

## Punishment must fit the crime

The Law Society has requested an urgent meeting with Attorney-General Denis Burke to discuss its reservations over the mandatory sentencing amendments.

President Mr Steve Southwood said the Society fears the proposed amendments foreshadowed by Mr Burke in April will fail to address the injustice and arbitrary nature of the laws.

Mr Southwood said the Society understood that a Bill was in the final stages of drafting and was expected to be introduced to parliament in June.

"I would like to meet with you urgently to discuss the proposed amendments," Mr Southwood wrote in a letter dated 11 May.

"I fear they will do little to address the very serious concerns the Law Society has about the mandatory sentencing regime."

Mr Southwood called on Mr Burke to show strong leadership and reject pressure to extend the regime.

"Otherwise the legislation will merely deliver more of the same defective system. That is, the amendments will perpetuate a system where the punishment does not fit the crime and will prevent us

focussing on the special issues we face in combatting crime in the Northern Territory," he said.

The request comes as the Northern Territory government defended the regime from Australia-wide criticism sparked by the jailing of a 29-year-old homeless man locked up for 12 months for stealing a towel from a clothes line.

The North Australian Aboriginal Legal Aid Service's John Sheldon pointed out the incarceration of this man for the theft of a \$15 towel will cost the community more than \$57,000.

In his letter to the Attorney-General Mr Southwood warned the national condemnation of the Northern Territory's mandatory criminal justice provisions was likely to get worse.

"It is clear from the available evidence that the mandatory sentencing regime is not effective in reducing crime. It is not cost effective," he said.

"Not only does the legislation not reduce crime it does not even improve the public perceptions as to how such matters are handled by government," he said.

The Law Society has called on the

government to review the amendments in 12 months and ultimately move to repeal the legislation.

In relation to the proposed amendments, the Law Society has urged the government to:

- Ensure the exceptional circumstances provisions apply to first, second and third offences and provide real and effective discretion to the courts.
- Reject any expansion of mandatory sentencing to sexual offences and crimes against the person.
- Abrogation of the 12 month period for a third offence.
- Abolish mandatory sentencing for juveniles.
- Ensure offences committed while a juvenile are not taken into account when sentencing as an adult offender.

Mr Southwood said overseas jurisdictions which introduced mandatory sentencing regimes were now desperately seeking to abandon them.

"Those jurisdictions recognise it is not a situation where amendments can be made to fundamentally good legislation," he said.

## First N.T. indigenous land deal

It was a Territory first - and only the second in Australia - but the speed of the registration of a Native Title Act Indigenous Land Use Agreement (ILUA) has had much to do with the skills of Territory lawyers.

The Agreement, over land south of Katherine, was registered by the National Native Title Tribunal on 7 April - less than three weeks after its lodgement by the NT - and now enters a three month statutory period of public comment and submissions by potential native title holders excluded by the deal.

The legal negotiations which led up to the deal were potentially complex, as they involved the operations of both the Native Title and the Land Rights Acts. However, Perth-based lawyers with the Native Title Tribunal praised the Agreement for its clarity and precision,

and were able to endorse it for registration without need for amendment or alteration. Not surprising when you think about it - lawyers in the Territory have been dealing with Indigenous land agreements for over 20 years.

The Agreement has led the way for the expansion of horticultural activities in an area south of Katherine known in English as the "Venn Blocks", and by Jawoyn people as Warlangluk. In return, Jawoyn traditional owners and native title holders have gained an estate in fee simple to a block of land they intend to be used as an alcohol rehabilitation centre.

The agreement involved successful negotiations between the traditional Aboriginal owners - who withdrew a land claim under the Land Rights Act; native title holders - who agreed to extinguishment of native title under the

Native Title Act; the Northern Land Council, the Northern Territory Government and the Northern Territory Land Corporation. The Jawoyn Association, which is also a signatory to the deal, coordinated negotiations between all parties.

A key term of the agreement was that the NT Government and Land Corporation would use its best endeavours to encourage land developers to negotiate with Aboriginal interests in the area over commercial arrangements and employment opportunities.

The Jawoyn Association is currently negotiating with one of the major developers over a joint venture agreement for horticultural projects in the Warlangluk area.