



The Chief Magistrate of the Local Court

21 June 2013

The Hon James Wood AO QC
Chairperson
NSW Law Reform Commission
GPO Box 5199
SYDNEY NSW 2001

Dear Chairperson

Preliminary submission – encouraging early pleas of guilty

I write in response to the call for preliminary submissions to the NSW Law Reform Commission's reference on encouraging early pleas of guilty.

I do not at this stage wish to propose any ideas for change but note the Commission's terms of reference are expressed as being directed at "indictable criminal matters". Further consideration and explanation of what is intended by that term, particularly whether it is to include indictable matters that ultimately proceed summarily in the Local Court or is only to address post-committal matters, would be helpful.

It would be unfortunate if the reference is solely directed at the latter. Any examination of how to encourage (and when sentencing assess the value of) an early plea of guilty should not lose sight of the current operational reality that many matters commence on the basis of charges for strictly indictable offences and are then negotiated between the parties so they can proceed summarily on a plea of guilty to lesser charges in the Local Court. In these instances the lower jurisdictional limit upon sentence is of itself a significant incentive to plead guilty.

This is not to question the value in exploring options to encourage pleas of guilty in matters that do proceed on indictment, but simply to note it would be undesirable for this to occur without consideration of processes in the Local Court at the ultimate risk of creating a two-tier approach to evaluating discounts for pleas of guilty.

I look forward to contributing further to the reference in due course.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Graeme Henson', written over a horizontal line.

Judge Graeme Henson
Chief Magistrate