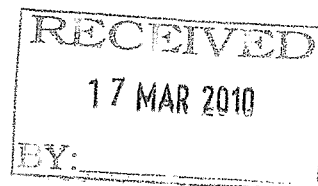


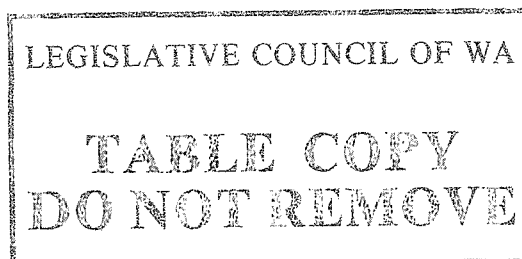


Attorney General; Minister for Corrective Services

Our Ref: 35-07588



Hon Adele Farina MLC
Chairperson
Legislative Council Standing Committee on
Uniform Legislation and Statutes Review
Parliament House
PERTH WA 6000



Dear Ms Farina *Adele*

(REPORT 41) STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW – CHILD EXPLOITATION MATERIAL AND CLASSIFICATION LEGISLATION AMENDMENT BILL 2009 (WA) (THE BILL)

Thank you for Report 41 of the Committee which deals with the above Bill. I appreciate the careful work which the Committee has done to produce this Report and its previous Report No 36. For your information, set out below is the Government's response to the seven recommendations in Report 41.

Recommendations 1, 2, 4, 6 and 7 are supported, and accordingly amendments, where necessary, will be moved in the Legislative Council.

Recommendation 3. This recommendation is not supported. As you are aware, there are several different views regarding the complex legal issues about the relationship between the Committee's proposed amendment and section 7 of the WA Criminal Code. This involves an area of the criminal law where persons are accused of not committing substantive criminal offences, but are accused of facilitating the commission of an indictable offence. In my view, section 7 of the Code adequately deals with persons who are involved in or facilitate an indictable offence and, therefore, proposed section 218 does not need to be amended.

Recommendation 5 This recommendation is not supported. In my view, the Committee's suggested amendment to the proposed defence would broaden the defence and that would undermine the effectiveness of the proposed child exploitation material offences.

It is appreciated that the Committee considers that its proposed amendment will limit or narrow the proposed defence. However, the defence in proposed section 221A(1)(b) was specifically drafted to implement the recommendations of the former WA Director of Public Prosecutions (and is consistent with the South Australian legislation) so that the defence only applies to the "likely to offend a reasonable adult" element of the child exploitation offence.

Thank you for your Report and I look forward to the enactment of this important legislation.

Yours sincerely

A handwritten signature in black ink, appearing to be 'CP' with a flourish.

C. Christian Porter MLA
ATTORNEY GENERAL; MINISTER FOR CORRECTIVE SERVICES

Cc Hon Michael Mischin MLC, Parliamentary Secretary to the Attorney General

- 1 FEB 2010