

**NORTHERN TERRITORY GOVERNMENT SUBMISSION TO THE ROYAL
COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE
PUBLIC CONSULTATION PAPER - REDRESS AND CIVIL LITIGATION**

A. Scope and Introduction

1. This submission provides the Northern Territory's preliminary response to the Consultation Paper on Redress and Civil Litigation ("the Paper") released by the Royal Commission into Institutional Responses to Child Sexual Abuse ("Royal Commission") on 31 January 2015.
2. The Northern Territory is committed to cooperating and supporting the work of the Royal Commission. This includes a commitment to support victims of institutional child sexual abuse as part of its broader mandate to support victims of crime.
3. Due to the complexity of the issues and the relatively short period of time allowed for responding the Paper, the submission provides brief responses to the following specific areas of the Paper:
 - a. proposals for a single national redress scheme led by the Commonwealth Government;
 - b. the provision of counselling and psychological care for survivors;
 - c. redress scheme processes;
 - d. monetary payments;
 - e. funding redress; and
 - f. civil litigation reforms.
4. This submission reflects the Northern Territory Government's preliminary approach to those matters. Further consultation with both government and non-government participants will be required before any arrangements for redress and civil litigation can be finalised and implemented.
5. The Northern Territory notes that a key challenge in the design and implementation of a redress scheme is to strike an equitable balance between the provision of monetary payments to survivors of institutional child sexual abuse that provides adequate recompense to victims and the ability of

governments and private institutions to conduct their programs and activities without excessive and potentially disabling cost burdens.

6. The Northern Territory did not file written submissions in response to the Royal Commission *Issues Paper No. 5 Civil Litigation* or *Issues Paper No. 6 Redress*. It has previously contributed relevant data and information on these topics:
 - a. by producing data and information on compensation payments made to institutional child sexual abuse victims under the Northern Territory's statutory victims of crime compensation scheme;
 - b. by producing policies, guidelines and standards used by the Crimes Victims Services Unit within the Department of the Attorney-General and Justice when assessing applications for victims of crime compensation payments;
 - c. by attending and contributing to a national roundtable discussion in Sydney convened by the Royal Commission on redress and civil litigation; and
 - d. by participating in the Retta Dixon Home public hearing during which the Royal Commission examined the Chief Executive Officer of the Department of the Attorney-General and Justice whereby he gave evidence before the Royal Commission on the topic of redress and civil litigation.
7. Given that the Northern Territory has not previously provided written submissions directed specifically to redress and civil litigation, this submission briefly sets out the legislative and administrative framework for the provision of assistance to victims of crime in the Northern Territory and the services currently available to victims of crime.

B. Contextual Factors in the Northern Territory and Current Strategic Framework for the Provision of Assistance to Victims of Crime

8. The Northern Territory was administered by the Commonwealth between 1911 and 30 June 1978.¹ At all times during that period it remained part of the Crown in right of the Commonwealth with no separate judicial personality. The Commonwealth was responsible during that period for the affairs of the Northern Territory, including child welfare and institutional based care matters. From 1 July 1978 there was established a separate body politic under the Crown by the name of the Northern Territory of Australia.² Only acts and

¹ The Northern Territory was established as a territory of the Commonwealth on 1 January 1911 by the *Northern Territory Acceptance Act 1910* (Cth) and the *Northern Territory (Administration) Act 1910* (Cth).

² See *Northern Territory (Self-Government) Act 1978* (Cth), s 5; *Capital Duplicators v ACT* (1992) 177 CLR 248 at 281-3, 284; *Traut v Rogers* (1984) 27 NTR 29 at 31, 35; *R v Toohey; ex parte Northern Land Council* (1981) 151 CLR 170; *Jennings Constructions v Burgundy Royale Investments* (1987) 162 CLR 153; *Northern Territory v Skywest Airlines* (1987) 48 NTR 20; *Attorney-General (NT) v Minister for Aboriginal Affairs*

omissions occurring after that date are attributable in law to the new body politic.

9. The Northern Territory's population comprises one per cent (1%) of Australia's total population. Its demographic profile is characterised as small, remote, widely dispersed over a large landmass, and comprising a high proportion of Indigenous Australians. The Northern Territory has the highest proportion of people living in remote and very remote areas (43 %), which is six times greater than the proportion in any other jurisdiction in Australia. Thirty per cent (30%) of the Northern Territory's population identify as Aboriginal or Torres Strait Islander. Of this group, 80 % live in remote and very remote areas. Remote areas in the Top End can often be cut off from access for a number of months of the year due to monsoonal weather. Geographical and environmental factors peculiar to the Territory also give rise to difficulties in staff recruitment, accommodation and retention. As a result of these factors, particular challenges arise when it comes to the funding and logistics of service delivery in the Northern Territory.
10. The Northern Territory has two key strategic initiatives in place to support victims of crime.
11. *Framing the Future* is the Northern Territory Government's blueprint for the next three years. There are four strategic goals within *Framing the Future*: a prosperous economy; a strong society; a balanced environment; and a confident culture. The second strategic goal is expressed to be the development of 'a strong society that is safe, connected and encourages participation'. A key objective in the achievement of that goal is the reduction of violence at school, home, work and while travelling. This includes a commitment to support victims of crime.
12. *Pillars of Justice* is a whole of government criminal law reform framework that integrates initiatives between police, justice and correctional services agencies. *Pillars of Justice* will deliver strengthened and coordinated responses to target repeat offending, violence, alcohol-related crime, and ensure community safety. One of the key elements of the framework is Pillar Five: Victims First, which is focused on supporting and protecting victims of crime.

C. Current Northern Territory Services for Victims

13. There are a number of existing mechanisms and strategies in place that collectively provide a framework to support victims of crime in the Northern Territory. They are described briefly below.

(1989) 25 FCR 345; *Waters v Acting Administrator for the Northern Territory* (1993) 46 FCR 462; *Svikart v Stewart* (1994) 181 CLR 548; *Wake and Gondarra v Northern Territory* (1996) 109 NTR 1.

Crime Victims Services Unit

14. The Crime Victims Services Unit in the Department of the Attorney-General and Justice provides financial assistance to a victim of crime who is injured as the result of a “violent act” or is the victim of a prescribed sexual offence, including sexual offences involving children. The scheme provides for the following categories of financial assistance:-
 - Financial assistance for economic loss (eg out of pocket expenses, medical and dental expenses, loss of earnings, funeral expenses) up to a maximum of \$10,000.
 - Financial assistance for compensable violent acts or compensable injuries, paid in a lump sum up to a maximum of \$40,000. The scheme is designed to reduce the stress on victims of sexual assault (including children), as in order to qualify for an award of financial assistance the victim does not need to prove a specific injury, the impact of that injury, or the extent to which they have suffered as a result of the act. If the eligible victim of a compensable violent act chooses not to give the assessor evidence of an actual injury, the assessor may award the victim the minimum standard amount for the relevant category of compensable violent act contained a schedule. Where the eligible victim chooses to provide evidence, the assessor determines an amount of financial assistance dependent on the seriousness of the injury.
15. The scheme does not affect the rights of a person to claim or recover compensation or damages under any other law. The practical operation of the transitional provisions of the scheme is to permit application even if the violent act to which the application relates occurred before its commencement.
16. Amounts otherwise payable may be reduced in some circumstances, including where a victim has unreasonably failed to co-operate with police or where payments in relation to the compensable violent act or injury have been received from another source (such as insurance or civil recovery against the offender).
17. Funding for the compensation scheme, and the Victims of Crime Counselling Scheme (discussed further below), is drawn from the Victims Assistance Fund (“the Fund”). The Fund is established under the *Victims of Crime Assistance Act*, and is comprised by a levy component incorporated into fines and infringement notices.
18. The operational budget for the Northern Territory Crime Victims Services Unit within the Department of the Attorney-General and Justice is \$4.3 million for 2014-15, and includes \$2.23 million for the Victims of Crime Assistance Scheme for victims support services.

19. While comprehensive data is not available in relation to the incidence of child sexual abuse in institutional contexts in the Northern Territory, the NT Department of the Attorney-General and Justice has estimated in its submission to the Royal Commission that between 2007 and 2014, approximately \$3m in compensation has been paid out to 124 victims of child sexual abuse under the statutory scheme. During this same period, there were 156 claims for compensation made.
20. The Crimes Victims Services Unit also manages the Victims Register. Victims recorded on the Victims Register receive regular information about the offender for whom they are registered, including the offender's conditions of sentence, parole, release date and/or other supervision by the Northern Territory Department of Correctional Services as determined under the provision of the *Victims of Crime Rights and Services Act* (NT).

Victims of Crime Counselling Support

21. The objective of the Victims of Crime Counselling Scheme is to restore the physical and mental health of the victim to the same level as before the violent act occurs.
22. A victim may access counselling by self-referral at any time. All victims, including a "related victim", are eligible for counselling. Referrals to access counselling are made by Crime Victims Services Unit case managers for the victim, their family and/or support persons as appropriate.
23. The organisation currently approved to conduct the counselling service is NT Resolve Counselling Education and Mediation, a division of Anglicare.
24. Whatever the outcome of an application for financial assistance may be, victims are advised about Anglicare's free counselling services. Anglicare is contracted by the Northern Territory Government to provide up to eight free counselling sessions for a victim of crime and to make referrals where appropriate. The counselling service is also available to a victim's family and support persons to assist them to understand the issues the victim is experiencing and thereby to participate more effectively in the victim's recovery.

Witness Assistance Service

25. The Witness Assistance Service is located within the Office of the Director of Public Prosecutions and provides a support service for victims and witnesses involved in criminal prosecutions. This assistance includes: advising how the Courts and legal system works; liaison with prosecutions regarding any specific needs; facilitating referrals and providing information on welfare, health, counselling and legal services available to victims of crime; advice in relation to

financial assistance available and how to claim witness expenses; and assistance in preparation of Victims Impact Statements.

Crimes Victims Advisory Committee

26. The Crimes Victims Advisory Committee is vested under s 16 of the *Victims of Crime Rights and Services Act* (NT) with certain functions, including: advising the Minister for Justice on matters affecting the interests or rights of victims; disseminating information relating to matters affecting the interests of victims; and assisting in the coordination of organisations involved in, and initiatives for, the provision of services to victims, including services by the Northern Territory Government.

Victims of Crime NT

27. Victims of Crime NT (VOC NT) is a not-for-profit agency that supports victims of crime in the Northern Territory. It is funded primarily by the Department of the Attorney-General and Justice, but receives additional support from a range of other sources. Services are delivered through the combined use of professional staff and trained volunteers. VOC NT currently delivers counselling, support, information, advocacy and referral for all victims of crime in the Northern Territory. This assistance includes Court support during trials and emergency support and financial assistance to secure residential accommodation following an unlawful entry.

Sexual Assault Services

28. Free counselling, forensic services and medical services are provided to victims of acute and historical sexual assault or abuse through the Department of Health's Sexual Assault Referral Centres in Darwin, Katherine, Tennant Creek and Alice Springs, assisted by Katherine and Gove Hospitals. Services are available to victims and the wider community 24 hours a day including the following:
- a. counselling for male and female adults who have been sexually assaulted either recently or as a child;
 - b. counselling for male and female children who have been sexually assaulted acutely or historically;
 - c. acute medical care for injuries, STD screening and forensic medical investigation to all victims;
 - d. information, support and counselling for partners, family members and significant others;
 - e. education and information for community or professional groups;
 - f. support through legal processes; and
 - g. collaborative activity to raise awareness of sexual violence and work towards its prevention.

29. Funding is also provided by the Northern Territory Department of Health to services such as Ruby Gaea (Darwin). Ruby Gaea provides free and confidential counselling and support to women and children who have experienced sexual assault at any time in their lives. Counselling is provided by specialist, qualified counsellors. The service is available to people who are suffering recent, past, ongoing and/or long-term effects related to sexual assault.

Northern Territory Domestic and Family Violence Reduction Strategy 2014 -2017 – Safety is Everyone’s Right

30. The Northern Territory Department of the Attorney-General and Justice leads the cross-government coordination of a strategy to reduce domestic and family violence. The ‘Safety is Everyone’s Right’ strategy will be implemented in partnership with 10 government agencies. The Strategy includes the roll-out of a suite of place-based specialised support services for victims of domestic and family violence, including victims who have experienced sexual assault within domestic violence. The longer-term support services extend outside town centres, and include access to family sexual assault workers and specialist services for children affected by domestic and family violence.
31. The strategy forms part of the *Pillars of Justice* framework and is key to delivering the Government’s commitment to *Framing the Future* and implementing the ‘National Plan to Reduce Violence Against Women and their Children 2010-2022’. It will also contribute to outcomes under the National Framework for Protecting Australia’s Children 2009-2020.
32. The five key areas for action are: Prevention; Early intervention; Protection – safety for victims; Rebuilding the lives of victims and their children; and Accountability and positive change for perpetrators.
33. The strategy is an integrated response involving the mobilisation of staff across eight critical points of intervention, and will ensure that every contact between a victim and a frontline worker (both in government and non-government services) results in the victim receiving appropriate support and, where needed, a referral to a relevant organisation.
34. An important element of this response is the expansion of the (Police-led) centralised electronic referral system called ‘SupportLink’. SupportLink will enable participating cross-government agencies, including the Northern Territory Department of Health, the Department of the Attorney-General and Justice, the Department of Correctional Services, the Department of Children and Families and the Department of Housing and Police, to make early referral for victims and perpetrators of domestic and family violence.

35. SupportLink enables frontline workers to make immediate referrals to support services at the time of initial contact with victims and perpetrators of domestic and family violence; including referrals relating to child protection and child abuse.

Legal Services

36. There are a number of government, community and privately funded legal services in the Northern Territory that provide a range of legal services to victims of crime.

D. Implementation of a Redress Scheme for Victims of Child Sexual Abuse in Institutional Settings

37. The Paper seeks the views of the Commonwealth Government and state and territory governments on whether they favour a single, national redress scheme led by the Commonwealth Government or an alternative approach.
38. Subject to the final recommendations of the Royal Commission and joint agreement by relevant parties in relation to the development of a national redress scheme, the Northern Territory would support, in-principle, the establishment of a single national scheme funded by weighted contributions from institutional bodies, according to the number of victims residing in institutions under the administration, or former administration, of the liable body.
39. This approach would ensure there is no variation between the levels of redress available in each jurisdiction.
40. Further, efficiencies of scale can be achieved by the establishment and administration of a national scheme. This is particularly relevant for the Northern Territory, which is a small jurisdiction with limited capacity and a relatively small number of potential claimants.
41. A national scheme would also provide for greater ability to coordinate contributions by non-government institutions of their share of funding. The Northern Territory has limited capacity to either coordinate or compel non-government institutions for this purpose.
42. Further, a national scheme would be in the best interests of victims and would provide uniformity and consistency of approaches and funding levels, as well as a greater level of independence from the institutions in which the abuse is alleged to have taken place, therefore reducing the risk of potential conflicts of interest.

43. Under a national scheme, Commonwealth, State and Territory contributions, as well as non-government contributions, could be reassessed annually and adjusted on an actuarial basis.
44. Any national scheme should provide for a set review period, ideally after five years of operation. A scheme of this type should not exceed ten years in duration (see below for longer term arrangements).
45. The Northern Territory is of the view that any redress scheme should operate as a transitional arrangement to provide for historical claims only.
46. Future and long term arrangements should focus on legislative and judicial reform to promote easier and more equitable access for vulnerable victims in the common law system. Future arrangements should also focus on the introduction of compulsory insurance for governments and organisations responsible for children in care.
47. The Northern Territory notes that the development of a national scheme would require extensive consultation with other jurisdictions and the non-government sector.

E. Victims' Services – Counselling and Psychological Care

48. As described above, the Northern Territory already has structures in place for eligible victims of crime to receive counselling and case management support.
49. The Paper seeks the views of the Commonwealth Government and state and territory governments on options for expanding the public provision of counselling and psychological care for survivors.
50. The Northern Territory's service delivery context will require a redress scheme to take into account the following particular needs:
 - a. regional and remote service delivery models that take into account the accessibility and availability of services to victims, noting that existing capacity issues within the Northern Territory's non-government sector are compounded in remote areas; and
 - b. Indigenous service delivery models that take into account the unique cultural needs of Indigenous victims, including traditional languages, kinship considerations, and culturally appropriate forms of clinical practice.
51. The Northern Territory is supportive of expanding the public provision of counselling and psychological care for survivors. However, the Northern Territory notes that in general there are some entrenched and intractable service delivery gaps to remote and regional communities,

particularly in the provision of counselling services to victims of crime in remote areas.

52. It is recognised that the provision of such a service in remote localities is difficult and that no model of best practice for remote service delivery exists in domestic violence context. The Northern Territory Domestic and Family Violence Directorate is currently working with a suitably skilled non-government organisation to develop a local evidence-based model for the provision of remote services to victims of domestic and family violence and sexual assault.

F. Monetary Payments

53. The Paper seeks submission on a number of issues regarding monetary payments, including assessments, maximum amounts, instalment payments and past monetary payments.
54. The Paper canvasses a wide range of potential methods for the assessment of monetary payments. The Northern Territory notes that further work drawing on relevant actuarial, insurance and redress expertise would be required to establish the most appropriate method of assessment, with the amount of monetary payments dependent on the design of the assessment model (which could in turn depend on whether there is a maximum funding cap in place, with individual payments worked backwards from this sum).
55. At this preliminary stage, the Northern Territory does not have a fixed view on the level of average and maximum monetary payments under a scheme of redress. These values will be influenced by any cap on contributions to the scheme, and the number of potential claimants. National consistency in maximum and average payments would appear to be desirable. For the reasons described at page 152 of the Paper, the calculation of monetary payments under a redress scheme in the same way as common law damages would be unachievable and inappropriate. To do so would place an unrealistic assessment burden on a scheme designed to assess a large number of claims, and would make the scheme unaffordable. The Northern Territory adopts this position.
56. The Northern Territory also adopts the position expressed at page 159 of the Paper to the effect that some survivors may experience difficulties managing or handling large lump-sum payments. In remote communities family obligations are often paramount and the particular needs of the survivor, and their long term wellbeing, may not be best addressed by the provision of lump sum payments. The Northern Territory notes that payment by instalment would be a way of mitigating the risks associated with lump sum payments generally. However, there are also countervailing disadvantages with respect to instalment payments, and the issue is complex. For example, an instalment

payment scheme would need to ensure the payee is not subject to taxation that would not otherwise be applied to a lump sum compensation payment, and it is generally accepted that there are psychological benefits in receiving lump sum payments, including because the recipient is then empowered to apply their money as they see fit.

57. Whatever structure might be adopted, the Northern Territory is of the view is a matter of policy that past monetary payments (eg restitution, civil recovery, and victims of crime assistance) should be deducted from any payments made under such a scheme.

G. Redress Scheme Processes

58. The Paper seeks submissions on aspects of redress scheme processes including eligibility, standard of proof and whether a deed is required.
59. The Paper highlights that there are a number of options for a redress scheme, including a scheme to provide for redress for past and future victims, or only for past victims.
60. The Northern Territory supports the Royal Commission's preference for the redress scheme to apply to past sexual abuse with a cut-off date to be negotiated in concert with other jurisdictions, and that if the sexual abuse commences before and continues after the cut-off date it should also qualify for redress. In particular, the Northern Territory adopts the observations at page 164 of the Paper to the effect that a closed period scheme would be more sustainable than a scheme providing for redress for past and future claims, and that a scheme devised in the present day would be unlikely to meet the needs of future victims. It is acknowledged that the imposition of a cut-off date will necessarily be arbitrary; but if civil litigation reforms of the type foreshadowed are implemented they will ameliorate many of the procedural difficulties victims of future child abuse may face in seeking civil damages from perpetrators and institutions liable for their conduct.
61. The Northern Territory does not have a fixed view on whether the proposed redress scheme should include the requirement that victims sign a deed of release, as that question may turn on the particular design of the scheme. However, if the redress scheme is to take legislative form, it would be preferable to make clear in that legislation the effect of a payment under the scheme, including consequences should a victim subsequently commence civil proceedings seeking an award of damages from the abuser (whether government or non-government). For example, it would be necessary to stipulate whether and in what circumstances amounts paid under a redress scheme would be repayable in the event of a successful civil claim. If provision of that nature was made, there would be no need for a deed of settlement in

relation to each individual claim, which would have the additional benefit of avoiding unnecessary administrative cost.

62. It is noted in this context that the *Victims of Crime Assistance Act* (NT) makes no provision for the repayment of monetary assistance in the event that a victim subsequently recovers damages in civil proceedings; and does not require victims who receive compensation under the Act to sign a deed of release.

H. Funding Redress

63. The Paper seeks the views of the Commonwealth Government, state and territory governments and institutions on various options to fund redress.
64. The Northern Territory notes that the actuarial report provided by Finity Consulting Pty Limited states that it is not possible to estimate the number of participants and quantum of costs of a theoretical national redress scheme with any certainty. Accordingly, the Northern Territory is unable at this stage to make any useful estimate of the likely cost to the Northern Territory of participating in such a scheme. However, the Northern Territory notes the average monetary payment to claimants under the actuarial models appears to be high compared to average payments under former and existing redress schemes.
65. The Northern Territory reserves the right to further interrogate and verify the actuarial data, methodology and assumptions in relation to estimated liabilities for this jurisdiction at a later date. This includes assumptions in relation to weightings for Indigenous and remote service delivery in this jurisdiction.
66. The Northern Territory considers that the scheme should be funded by the institution in which the abuse occurred, whether this is a government or non-government institution. Contributions to the scheme should be mandatory for all non-government institutions, although it is presently unclear how this requirement would be enforced. Where a government and non-government institution bear joint or several liabilities for the payment of compensation, both should contribute in proportions determined by the administrator of the scheme. A national and singular approach to the administration of the scheme would assist in reducing the potential for disagreement concerning apportionment of funding.
67. On the basis of the constitutional arrangements described earlier in this submission, the Northern Territory maintains the position that the Commonwealth Government is responsible for contributing funding for victims residing in Commonwealth-administered institutions in the Northern Territory prior to self-government on 1 July 1978.

68. The methodology for calculating contributions would be most appropriately developed through a national working group comprised by the Commonwealth, the states and territories, and peak non-government organisations. A cap on overall scheme funding and jurisdictional contributions should be developed as part of that process.
69. Where compensation has previously been paid by a government or non-government institution through a redress scheme or victim compensation arrangement, this should be taken into account when calculating the share of funding obligations.
70. The primary objective of a redress scheme should be to restore the physical and mental health of the victim as far as is possible and practicable. While monetary payments may achieve this goal in some cases, in other cases non-monetary holistic supports will be more appropriate to the needs of the victim. The Northern Territory agrees in principle that the scheme should provide not only monetary compensation but also, where necessary and appropriate for the rehabilitation of the victim, counselling, education programs, acknowledgement/apology, access to records and assistance in family reunification.

I. Civil Litigation

71. The Royal Commission seeks comment on potential reforms to civil litigation.
72. The availability of the Northern Territory of a claim for damages at common law is subject to the provisions of the *Limitation Act* (NT), which provides relevantly that an action founded on tort is not maintainable after three years from the date the cause of action first accrued to the plaintiff (s 12). In the case of a person under a disability (including a minor), the three year period does not commence to run until the child reaches the age of 18 years (s 36). The three year period may be extended following its expiry by a court of competent jurisdiction (s 44). An applicant for an extension of time must show relevantly that facts material to the plaintiff's case were not ascertained by him or her until after the expiration of the limitation period; that the action was instituted within 12 months after the ascertainment of those facts; and that it is just to grant the extension of time in all the circumstances of the case.
73. The Northern Territory is of the view that any proposal for legislation with retrospective effect will require careful consideration for the usual reasons. That is, public policy considerations generally militate against the retrospective imposition of liability, and legislation of that nature brings the risk of unexpected consequences. If the statutory limitation period is to be extended, it should be extended uniformly across all jurisdictions, noting that there are already differences in time limitations across jurisdictions in that some Australian

jurisdictions provide a limitation period of six years for personal injury actions whereas others provide for three years.

74. Governments are subject to model litigant principles and guidelines, including in child sex abuse cases. The question arises whether similar principles and guidelines should be applied to non-government institutions in litigation involving sexual abuse of children. That application would require legislative intervention and uniform application throughout Australia.
75. It would also be necessary to address the application of limitation periods in that process. The Northern Territory considers the appropriate position to be that a limitation defence is properly available where the institution has suffered real prejudice in its ability to defend the claim by reason of the effluxion of time. That is the position currently adopted by the Solicitor for the Northern Territory.
76. Any change to the system of civil litigation in this area has the potential to affect the insurance premiums of institutions, but has the countervailing potential to drive quality improvement within those institutions.
77. Additionally, the Northern Territory notes that as a result of the 'Ipp reforms' to the law of torts, there are already thresholds and maxima imposed by the tort law reform legislation on the damages available to claimants. The law in this area is not uniform across Australia, and the diversity in approach adopted by various jurisdictions will need to be taken into account when considering reforms. It may be that there is an opportunity to standardise aspects of the law of tort across jurisdictions as a result of this process.

Dated:16 March 2015
