



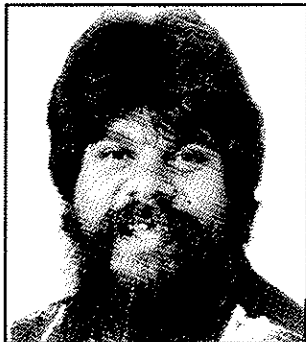
ABORIGINAL LEGAL SERVICE OF WESTERN AUSTRALIA (INC.)

ANNUAL REPORT 1996 - 1997



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PRESIDENT'S FOREWORD

As President of the Aboriginal Legal Service of WA (Inc) I have much pleasure in presenting you with the Annual Report for the Financial Year 1996/97.

The year was one of challenge and achievement. The direction that the Executive Committee set for the year ensured that Aboriginal people were able to maintain a confidence in the ability of the organisation to effectively service their legal needs and to represent them on wider political issues.

I pay tribute to the Management and staff of ALSWA and to my fellow Executive Committee members for their unceasing effort and commitment.

Aboriginal Affairs in Western Australia, as throughout Australia, operates in an increasingly hostile environment. ALSWA has regarded this not as an inhibiting factor, but as a challenge. The performance of the organisation during 1996/97 confirmed ALSWA as a leading Aboriginal organisation, not only in this State, but within Australia. It demonstrated fully that it had maintained a capacity and a determination to protect our interests and rights, not only in the field of legal representation, but in the areas of Native Title and Human Rights.

I have full confidence that the organisation will continue to demonstrate the tenacity that it has shown in the past year. Community support during this time has been one of our strengths. It is important that this support continues so that ALSWA will be able to maintain its progress into the forthcoming financial year and beyond.

A handwritten signature in dark ink, appearing to read 'Ted Wilkes', written in a cursive style.

TED WILKES

President

Aboriginal Legal Service of Western Australia (Inc)

COMMITTEE MEMBERSHIP

Central:

Mr Ted Wilkes (President)
Ms Lorraine Whitby (Treasurer)

Goldfields:

Mr Delson Stokes
Mr Richard Evans

Southern:

Mr Mark Ugle
Mr Glen Colbung (Deputy President)

Pilbara:

Mr Brian Sampson
Mr Paddy Jeffries

Gascoyne:

Mr Mervyn Councillor
Mr William Kyanga

West Kimberley:

Mr Paul Sampi
Mr Alphonse Buck

East Kimberley:

Mr Coral Gore-Birch (Secretary)

ATSIC Regional Council Chairpersons

Mr Arthur Slater	(Kaata-Wangkinyiny Regional Council)
Mr Clem Riley	(Kalkarniny Regional Council)
Mr Kevin Puertollano	(Kullari Regional Council)
Mr Vic Hunter	(Malarabah Regional Council)
Mr Adrian Brahim	(Ngarda-Ngarli-Yarndu Regional Council)
Mr Bernard Newbury	(Western Desert Regional Council)
Ms Veronica Williams	(Wongi Regional Council)
Mr Ian Trust	(Wunan Regional Council)
Mr Sandy Davies	(Yamatji Regional Council)



CHIEF EXECUTIVE OFFICER'S REPORT

I am pleased to present this report on the activities and operations of the Aboriginal Legal Service of Western Australia (Inc) [ALSWA] for the 1996/97 financial year. The year was one of consolidation and increased stability for the organisation. ALSWA was able to maintain a level of funding which helped us continue our present quality of service to our Aboriginal constituents across the State. Members of the Executive Committee and ALSWA staff are to be congratulated for ensuring that ALSWA continued to receive support during times when there were many pressures on Aboriginal Affairs and on the Aboriginal community in general. ALSWA was able at the same time to fulfill the Executive's direction that the organisation keep a watching brief on other areas of concern to Aboriginal people. During the year ALSWA appointed its first Aboriginal Principal Legal Officer, Mr David Imlah, from NSW.

As Chief Executive Officer I was involved in the following matters:

Police/Aboriginal Relations

I continued to liaise with the Police Department through meetings with Internal Investigations on Police Complaints, as a member of the Special Police Committee established to examine high speed pursuits, and as a member of the Police Minister's Council on Community Relations. I was also appointed for a further three year term to the Aboriginal Justice Council. Despite these involvements, which enabled ALSWA to closely scrutinise police operations in various areas, and despite the enhancement of ALSWA/Police relations at a senior level, the year ended with ALSWA still holding concerns which it will continue to monitor.

Native Title

ALSWA was once again elected onto the National Indigenous Working Group, meetings of which are attended by the Executive Officer of the Land and Heritage Unit. Additionally, the organisation was finally able to get the Miriwung-Gajerrong claim before the Federal Court after successfully defending a number of State Government challenges. Protocols were developed to deal with Land Councils, though ALSWA has come under increasing pressure to relinquish its role in Native Title.

Mainstreaming

During the year all ALS's were subject to recommendations by the Federal Government's National Commission of Audit to look at amalgamating ALS's with Legal Aid Commissions. ALSWA has been subject to new policy directions and another effectiveness review due to the Commission's recommendations. This will mean major changes to the way we deliver our services in the future.

Unit Operations

I have had the opportunity to look at the different areas of ALSWA service and have become increasingly concerned about the Family Law area. These concerns centre on our involvement in no-win situations (disputes between partners in breakdowns of marriage) which present the organisation with a conflict of interest. The trauma of family breakup affects staff, many of whom have left the Service. The community is also often traumatised by ALSWA involvement. Also, I am concerned about ALSWA's response to its moral and ethical obligations to defend cases which are clearly not in the best interest of positive social change for our people.

Country Operations

I have visited a number of our country offices and have found staff to be doing an excellent job under quite difficult conditions. The year saw an increase in the involvement of our Executive Members with regional offices and staff.

Committee and Meeting Involvements

During the year, I was involved in a range of meetings with a wide variety of organisations including: Curtin University; Department Of Minerals and Energy; Noongar Council of Elders; Miriuwung Gajerrong matters; Aboriginal Justice Council; Minister For Police; Minister for Aboriginal Affairs; the Police Commissioner; WAANTWG; Yokai Coalition; Minister's Council on Community Relations; ATSIC; Aboriginal Land Trust; Equal Opportunity Commission; Ministry of Justice; State Coroner; State Ombudsman; Alternative Disputes Resolution Council; Centre for Aboriginal Studies; and ATSIC Regional Councils.

Public Addresses and Community Visits

During the year, I made the following public addresses: Reconciliation and the Law-Learning Together; Australian Reconciliation Convention; Amnesty International; Curtin University (Lectures and Graduations); Australian Association of Social Worker's; High Speed Pursuit Rally; and West Australians for Racial Equality. In fulfilling these and other speaking and meeting requirements I was required to travel to Canberra, Cairns, Melbourne, Broome, Mandurah, Kalgoorlie, Bremer Bay, Kununurra, Derby, Pemberton, Bunbury, Northam, Wagin, Kellerberrin and the Pilbara.

Indigenous Women's Project

ALSWA was happy to be able to support the Indigenous Women's Project being conducted by the Women's Legal Service. ALSWA was successful in winning the tender to collect the views of Indigenous women throughout the State. A full report is due soon. I expect that as a result of the project ALSWA in cooperation with the WLS can come up with better provision of legal services for Indigenous women.

Aboriginal Deaths In Custody

A number of Deaths in Custody test cases are ready to go to Court. ALSWA is continuing to monitor Aboriginal Deaths in Custody including deaths associated with highspeed pursuits. We are looking forward to getting test cases to Court during the next financial year.

Removal Of Children

16 cases have been identified by ALSWA to put to a State Court for adjudication and compensation. The organisation remains committed to ensuring that every effort is made to keep both Deaths in Custody and Removal of Children cases high on our agenda and in the public arena.

Conclusion

I am pleased to report that I perceived a growing confidence within the staff that ALSWA is enhancing its credibility in terms of delivering our wide range of services to the Aboriginal community. Changes in terms of policy and operations have been strongly endorsed by staff and have received firm support from our Executive Committee and from the Aboriginal community. Complaints have dropped away and we are receiving increasingly positive feedback. The year ahead contains many challenges but I expect we will rise to the occasion and progress even further. Our growing support from ATSIC and from our community will ensure that ALSWA can continue to provide a strong political voice for the Aboriginal peoples in this State.

Dennis Eggington
Chief Executive Officer



DEPUTY CHIEF EXECUTIVE OFFICER'S REPORT

The position of Deputy Chief Executive Officer is new to the Aboriginal Legal Service of WA (Inc). It was created by upgrading an existing position and redefining another one. The position is responsible for assisting the Chief Executive Officer in the management, direction and administration of the sections and services of ALSWA. This includes overseeing all office management of administrative and support services including finance, secretarial, reception and clerical staff, as well as the Community and Public Interest Unit. The Deputy Chief Executive Officer position is an identified Aboriginal position to make sure that when the Chief Executive Officer is unavailable, the organisation can still be represented by an Aboriginal person.

The following comments relate to some of the areas for which the Deputy Chief Executive Officer is responsible.

Human Resource Issues - Personnel Files

ALSWA is in the process of upgrading and reviewing all employee files. This includes amalgamating the files of employees so that there is one main file per employee rather than many employees (mainly the Solicitors) having a file held by the Personnel Officer and another file held by the Principal Legal Officer. This amalgamation is nearly completed. During the process, there has also been a general "clean up" as a result of out-of-date contracts being updated and so on. The next phase of the file review is to ensure that all employee duty statements are updated in line with the management structure and the Award.

Human Resource Issues - Staff Award

Early in the financial year, a new staff Award was negotiated with this being registered some months later. The Award defines the conditions of work for all employees and sets the salaries they will be paid. The salaries are currently under review so that the organisation can continue to attract and maintain quality staff without taking away from the level of service that can be offered to clients.

Human Resource Issues - Community Perceptions of Service

In a bid to ensure an even higher standard of service to clients, a number of issues have been addressed to improve the general image of the organisation and the community perceptions of the organisation and staff. These include the voluntary new staff uniform, stricter monitoring of working hours and renovations to the Perth, Broome and Carnarvon offices. Additional work is currently underway to further improve client service over the telephone. This includes some of the country offices getting new toll-free numbers and the Perth office making some changes so that clients can more easily get through to Court Officers and Solicitors.

Budget Savings - General

For the first time in a number of years, ALSWA reported a balanced budget. This was achieved with much effort on the part of all staff, many of whom had to take on additional duties to make sure clients were not disadvantaged by cut-backs in some areas. The clearing of the deficit means that the organisation is well-regarded by the ATSIC funding body.

Budget Savings - Power/Telecommunications

One of the best ways that ALSWA was able to clear its deficit was by cutting the costs of a number of services through the work of an external consultant who had been engaged (at no up-front fee) to review costs. One area for this was associated with the power and telecommunication charges. The only cost to ALSWA for this work has been a portion of the savings that were able to be secured with the rest of the savings coming straight to the organisation.

Budget Savings - Stationery

ALSWA also made savings in the area of stationery, once again by the use of an external consultant. The result is that the organisation can still "shop around" for the best price without being locked in to using one supplier only.

Budget Savings - Travel/Printing

New arrangements in these two areas are still to be finalised but this should occur in the near future. Investigations of travel costs indicate that the current arrangements are already the most cost effective given the needs of the organisation. There will be savings on the printing arrangements that have been provided by a couple of different suppliers.

Budget Savings - Vehicles

A number of areas to do with the cost of vehicles have been reviewed. These include the costs associated with the leasing arrangements for vehicles. Substantial savings have been made by changing the lease agent. Further savings are expected due to the stricter monitoring of the use of vehicles to ensure that ALSWA minimises the penalties associated with overuse. Additionally, a new vehicle policy has been endorsed by the Executive Committee.

Other - Publications

The area of Community and Public Interest work has suffered due to cut-backs but is currently being rejuvenated. New staff have recently been appointed and a number of projects are planned. These include a number of publications some of which will be revisions of previous publications such as information brochures and pamphlets, while in other cases there will be new development of material. Part of this plan will be a regular Newsletter which will be freely available to the Aboriginal community and to organisations. It is planned that these publications will inform Aboriginal people about their rights and responsibilities under the law.

Colleen Hayward
Deputy Chief Executive Officer



PRINCIPAL LEGAL OFFICER'S REPORT

The 1996/97 year has been a hectic one for the Aboriginal Legal Service of Western Australia ("ALSWA"). Whilst ALSWA is more effective and efficient than ever, and our staff even more hard working, we (like Aboriginal rights generally) are under attack primarily from conservative sources within government and government bureaucracy. Currently ALSWA is the largest, most effective and efficient Aboriginal Legal Service in the country. Unless this situation is maintained and improved, Aboriginal rights in Western Australia will largely cease to exist as there will be no appropriate service to assert peoples rights.

Major Threats

In Land & Heritage, ALSWA's continuing ability to operate is threatened by proposed changes to the *Native Title Act 1993* which may remove the possibility of ALSWA having a Native Title Representative Body. This would mean that the most effective team of experts in the country in Native Title would not be able to operate - and in the area where they are needed most - in Western Australia. At the time of going to print, we are attempting to redress the situation, so that ALSWA can continue to be at the forefront of national issues as well as continue to help other fledgling representative bodies in their attempts to become established, effective and accountable.

The National Commission of Audit in June 1996 made recommendations to the Howard government which has dire implications to ALS's throughout the country and indeed ATSIC itself. One key recommendation is that all ALS's nationally should be reduced to legal advice centres, with actual legal aid (i.e. going to Court and representing clients) to be run by the Legal Aid Commissions. In effect, ALS's would be where they were over twenty years ago with (perhaps) only a mainstream organisation to provide a service.

The difficult and stressful thing about all of this is that these concerns interrupt the work flow of ALSWA and prevent proper management planning. We are trying to concentrate on doing a good and accountable job but instead are constantly having our energies diverted into self justification exercises and at times, what seem to be repetitive "last ditch stands". Fortunately, ATSIC, and in particular the State office of ATSIC, continues to be supportive of clients needs and the need to maintain ALSWA in substantially, its current shape.

Background and Briefings

The formation of Aboriginal Legal Services was one of the major planks in the empowerment of Aboriginal people during the 1970's. ALSWA has continued to be an essential part of the empowerment of Aboriginal people in Western Australia and is an essential part of self determination for the future. We have had meetings with a number of senior bureaucrats and political figures in an attempt to present a statewide (and indeed national) position on why there is a role for the Aboriginal Legal Service of Western Australia to not only exist and represent clients, but hopefully to advise governments and agencies (such as ATSIC) in the future.

Why ALSWA is Unique

We have over 40 lawyers, 24 Aboriginal Court Officers (who actually represent clients in Court), and over 110 staff in total. Having spent a considerable amount of time working at Aboriginal Legal Services interstate I can vouch for the superiority of the situation here in Western Australia. We are a statewide body which can express political positions from a statewide perspective as our Management Committee representatives are from all over Western Australia. We are in a good position to run test cases against State and Federal governments as we are representative of the whole State. We have the size which allows some economy of scale, yet we have regional representation through both our 16 regional offices and our Management Committee draws from a Statewide range of people and areas. I am all too familiar with those very small organisations having an inherently unstable Management Committee which is usually dominated by one or

two family factions. These type of ALS's can do little other than offer a bandaid solution. Fortunately this is not the case in Western Australia and this is one of the strengths of the Western Australian model which must be preserved at all costs.

Comments by bureaucrats and other political operators within Aboriginal Australia suggesting that we should "break ALSWA up into several areas" or "regionalise" lack insight at best and should only be seen as destructive. These processes have lead to the disempowerment of Aboriginal people in other parts of Australia. Regionalisation in New South Wales and Queensland has been little more than a "carve-up" of the former Aboriginal Legal Services into a number of areas with the result that in New South Wales there are few ALS's which have the capacity to speak at a National level or even at State level on issues of major concern. Instead, they view one another with suspicion like Italian principalities in need of a Garibaldi. Unfortunately few, if any, of these organisations has the proper expertise, personnel or resources to take on a major test case action. Unfortunately, there are those who call this situation a "reform".

It is crucial that the Aboriginal Legal Service of Western Australia continues to be maintained as the dispossession of the Aboriginal people in Western Australia is even greater than other states due to the complete lack of any State land rights legislation. Our Land & Heritage Unit is currently running a large number of Native Title claims which could hold the promise of spiritual and economic re-empowerment of Aboriginal people at some point in the future. This process is in great danger of being trashed by the Howard government. It is however, a great challenge to be associated with the foremost organisation for Aboriginal legal rights in Australia at this crucial time.

Criminal Unit

Staffing has remained relatively stable, although the former manager left during the year. In 1996/97, 40,242 matters were handled throughout the State representing a 25% increase. Part of the explanation is that the Legal Aid Commission has made a huge cut to matters in which it will provide representation. A highlight was the successful Appeal to the High Court of Australia in relation to a mis-direction by a trial Judge at District Court level. The sentence of 10 years jail was reduced to three by the High Court. The case has been recorded in Australian Law Journal reports.

The infamous 'three strikes' legislation affect many Aboriginal people, especially young people. Magistrates and Judges are obliged to impose mandatory sentences of 12 months jail, though they often feel a non-custodial order would be more appropriate. ALSWA has made submissions for repeal of the legislation which also means that Aboriginal young people face a longer period in custody than adults in similar situations. However, an argument devised by the Criminal Unit has overturned the worst excesses of the legislation. The Judge ruled that he had power under the law to impose a conditional release order on a young person being dealt with for a third relevant burglary. The decision may benefit all young people in Western Australia as a precedent. As we go to press the Court of Criminal Appeal has curtailed the 'three strikes' legislation in its application to how far back offences may be taken into account. This success was as a result of arguments formulated by our in-house Counsel, Brian Devereaux.

A relatively junior Aboriginal lawyer within the Unit successfully challenged the legality of police action in taking a number of children into custody. The Magistrate agreed that the police action was illegal and all charges were dismissed with costs awarded in our favour. The good news is the daily success of Court Officers and Solicitors in obtaining outstanding results for Aboriginal people. These include persuading Magistrates not to send people to jail, obtaining bail for people and helping those who have already gone surety for others to avoid forfeiture of the surety.

Family Law Unit

Two solicitors resigned during 1996/97. They were replaced but the Unit remains busy. Our 'brief-out' budget has been reduced this year by one third so in many cases of conflict we do not have the financial resources to represent either party. A strict merit test is now applied to all family law matters to cope with the huge demand. One case involved the return of two children to WA from Canada under the Hague Convention following liaison with the civil law division of the Saskatchewan Department of Justice. The Unit continues to achieve success in most areas of family law including custody and contact, maintenance/child support and care and protection matters. The advantage of having a specialised family law unit is that Solicitors in country regional offices can refer most family law matters to Perth after taking initial instructions. Our lawyers attend the regional centres to represent matters in Court.

Civil Unit

As a result of reduction in staff numbers the Civil Unit has been under considerable strain. Due to this and the new policy framework generated by ATSIC there has been a reduction in overall coverage to clients in an attempt to spread limited resources adequately. For example, ALSWA, as a general rule, no longer does the following: conveyancing or business transactions including incorporation of associations; conveyancing; leases or administration of deceased estates; disputes internal to organisations; inquests except where civil claims may be affected, or in cases of significant Aboriginal community or public interest, or where legal assistance is provided to family members of a person who died in custody; or defamation except where certain stringent requirements are met.

Much of the year was taken up in negotiations between ALSWA and ATSIC on formation of appropriate legal assistance eligibility criteria for clients. This was a national campaign initiated by ATSIC in response to recommendations of the National Commission of Audit. Although policies have been largely imposed upon us, ALSWA has negotiated policies which it can work with. Clients are to be advised on where we will provide legal assistance and their rights of appeal against a refusal of legal assistance. There will be an additional burden due to increased paper work, however ATSIC has provided additional funding for this.

Albany

An increase in family feuding in the Albany/Mt Barker area is a cause of concern for the community and creates difficulty of conflict of ALSWA. The Solicitors at Albany provided legal assistance in 2,267 criminal matters and 235 civil matters, representing a 20% increased workload with the same number of staff. The Albany office covers the region from Albany to Katanning/Kojonup in the north to Ravensthorpe in the east, and Denmark in the west, and is supported by a Court Officer and a Legal Secretary.

Bunbury

Bunbury continues to be a relatively busy office servicing Mandurah, Collie, Busselton, Harvey, Donnybrook and Manjimup. Successes have been achieved in matters about Equal Opportunity, Homeswest, residential tenancy, hire purchases where finance companies have illegally seized cars, and failure to comply with the *Credit Act*. The office has assisted in 1,148 criminal matters. Bunbury office is staffed by a Solicitor, a Court Officer and a Legal Secretary.

Northam

The Northam office, staffed by a Court Officer and a Legal Secretary, represents clients at the Northam Court of Petty Sessions and the Children's Court and in circuit courts at York, Moora, Toodyay, Tammin, Cunderdin and Narrogin. Solicitors from Perth criminal and civil sections provide representation and assistance as required. The office assisted in 771 criminal matters during the year.

Kalgoorlie and Laverton

There has been a marked increase in the number of clients facing criminal charges. Statistics show the office assisted in 2,963 criminal matters alone. The office also deals with civil and ancillary matters including personal injuries claims and criminal injuries compensation. Staff met with the newly appointed Police Superintendent in order to establish relations with and access to the local Police hierarchy in early 1997. The office is involved in monthly circuit work to Norseman, Esperance, Leonora and Laverton. We are pleased to advise that as far as Leonora is concerned the number of police charges has dropped dramatically and it appears that Police/Aboriginal relations have improved markedly. The Kalgoorlie office is staffed by two Solicitors, a Court Officer and a Legal Secretary, while Laverton is staffed by a Court Officer.

Geraldton, Carnarvon and Meekatharra

A permanent Solicitor has been installed in Carnarvon improving the representation for this region greatly. Carnarvon is also supported by a Court Officer and a Legal Secretary. Geraldton remains a very busy office serviced by a Solicitor, a Court Officer and a Legal Secretary. In 1996/97 the office assisted in 5,370 criminal matters. The Solicitor and Court Officer are heavily involved in community liaison with the latter concentrating on NAIDOC and other community activities involving police and reconciliation while the former gives lectures to police and others involved in the justice system at the local TAFE and the local Edith Cowan

University Campus. The office provided legal assistance in 3011 criminal matters.

Servicing includes the remote circuit towns including Mullewa, Perenjori, Barrell Well Community, Three Springs, Carnamah, Northampton, Dongara, Mingenew and Pia Community.

Broome and Derby

Broome continues to be a busy office. The number of clients represented by the office is high for a single Solicitor, but there will be some relief when Derby has a Solicitor shortly. Currently, Derby is served by a Court Officer and a Legal Secretary. Broome office provided legal assistance in 5,696 criminal matters.

Halls Creek and Fitzroy Crossing

These offices continue to be serviced by a Court Officer each assisted by Solicitors drawn from Broom and Kununurra. One issue that emerged in the past year was the opposition by traditional people to post mortems being performed. The regional officers were helpful with organising the necessary documents but legislation requires that applications are filed within a very short space of time. This is often not possible when trying to get instructions from remote areas. Following ALSWA's appearing in such a matter a Supreme Court Judge has recommended that the *Coroners Act* be amended accordingly.

Kununurra

Kununurra continues to be a busy office which supports a Land & Heritage Lawyer, a Solicitor, a Court Officer and a Legal Secretary. Being 'home base' for the Mirriuwung Gajerrong claim this year placed the office under enormous pressure. Kununurra provided legal assistance in 2,963 criminal matters.

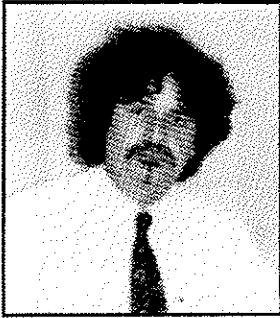
Port Hedland and Roebourne

The Port Hedland office remains extremely busy (2,769 Criminal matters in 1996/97). Problems in the area have now been overcome to some extent by arrangements with the Police including notification by police when Justice of the Peace Courts are to be scheduled so that representation will be available. Newman continues to have major problems for fringe dwellers who camp around Newman where the use of alcohol often leads to domestic violence, serious assaults and ultimately incarceration.

Concerns remain about policing in South Hedland and the overuse of restraining orders for alleged anti-social behaviour by many Aboriginal juveniles. Driving offences around Roebourne remain a problem despite a sympathetic Magistrate. The practice of many people is to use public roads only for the purpose of driving their vehicles across onto bush tracks. Previously this was tolerated by police but lately many Aboriginal people have been apprehended simply crossing major roads.

In Marble Bar due to sensitive policing by a new officer in charge a number of appearances have been reduced and there have been no custodial sentences imposed for offences committed in the town. The Port Hedland office is staffed by a Solicitor, a Court Officer and a Legal Secretary, while a Court Officer is in charge of the Roebourne office.

David Imlah
Principal Legal Officer



EXECUTIVE OFFICER'S REPORT (Land and Heritage)

Since the last Annual Report there have been major changes within the Native Title area, not all of them for the better. The area where there has been the greatest amount of change is within the Native Title Act (NTA) Amendments (Wik Amendments), where the Federal Government has proposed a major overhaul of the NTA with a view to changing the current form of Pastoral Leases across the country. The amendments to the NTA however go much further, and allow for virtual extinguishment of Native Title over large areas of country by giving the States the ability to change legislation on land management.

The National Indigenous Working Group (NIWG) of which ALSWA is a member has developed a formal position titled *Co-existence, Negotiation and Certainty* which has been given to government and opposition and minor parties. At the time of writing there have been no formal negotiations with government on our proposal because they are not prepared to discuss our position in the form presented it to them. This has meant that we have had basically no input into the current amendments to the NTA. If the amendments are presented to Parliament in their current form ALSWA will need to negotiate with opposition and minor parties to have further amendments introduced in Parliament to reflect our position.

The Federal Government is ignoring all advice being given to them not only by us but also by others such as ATSIC, that the legislation will be in breach of the Racial Discrimination Act 1975 and the Federal Constitution, and if they push the legislation through Parliament there will be no option but to take up a High Court challenge. This will be a drawn out process and will not benefit anyone. It will only serve to frustrate the process and Aboriginal people even further until the matter is determined by the Court.

Land and Heritage Unit

Land and Heritage Unit Solicitors and administration staff have, over the past year, experienced a huge increase in workload, and should be commended for the manner in which they have attacked all matters that have come before them. There are a considerable number of claims being developed within the Unit. It is quite possible that we will have five country claims referred to the Federal Court within the next year, because of the level of work undertaken. The Solicitors within the Unit not only work on Native Title matters but are also involved in the area of fishing rights and environmental issues in various areas of the State. The attitudes of the current State and Federal Governments have meant that this type of work is also on the increase.

Solicitors within the Unit are also in the process of developing several agreements with mining companies for and on behalf of Traditional Owners, and we are confident that these agreements will assist in setting the benchmark in relation to agreements within the State between Aboriginal people and mining companies and developers.

Representative Body

The Representative Body has also been faced with a huge increase in workload and has attacked it with a renewed sense of vigour. Without doubt the most important event happening within the Representative Body has been the preparation for the Miriuwung-Gajerrong claim within the East Kimberley. ALSWA will be throwing its total support behind the team that is arguing the case in the Federal Court. At the completion of the Miriuwung -Gajerrong hearing we will see the first positive determination of Native Title in Western Australia and the Northern Territory.

It also needs to be noted that ALSWA is working in co-operation with both the Kimberley Land Council and the Northern Land Council on the Miriuwung Gajerrong Claim.

During the last year there have been about 4,000 Future Act Notices processed by the Representative Body. When the country claims being prepared by Land and Heritage Unit Solicitors are referred to the Federal Court, they will increase this workload necessitating a requirement to develop teams to take them on.

Native Title Amendments

The Federal Government is trying to wind back the Right to Negotiate from two rights to one, which will have the effect of reducing the ability of Traditional Owners to get agreements with mining companies and developers. This may increase the number of cases we will have to take to Court on such things as Heritage Environment Protection Issues.

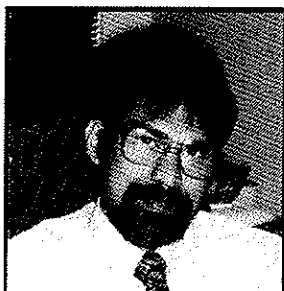
It is proposed that a much higher threshold test be applied to Native Title Claims. It is the opinion not only of ALSWA but of the NIWG, that the test being proposed would see many claims not getting registered. This could have a disastrous effect upon a huge number of Aboriginal people because the Government is looking at backdating it to July 1994, which could see claims already lodged, being knocked out.

The ability for ALSWA to operate as a Native Title Representative Body is also under threat through the Government's proposal that there be a single Representative Body within a given area. ALSWA is seeking an exemption from this and also looking at getting "Special Representative Body" status, which means we would be able to maintain our operations in the area of Native Title, and continue to develop working agreements with other Representative Bodies within the State.

The issue of Heritage Protection is one that concerns us quite strongly, because not only is the Federal Government looking at reducing the Right to Negotiate, but also at changing the Federal Heritage Protection Laws. This means that Aboriginal People will need stronger protection rights under Native Title, though these are not provided in the Government package.

Regional and Site Specific agreements are two areas the Federal Government said would be included in amendments. However, the way they have been included means that they will have no real benefit for Aboriginal people, even if they manage to pass the threshold test and gain access to the Right to Negotiate.

Glenn Shaw
Executive Officer L&H



ACCOUNTANT'S REPORT and Financial Accounts

1996/97 was a challenging year for ALSWA with uncertainty about the level of funding at the start of the financial year. Funding was not reduced and the Legal Services accounts for the year ended 30 June 1997 showed a small deficit of \$54,638 (for ATSIC purposes the deficit was \$17,293) while the Land and Heritage (L&H) Unit showed a deficit for the year of \$382,338. However, there were unexpended funds from the previous year in the L&H Unit which resulted in a carry forward surplus of \$588,811 (for ATSIC purposes \$433,159). The unexpended funds are committed to the Miriuwung Gajerrong claim which is currently being heard in court. ATSIC is the principal source of funding and provides grants to cover two main activities which are Legal Services and Native Title Operations. Separate sets of accounts are maintained for these activities styled "Aboriginal Legal Service" and "Land and Heritage Unit" respectively. Grants for Legal Services are provided from Ongoing operational and Royal Commission into Aboriginal Deaths in Custody (RCIADIC) funding programs. Grants for the L&H Unit are provided from Operational and Implementation funding programs and separate accounts are kept for each of these funding programs.

Grants from the funding programs are used to achieve objectives for which they are provided and unexpended funds from one grant may not be used to cover a deficit in another grant project. Accounts are drawn up in accordance with applicable Accounting Standards and other mandatory reporting requirements. However for acquittal of ATSIC grants some adjustments are made to the statutory accounts. The adjustments include reversal of depreciation and long service leave provisions and inclusion of capital expenditure as an expense rather than an asset. During 1996/97 the following ATSIC grants were received.

<i>Aboriginal Legal Service</i>		<i>Land and Heritage</i>	
Operational and RCIADIC funding	4,683,683	Operational funding	1,090,090
Capital funding	215,000	Claims funding	845,000
Total	<u>\$4,898,683</u>	Capital funding	<u>40,000</u>
		Total	<u>\$1,975,090</u>

Audit reports for the Year Ended 30th June 1997

The audit reports for the Aboriginal Legal Service and the Land and Heritage Unit were documented by our auditors, Pannell Kerr Forster, and have been signed and delivered. Copies of the reports are available from ALSWA.

Financial Accounts for the Year Ended 30th June 1997

Copies of the audited financial accounts of ALSWA and the Land and Heritage Unit for the year ended June 30, 1997 are available from ALSWA. A consolidated Balance Sheet, Income and Expenditure statement, Cash Flow statement and notes to and forming part of consolidated accounts of ALSWA and the Land and Heritage unit for the year ended June 30, 1997 is attached. An analysis of the year end results per funding program for ATSIC purposes is as follows:

Aboriginal Legal Service

Operational and RCIADIC funding	Deficit	\$ 17,293
Capital funding	Unexpended funds	\$ 123,479

Land and Heritage Unit

Operational funding	Unexpended funds	\$ 2,188
Implementation (Claims) funding	Unexpended funds	\$ 428,746
Capital funding	Unexpended funds	\$ 5,543

Roy Picardo
Accountant

Aboriginal Legal Service of WA (Inc)

BALANCE SHEET AS AT 30TH JUNE, 1997

	Note	1997 \$	1996 \$
CURRENT ASSETS			
Cash	3	1,210,862	1,339,214
Receivables	4	<u>116,826</u>	<u>92,654</u>
Total Current Assets		<u>1,327,688</u>	<u>1,431,868</u>
NON-CURRENT ASSETS			
Property, furniture and equipment	1(B), 5	347,995	436,569
Leasehold improvements	1(B), 6	<u>87,341</u>	<u>181,882</u>
Total Non-Current Assets		<u>435,336</u>	<u>618,451</u>
TOTAL ASSETS		<u>1,763,024</u>	<u>2,050,319</u>
CURRENT LIABILITIES			
Creditors and accruals	7	503,572	476,291
Provisions	8	<u>357,500</u>	<u>267,230</u>
Total Current Liabilities		<u>861,072</u>	<u>743,521</u>
NON-CURRENT LIABILITIES			
Provisions	9	<u>125,900</u>	<u>93,770</u>
Total Non-Current Liabilities		<u>125,900</u>	<u>93,770</u>
TOTAL LIABILITIES		986,972	837,291
NET ASSETS		<u>\$776,052</u>	<u>\$1,213,028</u>
Accumulated Funds			
Reserves	11	741,633	741,633
Retained surplus (deficit)		<u>34,419</u>	<u>471,395</u>
TOTAL FUNDS		<u>\$776,052</u>	<u>\$1,213,028</u>

The accompanying notes form part of and are to be read in conjunction with this financial statement.

INCOME AND EXPENDITURE FOR THE YEAR ENDED 30TH JUNE 1997

	Note	1997	1996
INCOME			
ATSIC grants		6,873,773	6,273,716
Interest		82,206	113,171
Other income		<u>338,962</u>	<u>302,199</u>
		<u>7,294,941</u>	<u>6,689,086</u>
EXPENDITURE			
Salaries		4,579,494	4,225,726
Depreciation		309,094	308,036
Other operating expenses		<u>2,843,329</u>	<u>2,827,155</u>
		<u>7,731,917</u>	<u>7,360,917</u>
Net deficit for year		(436,976)	(671,831)
Abnormal Item	2	—	<u>430,000</u>
Net deficit after abnormal item		(436,976)	(241,831)
Retained surplus at the beginning of the financial year		471,395	713,226
Retained surplus at the end of the financial year		<u>\$34,419</u>	<u>\$471,395</u>

The accompanying notes form part of and are to be read in conjunction with this financial statement.

CASH FLOW STATEMENT FOR THE YEAR ENDED 30TH JUNE 1997

	1997 Inflows (Outflows)	1996 Inflows (Outflows)
Cash flows from operating activities:		
Receipts from ATSIC	6,873,773	6,273,716
Interest received	82,206	113,171
Other receipts	338,962	297,919
Abnormal Item	-	430,000
Payments to suppliers and employees	<u>(7,297,315)</u>	<u>(6,836,554)</u>
Net cash (used in)/from operating activities	A <u>(2,374)</u>	<u>278,252</u>
Cash flows from investing activities:		
Payments for property, plant and equipment	(125,978)	(238,673)
Proceeds from Insurance claim	-	4,280
Net cash used in investing activities	<u>(125,978)</u>	<u>(234,393)</u>
Net (decrease)/increase in cash held	(128,352)	43,859
Opening balance of cash held	1,339,214	1,295,355
Cash balance at the end of the year	<u>\$1,210,862</u>	<u>\$1,339,214</u>
A RECONCILIATION OF NET CASH (USED IN)/FROM OPERATING ACTIVITIES TO NET INCOME/(DEFICIT) FOR YEAR		
Net income/(deficit) for year	(436,976)	(241,831)
Depreciation	309,094	308,036
Proceeds from insurance claims	-	(4,280)
Increase/(decrease) in provisions	122,400	13,250
Increase/(decrease) in receivables	(24,172)	26,821
Increase in creditors and accruals	27,280	176,256
Net cash (used in)/from operating activities	<u>\$(2,374)</u>	<u>\$278,252</u>

**NOTES TO AND FORMING PART OF THE ACCOUNTS
FOR THE YEAR ENDED 30TH JUNE 1997****1. STATEMENT OF ACCOUNTING POLICIES****A) BASIS OF ACCOUNTING**

The financial statements have been drawn up in accordance with applicable Accounting Standards and other mandatory professional reporting requirements (Urgent Issues Group Consensus Views) and have been prepared on the historical cost basis and except where stated do not take into account current valuation of non-current assets.

B) NON-CURRENT ASSETS

All Non-Current Assets equal to or greater than \$1,000 have been recorded in the financial statements at 1 July 1995 valuation and subsequent acquisition cost, less accumulated depreciation or amortisation. Depreciation/amortisation is calculated on a straight line basis.

C) GOING CONCERN

It is considered appropriate to prepare the accounts on a going concern basis as continued funding from the Aboriginal and Torres Strait Islanders Commission (ATSIC) is expected.

D) COMPARATIVE INFORMATION

Certain comparative information has been re-classified to ensure consistency with current years disclosure.

2. *ABNORMAL ITEM*

An amount of \$430,000 was received from the Western Australian State Government in relation to costs awarded by the High Court on Martu's challenge to the validity of WA Land (Titles and Traditional Usage) Act.

	1997 \$	1996 \$
3. <i>CURRENT ASSETS - CASH</i>		
Payroll Account	8,559	(464)
Cash Management Accounts	659,768	312,985
Branch imprest	3,510	3,510
Petty cash imprest	400	400
General Accounts	(26,771)	33,508
Short term Deposits	565,396	989,275
	<u>\$1,210,862</u>	<u>\$1,339,214</u>
4. <i>CURRENT ASSETS - RECEIVABLES</i>		
Prepayments	99,671	68,622
Organisation Trust	2,186	316
Others - General	14,969	23,716
	<u>\$116,826</u>	<u>\$92,654</u>
5. <i>NON-CURRENT ASSETS</i>		
Property, Furniture and Equipment		
Land and buildings		
At committee's valuation 1 July 1995	99,773	99,773
Accumulated depreciation	12,737	8,491
	<u>87,036</u>	<u>91,282</u>
At cost	28,552	28,552
Accumulated depreciation	2,093	951
	<u>26,459</u>	<u>27,601</u>
Total land and buildings	113,495	118,883
Furniture and Equipment		
At committee's valuation, 1 July 1995	217,468	217,468
Accumulated depreciation	194,415	152,408
	<u>23,053</u>	<u>65,060</u>
At cost	518,270	419,690
Accumulated depreciation	306,823	167,064
	<u>211,447</u>	<u>252,626</u>
Total furniture and equipment	234,500	317,686
Total Property, Furniture and Equipment	<u>\$347,995</u>	<u>\$436,569</u>
6. <i>NON-CURRENT ASSETS</i>		
Leasehold Improvements		
At committee's valuation 1 July 1995	424,392	424,392
Accumulated amortization	363,765	242,510
	<u>60,627</u>	<u>181,882</u>
At cost	27,397	-
Accumulated depreciation	683	-
	<u>26,714</u>	<u>-</u>
Total Leasehold Improvements	<u>\$87,341</u>	<u>\$181,882</u>

	1997 \$	1996 \$
7. <i>CURRENT LIABILITIES - CREDITORS</i>		
Sundry Accruals	135,825	135,430
Other creditors	53,724	56,742
Trade creditors	301,950	277,201
Sundry Creditors - Others	<u>12,073</u>	<u>6,918</u>
	<u>\$503,572</u>	<u>\$476,291</u>
8. <i>CURRENT LIABILITIES - PROVISIONS</i>		
Annual leave	270,500	258,000
Long Service Leave	<u>87,000</u>	<u>9,230</u>
	<u>\$357,500</u>	<u>\$267,230</u>
9. <i>NON-CURRENT LIABILITIES</i>		
Long Service Leave	\$125,900	\$93,770
10. <i>AUDIT FEES</i>		
General audit services	8,525	17,534
PLO Trust audit	<u>2,318</u>	<u>2,481</u>
	<u>\$10,843</u>	<u>\$20,015</u>
11. <i>RESERVES</i>		
Asset Revaluation Reserve	<u>\$741,633</u>	<u>\$741,633</u>

Due to the introduction of full accrual accounting on 1 July 1995, the value of property, plant and equipment recognised at that date was \$741,633. This reserve accordingly reflects the recognition of such assets.

12. *CONTINGENT LIABILITY*
 An amount of \$559,956 relating to unexpended grants which is not recognised in the Balance Sheet, may be carried forward only with the approval of the Aboriginal and Torres Strait Islanders Commission (ATSIC).

PERTH DX 274	1st Floor, Piccadilly Suites, Nash Street, East Perth PO Box 8194, Stirling Street, East Perth, 6849 Tel: (08) 9265 6666 - 1800 019 900 (toll free)	FAX: (08) 9221 1767 Admin (08) 9265 6645
ALBANY DX 60825	125/133 Grey Street West, Albany 6330 PO Box 1016, Albany 6330 Tel: (08) 9841 7 833 - 1800 016715 (toll free)	FAX: (08) 9842 1651
BROOME DX 68202	Unit 2/14 Napier Terrace, Broome 6725 PO Box 389, Broome 6725 Tel: (08) 9192 1189 (08) 9192 1845 1800 351 067 (toll free)	FAX: (08) 9193 5512
BUNBURY DX 60438	123 Spencer Street, Bunbury 6230 PO Box 1765, Bunbury 6230 Tel: (08) 9791 2622 - 1800 630 375 (toll free)	FAX: (08) 9791 2572
CARNARVON	58 Robinson Street, Carnarvon, 6701 PO Box 766 Carnarvon 6701 Tel: (08) 9941 1534 - 1800 645 942 (toll free)	FAX: (08) 9941 2363
DERBY	Unit 8, Clarendon Arcade 298 Clarendon Street, Derby 6728 PO Box 333, Derby 6728 Tel: (08) 9191 1407	FAX: (08) 9191 1975
FITZROY CROSSING	Shop 7 Tarunda Shopping Complex Fitzroy Crossing 6765 Tel: (08) 9191 5147	FAX: (08) 9191 5390
GERALDTON DX 60633	17 Forrest Street, Geraldton 6530 Geraldton 6530 Tel: (08) 9921 4938 - 1800 016 786 (toll free)	FAX: (08) 9921 1549
HALLS CREEK	Ngoonjuwah Resource Office Cnr Bridge St & Duncan Highway, Hills Creek 6770 PO Box 123, Halls Creek 6770 Tel: (08) 9168 6156 a/h (08) 9168 6209	FAX: (08) 9168 6127
KALGOORLIE DX 60924	202 Hannan Street, Kalgoorlie 6430 PO Box 1077, Kalgoorlie 6430 Tel: (08) 9021 3666 - (08) 9021 3816 1800 016 791 (toll free)	FAX: (08) 9021 6778
KARRATHA West Pilbara Project	330 Wickerson Way, Karratha 6714 Tel: (08) 9185 6223	FAX: (08) 9185 6221
KUNUNURRA DX 68902	12 Cotton Tree Avenue, Kununurra, 6743 PO Box 2 Kununurra 6743 Tel: (08) 9168 1635 - (08) 9168 1544	FAX: (08) 9169 1147
LAVERTON	Lot 398 Euro Street, Laverton 6440 PO Box 3, Laverton 6440 Tel: (08) 9031 1156	FAX: (08) 9031 1186
NORTHAM	1 Beavis Place, Northam 6401 PO Box 1096, Northam 6401 Tel: (08) 9622 5933 a/h 041 9909089	FAX: (08) 9622 5006
PORT HEDLAND DX 68603	"Dempster House" 23 Wedge Street, Port Hedland PO Box 608 Port Hedland 6721 Tel: (08) 9173 1977- a/h (08) 9172 1628 1800 650 162 (toll free)	FAX: (08) 9173 1930
ROEBOURNE	Harding Street, Roebourne PO Box 185 Roebourne, 6718 Tel: (08) 9182 1107	FAX: (08) 9182 1171