

Annual Report 2024-2025

Annual Report

Acknowledgement of Country

The NSW Law Reform Commission acknowledges the Traditional Custodians of the lands where we work and live. We celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of NSW.

We pay our respects to Elders past, present and emerging.

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The year in review

On behalf of the NSW Law Reform Commission, it gives me great pleasure to present the Commission's Annual Report for 2024–2025.

This was a busy and highly productive year for the Commission. We completed two reviews into matters of considerable importance to the NSW community.

In September 2024, we presented the NSW Attorney General with our final report into the effectiveness of section 93Z of the *Crimes Act 1900* (NSW) in addressing serious religious and racial vilification. This was followed, in February 2025, by our final report into our review of serious road crimes offences.

I express my gratitude to the individuals and organisations who contributed to these reviews, including through submissions and consultations.

Meanwhile, we continued to research and analyse the many complex issues raised in our ongoing review of the *Anti-Discrimination Act 1977* (NSW) (ADA). In May 2025, we released a major consultation paper on the conduct prohibited by this Act. This is the first of two consultation papers that we intend to release in this review.

May I acknowledge and thank my colleagues, the Hon Justice Anna Mitchelmore and Kate Eastman AM SC, for their significant contributions over the reporting period. Justice Mitchelmore was reappointed as Commissioner and appointed Deputy Chairperson on 1 September 2024. I congratulate Her Honour on these appointments and welcome her ongoing contribution to the Commission's valuable work.

The finalisation of two substantial reports, and the ongoing work into the ADA reference, placed substantial burdens on the limited resources available to the Commission to carry out its work. However, the Commission's staff and my fellow Commissioners have responded magnificently to the task. It is only through their work and dedication that the Commission has been able to perform its functions. I thank them for their care and skill in carrying out this work.

As I write this, preparations are underway for the Australasian Law Reform Agencies Conference, to be held in Melbourne in October 2025. Held for the first time in several years, this conference will draw together members and staff of law reform commissions throughout Australia, as well as some members of overseas commissions.

The conference will focus on issues of particular concern in dealing with law reform. These include how different law reform commissions operate; issues relating to government consideration and implementation of law reform proposals; and the important topic of law reform and First Nations perspectives. The conference will also consider the challenges and opportunities facing law reform bodies in the technological age, including the use of AI.

I am sure this event will be of benefit to the Commission in its ongoing work.



The Hon Tom Bathurst AC KC
Chairperson

About the NSW Law Reform Commission

The NSW Law Reform Commission is an independent statutory body constituted under the *Law Reform Commission Act 1967* (NSW).

The Commission provides expert law reform advice to the NSW Government, through the Attorney General, on matters that the Attorney General refers to it.

In undertaking this work, the Commission:

- researches and analyses the operation of NSW law
- conducts comparative research into similar laws in other jurisdictions, and
- consults widely, including with members of the community, legal organisations, non-governmental organisations, academics and other experts.

The Commission's recommendations are contained in formal reports to the Attorney General, which are tabled in NSW Parliament.

Members of the Commission

During the reporting year, the Commission consisted of a Chairperson, Deputy Chairperson and a part-time Commissioner.

Chairperson: Hon Tom Bathurst AC KC



Tom Bathurst began his term as Chairperson of the NSW Law Reform Commission on 1 June 2022. He was reappointed on 1 June 2025 for a further three-year term.

Tom served as Chief Justice of NSW from 1 June 2011 until his retirement on 5 March 2022. He was called to the bar in 1977 and appointed Queen's Counsel in 1987.

Tom was a member of the Australian Government Takeovers, Mergers and Corporate Reconstructions Panel between 2006 and 2011. He was President of the Australian Bar Association (2008–2010) and President of the NSW Bar Association (2009–2011).

He was made a Companion of the Order of Australia in 2014 and was elected an Honorary Bencher of the Middle Temple in 2016. In 2019, Tom received an Honorary Doctor of Laws from the University of Sydney.

From 2015 to 2022, he was Chair of the Judicial Section of LAWASIA. Tom is also a Member of the Australian Academy of Law.

Deputy Chairperson and Commissioner: Hon Justice Anna Mitchelmore



Justice Mitchelmore was appointed as Deputy Chairperson and part-time Commissioner of the NSW Law Reform Commission on 1 September 2024, after first being appointed as part-time Commissioner on 1 September 2021.

Justice Mitchelmore was appointed to the NSW Court of Appeal in March 2022.

She was admitted as a solicitor in 2000 and commenced at the private bar in 2006.

She was appointed Senior Counsel in 2018, practising predominantly in the areas of administrative law, constitutional law, criminal law, and planning and environment law.

Commissioner: Kate Eastman AM SC



Kate Eastman AM SC was appointed as a part-time Commissioner of the NSW Law Reform Commission on 30 August 2023.

She was admitted as a solicitor in 1990 and a barrister in 1998, and appointed Senior Counsel in 2012.

Kate's areas of practice include human rights, employment law and public law. She has taught international law and human rights at the University of Technology Sydney and Monash University. In 2012, she was appointed Senior Fellow of the Faculty of Law at Monash University.

In 2021, Kate was appointed a Member of the Order of Australia. She was awarded a Doctor of Laws (Honoris causa), University of Technology Sydney in 2002.

Reviews completed in 2024–2025

The Commission transmitted two reports to the Attorney General during the reporting period:

- Report 151: *Serious Racial and Religious Vilification*
 - Report 152: *Serious Road Crime*
-

Review of section 93Z of the *Crimes Act 1900* (NSW)

Terms of reference

Under terms of reference dated 14 February 2024, the Commission was asked to expeditiously review and report on the effectiveness of section 93Z of the *Crimes Act 1900* (NSW) in addressing serious racial and religious vilification in NSW.

The terms of reference required consideration of matters including, but not limited to:

- the impact of racial and religious vilification on all parts of the NSW community
- criminal vilification offences in other Australian and international jurisdictions, and the desirability of harmonisation and consistency between New South Wales, the Commonwealth and other Australian States or Territories
- the availability of civil vilification provisions in the *Anti-Discrimination Act 1977* (NSW)
- the impacts on freedoms, including freedom of speech, association and religion
- the need to promote community cohesion and inclusion
- the views of relevant stakeholders as determined by the Commission, and
- any other matter the Commission considers relevant.

Review process

We received 42 submissions in response to the terms of reference. We released an options paper on 7 June 2024. A further 27 submissions were received in response to the options paper.

We conducted 24 consultation meetings, in person and online, with a wide range of individuals and groups.

These included judicial officers, bodies representing the legal profession, community legal centres, police and prosecutors, academic experts, groups representing Aboriginal people, religious groups, multicultural groups, and groups representing members of LGBTQIA+ communities and people living with HIV/AIDS.

Final report

The Commission transmitted Report 151: *Serious Racial and Religious Vilification* to the Attorney General on 27 September 2024.

The report recommended that the NSW Government should consider:

- commissioning a review of the effectiveness of s 21A(2)(h) of the *Crimes (Sentencing Procedure) Act 1999* (NSW), noting that the aggravating factor might be difficult to apply where the offence was accompanied by hate, but not solely motivated by it, and

- measures, such as a new Law Part Code, to improve the collection of data on hate crimes when offences other than s 93Z are charged for hate-related incidents.

The report was tabled in NSW Parliament on 21 November 2024.

Review of serious road crime offences

Terms of reference

Under terms of reference dated 10 November 2022, the Commission was asked to review and report on:

- whether the existing provisions of the *Crimes Act 1900* (NSW) (*Crimes Act*) dealing with serious road and dangerous driving offences (in particular, in Part 3 Division 6 and manslaughter) (serious road crime) and accessorial liability provisions remain fit for purpose
- whether the maximum sentences available for serious road crimes remain appropriate
- relevant sentencing principles in statute and the common law for serious road crimes
- the experiences and rights of victims of serious road crime and their families within the criminal justice system, and
- any other matter the Commission considers relevant.

Review process

We called for preliminary submissions on the terms of reference on 29 November 2022. We received 91 preliminary submissions and conducted 10 targeted preliminary consultations.

We published a consultation paper on 11 December 2023, and received a further 75 submissions in response. We also conducted two additional targeted consultations.

Final report

The Commission transmitted Report 152: *Serious Road Crime* to the Attorney General on 17 February 2025. In this report, the Commission recommended:

- there should be a Law Part Code for manslaughter where the commission of the offence involves the accused person driving a motor vehicle
- the NSW Government should review the circumstance of aggravation relating to speed in s 52A(7)(b) of the *Crimes Act* to consider whether the limit should be lowered, or if another model for identifying excessive speed should be adopted
- participation in an unlawful race or unlawful speed trial should be added as a circumstance of aggravation in s 52A(7) of the *Crimes Act*
- there should be new offences of dangerous driving occasioning actual bodily harm, aggravated dangerous driving occasioning actual bodily harm, and failing to stop and assist after a vehicle impact causing actual bodily harm
- the offence of wanton or furious driving in s 53 of the *Crimes Act* should be updated, and
- a new division should be added to the *Crimes Act* to consolidate existing serious road crime offences within the Act.

The report was tabled in NSW Parliament on 13 May 2025.

Implementation and government responses

Review of section 93Z of the *Crimes Act 1900* (NSW)

In relation to the recommendations made in Report 151: *Serious Racial and Religious Vilification*, the *Criminal Legislation Amendment (Racial and Religious Hatred) Act 2025* (NSW) amended s 21A(2)(h) of the *Crimes (Sentencing Procedure) Act 1999* (NSW).

The amendments clarify that the aggravating factor in s 21A(2)(h) is to be taken into account on sentence when an offence is either partially or wholly motivated by hatred for, or prejudice against, a group of people to which the offender believed the victim belonged.

The Standing Council of Attorneys-General agreed on 21 February 2025 to commence work on the development of a National Hate Crimes and Incidents Database.¹

Other recent reviews

As at 30 June 2025, implementation action and / or government responses were outstanding on the following reports completed within the last three years:

- Report 152: *Serious Road Crime*
- Report 150: *Bail: Firearms and Criminal Associations*
- Report 149: *Open Justice: Court and Tribunal Information: Access, Disclosure and Publication*

¹ Standing Council of Attorneys-General, *Communiqué* (21 February 2025) <www.ag.gov.au/sites/default/files/2025-02/scag-communique_21-feb-2025.pdf>.

Ongoing reviews

Review of the *Anti-Discrimination Act 1977* (NSW)

Terms of reference

Under terms of reference dated 19 June 2023, the Commission has been asked to review and report on the *Anti-Discrimination Act 1977* (NSW).

The terms of reference require consideration of matters including, but not limited to:

- whether the Act could be modernised and simplified to better promote the equal enjoyment of rights and reflect contemporary community standards
- whether the range of attributes protected against discrimination requires reform
- whether the areas of public life in which discrimination is unlawful should be reformed
- whether the existing tests for discrimination are clear, inclusive and reflect modern understandings of discrimination
- the adequacy of protections against vilification, including (but not limited to) whether these protections should be harmonised with the criminal law
- the adequacy of the protections against sexual harassment and whether the Act should cover harassment based on other protected attributes
- whether the Act should include positive obligations to prevent harassment, discrimination and vilification, and to make reasonable adjustments to promote full and equal participation in public life
- exceptions, special measures and exemption processes
- the adequacy and accessibility of complaints procedures and remedies
- the powers and functions of the Anti-Discrimination Board of NSW and its President, including potential mechanisms to address systemic discrimination
- the protections, processes and enforcement mechanisms that exist in other Australian and international anti-discrimination and human rights laws, and other NSW laws
- the interaction between the Act and Commonwealth anti-discrimination laws, and
- any other matters the Commission considers relevant to these terms of reference.

Review process

We called for preliminary submissions on matters relevant to the terms of reference on 20 July 2023. We received 95 preliminary submissions. We also conducted targeted initial consultations with agencies and academic experts.

On 20 May 2025, we published a consultation paper, a community summary and an Easy Read consultation paper. We also released a community survey.

The 2025–2026 Annual Report will provide further updates on this review.

Engagement

Members of the Commission and Secretariat staff attended the following events on behalf of the Commission:

- Chairperson Tom Bathurst attended the farewell reception for the outgoing President of the Australian Human Rights Commission (Emeritus Professor Rosalind Croucher) on 24 July 2024.
- Jackie Hartley appeared on a careers panel as part of the Inspiring Legal Research workshop hosted by the University of Sydney on 23 August 2024.
- Chairperson Tom Bathurst and Jackie Hartley attended a Law Reform Masterclass hosted online by the Queensland Law Reform Commission on 13 September 2024.
- Chairperson Tom Bathurst delivered a keynote address at the launch of the University of New South Wales Law Society's *Court of Conscience* publication on 11 November 2024.
- Chairperson Tom Bathurst and Jackie Hartley appeared on the University of New South Wales Law Society's Law Reform Panel on 10 March 2025.

Secretariat

The NSW Law Reform Commission and Sentencing Council Secretariat is part of the Policy, Reform and Legislation branch, Law Reform and Legal Services division, in the Department of Communities and Justice.

Staff

The following people worked in the Secretariat for at least part of the reporting period:

- Dr Nikki Edwards, Policy Officer (to May 2025)
- Alexandra Hammond, Senior Policy Officer
- Dr Jackie Hartley, Policy Manager (job share)
- Carol Hoang, Policy Officer
- Tanya Railton, Policy Manager (job share)
- Sophie Sauerman, Senior Policy Officer (to January 2025)
- Laura Schultz, Senior Policy Officer (to May 2025)
- Juwariya Syed, Graduate Policy Officer (October to April 2025)
- Madison Thompson, Policy Officer (to July 2024)
- Rebecca Wahl, Graduate Policy Officer (December to January 2025)
- Joseph Waugh PSM, Senior Policy Officer
- Anna Williams, Research Support and Librarian
- Rebecca Winder, Policy Officer

Student interns

Student interns make a significant contribution to the Commission's work. The following people participated in the Secretariat's annual paid internship program during the reporting period:

2024

- Jamie Cheeseman, Australian National University
- Rajiv Sharndil, Macquarie University
- Juwariya Syed, University of New South Wales
- Rebecca Wahl, University of Sydney

2025

- Evita Dickson, Australian National University
- Holly Alcock, Macquarie University
- Kale Murnane, University of New South Wales

Sienna Mackey, Australian Catholic University, also joined the Secretariat as part of the Department's summer clerk program during February 2025.

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