 \$	2006 \$
<b>Balance of equity at start of period</b>		700,142	841,308
<b>CONTRIBUTED EQUITY</b>	21		
Balance at start and end of period		<u>11,000</u>	<u>11,000</u>
<b>ACCUMULATED SURPLUS</b>	21		
Balance at start of period		689,142	830,308
Result for the period		(135,358)	(141,166)
Balance at end of period		<u>553,784</u>	<u>689,142</u>
<b>Balance of equity at end of period</b>		<u>564,784</u>	<u>700,142</u>
<b>Total Income and Expense for period</b>		<u>(134,358)</u>	<u>(141,166)</u>

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

## CASH FLOW STATEMENT

For the Year Ended 30 June 2007

	Note	2007 \$	2006 \$
<b>CASH FLOWS FROM STATE GOVERNMENT</b>			
Service appropriation		866,000	856,000
Holding account drawdowns		20,000	10,000
<b>Net cash provided by State Government</b>		<u>886,000</u>	<u>866,000</u>
Utilised as follows:			
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Payments:</b>			
Employee benefits		(694,362)	(540,833)
Supplies and Services		(258,135)	(322,458)
Accommodation expenses		(52,269)	(51,023)
Capital user charge		(1,080)	(63,560)
GST payments on purchases		(24,102)	(28,878)
<b>Receipts:</b>			
Sale of goods and services		2,098	1,167
GST receipts on sales		166	133
GST receipts from taxation authority		30,600	31,173
<b>Net cash provided by/(used in) operating activities</b>	22	<u>(997,084)</u>	<u>(974,279)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Proceeds from sale of non-current physical assets		91	60
Purchase of non-current physical assets		(17,177)	(2,765)
<b>Net cash provided by/(used in) investing activities</b>		<u>(17,086)</u>	<u>(2,705)</u>
<b>Net increase in cash held</b>		(128,170)	(110,984)
Cash and cash equivalents at the beginning of period		733,649	844,633
<b>CASH AND CASH EQUIVALENTS AT THE END OF PERIOD</b>	22	<u>605,479</u>	<u>733,649</u>

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

# NOTES TO THE FINANCIAL STATEMENTS

## 1. Australian equivalents to International Financial Reporting Standards

### General

The financial statements for the Law Reform Commission of Western Australia (the "Commission" for the purpose of these notes) for the year ended 30 June 2007 have been prepared in accordance with Australian equivalents to International Financial Reporting Standards (AIFRS), which comprise a Framework for the Preparation and Presentation of Financial Statements (the Framework) and Australian Accounting Standards (including the Australian Accounting Interpretations).

In preparing these financial statements the Commission has adopted, where relevant to its operations, new and revised standards and interpretations from their operative dates as issued by the Australian Accounting Standards Board (AASB) and formerly the Urgent Issues Group (UIG).

The Australian Accounting Interpretations are adopted through AASB 1048 'Interpretation and Application of Standards' and are classified into those corresponding to International Accounting Standards Board (IASB) Interpretations and those only applicable in Australia.

The AASB has decided to maintain the Statements of Accounting Concepts (SAC 1 and SAC 2) and has continued to revise and maintain accounting standards and the interpretations that are of particular relevance to the Australian environment, especially those that deal more specifically with not-for-profit entity issues and/or do not have an equivalent IASB Standard or Interpretation.

### Early adoption of standards

The Commission cannot early adopt an Australian Accounting Standard or Australian Accounting Interpretation unless specifically permitted by TI 1101 'Application of Australian Accounting Standards and Other Pronouncements'. No standards and interpretations that have been issued or amended but are not yet effective have been early adopted by the Commission for the financial year ended 30 June 2007.

## 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 AASB as applied by the Treasurer's Instructions (TI's). Several of these are modified by the TI's to vary the application, disclosure, format and wording. For example, AASB 116 requires land and buildings to be measured at cost or fair value; TI 954 mandates the fair value option.

The Financial Management Act and the TI's 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 AASB.

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

Modifications or clarifications to accounting standards through the TI's are to provide certainty and ensure consistency and appropriate reporting across the public sector.

### (b) Basis of preparation

The financial statements have been prepared on the accrual basis of accounting using the historical cost convention.

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 Interpretation 1038 'Contributions by Owners Made to Wholly-Owned Public Sector Entities' requires transfers in the nature of equity contributions to 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. Capital contributions (appropriations) have been designated as contributions by owners by TI 955 'Contributions by Owners Made to Wholly Owned Public Sector Entities' and have been credited directly to Contributed Equity.

(e) Income

*Revenue Recognition*

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 control transfer to the purchaser and can be measured reliably.

*Rendering of services*

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

*Service Appropriations*

Service appropriations are recognised as revenues at nominal value 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. See note 13 'Income from State Government' for further detail.

*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.

(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 cost model is used for the measurement of property, plant and equipment. Items of property, plant and equipment are stated at historical cost less accumulated depreciation and accumulated impairment losses. See note 17 'Property, Plant and Equipment'.

## NOTES TO THE FINANCIAL STATEMENTS

### *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.

See note 2(m) 'Receivables' for impairment of receivables.

### (h) Leases

The Commission holds an operating lease for offices. The lessor effectively retains all of the risks and benefits incidental to ownership of the items held under the operating lease. Lease payments are expensed on a straight line basis over the lease term as this represents the pattern of benefits derived from the lease.

### (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).

Initial recognition and measurement of financial instruments is at fair value which normally equates to the transaction cost or the face value. Subsequent measurement is at amortised cost using the effective interest method.

The fair value of short-term receivables and payables is the transaction cost or the face value because there is no interest rate applicable and subsequent measurement is not required as the effect of discounting is not material.

### (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

The accrued salaries suspense account (see note 16 'Restricted Cash and Cash Equivalents') consists of amounts paid annually into a suspense account over a period of ten financial years to largely meet the additional cash outflow in each eleventh year when 27 pay days occur instead of the normal 26. No interest is received on this account.

Accrued salaries (see note 20 'Other Current Liabilities') represent the amount due to staff but unpaid at the end of the financial year, as the pay date for the last pay period for that financial year does not coincide with the end of the financial year. Accrued salaries are settled within a fortnight of the financial year end. The Commission considers the carrying amount of accrued salaries to be equivalent to its net fair value.

(l) **Amounts Receivable for Services (Holding Account)**

The Commission receives funding on an accrual basis that recognises the full annual cash and non-cash cost of services. The appropriations are paid partly in cash and partly as an asset (Holding Account receivable) that is accessible on the emergence of the cash funding requirement to cover items such as leave entitlements and asset replacement. See also note 13 'Income from State Government' and note 15 'Amounts Receivable for Services'.

(m) **Receivables**

Receivables are recognised and carried at original invoice amount less an allowance for any 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. See also note 2(i) 'Financial Instruments' and note 14 'Receivables'.

(o) **Payables**

Payables are recognised at the amounts payable 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. See also note 2(i) 'Financial Instruments' and note 18 'Payables'.

(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 19 'Provisions'.

**Provisions- Employee Benefits**

*Annual Leave and Long Service Leave*

The liability for annual and long service leave expected to be settled within 12 months after the end of the balance sheet date is recognised and measured at the undiscounted amounts expected to be paid when the liabilities are settled. Leave liabilities are in respect of services provided by employees up to the balance sheet date.

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.

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 balance sheet date.

This method of measurement of the liability is consistent with the requirements of AASB 119 'Employee Benefits'.

*Superannuation*

Employees may contribute to the Pension Scheme, a defined benefit pension scheme now closed to new members or the Gold State Superannuation (GSS) Scheme, a defined benefit lump sum scheme also closed to new members. Both schemes are administered by the Government Employees Superannuation Board (GESB).

## NOTES TO THE FINANCIAL STATEMENTS

Employees commencing employment prior to 16 April 2007 who are not members of either the Pension or the GSS Schemes became non-contributory members of the West State Superannuation (WSS) Scheme. Employees commencing employment on or after 16 April 2007 became members of the GESB Super (GESBS) Scheme. Both of these schemes are accumulation schemes. The Commission makes concurrent contributions to the GESB on behalf of employees in compliance with the Commonwealth Government's Superannuation Guarantee (Administration) Act 1992. The WSS Scheme and the GESBS Scheme are defined contribution schemes as these contributions extinguish all liabilities in respect of the WSS Scheme and the GESBS Scheme.

See also note 3(p) 'Superannuation expense'.

### Provisions – Other

#### *Employment On-Costs*

Employment on-costs, including workers' compensation insurance, are not employee benefits and are recognised separately as expenses and liabilities when the employment, to which they relate to, has occurred. Employment on-costs are included as part of 'Other Expenses' and are not included as part of the Commission's 'Employee Benefits Expense'. The related liability is included in 'Employment on-costs provision'. See note 9 'Other Expenses' and note 19 'Provisions'.

#### (p) Superannuation expense

The superannuation expense in the Income Statement represents defined contribution plans - Employer contributions paid to the WSS Scheme and the GESBS 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.

#### (q) 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.

#### (r) Comparative figures

Comparative figures are, where appropriate, reclassified to be comparable with the figures presented in the current financial year.

### 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 Australian Accounting Interpretation unless specifically permitted by TI 1101 'Application of Australian Accounting Standards and Other Pronouncements'. Consequently, the Commission has not applied the following Australian Accounting Standards and Australian Accounting Interpretations that have been issued but are not yet effective. These will be applied from their application date:

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 considered to result in increased disclosures, both quantitative and qualitative, of the Commission's exposure to risks, enhanced disclosure regarding components of the Commission's financial position and performance, and possible changes to the way of presenting certain items in the financial statements. The Commission does not expect any 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 2007.



2. 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]'. The amendments are as a result of the issue of AASB 7 'Financial Instruments: Disclosures', which amends the financial instrument disclosure requirements in these standards. The Commission does not expect any 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 2007.
3. AASB 101 'Presentation of Financial Statements'. This Standard was revised and issued in October 2006 so that AASB 101 has the same requirements as IAS 1 'Presentation of Financial Statements' (as issued by the IASB) in respect of for-profit entities. The Commission is a not-for-profit entity and consequently does not expect any 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 2007.
4. AASB 2007-4 'Amendments to Australian Accounting Standards arising from ED 151 and Other Amendments [AASB 1, 2, 3, 4, 5, 6, 7, 102, 107, 108, 110, 112, 114, 116, 117, 118, 119, 120, 121, 127, 128, 129, 130, 131, 132, 133, 134, 136, 137, 138, 139, 141, 1023 & 1038]'. This Standard introduces policy options and modifies disclosures. These amendments arise as a result of the AASB decision that, in principle, all options that currently exist under IFRSs should be included in the Australian equivalents to IFRSs and additional Australian disclosures should be eliminated; other than those now considered particularly relevant in the Australian reporting environment. The Department of Treasury and Finance has indicated that it will mandate to remove the policy options added by this amending Standard. This will result in no impact as a consequence of application of the Standard. The Standard is required to be applied to annual reporting periods beginning on or after 1 July 2007.
5. AASB 2007-5 'Amendment to Australian Accounting Standard - Inventories Held for Distribution by Not-for-Profit Entities [AASB 102]'. This amendment changes AASB 102 'Inventories' so that inventories held for distribution by not-for-profit entities are measured at cost, adjusted when applicable for any loss of service potential. The Department does not have any inventories held for distribution so does not expect any financial impact when the Standard is first applied. The Standard is required to be applied to annual reporting periods beginning on or after 1 July 2007.
6. AASB Interpretation 4 'Determining whether an Arrangement contains a Lease [revised]'. This Interpretation was revised and issued in February 2007 to specify that if a public-to-private service concession arrangement meets the scope requirements of AASB Interpretation 12 'Service Concession Arrangements' as issued in February 2007, it would not be within the scope of Interpretation 4. At balance sheet date, the Commission has not entered into any arrangements as specified in the Interpretation or within the scope of Interpretation 12, 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 2008.
7. AASB Interpretation 12 'Service Concession Arrangements'. This Interpretation was issued in February 2007 and gives guidance on the accounting by operators (usually a private sector entity) for public-to-private service concession arrangements. It does not address the accounting by grantors (usually a public sector entity). It is currently unclear as to the application of the Interpretation to the Commission if and when public-to-private service concession arrangements are entered into in the future. At balance sheet date, the Commission has not entered into any public-to-private service concession arrangements 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 2008.
8. AASB Interpretation 129 'Service Concession Arrangements: Disclosures [revised]'. This Interpretation was revised and issued in February 2007 to be consistent with the requirements in AASB Interpretation 12 'Service Concession Arrangements' as issued in February 2007. Specific disclosures about service concession arrangements entered into are required in the notes accompanying the financial statements, whether as a grantor or an operator. At balance sheet date, the Commission has not entered into any public-to-private service concession arrangements 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 2008.

## NOTES TO THE FINANCIAL STATEMENTS

The following Australian Accounting Standards and Interpretations are not applicable to the Commission as they will have no impact or do not apply to not-for-profit entities:

### AASB Standards and Interpretations

AASB8	"Operating Segments'
AASB 1049	"Financial Reporting of General Government Sectors by Governments'
AASB 2007-1	"Amendments to Australian Accounting Standards arising from AASB Interpretation 11 [AASB 2]'
AASB 2207-2	"Amendments to Australian Accounting Standards arising from AASB Interpretation 12 [AASB 1, AASB 117, AASB 118, AASB 120, AASB 121, AASB 127, AASB 131 & AASB 139]' - paragraphs 1 to 8
AASB 2007-3	"Amendments to Australian Accounting Standards arising from AASB 8 [AASB 5, AASB 6, AASB 102, AASB 107, AASB 119, AASB 127, AASB 134, AASB 136, AASB 1023 & AASB 1038]'
Interpretation 10	"Interim Financial Reporting and Impairment'
Interpretation 11	"AASB 2 - Group and Treasury Share Transactions'

	2007 \$	2006 \$
<b>4. Employee benefit expenses</b>		
Salaries and wages	644,431	531,628
Annual and long service leave	26,989	31,863
Superannuation – West State	62,075	48,967
	<u>733,495</u>	<u>612,458</u>
<b>5. Supplies and services</b>		
Goods and supplies	15,669	8,183
Services and contracts	128,776	103,630
Resources received free of charge (note 13)	76,794	73,600
	<u>221,239</u>	<u>185,413</u>
<b>6. Depreciation expense</b>		
Office equipment and furnishings	8,165	8,863
	<u>8,165</u>	<u>8,863</u>
<b>7. Accommodation expense</b>		
Building rent operating lease expense	52,269	51,024
	<u>52,269</u>	<u>51,024</u>
<b>8. Capital user charge</b>		
Capital user charge	1,080	63,560
	<u>1,080</u>	<u>63,560</u>

The charge was a levy applied by Government for the use of its capital. In 2006-07, the final year in which the charge was levied, a single payment was made equal to the appropriation for 2006-07 less any adjustment relating to 2005-06.

	2007	2006
	\$	\$
<b>9. Other expenses</b>		
Communication expenses	9,083	7,967
Printing	42,219	86,768
Insurance	7,835	10,415
Advertising	4,595	8,071
Other expenses (a)	12,784	50,401
	<u>76,516</u>	<u>163,622</u>
<p>(a) Includes workers compensation insurance; facilities, equipment and plant hire; maintenance expenses; computer licenses; bank fees; freight charges; travel and accommodation; staff training; electricity; and storage and transportation.</p>		
<b>10. Sale of goods</b>		
Publication sales	2,130	1,114
	<u>2,130</u>	<u>1,114</u>
<b>11. Net gain/(loss) on disposal of non-current assets</b>		
Gain on Disposal of Non-Current Assets:		
Office equipment and computers	91	60
	<u>91</u>	<u>60</u>
<b>12. Other revenues from ordinary activities</b>		
Other revenue	391	-
	<u>391</u>	<u>-</u>
<b>13. Income from State Government</b>		
Appropriation revenue received during the year:		
Service appropriations <sup>(a)</sup>	878,000	869,000
	<u>878,000</u>	<u>869,000</u>
Resources received free of charge <sup>(b)</sup>		
<p>Determined on the basis of the following estimates provided by agencies:</p>		
Department of Attorney General		
Accounting, human resources and information technology services	73,806	70,681
Department of Housing and Works		
Property management services	2,988	2,919
	<u>76,794</u>	<u>73,600</u>
	<u>954,794</u>	<u>942,600</u>

## NOTES TO THE FINANCIAL STATEMENTS

(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

	2007 \$	2006 \$
Prepayments	319	325
Trade debtors	258	–
GST receivable	2,147	8,644
	<u>2,724</u>	<u>8,969</u>

### 15. Amounts receivable for services

Current	14,000	20,000
Non Current	1,000	3,000
	<u>15,000</u>	<u>23,000</u>

This asset represents the non-cash component of service appropriations. See note 2(I) 'Amounts Receivable for Services (Holding Account)'. It is restricted in that it can only be used for asset replacement or payment of leave liability.

### 16. Restricted cash and cash equivalents

Accrued salaries suspense account (a)	–	1,767
	<u>–</u>	<u>1,767</u>

(a) 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

### 17. Property, Plant and Equipment

Office equipment		
At cost	96,708	81,159
Accumulated depreciation	(77,848)	(71,311)
	<u>18,860</u>	<u>9,848</u>

	2007 \$	2006 \$
<b>Reconciliation</b>		
Reconciliation of the carrying amounts of property, plant and equipment at the beginning and end of the reporting period are set out below.		
Carrying amount at start of year	9,848	15,946
Additions	17,177	2,765
Disposals	(1,628)	–
Depreciation	(6,537)	(8,863)
Carrying amount at end of year	<u>18,860</u>	<u>9,848</u>
<b>18 Payables</b>		
Trade and other creditors	<u>33,548</u>	<u>6,322</u>
	<u>33,548</u>	<u>6,322</u>
<b>19 Provisions</b>		
<b>Current</b>		
Annual leave	7,051	15,690
Long service leave <sup>(a)</sup>	18,506	25,732
Superannuation on-cost	2,612	4,216
	<u>28,169</u>	<u>45,638</u>
<b>Other Provisions</b>		
<b>Employment on-cost provision:</b>		
Carrying amount at start of year	1,343	977
Additional provisions recognised	(519)	366
Carrying amount at end of year	<u>824</u>	<u>1,343</u>
	<u>28,993</u>	<u>46,981</u>
<b>Non-current</b>		
<b>Employee benefits provision:</b>		
Long service leave <sup>(b)</sup>	10,592	14,727
Superannuation on-cost	1,136	1,579
	<u>11,728</u>	<u>16,306</u>
<b>Other Provisions: Employment on-costs <sup>(c)</sup></b>		
<b>Employment on-cost provision</b>		
Carrying amount at start of year	482	412
Additional provisions recognised	(135)	70
Carrying amount at end of year	<u>347</u>	<u>482</u>
	<u>12,075</u>	<u>16,788</u>

- (a) Annual leave liabilities have been classified as current as there is no unconditional right to defer settlement for at least 12 months after balance sheet date.
- (b) Long service leave liabilities have been classified as current where there is no unconditional right to defer settlement for at least 12 months after balance sheet date.
- (c) The settlement of annual and long service leave liabilities gives rise to the payment of employment on-costs including workers' compensation insurance. The provision is the present value of expected future payments. The associated expense is included in note 9 'Other expenses'.

## NOTES TO THE FINANCIAL STATEMENTS

	2007 \$	2006 \$
<b>20 Other current liabilities</b>		
Accrued salaries due to salary increase	–	2,486
Accrued salaries to balance sheet date	2,663	2,747
	<u>2,663</u>	<u>5,233</u>
<b>21 Equity</b>		
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 <sup>(a)</sup>	–	–
Closing balance	<u>11,000</u>	<u>11,000</u>
(a) Capital contributions have been designated as contributions by owners in Treasurer's Instruction TI 955 'Contributions by Owners Made to Wholly Owned Public Sector Entities' and are credited directly to equity.		
Accumulated surplus:		
Balance at start of period	689,142	830,308
Result for the period	(135,358)	(141,166)
Balance at end of period	<u>553,784</u>	<u>689,142</u>
<b>22 Notes to the Statement of Cash Flows</b>		
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	605,479	731,882
Restricted cash and cash equivalents (Note 16)	–	1,767
	<u>605,479</u>	<u>733,649</u>
Reconciliation of net cost of services to net cash flows provided by/ (used in) operating activities		
Net cost of services	(1,090,152)	(1,083,766)
Non-cash items:		
Depreciation	8,165	8,863
Resources received free of charge	76,794	73,600
Net gain on disposal of non-current assets	(91)	(60)
(Increase) / decrease in assets:		
Current receivables	–	53
Other current assets	(252)	6,132

	2007	2006
	\$	\$
Increase / (decrease) in liabilities:		
Current payables	27,226	(4,187)
Current provisions	(17,988)	14,385
Other current liabilities	(2,570)	5,233
Non-current provisions	(4,713)	3,040
Net change in GST receivables	6,497	2,428
Net cash provided by/(used in) operating activities	<u>(997,084)</u>	<u>(974,219)</u>

## 23 Commitments

### 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>–</u>	<u>12,100</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	47,600	47,750
Later than 1 year and not later than 5 years	190,400	190,487
Later than 5 years	35,700	–
	<u>273,700</u>	<u>238,237</u>

These commitments are all inclusive of GST.

## 24 Explanatory Statement

Significant variations between estimates and actual results for income and expense are shown below. Explanations are provided in accordance with TI 945. Significant variance are considered to be those greater than 5% or \$7,000.

### Significant variances between estimate and actual for 2007 –

#### Total appropriation to deliver services:

	Actual 2007	Estimate 2007	Variance
	\$	\$	\$
Expenses			
Employee benefits expenses	733,495	369,000	364,495
Supplies and services	221,239	381,000	(159,761)
Other expenses	76,516	56,000	20,516

### Employee benefits expenses

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

## NOTES TO THE FINANCIAL STATEMENTS

### Supplies and services

The decrease is due to the majority of actual payments relating to services such as researching, writing and editing being made under employment contracts (see above). The estimate was based on the assumption that all direct expenses relating to the Commission's projects are paid as contracts for services.

### Other expenses

The increase is due to the Commission's decision to print the final report on the Aboriginal Customary Laws in full colour. This was not envisaged at the time of the estimate.

Significant variances between actuals for 2006 and 2007 – Total appropriation to deliver services:

	Actual 2007	Actual 2006	Variance
Expenses	\$	\$	\$
Employee benefits expenses	733,495	612,458	121,037
Supplies and services	221,239	185,413	35,826
Other expenses	76,516	163,622	(87,106)

### Employee benefits expenses

The increase is largely due to significant amounts paid to researchers, writers and editors for the projects undertaken in the 2006/07 year when compared with the 2005/06 year.

### Supplies and services

The increase is due to more services relating to projects being paid under 'contract for services' when compared with the previous financial year (2006/07: \$98,565; 2005/06: \$81,410). The Commission made some significant changes to its website and the associated costs also contribute to this variance.

### Other expenses

The reduction is due to different projects being undertaken in this financial year, resulting in lower numbers for printed publication, travel and advertising costs.

## 25 Financial instruments

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

Financial instruments held by the Commission are cash and cash equivalents, finance leases, Treasurer's 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.

#### 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

*Interest rate risk exposure*

The following table details the Commission's exposure to interest rate risk as at the balance sheet date:

	Weighted average interest rate %	Variable interest rate \$'000	Fixed interest rate maturities Within 1 year \$'000	1 to 5 years \$'000	More than 5 years \$'000	Non interest bearing \$'000	Total \$'000
<b>2007</b>							
<b>Financial assets:</b>							
Cash and cash equivalent assets						605,479	605,479
Receivables						2,724	2,724
Amounts receivable for services						15,000	15,000
Total financial assets						623,203	623,023
<b>Financial liabilities:</b>							
Payables						33,548	33,548
Other current liabilities						2,663	2,663
						36,211	36,211
Net financial asset/(liabilities)						586,992	586,992
<b>2006</b>							
<b>Financial assets</b>							
Cash and cash equivalent assets						733,649	733,649
Receivables						8,969	8,969
Amounts receivable for services						23,000	23,000
						765,618	765,618
<b>Financial liabilities</b>						6,322	6,322
Net financial assets/(liabilities)						759,296	759,296

*Fair values*

All financial assets and liabilities recognised in the balance sheet, whether they are carried at cost or fair value, are recognised at amounts that represent a reasonable approximation of fair value unless otherwise stated in the applicable notes.

**26 Remuneration of Members of the Commission and Senior Officers**

*Remuneration of Members of the Commission*

The number of members of the Commission, whose total of fees, salaries, superannuation, non-monetary benefits and other benefits for the financial year fall within the following bands, are:

	2007	2006
\$ 0 - \$ 10,000	2	2
\$ 10,001 - \$ 20,000	-	1
\$ 20,001 - \$ 30,000	-	-
\$ 30,001 - \$ 40,000	1	1
Total remuneration of members of the Commission:	\$43,620	\$57,162

The total remuneration includes the superannuation expense incurred by the Commission in respect of members of the Commission.

No member of the Commission is a member of the Pension Scheme.

#### Remuneration of Senior Officers

The number of senior officers other than senior officers reported as members of the Commission, whose total of fees, salaries, superannuation, non-monetary benefits and other benefits for the financial year fall within the following bands, are:

	2007	2006
\$ 100,001 - \$ 110,000	–	1
\$ 150,001 - \$ 160,000	1	–
Total remuneration of senior officers:	\$155,745	\$106,162

The total remuneration includes the superannuation expense incurred by the Commission in respect of senior officers other than senior officers reported as members of the Commission.

No senior officer is a member of the Pension Scheme.

## 27 Remuneration of Auditor

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

Auditing the accounts, financial statements and performance indicators	\$8,900	\$8,900
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The expense is included in note 5 'Supplies and Services'. It is an estimate for the audit fees incurred during the financial year ended 30 June 2007.

## 28 Supplementary Financial Information

- There were no losses of public moneys or other public property through theft or default during the financial year (2006: nil).
- There were no write offs of public money or other public property during the financial year (2006: nil).
- There were no gifts of public property during the financial year (2006: nil).
- There were no contingent liabilities as at 30 June 2007 (2006: nil).
- There were no events occurring after the balance date at the end of the financial year.
- The Commission had no related bodies during the financial year (2006: nil).
- The Commission had no affiliated bodies during the financial year (2006: nil).

# KEY PERFORMANCE INDICATORS

LAW REFORM COMMISSION OF WESTERN AUSTRALIA

## **CERTIFICATION OF PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2007**

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 2007.



AG BRADDOCK SC  
Chair  
13 September 2007



I Petersen  
Member  
13 September 2007



H Kay  
Executive Officer  
13 September 2007

## KEY 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 2006–2007. The effectiveness of each of the reference is measured separately as shown below.

## 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) *Actual completion date:* The Commission completed and launched the Final Report on 27 October 2006.

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 2006-2007.

### 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
October 2006 <sup>(d)</sup>	Final Report completed Final Report was launched on 27 October 2006

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 2007	Target	100%
	Actual	100%
	Variance	Nil

# KEY PERFORMANCE INDICATORS

## REVIEW OF THE LAW OF HOMICIDE

### Table C 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 anticipated the Final Report and recommendations to be completed by December 2006. However due to difficulties experienced in the progress of the Final Report, namely engaging suitable writers with the relevant expertise in the area and a significant lack of specific data and research in relation to homicide, it has now been revised to be completed in September 2007.
- (c) *Revised completion date:* As explained above, the December 2006 completion date was revised to September 2007.

Table C shows the progress to date, phases completed and target completion dates for the Review of the Law of Homicide project in 2006–2007.

### Table C – 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 received</li> <li>• Commenced work on Final Report</li> </ul>
December 2006 <sup>(b)</sup>	Continue research and drafting of the Final Report
June 2007	Progress drafting of the Final Report
September 2007 <sup>(c)</sup>	Final Report to be completed.

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 Homicide project completed (elapsed time)

At 30 June 2007	Target	100%
	Actual	89.66%
	Variance	– 10.34%

As noted above, the anticipated project completion date has been revised to September 2007 due to unexpected delays in the research phase. This has resulted in Review of the Law of Homicide project being only 89.66% complete as at June 2007.

## COMPENSATION FOR INJURIOUS AFFECTION (CIA)

Table E shows the progress to date, phases completed and target completion dates for the Compensation for Injurious Affection (CIA) project in 2006–2007.

### Table E Key:

- (a) *Original planned completion date:* The July 2007 completion date was revised due to a delay in the project writers completing the Discussion Paper. The delayed publication of the Discussion Paper in turn impacted upon the time allocated for receiving submissions and the commencement of the Final Report.
- (b) *Anticipated completion date:* The Commission anticipates the Final Report will be completed by December 2007.

Table E – 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
June 2007	Completion of Discussion Paper
July 2007 <sup>(a)</sup>	Receive feedback and submissions Conduct public forums
December 2007 <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 CIA project completed (elapsed time)

At 30 June 2007	Target	95%
	Actual	76%
	Variance	-19%

As noted above, the anticipated project completion date has been revised to December 2007 and has resulted in the Compensation for Injurious Affection project being only 76% complete as at June 2007.

# KEY PERFORMANCE INDICATORS

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

### Table G 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's expectation that the project would progress from the development of a detailed Issues Paper was abandoned after consideration of multiple issues.
- (b) *Anticipated completion date of the Final Report:* Following the decision by the Commission to modify its project methodology, there was a need to revise the completion date of the reference. A Background Paper is now expected to be released by October 2007.
- (c) *Revised completion date:* The Final Report of the Problem Oriented Courts and Judicial Case Management reference will be completed by November 2008.

Table G show the progress to date, phases completed and target completion dates for the Problem Oriented Courts and Judicial Case Management (POC) project in 2006–2007.

**Table G – 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
October 2007 <sup>(b)</sup>	Further Phases to be completed: <ul style="list-style-type: none"> <li>• Background Paper</li> <li>• Discussion Paper</li> <li>• Submissions and consultation period</li> </ul>
November 2008 <sup>(c)</sup>	Final Report to be completed.

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

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

At 30 June 2007	Target	89.47%
	Actual	66.67%
	Variance	–22.8%

As noted above, the revised methodology for this reference has resulted in the extension of the completion date of the Final Report and this in turn has contributed to the variance of –22.8%.



**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 2006–2007	2006–2007	2005–2006	2004–2005
<b>SERVICE:</b>				
Total publications	2	4	8	14
Average cost per publication	\$396,450	\$245,804	\$122,056	\$56,332
Total community contacts	15,000	11,491	16,080	17,969
Average cost per contact	\$5.87	\$9.51	\$6.75	\$4.88

## OTHER FINANCIAL DISCLOSURES

### CAPITAL WORKS

The Commission has no capital works projects.

### EMPLOYMENT AND INDUSTRIAL RELATIONS

#### Staff Profile

	2006-07	2005-06
Full-time permanent	2	2
Full-time contract	Nil	Nil
Part-time measured on an FTE basis	0.6	0.6
On secondment	Nil	Nil

#### Staff Development

The Commission has a commitment to the development and training of its employees to ensure a highly skilled and professional workforce.

During the financial year staff received 56.5 hours of external training.

#### Workers Compensation

No workers compensation claims were recorded during the financial year.

## GOVERNMENT DISCLOSURES

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

## OTHER LEGAL REQUIREMENTS

### ADVERTISING AND SPONSORSHIP

In accordance with section 175ZE of the *Electoral Act 1907 (WA)*, the Law Reform Commission incurred the following expenditure in relation to advertising and sponsorship during the 2006–07 Financial Year.

Advertising agencies	Nil
Market research organisations	Nil
Polling organisations	Nil
Direct mail organisations	Nil
Media advertising organisations	Nil
Total	Nil

### DISABILITY ACCESS AND INCLUSION PLAN OUTCOMES

The LRCWA 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. Our staff deliver the same level and quality of service and advice, with a full awareness and understanding of the needs of people with disabilities.

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.

### EQUAL EMPLOYMENT OPPORTUNITY

The LRCWA 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 employees and one part-time Finance Officer, and all are women. During the 2006-07 Financial Year the Commission employed 18 temporary staff, 11 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.

## COMPLIANCE WITH PUBLIC SECTOR STANDARDS AND ETHICAL CODES

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 the Public Sector Standards 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.

## 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.

# GOVERNMENT POLICY REQUIREMENTS

## 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 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.

## SUBSTANTIVE EQUALITY

Although the Law Reform 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.

## 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 LRCWA'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. The LRCWA utilises CD-ROM technology wherever possible and this 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.

## 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 LRCWA 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 LRCWA 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 LRCWA endeavours to use the public tender procedure to select writers, editors and researchers for each project.

## ABORIGINAL CUSTOMARY LAWS – PROJECT 94

The Commission completed and published the Aboriginal Customary Laws Final Report. The Report was launched on 27 October 2006 and was the culmination of 6 years extensive inquiry into the recognition of Aboriginal customary laws and culture in Western Australia's legal system. The Report made 131 recommendations for legislative, constitutional, administrative and policy reform to provide practical and effective recognition of Aboriginal customary laws and of the cultural concerns of Aboriginal people in Western Australia. Many of the recommendations apply to non-Aboriginal people and, if adopted, will result in a more just and accessible legal system and enhance the quality of life and wellbeing of Western Australians.

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

## CURRENT REFERENCES

### **PROBLEM ORIENTED COURTS AND JUDICIAL CASE MANAGEMENT – PROJECT 96**

The Commission is currently reviewing the project format and research methodology. An academic writer has been engaged to draft a Background Paper on the theoretical basis underpinning Problem Oriented Courts. A discussion paper considering the various Problem Oriented Courts operating within Western Australia as well as both nationally and internationally will follow. It is anticipated that the reference will be completed by November 2008.

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



## 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

The drafting of the Final Report was delayed as a result of the extensive submissions received in response to the Commission's Issues Paper on the Review of the Law of Homicide.

Other issues including a lack of data or studies carried out in Western Australia, changes to the law and research in other jurisdictions and the Commission's broad

terms of reference have required an extension of the scope of the Final Report. The result will be a thorough and comprehensive review covering a broader area of the law of homicide than has previously been considered by other law reform commissions. The Final Report outlining the Commission's recommendations is expected in September 2007.

**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

The Commission expects to publish a Discussion Paper on Compensation for Injurious Affection in October 2007. This will be followed by a lengthy consultation

and submissions period with the Final Report anticipated for release in December 2007.

## APPENDIX II: PUBLICATIONS

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

Year	Topic	Ref No	Publication type
2007	Law Reform Process (in 10 languages)		
2006	Aboriginal Customary Laws: Final Report	94	Report
	Aboriginal Customary Laws: Promotional Flyers	94	
	Review of the Law of Homicide	97	Issues Paper
	Aboriginal Customary Laws: Discussion Paper Overview	94	Report
	Aboriginal Customary Laws: Background Papers (complete volume)	94	Background Papers
	Annual Report 2006-2007		
2005	Aboriginal Customary Laws	94	Discussion Paper
	Aboriginal Customary Laws: Background Papers Nos. 4-15	94	Background Papers
	Annual Report 2004-2005		
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	94	Background Paper
	Annual Report 2003-2004		
2003	Aboriginal Customary Laws: Background Papers Nos. 1 & 2	94	Background Papers
	Annual Report 2002-2003		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	93	Report
Annual Report 2002-2003			
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

## PUBLICATIONS

Year	Topic	Ref No	Publication type
1997	Limitation and notice of actions Restrictive covenants Annual Report 1996–1997	36 Pt II 91	Report Report Report
1996	Annual Report 1995–1996		Report
1995	Enforcement of judgments of Local Courts Enforcement of judgments of Local Courts Restrictive covenants Implied terms in the Sale of Goods Act 1895 Equitable rules in contracts for the sale of goods Financial protection in the building and construction industry Annual Report 1994–1995	16 Pt II 16 Pt II 91 89 89 82	Working Paper Report Discussion Paper Discussion Paper Discussion Paper Discussion Paper
1994	Annual Report 1993–1994 Enforcement of orders of Courts of Petty Sessions United Kingdom statutes in force in Western Australia Consent to sterilisation of minors Joint tenancy and tenancy in common	55 Pt III 75 77 Pt II 78	Report Report Report Report
1993	Annual Report 1992–1993 Professional privilege for confidential communications	90	Report
1992	Limitation and notice of actions Police Act offences Annual Report 1991–1992	36 Pt II 85	Discussion Paper Report
1991	Criminal process and mental disorder Effect of marriage or divorce on wills Medical treatment for the dying Evidence of children and other vulnerable witnesses Professional privilege for confidential communications Annual Report 1990–1991	69 76 Pt II 84 87 90	Report Report Report Report Discussion Paper
1990	Confidentiality of medical records and medical research Effect of marriage or divorce on wills Administration Act Evidence of children and other vulnerable witnesses Annual Report 1989–1990	65 Pt II 76 Pt II 88 87	Report Discussion Paper Report Discussion Paper Report
1989	Confidentiality of medical records and medical research Payment of witnesses in civil proceedings Police Act offences Incitement to racial hatred Incitement to racial hatred Annual Report 1988–1989	65 Pt II 83 85 86 86	Discussion Paper Report Discussion Paper Issues Paper Report Report
1988	Local Courts Minors' contracts Administration of assets Medical treatment for minors Payment of witnesses in civil proceedings Medical treatment for the dying Annual Report 1987–1988	16 Pt I 25 Pt II 34 Pt VII 77 83 84	Report Report Report Research Paper Discussion Paper Discussion Paper Report
1987	Criminal process and mental disorder Annual Report 1986–1987	69	Discussion Paper Report

Year	Topic	Ref No	Publication type
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
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
1983	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

## PUBLICATIONS

Year	Topic	Ref No	Publication type
1978	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
	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

Year	Topic	Ref No	Publication type
1973	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
	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
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 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).

## HISTORY OF REFERENCES

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; Sutors' 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.

## HISTORY OF REFERENCES

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.

## HISTORY OF REFERENCES

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.

## HISTORY OF REFERENCES

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.

## HISTORY OF REFERENCES

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)	<b>Contempt in the Face of the Court</b> Referred: 2000 DP: August 2001 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.	
93(Pt II)	<b>Contempt by Publication</b> Referred: 2000 DP: March 2002 Report: June 2003		
93(Pt III)	<b>Contempt by Disobedience to the Orders of the Court</b> Referred: 2000 DP: Nov 2002 Report: June 2003		
94	<b>Aboriginal Customary Laws</b> Referred: 2000 Background papers: 2003-2005 DP: Dec 2005 DP Overview: Feb 2006 Report: Sept 2006		
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 Paper: March 2006	Project is ongoing.	
98	<b>Compensation for Injurious Affection</b> Referred: Nov 2005	Project is ongoing.	