

Compensation for New Street Alignments

Terms of Reference

In 1973 the Commission was asked to review s 364 of the *Local Government Act 1960* (WA) ("the Act").

Background of Reference

Due to local government concerns that the operation of sub-s 364(7) did not result in fair compensation, s 364 of the Act was rarely used in practice. The Attorney-General asked the Commission to consider whether the formula for assessing the amount of compensation payable to adjoining owners affected by new street alignments under sub-s 364(7) of the Act was fair.

In March 1974, the Attorney-General asked the Commission for its comments on detailed proposals made by the Minister for Local Government for a revision of the whole of s 364 of the Act. These proposals dealt not only with the compensation payable to the adjoining owner but also with the powers of local governments to alter otherwise permissible plot ratios and to permit building on the affected strip. The proposals also considered the power other bodies had to prescribe new street alignments.

The Attorney-General also indicated that, since the Minister for Local Government had already given his approval to the amendments, it would be inappropriate to deal with the matter as a project. Thus, the Commission proceeded with the reference as a 'comment only' project rather than a comprehensive report. In June 1976, following a change of government, the new Attorney-General renewed the request for comments on the previous government's proposals.

Nature and Extent of Consultation

As the matter was not to proceed by way of report the Commission limited its consultation to discussions with interested bodies, including the Secretary for Local Government, who was consulted to elaborate on the operation of s 364 of the Act in practice.

The Commission reported to the Attorney-General, by letter, dated 16 March 1977.¹

No Action Recommended

Because the Commission was asked only to comment on the reforms proposed by the former Minister for Local Government, it made no formal recommendations for legislative action. However, the Commission did identify problem areas and suggest alternative solutions. The Commission also outlined the broader consequences of the proposed reforms and identified other statutes that would require either amendment or repeal in part, in order to remain consistent with the proposed amendments to s 364 of the Act.

¹ Law Reform Commission of Western Australia, *Compensation for New Street Alignments*, Project No 39 (1977).