

# ALSWA



September 1998 No.13

## ALSWA VOWS TO FIGHT POLICE ATTEMPTS TO REMOVE CHILDREN

ALSWA CEO Dennis Eggington has warned that State Government moves to take children away from families, if the families are involved in criminal activities, will perpetuate, within the Aboriginal community, a 'cycle of dysfunctionality'.

"We have ample evidence, through the Royal Commission into Aboriginal Deaths in Custody and the Inquiry into the Separation of Aboriginal Children from their Families, that the dysfunctionality in some Aboriginal families, that the Police Minister alludes to, is a direct result of past Government policies of removal in this State.

"The Aboriginal community bears the social and economic scars of brutal government policies that saw Aboriginal children often forcibly removed from their families 'for their own good'. The Police Commissioner's comments create a sense of déjà vu. If taking kids from their families has precipitated the dysfunctionality that is present in so many Aboriginal families today, then the Government's plans to remove kids all over again will simply reinforce it.

"Children raised outside the confines of their own families suffer on two counts: They are often placed in situations far

more dangerous than that they are removed from; and they miss out on the modelling that is essential if they are to know how to parent themselves.

"History has shown that children placed in care are far too often the subject of emotional, physical and/or sexual abuse. The notorious example of the Christian Brothers should tell us that. If children are removed from their families, no

matter how 'dysfunctional', they miss out on essential parental modelling. The Stolen Generations has shown us that.

"If that modelling is wrong, then it is the family that needs help as much as the child that is thought to be in moral or physical danger. The Government, despite its 'values of the family' approach, has cynically demolished the support systems that families badly need if their behaviour – as a unit – is to be corrected.

"These services have been sacrificed in the name of 'economic rationalism' and, as a community, we

are suffering the effects. It is inappropriate to blame families for mistakes that Governments have made and which they seem determined to keep on making."

Mr Eggington said the Government was also failing to recognise and deal with another important issue – the epidemic of drug-abuse, especially involving heroin, that was rife in the community and that was the cause of much social unrest and criminal activity. Until the Government acted to fix the drug problem, the behaviour of many families would become increasingly problematic. (cont. page two)



ALSWA CEO Dennis Eggington handled a flurry of media interest generated by Police Commissioner Falconer's suggestion that children be removed from 'dysfunctional' families to protect them from criminal influence. Here he talks with an ABC television reporter.

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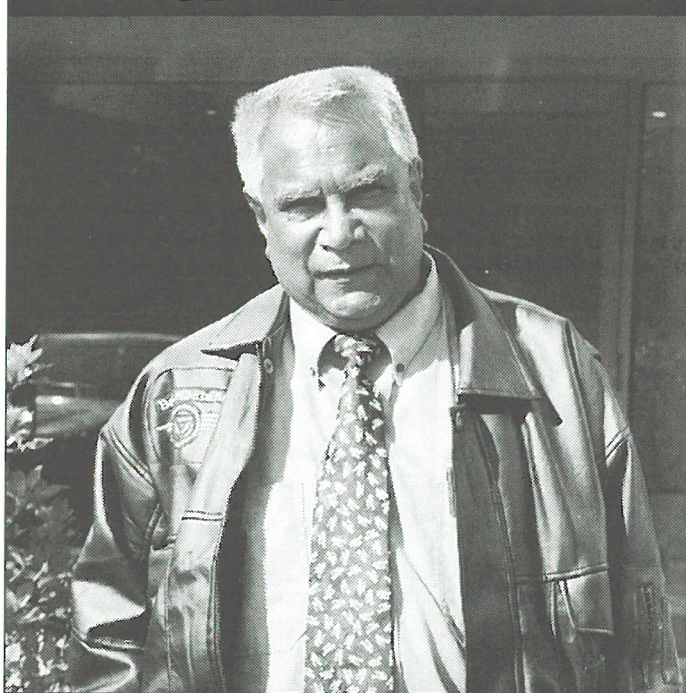
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## **STAFF PROFILE**



Sam Dinah has recently joined ALSWA as a trainee Court Officer and will eventually work in the Newman office. Sam is also studying Law at the Institute for Koori Education, Deakin University, Geelong. He is a Justice of the Peace and was a Project Officer at the Health Department of WA for 18 years. Sam was one of the 'stolen generation'. He was born at Mogumber near Moore River and grew up in Maribank and Roelands missions.

## **ALSWA reacts to threat by police to remove children**

(from front page)

"The Government's approach is from the wrong end - it should be helping families avoid becoming dysfunctional rather than attempting to deal with the problems once dysfunctionality had set in".

Mr Eggington said while the Police Commissioner had targeted car thieves and 'joyriders' as a major factor in the proposed approach, he had lost sight of the fact that in the area of equally serious criminal activity, such as ram-raids and home invasions, offenders were predominantly non-Aboriginal.

"There is no doubt in my mind that the removal approach is directed at the Aboriginal community - the Commissioner has said as much. It is preposterous to expect the Aboriginal community to sit back and allow that dreadful history to be repeated.

"ALSWA and other major Aboriginal organisations acknowledge the problem - but we are very cautious about the Commissioner's proposed remedy. We'll talk, but we won't allow another Stolen Generation".

## **Court Officer steps in to represent migrant client...**

ALSWA Court Officer Katrina Carlisle was recently asked by a Magistrate, as a Friend of the Court, to represent a man who was unable to obtain other representation, and who was having difficulty understanding Court procedures.

Ms Carlisle took instructions from the defendant who was charged with one count of Driving Under Suspension, and facing a term of imprisonment due to a large number of previous offences.

The man had been living in Geraldton since migrating to Australia 10 years ago and was working voluntarily at the Geraldton Hospital, being unable to find full time employment due to his criminal record. He said he was driving on this occasion to relocate his family in Perth because he had found employment.

After a long plea to the Magistrate by Ms Carlisle, the defendant, who sobbed throughout the proceedings, was given a suspended prison sentence.

This meant he could stay free as long as he did not commit any offences during the suspended time period. The man was very thankful for Ms Carlisle's efforts who advised him to buy a lotto ticket - it was his lucky day!

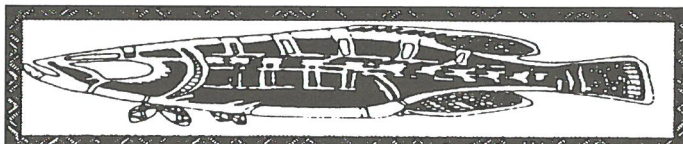
## **...with a surprising sequel**

During the course of Ms Carlisle's address to the Magistrate, ALSWA Court Officers Kim Farmer and Victor Woodley came into Court to observe her in action. Afterwards, as they left, the Magistrate asked the Court Orderly to invite Kim to meet with her in the Magistrate's Chambers.

Somewhat alarmed, Kim did as she was asked, only to find that the Magistrate simply wanted to say hello, and establish the identity of her Court Officer companion, Mr Woodley.

After asking Kim to thank Katrina for representing the man, the Magistrate gently suggested that Victor might have introduced himself to the Court, as a matter of courtesy.

There was considerable relief that Kim's meeting with the Magistrate was not about something more serious. Perhaps it should be lotto tickets all round!





## Business told to know and respect Aboriginal agenda

ALSWA CEO Dennis Eggington has told a major business conference that if the aim in doing business with Aboriginal communities is to achieve mutual benefits, then the whole 'doing business' process must be based on other mutualities, such as understanding, respect, commitment, and trust.

Mr Eggington said business and Indigenous land owners could work together to achieve mutual benefits but the absence of any of the key ingredients would mean that the chance of achieving any kind of benefits for either side was virtually non-existent.

"First of all, each of the parties to initial negotiations needs to understand, fully, the agendas of those with whom they seek to deal - an agenda structured by the community's particular history, its motivations, its past business experiences, its aspirations, its strengths, its weaknesses, and a host of other influencing factors.

"This stage of negotiation is vital in determining whether there is respect, what level of commitment there is to translating that respect into honest dealings, and what amount of trust can be placed in that stated commitment.

Mr Eggington said too often the round table at which negotiations took place was somewhat lop-sided and often downright wobbly. People approached situations with natural suspicion and caution and, regrettably, an expectation that usually, someone was about to be 'ripped-off'.

"Participants bring with them misconceptions, based on tired old stereotypes, of the agendas of those on the other side of the table. This lack of understanding demonstrates a lack of respect which causes doubt as to the level of commitment, and which most certainly erodes the level of trust. It can be a vicious circle.

"If you are a business person seeking to 'do business' with Indigenous land owners - for whatever purpose - how do you go about getting the understanding that you need so that you can successfully demonstrate the other three?

"My advice to you is threefold - be prepared, be prepared, and be prepared. Your level of preparation for the initial negotiations will equate directly with your chances of seeing those negotiations through to a mutually satisfying end.

"You should seek to actively develop an understanding of the community with which you wish to deal. You can do this by:

- understanding their relationship to the land;
- learning about their spiritual and cultural beliefs and practices;
- researching the results of their past experience with non-Indigenous Australia; and
- being aware of the feelings that have formed their response to you and to non-Indigenous Australia as a whole.

"It may seem like a tall order but unless it is done, and done with commitment, in a respectful manner, the trust that will be essential for your negotiations to proceed through to final development, will be elusive.

"To do business with Aboriginal people or communities you need to know what it is that makes us tick. You need to understand the internal 'politics' of Aboriginal Australia.

"You need to understand that negotiations conducted with individuals, presumably on behalf of specific groups, sometimes do not reflect that reality - and that such negotiations can be rapidly undone by dissension at 'grass roots' level.

"You need to understand that what you and/or your rival Aboriginal counterpart may think is 'good' for a community, is no good at all if all of the community does not share the same perception".

Mr Eggington said Aboriginal people had, over tens of thousands of years, developed a relationship to land that to most non-

Aboriginal people was inexplicable. Whereas in modern times, land was simply a commodity to be exploited for what it could yield, in Aboriginal cosmology, land was the giver and the sustainer of life.

"As experience has shown Aboriginal people are more than willing to embrace projects for the purpose of economic development of their communities, provided all of the implications of their 'special relationship' to land are understood and respected, and all of their rights as validated by the Native Title decision are protected.

"Honest negotiations that fully recognise and respect the Native Title rights of Aboriginal people - in that they are based on our four essential characteristics of understanding, respect, commitment and trust - can be most effective.

"Those in industry who have openly and honestly negotiated with Aboriginal people to further their business ventures, and who have understood the people they are dealing with; who have shown a commitment to respecting their rights and views; who have built up a relationship of trust - they are the ones whose example you should follow".

**'You need to understand the internal politics of Aboriginal Australia'**



# COLUMNIST ABUSES PRIVILEGE WITH ATTACK ON ABORIGINAL GROUPS

ALSWA CEO Dennis Eggington has strongly criticised a *Midwest Times* columnist for launching a poorly-written and irrational attack on Aboriginal organisations and individuals in Geraldton. Mr Eggington said the writer, known as Rick Shore, had abused the privileged position of the newspaper columnist.

"In a paragraph of his July 8 column, overflowing with irrelevant Shakespearean and Biblical references, Mr Shore uses what he describes as an 'eternal truth' ('this is now, that was then') as justification for questioning the need for a national 'sorry day' for Aboriginal people, and dismisses such days as 'the stuff of political maneuvering', he said.

"The columnist's addled thinking does not recognise that the same 'eternal truth' could just as validly be applied to that other national sorry day - ANZAC Day (lest we forget!).

"If 'that was then, this is now', then why do Australians weep openly for events that happened so long ago? Would Mr Shore suggest we scrap this national event?

"In his second criticism, Mr Shore shows worrying evidence of being 'righteous' - a characteristic that he infers is offensive and one that he attributes to Aboriginal leaders in the town, whom he calls 'totalitarians of righteousness'.

"Can he explain what is righteous about having firm views on issues that impact on the well-being of Aboriginal people, or expressing those views, or challenging the ignorance of others? Righteousness would certainly appear to be an art form which *he*, at least, has perfected.

"Mr Shore's third criticism - alleging a 'back-patting club' at Leedham Cameron House - is grossly patronising. He de-

scribes ALSWA, AAD and the Yamatji Land and Sea Council as a local 'Aboriginal Industry', and accuses them of 'brooking no dissension on serious matters'".

Mr Eggington said Aboriginal organisations supported each other in a largely hostile environment and made no apology for it. The prevailing political landscape had reinforced the need to stand firm against ignorant and prejudicial attacks, such as his (Mr Shore's) own.

"His fourth observation - that 'everyone should be treated equally' - is nonsense.

"Equal treatment is effective only when participants start from a common position. Mr Shore reveals here an appalling ignorance of history and of the contemporary reality of Aboriginal life in Australia.

"On every social indicator Aboriginal people are the most disadvantaged. 200 years ago this was not the case. Does Mr Shore think that the plight of so many within the Aboriginal community is a chosen state?

"Further, his reference to Abstudy as a 'special benefit' is provocative and erroneous. Many Australians receive Austudy, a practice with which Mr Shore finds no fault. Paying it to Aboriginal students as Abstudy differs in name only. At any event, it has been long known by Governments that to halt targeted Aboriginal programs and pass the onus to mainstream providers would cost more, not less.

"Mr Shore's penchant for 'not letting the facts get in the way of a good story' may well qualify him as a typical contemporary journalist. It certainly shows him to be a media lightweight".

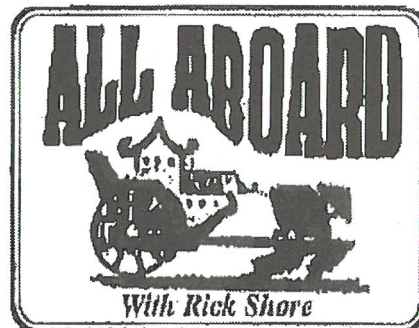
**Sticks and  
Stones...**

If MUTUAL back-patting is your thing, then the place to be at the moment is Leedham Cameron House in Lester Avenue, the Yamatji Land and Sea Council, the Aboriginal Legal Services, and the Department of Aboriginal Affairs, just a few of the more prominent bastions of the Aboriginal Industry in this city of ours.

For one of their employees to accuse me of "Talking Absolute Twaddle" is really too much. The impulsive intensity of the outburst is a timely reminder of Bertrand Russell's aphorism: "An opinion

needs to be held fervently only if it is doubtful or demonstrably wrong."

From where I stand, the quality of apologies for history's ills, much in vogue at the present time, is stretched. They



druppels, not like gentle rain from heaven, and blest be he who gives or him that receives. "Sorry Days" are the stuff of political maneuvering.

The demand for such apologetic irrationality ignores the eternal truth that "this is now, that was then": It is rather like, if we accept con-

temporary indigenous belief, for God to apologise for his homophobic behaviour towards the Sodomites or his harsh treatment of Adam, a first offender.

It is a pity I am driven, to such perceptions but the total intransigence of tight consciences 'not only' finds that discussions of serious matters brook no dissension, but that their



## ALSWA SUPPORTS MALTHOUSE STAND ON LOGGING

ALSWA President Ted Wilkes has congratulated West Coast Eagles coach Mick Malthouse on his stand against logging of old growth forests in the southwest of the State.

In a message to Malthouse, Mr Wilkes said he and ALSWA CEO Dennis Eggington, fully endorsed his right to speak out on issues of public interest, despite his high profile position as coach of the West Coast Eagles. It took courage, commitment and character to do so, all qualities that Malthouse had in abundance.

Mr Wilkes and Mr Eggington, who recently toured the southwest to discuss the logging issue with Aboriginal communities, said there was much admiration for the coach and strong support for his anti-logging views amongst the Aboriginal community.

"Despite the fact that our motivations may differ in seeking to preserve this heritage we seek the same end. While Mr Malthouse worries, as we all do, for the rights of future generations to enjoy such natural wonders, Indigenous people are just as concerned with the spiritual traditions of the past" Mr Wilkes said.

"Traditionally, Noongar people, after the death of a family member, have committed the spirit of the deceased to a large tree, where it rests forever, becoming part of the fabric of the tree. To cut one down is to destroy the spirit's resting place and cause perpetual suffering to the deceased and to future generations of the family involved. Any attempt by Government or business to deliberately destroy graves in Karrakatta cemetery for commercial purposes would be regarded as an act of gross desecration of sacred ground, and would cause an enormous outcry.

"It is worse for Aboriginal people. The old growth forests, to us, are sacred grounds, filled with the spirits of our dead. This belief; this tradition has been in place for tens of thousands of years and, until modern times, has been utterly respected".

Mr Wilkes said people should not waste time and effort unfairly criticising Mick Malthouse. Rather they should put that time and effort into developing an understanding of those views, and of the views of Noongar people.

### PUBLICATION DETAILS

ALSWA is published by the Aboriginal Legal Service of Western Australia (Inc), PO Box 8194, Stirling Street, East Perth 6849 [Tel (08) 9265 6666 Fax (08) 9221 1767 Freecall 1800 019 900]. The material contained in ALSWA is from a wide variety of sources and does not necessarily represent the views of the organisation. For enquiries, contributions, letters etc, please write to the Editor care of the above address. Permission must be obtained for reproduction by any means and in any form of part or all of the contents of this publication. Photography and layout design in this edition by Media, Information and Public Relations trainee Ashley Truscott.

## PRAWN FARM AT EXMOUTH GULF GETS GO-AHEAD

ALSWA Land and Heritage Solicitor Alex Shaw has brokered successful negotiations between Cape Seafarms and the Talangi people in the Exmouth region, which have resulted in the go-ahead being given for development of a prawn farm at Heron Point in the Exmouth Gulf.

Talangi elder Syd Dale, senior custodian for the area, said negotiations had been marked by the willingness of Cape Seafarms to recognise and respect Aboriginal concerns and the principles of coexistence of Native Title with other rights and interests as set out in the *Wik* decision. Mr Dale said it was a good thing to be able to sit down and nut out an agreement that worked for all parties.

"It is the right thing by our culture to share things with other people, and that includes white people, as we have in the past. Cape Seafarms has done the right thing and has been prepared to involve us in its plans, to share with us what it will be doing. There will be jobs and training opportunities for our young people, as a result of this agreement. It will help provide a future for our children and grandchildren" he said.

Gnulli Committee chairman Ron Crowe welcomed the news of the agreement, which follows successful negotiations last year with the State Government and the Shire of Carnarvon with respect to the Carnarvon Fascine.

## Death in Custody caused by Police neglect

ALSWA appeared on behalf of the family of an Aboriginal man who died in police custody of alcohol poisoning. The man was seen to drink three quarters of a bottle of Southern Comfort before being arrested for shoplifting the bottle. He was then placed in a police cell and left unattended for close to three hours. ALSWA Solicitor Peter Collins criticised police who arrested the man for failing to make close and regular checks on him. He died with a massive 0.663 per cent blood alcohol reading. The man, who was owed a duty of care while in police custody, needed urgent medical attention because he was a known alcoholic and had been locked up on many occasions for being grossly intoxicated.

Mr Collins said failure to check the cells for up to three hours contravened the Recommendations of the Royal Commission into Aboriginal Deaths In Custody. The Commission's findings stipulated checks on prisoners every 15 minutes for the first two hours and then at one-hour intervals.



## NEW PROGRAM OFFERS FINANCIAL SUPPORT FOR YOUNG INDIGENOUS ENTREPRENEURS

ATSIC, DEETYA, The Body Shop and the Commonwealth Youth Program recently launched a Small Business Mentoring Program (SBMP) for young Indigenous people.

The Program will match experienced business people with young Indigenous entrepreneurs, to build foundations for partnerships within the private sector.

With additional funding from DEETYA, ATSIC and The Body Shop, the Small Business Mentoring Program will establish a management company to run

the 18-month pilot program, headed by a Board of Directors. It will develop a pool of mentors and match them with young business people. It will also promote financial and other support for young Indigenous entrepreneurs within corporate boardrooms.

Mr Djerrkura said the program with The Body Shop showed how Aboriginal people could successfully build partnerships with the private sector of the workforce. Enquiries about the program can be directed to ATSIC State or regional offices.

## ALSWA ELECTION SCHEDULED FOR OCTOBER 7-21

The election of a new Executive Committee for ALSWA will be conducted from Wednesday October 7 to Wednesday October 21 this year.

Aboriginal and Torres Strait Islander people intending to vote for the election of members to the new Executive Committee must be members of ALSWA.

Those who are not already members of ALSWA can obtain a membership from any ALSWA office.

Completed forms must be returned to the Returning

Officer (ALSWA in Perth) by 5pm, August 31.

Nominations for election to the Executive Committee (and future regional committees) are now open. Nomination forms are available from all ALSWA offices. Completed nomination forms must be returned to the Returning Officer by 5pm, September 9.

Those unable to vote at official polling booths can obtain a postal ballot request form from the Perth ALSWA office after September 9. Completed forms must be returned to the Return-

## STAFF PROFILE



Shona Park has recently started work in the ALSWA Roebourne office. She previously worked for the Ieramugadu Aboriginal Corporation where she performed office and secretarial duties. Shona has lived in Roebourne all her life and is a member of the Injibandi community. Shona enjoys playing basketball, fishing and cooking.

ing Officer by 5pm, September 23. Posters giving details of the 1998 election are displayed in all ALSWA offices.

For advice and information please contact the Returning officer at ALSWA on (08) 9265 6601 - Fax (08) 92211767.

## Striving for Justice

**The Aboriginal Legal Service of Western Australia (Incorporated)**





# COMPARISON OF NATIVE TITLE ACT 1993 and NATIVE TITLE AMENDMENT ACT 1998

Compiled by Jacqueline Brienne, ALSWA Solicitor Land and Heritage Unit

## NATIVE TITLE ACT

### *Racial Discrimination Act*

- \* Racial Discrimination Act fully applies

### *Validation of Acts*

- \* Governments were required to comply with the Future Act provisions in the Act to ensure that new grants of interests in land were valid. Some States did not use these processes, in particular on pastoral leases where additional grants such as mining leases were issued without complying with the Act. All these grants of interests in land were arguably invalid.

### *Extinguishment of Native Title*

- \* Question of extinguishment left largely to common law. Requirement of clear and plain intention on the part of Government for extinguishment;
- \* Question of whether certain grants eg. various types of leases extinguish Native Title has not been decided;
- \* Native Title rights may only be suspended in some cases.

### *Future Acts*

- \* Future land use proposals ('Future Acts') Acts must comply with procedural requirements of the Act to be valid;
- \* Freehold test is a fundamental safeguard for Native Title. Only if a Future Act can be done to freehold can it be done to Native Title;
- \* Compulsory acquisition alone did not extinguish Native Title, an Act giving *effect* to the purpose of the acquisition could extinguish Native Title.

### *Right to negotiate*

- \* Right to negotiate provided important procedural rights for Native Title claimants and holders;
- \* Right to negotiate applied to the creation of rights to mine and compulsory acquisition for third parties over any area including towns, pastoral leases and for private infrastructure facilities;
- \* Only exploration licence applications having minimal effect could be excluded from (cont. next page)

## NATIVE TITLE AMENDMENT ACT

### *Racial Discrimination Act*

- \* A clear discriminatory provision of the Native Title Act will override the Racial Discrimination Act protections against discrimination.

### *Validation of Acts*

- \* Blanket validation of Commonwealth grants of freehold, lease, licence or reservation, between commencement of Act in 1993 and the Wik decision with varying level of extinguishment.
- \* Power given to States for the blanket validation of titles issued by them despite a failure to comply with the Native Title Act.

### *Extinguishment of Native Title*

- \* Overrides Common Law by setting out grants of tenure that extinguish Native Title even though its not tested in the courts - includes freehold, a long list of grants that extinguish, and specific kinds of leases both past and present and public works;
- \* Extinguishment permanent.

### *Future Acts*

- \* Future Act requirements operate only where a Future Act affects Native Title. If Native Title is confirmed to be extinguished, provisions do not apply. The Act provides certain Acts to extinguish and therefore overrides Common Law.
- \* Expansion of Government Future Acts which are exempt from the freehold test e.g. reserved land, water management, facilities for services to the public;
- \* Compulsory acquisition extinguishes Native Title.

### *Right to negotiate*

- \* Procedural rights more limited;
- \* New registration test limits access to right to negotiate -must pass test to gain access to right to negotiate; -right to negotiate restricted to the effect on registered Native Title rights;
- \* Reduced range of Acts to which the right to negotiate applies.
- \* No right to negotiate in respect of
  - Acts over non exclusive pastoral lease and public purpose reserves (eg. national parks and forestry reserves);
  - creation of a right to mine in accordance with agreements or determinations about exploration or prospecting rights;
  - compulsory acquisition for private infrastructure projects not associated with mining;
  - Acts in respect of water;
  - exploration licence applications (cont. next page)



## NATIVE TITLE ACT

the right to negotiate provided consultation still continued;

- \* Right to negotiate available on registration;
- \* Separate rights to negotiate at prospecting, exploration and mining licence stages;
- \* No limit on the subject matter of negotiations between Native Title claimants, land users and Governments;
- \* Government must negotiate in good faith;
- \* Before matters could be referred to the Tribunal for a decision on whether a proposed act could be done, the Government had to show it had negotiated in good faith;
- \* Only the Federal Minister has the power to override a Tribunal decision about a Future Act.

### *Renewals of leases*

- \* Renewals of leases limited to same kind of interest as originally granted.

### *Reserves*

- \* Under Common Law, a reservation does not necessarily extinguish Native Title. Governments were required to compulsorily acquire Native Title rights, make a non claimant application or regional agreement.

### *Pastoral leases*

- \* Allowed renewals without right to negotiate provided the renewed lease did not create a larger proprietary interest than original;
- \* It was uncertain whether some pastoral activities were valid, in particular whether some activities requiring extra Government permission were valid.

### *Water and airspace*

- \* Allowed confirmation of existing water management regimes but subject to the non extinguishment principle.

### *Facilities for services to the public*

- \* No specific provisions in the Native Title Act dealt with facilities for services to the public e.g. road, railway, bridge, jetty, electricity facility, well, pipelines, and irrigation channels.

## NATIVE TITLE AMENDMENT ACT

removed by Commonwealth Minister

- approved alluvial gold or tin mining;
- approved opal or gem mining areas;
- renewals, re-grants or extensions of;
- compulsory acquisition for private infrastructure projects not associated with mining;
- Acts in respect of water;
- exploration licence applications removed by Commonwealth Minister;
- approved alluvial gold or tin mining;
- approved opal or gem mining areas;
- renewals, re-grants or extensions of valid mining leases;
- Acts relating solely to land or waters wholly within towns or cities and;
- Acts in relation to the inter-tidal zone.

- \* Only one right to negotiate per mining project;
- \* Limits to subject matter of negotiations - refusal to negotiate about matters unrelated to the Act is not a failure to negotiate in good faith;
- \* All parties must negotiate in good faith;
- \* Native Title party has to prove the other parties have not negotiated in good faith;
- \* In areas covered by pastoral leases, national parks, towns etc. only *consultation* is required rather than *negotiation* in good faith;
- \* State Minister may override.

### *Renewals of leases*

- \* Upgrades to longer term and perpetual leases possible with limited procedural rights in comparison to right to negotiate.

### *Reserves*

- \* If land was reserved before the Wik decision for any particular purpose it can be used for that purpose or another purpose having a similar effect on Native Title subject only to compensation;
- \* Rights in relation to management activities in national parks are reduced to minimal procedural rights.

### *Pastoral leases*

- \* Loss of rights in relation to pastoral leases - Native Title holders have no say in other uses beyond pastoral activities;
- \* Extends use of pastoral leases to a broad range of activities without negotiation with Native Title holders e.g. tourism, aquaculture, agriculture. This may result in radical transformation of pastoral leases, particularly on smaller leases.

### *Water and airspace*

- \* Allows new legislation for management of and grant of



## NATIVE TITLE ACT

- \* Repairs to existing facilities probably permissible;
- \* Construction of new facilities would require compulsory acquisition of Native Title rights, non claimant applications or agreements.

### *Off shore areas*

- \* Native Title holders had procedural rights if there were corresponding procedural rights for others;
- \* Compulsory acquisition did not extinguish Native Title, an act giving *effect* to the purpose of the acquisition could do so.

### *Applications and registration test*

- \* Applications to National Native Title Tribunal;
- \* Automatic registration;
- \* Overlapping claims may be made;
- \* Automatic registration gave access to right to negotiate;
- \* The same 2 claimants may be included in 2 claims;

### *National Native Title Tribunal*

- \* 5 years of experience and development of infrastructure;
- \* National body with national application of procedures and policies. Decisions binding nationally. Coordinated.

### *Federal Court Procedure*

- \* Federal Court must adopt mechanisms which are fair, just, economical, informal and prompt;
- \* Court was not bound by technicalities, legal forms or the rules of evidence;
- \* Cultural concerns of Aboriginal peoples must be taken into account.

## HOW TO VOTE IN A FEDERAL ELECTION

To vote, you must be on the 'Electoral Roll'. If your name is not on the roll, then call the Electoral Commission on 132326 and they will send you a form. Fill the form in and send it back. The Commission will send you a return letter, telling you what area you belong to for voting. When it is time to vote, go to the 'special place' in your area which was specified in the return letter. When you get there, present yourself to the desk and have your name crossed off the list. You will receive some papers with instructions on them, read and follow carefully. When you are filling out your paper do not let anyone see what you do. When you have finished marking the boxes, fold the paper in half and place in the 'voting cards' box. For further enquiries, call the Electoral Commission on 132326.

## NATIVE TITLE AMENDMENT ACT

interests in water and airspace.

- \* No requirement for Governments to negotiate with Native Title holders in relation to commercial fishing licences, irrigation licences and the like. Management laws and interests granted will prevail over Native Title.

### *Facilities for services to the public*

- \* Construction, operation, use and repair allowed subject to procedural rights equivalent to owners of freehold - Government will not have to compulsorily acquire Native Title rights to construct new facilities.

### *Off shore areas*

- \* Compulsory acquisition extinguishes Native Title.

### *Applications and registration test*

- \* Applications to Federal Court;
- \* Applications liable to corresponding applications to strike out by the State;
- \* Much more difficult for claimants to register claims and access the right to negotiate;
- \* Registration test must be passed;
- \* Test applies to past and future claims;
- \* If claim fails physical connection test application must be made to Federal Court for exception where locked gates/stolen generation can be proven;
- \* Must pass registration test to access right to negotiate and right only relates to registered Native Title rights and interests;
- \* No registration of overlapping claims;
- \* Claimants cannot be included in more than one claim;

### *State Native Title Commission*

- \* Newly created without the depth of experience and infrastructure;
- \* State based and of separate operation to all other States in Australia.

### *Federal Court Procedure*

- \* More difficult for Native Title holders to present their case;
- \* Federal Court is bound by the rules of evidence unless Court otherwise orders;
- \* Court may take into account cultural/customary concerns but not so as to unduly prejudice any other party.



## CONGRATULATIONS!



Congratulations to ALSWA's Damien Yarran and fiancée Sherri Bagshaw on the recent arrival of their beautiful daughter Brianne. Brianne arrived on Friday 10 July, weighing in at 7 lbs 11 ozs.

ABORIGINAL LEGAL SERVICE OF WESTERN AUSTRALIA (INC)

## ALSWA ELECTION 7-21 OCTOBER 1998

### YOU MUST BE A MEMBER OF ALSWA TO VOTE

Aboriginal and Torres Strait Islander people intending to vote for the election of a new Executive Committee for the Aboriginal Legal Service of Western Australia Inc (ALSWA) must be members of ALSWA. Membership forms are available from all ALSWA offices. Completed forms must be returned to the Returning Officer  
**ALSWA, PO Box 8194 Stirling Street, East Perth 6849,**  
(Fax (08) 9221 1767) by 5pm 31 AUGUST 1998

### NOMINATIONS FOR ELECTION ARE NOW OPEN

Nominations for election to the Executive Committee (and future regional committees) are now open.

Nomination forms are available from all ALSWA offices. Completed forms must be returned to the Returning Officer  
**ALSWA, PO Box 8194 Stirling Street, East Perth 6849,**  
(Fax (08) 9221 1767) by 5pm 9 SEPTEMBER 1998

### POSTAL VOTE REQUEST FORMS

Postal vote request forms, for those unable to vote at official polling booths, are available from ALSWA Perth office from 9 September 1998. Completed forms must be returned to the Returning Officer  
**ALSWA, PO Box 8194 Stirling Street, East Perth 6849,**  
(Fax (08) 9221 1767) by 5pm 23 SEPTEMBER 1998

### FURTHER INFORMATION FROM ALSWA OFFICES

Posters, giving all details of the 1998 Election, are displayed in all ALSWA offices. Please direct enquiries to ALSWA on  
**(08) 9265 6666 - 1800 019 900 (toll free), Fax (08) 9221 1767**

Authorised by David Imlah, Returning Officer, Aboriginal Legal Service of Western Australia (Inc)  
PO Box 8194 Stirling Street East Perth 6849.

## NT Government rushes legislation

ATSIC Commissioner for the Northern Territory Josie Crawshaw, said in a recent media statement, that the Northern Territory Government had acted in a hasty and arbitrary manner in rushing through its Native Title legislation.

Commissioner Crawshaw said the rights of Native Title holders in the Northern Territory was being reduced to a minimum and Native Title holders in other States would get a considerably better deal.

"The behaviour of the Northern Territory Government in largely ignoring Aboriginal representatives in developing the legislation shows the weakness of the Commonwealth's approach. By devolving responsibility for Native Title to the States and Territories, the Commonwealth has made it much harder for uniform national standards of decency and fairness to apply to Aboriginal people.

"The Commonwealth has opened the door to opportunistic Governments to dismantle the rights we have achieved through the courts. It is up to Senator Minchin to step quickly in and make it clear that the Commonwealth will not automatically endorse unilateral action by States and Territories after the event. The Northern Territory Government's indecent haste and lack of consultation with Aboriginal people show that it has not achieved the level of political maturity and responsibility to govern its own affairs in a manner fair to all Territorians".



## Unworkability in Native Title Amendment Act

ALSWA Land and Heritage Executive Officer Glenn Shaw recently attended meetings in Canberra about Native Title where Representative Bodies were fully informed of the huge task that they face, resulting from changes to the Native Title Act.

Mr Shaw said the amended Native Title Act gives no grace to Aboriginal people, and in fact makes it much harder to lodge, let alone get, a positive determination of Native Title.

"The Federal Government, in agreement with Brian Harradine, has made the Native Title Act more unworkable than it ever was, while at the same time forcing Representative Bodies to have statutory functions under the amended Act.

"Some of the areas where there have been major changes are;

- The right to negotiate will no longer remain, and claims will have to pass the threshold test to get to a vastly reduced right to negotiate. If they do not pass the registration test then they have no right to negotiate.
- The right to negotiate has been removed from towns and cities, the inter-tidal zone, alluvial tin and gold, and opal and gemstone mining.
- The threshold test has been increased and there will be a requirement to prove an ongoing physical connection. There is a loophole in that if you were locked off your country, or your parents had access but were locked off country, then you would fulfill the criteria.
- All Representative Bodies will go through a re-recognition process which means they could change dramatically within the next year.
- All claims (not just new ones) will undergo the threshold test.
- Representative Bodies will be required to certify claims, register agreements and mediate overlapping claims. Representative Bodies will also have other statutory functions.
- The State has the ability to allow primary production on pastoral leases, which will effectively extinguish Native Title where the primary production takes place.

**'the State Governments Native Title Bill will prompt compensation claims by Aborigines'**

### .....more Native Title matters

Mr Shaw recently said in *The West Australian* that if the State Government pushes through its own Native Title legislation it will foot a big compensation bill to Native Title claimants.

Mr Shaw said the Government's plan to extinguish Native Title in most types of land tenure would prompt numerous compensation claims from Aboriginal groups.

"The cost of compensation will far outweigh the economic benefits the Government perceived it will gain from using the land unhindered by Native Title claims" he said.

Mr Shaw said the Government, which controlled the land tenure, could have adopted a more moderate stance on Native Title. Instead, it chose to mirror federal legislation.

The State Government has released two Bills of its proposed Native Title legislation for public consultation (until September 10), and if the Bills are passed through State Parliament, it will then go to Federal Parliament for approval. If the Bills are adopted, Native Title in WA could be extinguished in certain circumstances relating to mining leases, agricultural and pastoral leases.

WA Premier Richard Court has claimed that all the draft legislation does is apply the Federal legislation under State arrangements within WA.

In relation to compensation, Mr Court said "The Federal Government has proposed to pay 75 per cent, leaving the State Government to cover the balance and an agreement has been drafted on that issue.

"If Mr Shaw has any concerns, he should make a submission to the State Government for its consideration".

Mr Shaw said regardless of whether the Federal Government helped pay compensation, the Bill would still run into millions of dollars. The fact was that the State Government controlled land tenures and the Federal Government did not have an ability to impose what tenures extinguish Native Title.

"So claiming that they (the State Government) are merely applying the Federal legislation is a smokescreen because they could have taken a moderate stance, but they chose to take the legislation to its fullest extent".

Mr Shaw said there were concerns that even leases which had never been taken up would extinguish Native Title.

"One example was settler farm leases, which were released for soldiers after the two world wars, many of which were not taken up".

Mr Shaw claimed that leases which had expired and reverted back to crown land would also extinguish Native Title if they fell under the scheduled categories of tenure and that the State Government was trying to rush the Bills through by allowing only three weeks for discussions of a complex piece of legislation.



# Greens WA support realistic financial compensation for 'stolen generations'

**Greens WA Senator Dee Margetts responds to ALSWA's Election '98 survey of political opinion**

*1. What was your intended action in relation to the Government's Native Title Amendment Bill 1998?*

From the beginning of the Native Title debate, the Greens WA called for the Government's proposed amendments to be divided into a series of Bills. Under this plan, the less controversial aspects of the legislation (such as the regime for establishing statutory agreements) would have been passed this year, serving to cool down the debate. The numerous sticking points would have become the subject of ongoing consultation and negotiation with Government and Indigenous communities.

For such a process to provide certainty and justice, the negotiation and consultation on the sticking points would have needed to have been meaningful, comprehensive and carried out in good faith with all Aboriginal communities over a period of at least twelve months. The negotiations should have taken place on a Government to Government level between Aboriginal communities, the Commonwealth and the relevant State and Territory. Economic stakeholders should have participated in the process once basic agreements were reached between Aboriginal communities and government.

It is possible that such a process could have set a foundation for a treaty system - the only effective long term method of reconciling the rights and responsibilities of Indigenous and non-Indigenous Australians. There was no guarantee that such a process would have provided instant results. It would take decades to solve centuries of injustice. What is clear is that the consequences of not dealing with Native Title fairly and justly will see the process take longer - and cause immeasurable suffering for all communities.

*2. Do you agree that Indigenous people, unable to make claim to traditional country, should be financially compensated, and to what extent?*

The Greens WA agree that traditional owners who are unable to claim Native Title should be compensated for their tremendous loss. This compensation should go far beyond the minor relief available in the Indigenous Land Fund. The extent of this compensation is an issue which will perplex courts and parliaments for many years to come.

For example, how can a people be compensated for loss of culture? Nevertheless, the Greens WA believe that the process should begin by examining the total financial loss to traditional owners. This would include a calculation of lost earnings from the land - including the past, present and

future earnings - and compensation for pain and suffering incurred during the process of dispossession.

Of course, in some areas this calculation of total financial loss may amount to billions of dollars. In circumstances where the cost of compensation is beyond the capacity of Government or corporate interests to meet, a statutory process of negotiation should be instituted to formulate a repayment plan.

*3. Do you support provision of financial compensation to Indigenous persons affected by past Government policies that resulted in removal of children from their families?*

The Greens WA support the findings of Sir Ronald Wilson's Stolen Generation Report and endorse the provision of financial compensation to victims of genocidal child removal policies. Similar to the issue of compensation for dispossession of land, the calculation of loss for victims of the stolen generations will be difficult. What monetary limit can be placed on the loss of a mother, a father, a grandparent, a sister, a brother or a child? What figure can be placed on the loss of cultural identity?

However, the Greens WA do not believe that these difficulties should prevent the provisions of compensation for past Government policies. Each day the courts in Australia compensate victims of abuse - the same rights should be accorded to those affected by the policy of child removal.

*4. Would you support an official Federal Government apology to those above, as has recently been provided by the Canadian Government to Indigenous peoples in that country?*

The Greens WA thoroughly endorse an official apology from the Australian Government and both Houses of Parliament about the history of genocide experienced by Aboriginal and Islander people due to Government policies and actions. We believe it shameful that the current Government has sought to avoid making an apology that countries around the world are making to dispossessed and oppressed Indigenous people.

The Howard Government seem to think that the elements of white Australia will view the Government as weak if such an apology is made. The Greens WA believe there has to be acknowledgement of past injustices before any healing process can begin.

However, the Greens WA believe the process of an apology should not be limited to the Stolen Generations. The Aus-

**Senator  
Dee Margetts  
responds to  
ALSWA's  
Election '98  
survey...**



tralian Government must also officially acknowledge the injustice of the myth of terra nullius; the exploitation of Indigenous labour; the expropriation of Indigenous culture; the lack of Indigenous political representation and the absence of a treaty to address the legitimate Land Rights of Aboriginal and Torres Strait Islander nations.

*5. What is your attitude to Indigenous self-determination. If supportive, how would you ensure that the concept is actively reflected in Government policy?*

There are many aspects to Indigenous self-determination. While both Liberal and Labor Governments have argued that the Aboriginal and Torres Strait Islander Commission (ATSIC) provides a measure of self-determination for Indigenous Australians, the Greens WA believe that this does not go far enough. In particular, the issue of Indigenous sovereignty remains the most serious unanswered legal and political question in Australian society.

As I have argued on a number of occasions in the Senate, there are only three recognised methods under the international law by which sovereignty can be attained - by treaty, by defeat in an officially declared war or by the colonised land being terra nullius (unoccupied), given that:

- the High Court expunged the myth of terra nullius in Mabo;
  - there has been no treaty and;
  - there has been no officially declared war.
- The issue of sovereignty must be addressed within any consideration of Indigenous self-determination.

Closely linked to the question of sovereignty is the issue of a treaty process. No so long ago, then Prime Minister Bob Hawke promised Aboriginal people a treaty. The promise remains unfulfilled. In fact it no longer appears to be on the mainstream political agenda. Yet in Canada the treaty process is proceeding as the very basis of reconciling the rights and responsibilities of Indigenous and non-Indigenous peoples.

The Greens WA believe that comprehensive regional agreements between Aboriginal communities and Governments at all levels is the only viable long-term approach to resolving Indigenous dispossession. Indigenous self-determination will be nothing more than a hollow rhetoric until Governments in Australia start to talk with Aboriginal communities on an equal basis - at a Government-to-Government level. Self-determination is not achieved by Aboriginal people being reduced to stakeholders with the same (or even less) rights than those with purely economic interests in the land.

*6. Do you support increased funding of and autonomy for Indigenous service providers such as Aboriginal legal and medical services, or do you favour the concept of "mainstreaming"?*

An integral part of Indigenous self-determination is the ability for Aboriginal and Islander service providers to operate with full autonomy. Specialised Aboriginal services

should not be viewed as "special privileges" but rather as recognising the unique cultural and social imperatives of Indigenous communities. Administrative and political structures which seek to assimilate Aboriginal and Islander cultural values and processes should be avoided.

For too long Australian Governments have adopted assimilationist policies which ignore the structural disadvantages faced by Indigenous people. Funding at all levels, including education and training, must be provided so that Aboriginal and Islander service provision can be both culturally appropriate and effective in the long term. In addition, mainstream service providers should be provided with resources and training so that, should Aboriginal and Torres Strait Islanders choose to use them, they can receive a culturally sensitive service.

*7. In Government, what do you intend to do about ameliorating the social and economic disadvantages suffered by Australia's Indigenous peoples?*

While the Greens WA may not be forming Government in the immediate future, we believe we have a vital role to play in the Senate to ensure that Aboriginal rights are defended and expanded. The Greens WA believe that many of the solutions to the manifest problems of Indigenous social and economic disadvantages lie in Aboriginal communities themselves. Unfortunately successive Governments have done little to enable these solutions to be implemented.

In order for the ideas and initiatives of Aboriginal and Islander people to be properly considered, the processes of self-determination discussed above must be pursued as a priority. Indigenous people must be accorded the political, economic and cultural autonomy required to avoid the structural disadvantages inherent in European systems of Government, law and administration. The Greens WA will focus on promoting Indigenous autonomy at all levels in full consultation with Aboriginal people, communities and representative organisations.

*8. What is your response in relation to One Nations Party's racist political agenda?*

The Greens WA utterly oppose the racist agenda of the One Nation Party and deplore the divisive, false and hate-filled statements the Member for Oxley has directed against Aboriginal and Islander people. The Greens WA also seek to actively expose those who, while not openly supporting One Nation, seek to ride on the back of the racial intolerance the Member for Oxley has promoted. Equally, the Greens WA condemn all political parties which legitimise One Nation by entering into preference deals in local, State and Federal elections. Unfortunately, enormous social and economic changes in the last few years have made Australia a fertile environment for One Nation's simplistic scapegoating style of populist politics.

(cont. next page)

**...and vows  
to defend  
and  
expand  
Indigenous  
rights.**



## Greens WA support Financial Compensation

(from previous page)

When people feel insecure - when their livelihoods and their lifestyles are under threat - there will be some who inevitably seek to place blame on easy targets such as Aboriginal and Islander people. The Greens WA will continue our concerted efforts in the Parliament and the community to challenge both policies of One Nation and the policies of the Howard Government which have enabled One Nation to flourish.

*9. In a rewritten constitution, as would be required if Australia was to become a republic, would you support a Bill of Rights with recognition of the special rights of Indigenous Australians?*

The Greens WA fully support major reforms to the Constitution in Australia's transition to a Republic, including a host of changes relating to Aboriginal and Islander people. In particular, we would seek to amend the so-called "race power" so that Governments could no longer make laws to the detriment of Aboriginal and Islander people. We would support a preamble to the Constitution which recognises the rights of Indigenous Australians.

While a Bill of Rights which recognises the special rights of Indigenous Australians may be one way to ensure a measure of justice, other options should also be explored. For example, the Constitutional recognition of continuing Aboriginal and Islander sovereignty may be a more effective method of guaranteeing special Indigenous rights than provisions in a Bill of Rights. One problem with a Bill of Rights is that it may work to limit the rights of Indigenous people. Important issues that are left out of the Bill of Rights may cease to have legal and political legitimacy.

The Greens WA believe that all Constitutional reform should be carried out with the full consultation of the Australian community - especially Indigenous Australians. During the recent Constitutional Convention, the Greens proposed a comprehensive process for community feedback on Constitutional issues based on a model used during the constitutional reform process in South Africa. This model, which was very well received, could form the basis for providing a Constitution which enshrines the rights of Indigenous Australians and the responsibility of Government to ensure that these rights are implemented and maintained.

*10. What solutions would you seek to reduce the over-representation of Australia's Indigenous peoples in the criminal justice system?*

The Greens WA find it deplorable that eight years after the Royal Commission Into Aboriginal Deaths In Custody, we are still facing a shameful rate of Indigenous over-representation in the criminal justice system. The Royal Commission provided governments and the community with 339 recommendations aimed at putting an end to the

## SUPREME COURT RECOGNISES CULTURAL CIRCUMSTANCE IN OVERTURNING JAIL SENTENCE

ALSWA Criminal Law Unit has successfully appealed against a Magistrate's decision to sentence a semi-tribal Aboriginal woman from the Kimberley to four months imprisonment, wholly suspended for six months, on a charge of disorderly conduct. The woman had assembled in a car park with a large congregation of people where she was challenged to a fight by another woman. She refused to fight and only retaliated when she was physically and verbally abused.

Mr Justice Murray of the Supreme Court said that it was inappropriate to sentence Aboriginal people to terms of imprisonment, regardless of whether they were suspended or not, for relatively innocuous examples of disorderly conduct. The Court found that the offence was more a reflection of the woman's ethnic, cultural and personal circumstances more than anything else.

ALSWA Solicitor Peter Collins said "Magistrates have been much more inclined to impose wholly suspended sentences of imprisonment for trivial offences like disorderly conduct without considering the seriousness of the offence and the circumstances in which it was committed. I hope this decision will start a trend".

tragedy of deaths in custody. A key element of these recommendations was the implementation of strategies which would remove Indigenous people from the criminal justice system including education, empowerment and reviewed policing practices. It is clear from the increase of Aboriginal imprisonment rates in many parts of Australia that these strategies are not being implemented. The Greens WA will continue to pressure State, Territory and Federal Governments to address this international shame as a matter of the highest urgency.

In a broader sense, cycles of crime can only be broken when communities, families and individuals are provided with the hope and means to escape victimization and poverty. Accordingly the approach of Government must be twofold. Firstly, those who make and implement the laws must always carry out their tasks with due recognition of the history of Aboriginal oppression and the continuing fourth world conditions which many Indigenous people endure. Secondly, as stated above, Aboriginal people must be provided with the political and economic autonomy to build a future free of forced dependency.

For too long the media and mainstream politicians have viewed Aboriginal interaction with the criminal justice system in isolation. The Greens WA support and maintain the position of Aboriginal elders who point to the decimation of culture and the disconnection from country as the root causes of Indigenous social dislocation.



## Family Law Unit asserts mother's rights in maintenance case

ALSWA's Family Law Unit has recently assisted a woman living in a remote country area to obtain maintenance payments which her former husband had refused to pay. During the course of enforcement proceedings against the man, a warrant was issued for his arrest as he had failed to turn up to the Court.

The Family Law Unit became involved with the woman in 1992 when she first sought advice and representation in respect to property settlement. Orders were made by consent, in 1993, which included maintenance payments of \$120 per fortnight by her former husband.

The man agreed to pay the maintenance but towards the end of 1997 he began to fall into arrears, even though he was employed on a full time basis and had a substantial income.

A Form 46 Enforcement Summons (a summons to enforce orders already in place) was filed on behalf of the woman in March 1998, and a Court date was set for May 1998. The man failed to attend the hearing, even though he was served with the summons, and an Order for a Warrant for his Arrest was issued for him to be brought to Court for examination of his financial situation.

In Court, the man agreed to pay the arrears of maintenance in one lump sum within 14 days. The Court ordered that future maintenance be paid directly from his wages.

In another Family Law matter Solicitor Toni Cuss helped an Aboriginal father get an application, brought by the non-Aboriginal mother that he have supervised access to his two year old daughter, dismissed.

There was a protracted history of conflict between the parties from the time they separated, which was shortly after the child was born. The mother alleged domestic violence against the father and claimed he had anger management problems.

Notwithstanding this, an agreement was reached and orders were made by consent in March 1998 providing that the father have access to the child from 9:30am Saturday, to 5pm Sunday each week, and from 1pm to 8:30pm every Tuesday.

There was an altercation in March between the father and mother at the

mother's home. The mother obtained a Violence Restraining Order against the father in April 1998 and sought orders that he have supervised access at Daisy House (Anglicare) for short periods of one to three hours.

The mother claimed that the child was "terrified of her father" and interim orders were in fact made by the Court providing that the father have supervised access during May 1998 at Daisy House.

The mother sought the continuation of the father to have supervised access visits with the child on an interim basis, and that the changeover of access, be at a police station, between the homes of the parents.

Ms Cuss' submissions were accepted by the Court in their entirety. She noted that the Court, in dealing with the matter since the making of the Consent Orders, only required supervision of quite limited access periods because of its concern that the child may have been terrified of her father as a result of the incident in March.

However, the father had since obtained evidence from supervisors of the access sessions, which indicated that the child had a loving and relaxed relationship with him.

The Court also accepted Ms Cuss' submission that the access pursuant to the Consent Orders had never been implemented and it was therefore premature for the mother to be endeavouring to persuade the Court that the arrangements were contrary to the child's best interests.

There was no evidence at all of a change of circumstances to warrant changing the orders made by consent nor was there evidence of any unacceptable risk of harm to the child in implementing the agreement reached by the parties.

## MEDIA BRIEFED ON AMENDMENTS TO NATIVE TITLE ACT



The Western Australian Aboriginal Native Title Working Group (WAANTWG), recently held a media conference at ALSWA Perth office about the Native Title Amendment Act. Michael O'Donnell, Legal Advisor to WAANTWG, briefed the media about how the amendments would effect Native Title at a State and National level. Pictured here from left to right are Mary Attwood of the Pilbara Aboriginal Land Council, ALSWA's Dennis Eggington and Glenn Shaw.



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