

13 September 2023

The Hon. John Quigley MLA  
Attorney General of Western Australia  
By email: [John.quigley@mp.wa.gov.au](mailto:John.quigley@mp.wa.gov.au)

Dear Attorney General,

**STEP Australia Endorsement of the WA Policy Sub-Committee Letter to Attorney General on Perpetuity Period Reform**

We the Society of Trust & Estate Practitioners Australia Pty Limited (STEP Australia) represent professionals from across Australia who are specialists in trusts, estate planning and in supporting the needs of families (young and old, wealthy and modest). The objective of a STEP Professional is to advance the interests of families across generations. This often involves us in identifying issues of relative importance to families and bringing these to the attention of those who can make a positive difference. This is the purpose of this submission.

STEP Australia's membership includes lawyers, accountants, financial wealth advisors and trustee company professionals from across Australia; our members bring a multi-disciplinary approach to the benefit of their clients. It is this unique multi-disciplinary approach that supports this submission.

STEP Australia endorses the submission prepared by STEP Western Australia dated 7 August 2023 (STEP Western Australia Submission) concerning the "Proposal to Extend Legislative Perpetuity Period".

More detailed information is contained in the STEP Western Australia Submission attached.

If you would like to discuss any of the above, please contact Ian Raspin TEP, STEP Australia Board Chair, via [iraspin@bnrpartners.com.au](mailto:iraspin@bnrpartners.com.au) or 03 9781 6800.

Yours sincerely

Ian Raspin TEP

**Chair of STEP Australia**

CC: Jennifer Sheean TEP, STEP Australia Policy Committee Chair  
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Ms Sarah Walton TEP, STEP Western Australia Policy Sub-Committee  
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7 August 2023

The Hon. John Quigley MLA  
Attorney General of Western Australia

By email: [John.quigley@mp.wa.gov.au](mailto:John.quigley@mp.wa.gov.au)

Dear Attorney General

### Proposal to Extend Legislative Perpetuity Period

We refer to our letters to you dated 7 September 2021 and 3 August 2022, and STEP Australia's letter to you dated 29 March 2023, which endorsed our last submission.

We take the opportunity to now expand on our past submissions.

The **attached** submission paper explains in more detail why WA's current laws concerning the perpetuity period for trusts are unsatisfactory, complicated and problematic and are in need of a new, more streamlined and simplified approach.

Other States and Territories across Australia are already moving to modernise their perpetuity period laws.

Queensland introduced the *Property Law Bill 2023* in February 2023, which will extend the statutory perpetuity period from 80 to 125 years and will abolish the rule against perpetuities in that State.

This follows similar reforms in England and New Zealand in recent years.

WA should likewise get on the front foot and consider similar reforms. The reforms we propose make good sense. Our perpetuity period laws are more antiquated than other jurisdictions in our region and we risk falling further behind unless we modernise them. Modernising and simplifying the law as we propose should not be controversial or contentious.

STEP WA is willing to meet with the WA Government to discuss and break down our submissions further to ensure that the key points are well understood.

If you would like to discuss any of the above, please contact Sarah Walton of the STEP WA Policy Sub-Committee at [Sarah.Walton@anz.com](mailto:Sarah.Walton@anz.com).

Yours sincerely

Ms Sarah Walton  
Policy Sub-Committee  
Committee Member  
STEP Western Australia

Att. STEP WA Perpetuity Period Reform Submission Paper 2023

E: [western.australia@step.org](mailto:western.australia@step.org) W: [www.step.org/western-australia](http://www.step.org/western-australia)

JOD 3438-1211-5257-1

Level 21, 197 St Georges Terrace, Perth WA 6000 Australia

## PERPETUITY PERIOD REFORM SUBMISSION PAPER 2023

This paper has been written on behalf of the Society of Trust and Estate Practitioners of Western Australia (**STEP WA**).

STEP WA considers Western Australia's current statutory approach to the perpetuity period of trusts to be antiquated, problematic and unsatisfactory.

STEP WA recommends legislative amendments to modernise WA's perpetuity period laws and to create a more simplified and certain perpetuity period.

It is STEP WA's view that the rule against perpetuities in Western Australia should be replaced with a new, more streamlined approach.

### 1. Overview

- a. STEP WA recommends that Western Australia's approach to the rule against perpetuities be simplified and updated in line with other States, in particular as Queensland has proposed with the *Property Law Bill 2023* (Qld) (**Queensland Bill**).
- b. These submissions set out the rationale behind the current legislation, identify key problems with the current legislation, and put forward recommendations aimed at solving those problems.
- c. As the WA model contains peculiar differences from other trust jurisdictions in our region and overseas, these submissions include a comparison of the key features of the perpetuity laws in several other trust jurisdictions that have recently reviewed or are in the process of reviewing their legislation.

### 2. Current Position – Western Australia

- a. The rule against perpetuities prevents a trust from existing indefinitely.
- b. The common law position is that unless an alternative is specified in the instrument creating the trust, a trust must vest within the lifetime of the last to die of certain individuals alive when the interest is created (known as "lives in being" or "measuring lives") plus 21 years. If no person or group is specified (or implied), the perpetuity period is 21 years after the interest was created.
- c. Under the common law lives in being rule, any lives may be selected to be the basis of the perpetuity period. There is no need for the lives to be connected with the settlement as long as they were reasonably ascertainable.<sup>1</sup>

- d. The common law rule was intended to balance the freedom of disposition against the public policy protection of preventing ownership of property (particularly land) being tied up in a trust for too long – sometimes referred to as the “dead hand rationale”.<sup>ii</sup>
- e. Western Australia sought to provide clarity on this position by enacting the *Law Reform (Property, Perpetuities and Succession) Act 1962 (WA) (Reform Act)*. This law was subsequently repealed and re-enacted by the *Property Law Act 1969 (WA) (WA Act)*.
- f. Part XI of the WA Act (sections 100 to 115) contains provisions on perpetuities and accumulations.
- g. Section 101 of the WA Act modifies the common law rule against perpetuities as follows:
 

*“In determining whether any limitation is invalid as infringing the rule against perpetuities, the perpetuity period is, for the purposes of that rule, such period of years not exceeding 80 as may be specified in the instrument creating that limitation or, if no such period of years is specified, the period that is applicable under the rule at law.”*
- h. The concept of ‘instrument’ is defined in section 100 of the Act to include:
 

*“a will and also includes an instrument, testamentary or otherwise, exercising a power of appointment, whether general or special...”*
- i. The concept of ‘limitation’ is defined in section 100 of the Act to include:
 

*“any provision in an instrument by which any property, or any interest in any property, or any right, power, authority or discretion in or over or in connection with any property, is or purports to be devised or bequeathed to, or created for, or given or granted or appointed to or conferred upon, or otherwise limited to, any person or purpose, and whether subject to a condition, precedent or subsequent, or not”*
- j. The relevant provisions under Part XI of the WA Act only apply to instruments executed after 6 December 1962. This means any trust created prior to that date is subject only to the common law rule - the ‘rule at law’.

### **3. Problems with the Application of the Common Law and Current WA Legislation**

- a. There are several problems arising from the existing Western Australian law, including:
  - i. uncertainty and confusion as to which period applies;
  - ii. failure to take into account increased life expectancies;
  - iii. as a result of the complex trust corporation structures that exist within Australia the dead hand rule is no longer suitable to apply to businesses; and
  - iv. many other jurisdictions have increased their perpetuity period and Western Australia is potentially at a disadvantage if it fails to update its legislation.

- b. Given our increased life expectancies and number of businesses operating via trusts, it is STEP WA's view that our legislation should be updated, so that trusts and businesses operating within Western Australian are not negatively impacted because of their association with Western Australia.

*Uncertainty as to which time period applies*

- c. The wording of the current Western Australian law is such that if no perpetuity period is specified in a trust deed, then the rule of law applies.
- d. Applying the WA Act, the longest period that may be specified is 80 years. Accordingly, within Western Australia, the perpetuity period may be any of the following:
  - i. Under common law a 21-year period; or
  - ii. If a life or lives in being is express or implied, the length of that life (or the oldest survivor of the group) plus 21 years<sup>iii</sup>; or
  - iii. 80 years from the date of the trust instrument containing the disposition; or
  - iv. From the commencement of the Reform Act in 1962, up to 80 years from the date of the instrument creating the trust.

The issue with having the lives in being plus 21 years' timeframe is that the period is often uncertain as generally no specific life is nominated. Even when an individual is nominated, tracing the life or lives may also be difficult as time passes. Accordingly, it is not unknown for a trust to exceed the perpetuity period because nobody noticed that the life in being had ended.<sup>iv</sup>

- e. Where a trust deed does not specify a perpetuity period, the rule at law applies. Because the rule at law will apply, the first task is to identify the relevant lives in being. This can create much unnecessary confusion and uncertainty. More so, because the issues relating to vesting often come to light after the trust has been in existence for many years and control passed.
- f. Having three potential perpetuity options creates confusion. STEP WA submits that it is important to provide consistency and to simplify Western Australia's trust law.

*Increased Life Expectancies*

- g. It is STEP WA's contention that the time frame of 80 years for a trust to operate is no longer sufficient. People are living and working far longer than we have done in the past, meaning retirement and wealth transfers are taking place later. This has also been supported by the Australian Bureau of Statistics which demonstrated that in 2019-21<sup>v</sup> the life expectancy at birth was 81.3 years for males and 85.4 years for females.

*No Longer Suitable for Modern Investment Structure*

- h. The limited perpetuity period within Western Australia is a widespread issue impacting many trusts and individuals within our State. The use of trusts is very common for ownership of investments in WA. It is estimated that there are approximately 1,000,000<sup>vi</sup> trusts operating within Australia.
- i. The vesting of a trust can have disastrous consequences for trusts and businesses, as it necessarily requires any business and investment activities carried on by the trustee to come to an end, with resulting adverse taxation consequences for the trustee and/or beneficiaries of the trust.
- j. Many jurisdictions, including England, Singapore and New Zealand have far longer perpetuity periods. Other trust jurisdictions such as Ireland, Scotland, Hong Kong, Guernsey and Jersey have no perpetuity period.
- k. The Western Australian statutory perpetuity period of up to 80 years does not provide a sufficient time frame for a modern ongoing established businesses nor intergenerational wealth transfers.

*Perpetuity Period is not the Vesting Date*

- l. There is misunderstanding within the community arising from the fact that the vesting date is different to the perpetuity period. This is also a point that is not well understood even by many legal practitioners.
- m. The vesting date is independent of the perpetuity period, save that it must not fall outside that period. The perpetuity period is that in which the interest must vest. The vesting date is the date by which all interest under the trust will vest, subject to early vesting or any allowable extension of the vesting date.<sup>vii</sup>
- n. Many STEP members are legal practitioners who prepare, review and amend trust deeds. It is very common for our members to encounter trust deeds that contain a vesting date but not a perpetuity period. Trust deeds prepared by lawyers from across Australia have found their way into use by Western Australians. Unfortunately, many trust deeds contain provisions that are based on the laws in other States and Territories and have not been appropriately modified to take into account Western Australia's peculiar and more antiquated statutory provisions concerning the perpetuity period.
- o. For example, many trust deeds currently in use by Western Australians have been prepared without a perpetuity period specified, based on the premise contained in:
  - i. the New South Wales legislation – that the statutory perpetuity period of 80 years applies by way of default if no perpetuity period is specified in the trust deed; or

- ii. the Victorian or Queensland legislation – that if a *date certain* is given for the vesting date, then the perpetuity period will, by default, be the period calculated from the date of creation of the trust until that vesting date. <sup>viii</sup>
- p. This can result in a major legal problem for Western Australians who are using a trust deed based on those incorrect assumptions without a perpetuity period specified. Under section 101 of the WA Act, where no period of years up to 80 is specified for the perpetuity period in the trust deed establishing the trust, then the period at law applies. The perpetuity period is then a life or lives in being plus 21 years. If there is no life in being, express or implied from the trust deed, then the perpetuity period would be 21 years after creation of the trust.
- q. In the absence of an express provision in the trust deed stating who the life or lives in being are, this leaves uncertainty for the trust and trustee. When can a life in being be implied? Who might the lives in being be? Can the trustee declare who the lives in being are *ex post facto*? Or will the trust vest in 21 years after the date of settlement of the trust? If more than 21 years has already elapsed since the trust was created, or if there is a life in being but that person has died, has the trust already vested, on expiry of the common law perpetuity period? If so, who was entitled to the trust fund when it vested? Did anyone realise? Has the trustee continued administering the trust purporting to exercise discretionary powers after that date, but all of their purported exercise of powers were invalid and ineffectual and need to be unwound, with significant consequences (including taxation)?

#### 4. Proposed Solution

- a. STEP WA considers that section 101 of the WA Act should be repealed and replaced as part of broader changes to the operation of the perpetuity period in Western Australia. The replacement provision should adopt a statutory perpetuity period of up to 125 years as the perpetuity period for all non-charitable trusts in Western Australia. This would provide greater certainty, consistency and a better outcome for all Western Australians. We suggest the following revised wording for section 101 of the WA Act (consistent with the amendments proposed by the Queensland Bill):

**101. Abolition of rule against perpetuities**

(1) *The common law rule known as the rule against perpetuities is abolished.*

(2) *The perpetuity period, for a disposition of property under a trust, is —*

(a) *125 years starting on the day on which the disposition is made; or*

- (b) *if the terms of the trust state or imply a shorter period to be the perpetuity period for the disposition, including, for example, by stating a mechanism for determining the day on which the trust property will vest —the shorter period.*
- (3) *The perpetuity period does not apply in relation to any of the following matters —*
  - (a) *a charitable trust;*
  - (b) *the trusts of a superannuation fund or scheme;*
  - (c) *the trusts of a pension fund or scheme;*
  - (d) *a trust that is created under, or is subject to, another Act that allows the trust to continue indefinitely;*
  - (e) *a trust that may continue indefinitely under common law or equity;*
  - (f) *a trust or power to sell property, if a trust of the proceeds of sale is valid;*
  - (g) *a trust or power to lease or exchange property, if the lease or exchange directed or authorised by the trust or power is ancillary to the carrying out of a valid trust;*
  - (h) *a power that is ancillary to the carrying out of a valid trust or the giving effect to a valid disposition of property;*
  - (i) *a provision for the remuneration of trustees.*
- (4) *A person interested in a disposition of property under the terms of a trust, settled before the commencement, may apply to the court for an order that the property vest within 125 years after the creation of the trust.*
- (5) *The court may hear and decide the application and make the orders it considers appropriate.*
- (6) *Without limiting subsection (5), the court may make an order about the disposition of property that, under the terms of the trust, may have vested more than 125 years after the creation of the trust.*

- b. STEP WA considers that a 125 year perpetuity period should apply to trusts and dispositions of property made after the commencement of the new provisions, where a



lesser period has not been specified in the instrument creating the trust, and that the language of the provision should be updated and simplified.

- c. STEP WA's recommended approach is that the change apply to all disposition made after the commencement of any new provisions. Dispositions made prior to the commencement of the amendments should continue to be subject to the rule against perpetuities, as modified by statute, at the time the disposition was made.
- d. To achieve consistency effectively and promptly, STEP WA also proposes that existing trusts have an ability to extend their perpetuity period so that existing trustees have an ability to effectively 'opt-in' to a new maximum perpetuity period. An extension to the perpetuity period for existing trusts could be achieved in one of three ways:
  - i. within the terms of the instrument of trust itself; or
  - ii. by agreement of all the beneficiaries; or
  - iii. on application to the Court.
- e. If the third option is selected, the Court should be given a list of criteria to consider when making a decision. This opt in policy is in line with the proposal put forward in Queensland.<sup>ix</sup>
- f. STEP WA recommends that criteria should include a number of relevant factors such as:
  - i. The reason for extending the perpetuity period,
  - ii. The likely impact on beneficiaries; and
  - iii. The intentions of the testator or person making the disposition.

## 5. Other Amendments

STEP WA recommends the following additional amendments to the WA Act consistent with the reforms proposed above and under the Queensland Bill:

- a. Repeal section 102 of the WA Act (Capacity to procreate or bear a child). Our recommended approach to perpetuities is to replace the common law perpetuity period with a set perpetuity period. As such, reference a life or lives in being will not be necessary for dispositions that take effect after the commencement of new provisions.
- b. Repeal and replace section 103 of the WA Act (Wait and see rule) with a provision that states:

*A disposition of property is not invalid because it may vest at a date that is remote from the date of the disposition provided it may vest within the perpetuity period.*

*Should the interest fail to vest in the perpetuity period, default vesting rules will be applied.*

- c. Repeal section 108 of the WA Act (Unborn spouses or de facto partners). Our recommended approach to perpetuities is to replace the common law perpetuity period

with a set perpetuity period. As such, section 108, and its reference a life or lives in being, will no longer be necessary.

- d. Redraft section 110 of the WA Act (Options) along the lines of the New South Wales provision in the following manner:

**110. Options**

*The rule against perpetuities does not apply to:*

- (a) any option to renew a lease of property;*
- (b) any option to acquire a reversionary interest in property comprised in a lease;*
- (c) any right of pre-emption given for valuable consideration or by will in respect of property; or*
- (d) any other option given for valuable consideration or by will to acquire an interest in property.*

**6. International Jurisdiction Comparison**

- a. Many jurisdictions both overseas and in Australia have recently reviewed the operation of the rule against perpetuities and have a much longer perpetuity period.
- b. England and New Zealand have both adopted a single statutory period of 125 years<sup>x</sup>. Singapore has a 100 year perpetuity period and 31 States in America have adopted a perpetuity period of 90 years.
- c. Jurisdictions such as Ireland, Hong Kong, Guernsey and Jersey have all abolished the rule against perpetuities allowing trusts to continue indefinitely.

**7. Australian Jurisdictions**

- a. The majority of Australian States and Territories have realised that an 80 year perpetuity period is simply no longer effective. The submissions below provide a brief synopsis on the changes in Australian jurisdictions by way of guidance.

**8. New South Wales**

- a. The *Perpetuities Act 1984 (NSW)* (NSW ACT) modified the application of the perpetuities rule.
- b. The NSW Act contains statutory modifications, including a ‘wait and see’ period<sup>xi</sup>, age reduction and class closing provisions.<sup>xii</sup> This means in New South Wales the perpetuity period is for a fixed period of 80 years.<sup>xiii</sup>
- c. The principle of “wait and see” means that, where an interest in property could possibly vest outside the perpetuity period (and so be void at common law), it is permissible to “wait and see” whether the property will in fact vest within the perpetuity period. Only

when it becomes clear that the gift cannot so vest will the gift be void. Accordingly, within NSW the concept of a life or lives in being is irrelevant for determining the perpetuity period<sup>xiv</sup>. Such a method was adopted for several reasons,<sup>xv</sup> including that it approximates the common law period and it avoids presumptions of parenthood.

## 9. Northern Territory

- a. Currently the rule against perpetuities in the Northern Territory, has a similar position to that which exists in Queensland, Victoria and Tasmania.
- b. The Northern Territory's legislation contains a wait and see period and a choice between the common law (life in being plus 21 years) or an 80 year perpetuity period.<sup>xvi</sup>
- c. In July 2014, the Northern Territory Law Reform Commission released a Report on Perpetuities<sup>xvii</sup> (NTLRC Report No 40) which considered the options of reform or abolition of the rule. The NTLRC Report No 40 considered a number of reviews which took place in international jurisdictions before recommending that it was time to abolish reference to the common law and to provide for a fixed perpetuity period of 150 years.<sup>xviii</sup>
- d. Following its review the Northern Territory Law Reform Commission recommended that 'one simple system'<sup>xix</sup> apply to all trusts created before or after the change. Existing settlements that had a perpetuity period by reference to a live in being plus 21 years, or with no stated term, would now have the longer 150 year period. The proposals included that if a party was aggrieved by the change, then they would have the right to apply to the court to adjust the settlement or its duration. An existing trusts with a stated term would continue with the stated term, but for those with a stated maximum term of 80 years, an interested party could apply to increase the perpetuity period to 150 years. So far the Northern Territory has yet to enact these recommendations.

## 10. Queensland

- a. The Queensland Bill was introduced into Parliament in February 2023. The Queensland Bill intends to replace the existing *Property Law Act 1974* (Qld). The changes are supported by the Property Law Review Final Report (Property Law Act) 1974 (Qld) 2018 (2018 Qld Report).
- b. The purpose of the Queensland Bill is to replace the existing Property Law Act with a newer and more modernised version of the Property Law Act. Part 13 of the Queensland Bill relates to perpetuities and the reasoning behind such changes are set out in detail in the 2018 Qld Report.<sup>xx</sup> The proposed changes include extending the perpetuity period and abolishing the rule against perpetuities.<sup>xxi</sup>

- c. Section 201 of the Queensland Bill provides that the perpetuity period will be 125 years or a shorter period if one is set out by the terms of the trust. This perpetuity period extension effectively increases the allowable time from 80 years to 125 years.
- d. Notwithstanding such changes, the date that a trust will vest will depend ultimately upon what is provided in the trust deed. The trust deeds usually set out a termination date or vesting date or a mechanism for calculating the termination date or vesting date.

### **11. South Australia**

- a. In 1994, following the recommendation of the Law Reform Committee of South Australia (LRC SA),<sup>xxii</sup> the South Australian government abolished the against perpetuities rule.
- b. This means that there is a perpetuities rule restriction on extending the life of a trust. The result in practical terms means that there is no rule against perpetuities in South Australia.
- c. The position was adopted because it was considered that other legislation made it unlikely that a trust would endure for over 100 years and that the rationale of limiting the dead hand control of property was not sufficient to justify retaining the rule.
- d. To support the abolition of the perpetuity period, legislation was adopted to increase powers for the court, on application by specified parties, to:
  - i. vary the terms of a disposition if, after 80 or more years, there remain interests that have not vested, so that those interests vest immediately; or
  - ii. if the interests cannot, or are unlikely to, vest within 80 years after being created, to vary the disposition so that the interests will vest within that period.<sup>xxiii</sup>

### **12. Victoria**

- a. Victoria's perpetuity period is as per the *Perpetuities and Accumulation Act 1968 (Vic)*. This Act is similar to the Northern Territories legislation in that it contains a wait and see provision<sup>xxiv</sup>, power to specify a perpetuity period. The duration of the perpetuities period shall not to be more than 80 years.<sup>xxv</sup>

### **13. Conclusion**

- a. An update and simplification of WA's perpetuity rules is much needed. Creating a certain 125-year perpetuity period is preferable to the use of the life or lives in being clause which may cause confusion and be difficult and expensive to ascertain when the period has ended. A legislative amendment should include an "opt in" provision to an extended period will help streamline trust law more quickly and effectively.
- b. STEP WA is willing to meet with the WA Government and provide further support to assist the Government to put forward legislative amendments to amend s.101 of the WA Act by extending WA's perpetuity period to 125 years. Such action will bring WA into line with other comparable jurisdictions and avoid WA being left legislatively behind.

- c. Please let us know how we may assist the Government further in these matters or if you have any questions in relation the proposed changes.

## ENDNOTES

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- <sup>i</sup> *Thellusson v Woodford* (1799) 4 Ves Jr 227; (1805) 11 Ves 122 ('Thellusson's Case')
- <sup>ii</sup> The Perpetuities and Accumulations Act 2009 Retrieved 19 June 2023  
<https://www.step.org/tqr/tqr-may-2010/perpetuities-and-accumulations-act-2009>
- <sup>iii</sup> Property Law Review Final Report (Property Law Act) 1974 (Qld) 2018 see p898
- <sup>iv</sup> *Clay v Clay* (1999) 20 WAR 427; [1999] WASCA 8; [2001] HCA 9 illustrates how the elapse of time beyond the presumed date for vesting of beneficiary entitlements can give rise to significant financial and taxation implications for beneficiaries and trustees.
- <sup>v</sup> **Life tables, 2019 - 2021**  
<https://www.abs.gov.au/statistics/people/population/life-tables/latest-release> Retrieved 23 May 2023
- <sup>vi</sup> [Trust statistics | Australian Taxation Office \(ato.gov.au\)](https://www.ato.gov.au/Trust-statistics) Retrieved 25 May 2023
- <sup>vii</sup> Young, G (2018). Perpetuity Periods and vesting dates – some common myths. *Brief* February 2018 p31-33
- <sup>viii</sup> See *Application by Perenna Nominees Pty Ltd* [2022] VSC 193 as a recent example of the approach taken under the *Perpetuities and Accumulations Act 1968* (Vic). This decision also illustrates some of the difficulties that can be encountered in determining whether a trust deed contains a 'date certain' and, in the absence of a 'date certain', how to work out the identity of the 'lives in being' under the rule at law for a discretionary trust.
- <sup>ix</sup> Property Law Review Final Report Property Law Act 1974 (Qld)
- <sup>x</sup> The *Perpetuities and Accumulation Act 2009* (UK) and the *Trust Act 2019* (NZ)
- <sup>xi</sup> *Perpetuities Act 1984* (NSW) s8.
- <sup>xii</sup> *Perpetuities Act 1984* (NSW) s 9.
- <sup>xiii</sup> *Perpetuities Act 1984* (NSW) s 7.
- <sup>xiv</sup> The Commission initially recommended allowing the settlor to choose the common law period or a fixed 80 year period: New South Wales Law Reform Commission, *Report on Perpetuities and Accumulations*, LRC 26, (1976) 27.
- <sup>xv</sup> See, Mr Gordon, Legislative Assembly NSW, 21 September 1983, 1050-1051.
- <sup>xvi</sup> *Law of Property Act* (NT) part 11 (ss 183-202).
- <sup>xvii</sup> Northern Territory Law Reform Committee, *Report on Perpetuities*, Report No. 40 (July 2014).
- <sup>xviii</sup> Northern Territory Law Reform Committee, *Report on Perpetuities*, Report No. 40 (July 2014) 17.
- <sup>xix</sup> Northern Territory Law Reform Committee, *Report on Perpetuities*, Report No. 40 (July 2014) 21
- <sup>xx</sup> Property Law Review Final Report (Property Law Act) 1974 (Qld) 2018 see pp.898-903 with respect to proposed changes to the perpetuity period
- <sup>xxi</sup> Section 200
- <sup>xxii</sup> Law Reform Committee of South Australia, *Seventy-Third Report of the Law Reform Committee of South Australia Relating to the Reform of the Law of Perpetuities* (1984).
- <sup>xxiii</sup> *Law of Property Act 1936* (SA) s 62.
- <sup>xxiv</sup> *Perpetuities and Accumulation Act 1968* (Vic) s6
- <sup>xxv</sup> *Perpetuities and Accumulation Act 1968* (Vic) s5