

**EXECUTIVE SUMMARY AND RECOMMENDATIONS FOR THE  
REPORT OF THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION  
IN RELATION TO A  
SPECIAL REPORT**

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*... for corporations being composed of individuals subject to human frailties are liable as well as private persons to deviate from the end of their institution. And for that reason the law has provided proper persons to visit inquire into and correct all irregularities that arise in such corporations either sole or aggregate and whether ecclesiastical civil or eleemosynary.<sup>1</sup>*

**EXECUTIVE SUMMARY**

- 1) The Committee's "*Inquiry into Electricity Transmission and Distribution Management by Western Power and Horizon Power*" (the **Inquiry**), terminated on 20 January 2012 with the publication of Report 14 - *Unassisted Failure*.
- 2) During the course of the Inquiry, the Committee was concerned that the conduct of a number of witnesses, acting for Electricity Networks Corporation, trading as "*Western Power*" (**Western Power**), within the scope of their actual and apparent authority, may constitute contempt, and or a breach of privilege of the Legislative Council. General warnings were given to witnesses so that all witnesses were made aware of the requirements of relevant parliamentary law, customs and usages. In addition, specific warnings were given to witnesses in the course of their evidence.
- 3) Following the publication of this Committee's Report 14 – *Unassisted Failure*, the Committee carefully considered the extent to which unsatisfactory conduct of Western Power, and its duly appointed corporate representatives, warranted reference to the Legislative Council for determination.
- 4) While the Committee was deliberating on these matters, Western Power announced that its Managing Director, Mr Doug Aberle was resigning. Two weeks after Mr Aberle's departure, the Chairman of the Board of Western Power, Mr Mark Barnaba announced his decision not to seek a further term on the Board. As a result of these and related announcements by Western Power, the Committee sought to determine the current view of Western Power regarding its conduct during the Inquiry, and that of its duly appointed

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<sup>1</sup> Sir William Blackstone (1765) *Commentaries on the Laws of England*, Book I at 467, Legal Classics Library, New York, USA (Reprint).

representatives before the Committee. To this end, the Committee sent the letter reproduced in Appendix 1 to the Board of Western Power on 7 March 2012.

- 5) In response to the Committee's letter, on 4 April 2012 the Board of Western Power provided the Committee with the correspondence reproduced in Appendix 2 under the common seal of Western Power. In this response, Western Power acknowledged and accepted that aspects of its conduct and those of its duly appointed representatives may have obstructed or impeded this Committee.
- 6) In light of Western Power's unreserved apology, and related undertakings to this Committee on behalf of the Legislative Council, the Committee has resolved to report the relevant communication to the Legislative Council.
- 7) The Committee draws the attention of the Legislative Council to a discernible diminution in appreciation of the role and function of Parliament and its Committees within the system of responsible government, on the part of certain senior public sector officials. The ability of the Parliament to scrutinise the administration of government on behalf of the people of Western Australia is a cornerstone of our democracy. Given the hard lessons learned about the importance of public sector accountability from the Royal Commission into Commercial Activities of Government, which reported in 1992,<sup>2</sup>, is timely to remind all public sector officials of their fundamental accountability to the people of Western Australia through the Parliament and its Committees.

#### RECOMMENDATIONS

- 8) Recommendations are grouped as they appear in the text at the page number indicated:

Page 6

**Recommendation 1: The Committee recommends that the Legislative Council do refer this Special Report to the Privileges Committee to determine what action might be taken to ensure that Senior Executive Service personnel, and their equivalents throughout the public sector, who are to appear before either a House or Committee of Parliament, understand the nature and consequences of appearance before parliamentary committees.**

Page 6

**Recommendation 2: The Committee recommends that the Legislative Council do call upon the Government, to ensure that all Senior Executive Service personnel, and their equivalents throughout the public sector, who are to appear before either a House or Committee of Parliament, have access to a person possessing an appropriate understanding of parliamentary privilege, law and procedure.**

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<sup>2</sup> Report I presented to His Excellency the Deputy Governor, on 19 October 1992.