



TASMANIA

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

INQUIRIES: Madeleine Figg
OUR REF: 020250-20
YOUR REF:

7 April 2022

Professor John Williams
South Australian Law Reform Institute
Ligertwood Building
Adelaide Law School
University of Adelaide
SA 5005

By email: salri@adelaide.edu.au

Dear Professor Williams,

Re: Review of Tasmanian Law Reform Institute

Thank you for the opportunity to provide a submission to the review of the Tasmanian Law Reform Institute ('TLRI') currently being conducted by the South Australian Law Reform Institute.

Unfortunately I am not in a position to comment specifically on a number of the Terms of Reference. However, the TLRI is an important organisation within Tasmania and should remain a properly resourced, independent law reform body.

In the experience of my Office, the Institute carries out its functions and objectives to a high standard, and has a meaningful effect on the development of policy and law reform in this state.

The terms of the 'Foundational Agreement' establishing the TLRI allow a number of bodies to refer matters to the TLRI for law reform or research, including the judiciary, the parliament, the Attorney-General, Tasmanian Legal Aid, the legal profession and members of the community generally. In practice, it appears that a wide range of individuals and organisations make use of this function, which contributes to the ability of the TLRI to conduct its work as a truly independent body.

In accordance with its aims and objectives, the reports and recommendations prepared by the TLRI have had a significant effect on Tasmanian law reform since the inception of the Institute in 2001. Some significant examples include:

- Changes to the *Evidence Act 2001* relating to tendency and coincidence evidence, following the TLRI's 2021 report '*Evidence Act 2001 sections 97, 98 and 101 and Hoch's case: Admissibility of Tendency and Coincidence Evidence in Sexual Assault Cases with Multiple Complainants*';

- Changes to the Criminal Code relating to delayed complaint in sexual offence cases following the TLRI's 2006 report, 'Warnings in Sexual Offences Cases Relating to Delay in Complaint'; and
- The insertion of an express sentencing aggravation provision into the *Sentencing Act* 1997 in 2017, following the recommendation of the TLRI in the 2011 report 'Racial Vilification and Racially Motivated Offences'.

In addition to these examples, a number of other areas of law reform have been undertaken, or are currently being considered, following reports and recommendations of the TLRI. These areas include changes to the law relating to sexual offences against young people in 2013, the implementation of the Pilot Witness Intermediaries Scheme in 2021, the recent reform of the law relating to dangerous criminal declarations, and consolidation of arrest laws.

In short, the TLRI has been a key driver in setting the policy agenda for law reform in Tasmania, particularly in relation to the development and reform of the criminal law.

It is important that the Institute continues to be adequately resourced in order to conduct this important work. I am of the view that the TLRI requires a full-time Director to effectively run the Institute. I note that the previous two Directors, Professor Kate Warner and Associate Professor Terese Henning, were outstanding academics with practical knowledge of issues within the law and policy space and an active presence in the criminal law profession, and had a critical role in driving the success of the Institute.

The TLRI carries out a vitally important function in Tasmania. It is critical that the TLRI remains a truly independent organisation with the resources and capability to conduct both qualitative and quantitative research, in order to produce work of a very high standard. It would be a huge loss to the Tasmanian community should it not continue as such.

I look forward to meeting with you on 29 April 2022 to discuss these matters further. In the meantime, please do not hesitate to contact me should you have any questions.

Yours sincerely



D G Coates SC
DIRECTOR OF PUBLIC PROSECUTIONS