

BALANCE

LAW SOCIETY NORTHERN TERRITORY

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November & December**



**Justice in regional
and remote
communities**



The life of the Law Society President

November and December 2008 were a hot bed of activity for the Law Society.

Since the Annual General Meeting and the Strategic Planning Conference, new life has been breathed into our committees. Our secretariat is once again at full strength, and as a result, your poor suffering President has been inundated by wave after wave of policy material to deeply ponder.

In late November, I attended the Law Council of Australia quarterly directors meeting. This coincided with the Law Council's Annual General Meeting, and was the first in my capacity as Director.

There was a contest for two executive positions on the Law Council, with five candidates nominated. Alex Ward, an existing executive member from South Australia, was comfortably returned. This is good news for the Northern Territory, because Alex co-chairs an important working group on Law Council in the recruitment and retention of lawyers. There will be more on that working group in the coming months as they move into the constituent body survey stage of their activities.

The second executive position was secured by Cathy Gale from Victoria. Cathy has a long history of representative activity, firstly for the Law Institute of Victoria, where she was a member of their Council and became President in 2006. She has worked on a number of committees of both the Law Institute of Victoria and the Law Council, most recently as a member of the Law Council's Harmonisation of Laws Committee. It is important that women be represented on the Law Council, and it is a pleasing result.

Sadly, one of the decisions made at the November Law Council

Meeting was to withdraw financial support for the continuation of the Australasian Law Management Journal for a further two year period.

While the Australasian Law Management Journal was supported in regards to its content, there was some concern that it was not particularly popular in its current magazine format. A number of the law societies felt that the content, which is highly regarded, could be delivered in a different format to that of the magazine. There was some discussion about whether the content could be delivered by way of electronic format, or incorporated into the various journals of the State Law Societies. It will be a shame if the interest and commitment of those who produce the contents of that magazine dissipates as a result of the magazine folding.

Five days after the Annual General Meeting, I jetted back to Melbourne for a Director's Retreat. Although that sounds like a round of golf and a tour of the wineries on the Mornington Peninsular, I can assure readers that nothing could be further from the truth. I arrived in Melbourne late on Friday evening and we commenced work at 9:30am the next morning at the Council Room at the Law Institute of Victoria. The building did have windows, just not in the room we were in.

The retreat was broken up in to two sessions. The first session was a strategic planning session to review the Law Council's corporate plan for the period 1 July 2009 to 30 June 2010. This was an important discussion which will set the priorities for the Law Council's activities in the coming year. An issue which I feel is not gaining enough traction with the Commonwealth Government and with the various Law Societies in Australia is the



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current state of Indigenous affairs in this country. A week earlier, at the farewell dinner for the outgoing Law Council President, Mr Ross Ray QC, we heard a very stirring account of the state of Indigenous justice, law and welfare from Ted Mulligan, as he received the Law Council of Australia Medal for his work in that important area. It hit home just how removed from the ordinary lives of most of the people in that room the real challenges of Indigenous welfare and justice really are.

I was able to elevate Indigenous affairs into the Law Council's "Top four" of issues for the Law Council for the coming year. The Commonwealth Attorney-General's Department, through the Indigenous Policy and Service Delivery Branch, proposes the development of a National Indigenous Law and Justice Framework. This is presumably a successor to the National Indigenous Justice Strategy of the previous Commonwealth Government. Apart from having met in September 2008 to progress the development of the Framework, there is no further information available as to when that framework will be in place.

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My sincere hope is that the Law Council can advocate to ensure that the Framework is developed quickly so that the issues of Indigenous law and justice can begin to make some progress.

The second session of the retreat involved a presentation on the corporate structure and governance of the Law Council. The Law Council has developed from its origins as a federation of all of the Bar Councils, Law Societies and similar bodies of the various Australian States 75 years ago. In 2002, the Law Council became

an incorporated body. It is now a corporation governed by the Corporations laws. Various issues have arisen from time to time about the appropriate balance between the Law Council's role as a national body to represent the profession nationally and the various State and Territory interests and the need to ensure that there is fair and appropriate representation of all of the constituent bodies on the Council at any one time.

As a result of the issues discussed at the Director's Retreat, there will be an additional executive position

sought for the Law Council which will require an amendment to its Constitution.

Further, the Governance Committee of the Law Council will be reactivated and will undertake a review of the governance structure of the Law Council and report back to the Law Council at a future meeting.

At both a Territory and national level, it appears that 2009 will be another year of significant activity for Law Society and Law Council alike.

FOR THE RECORD

The challenges of remote and regional practice

I am wondering whether the Global Financial Crisis and the subsequent downsizing decisions by some southern practices will see an influx of lawyers into the Territory to fill the gaps in law practices in Darwin and Alice Springs, and the various legal aid organisations.

One issue is how they would fit into the varied challenges of legal practice in the Northern Territory, whether it be in a Darwin practice acting for major corporates, drafting statutory instruments, assisting with the prosecution in a complex murder or assault case or representing or prosecuting Indigenous Territorians in a remote bush court.

In many cases, working in remote communities, whether dealing with the victims of domestic violence, prosecuting or acting for defendants, offers some major challenges for practitioners. The Intervention and even the Northern Territory shire "reforms" have created additional challenges.

This edition of *Balance* outlines some of the issues involved.

Frequently, the communities are only accessible by plane or long road trips. Many of the people involved have English as a second or third language. Cultural values for Indigenous people are very strong in many communities with a "two way" legal system. Lists are frequently long, and practitioners have to deal with this whilst operating in small offices in police stations or council buildings or sometimes in the open air under a tree.

How can the Society help not only the practitioners working in this environment, but others involved in the Court system? The Council of the Societies regards these matters as priorities, and various Society Committees, such as the Indigenous Issues, Access to Justice and Family Law Committees, deal with the various matters.

The Society has supported the production of the Indigenous Protocols, a copy of which is provided to newly admitted practitioners.

We have endeavoured to assist practitioners with CPDs that assist



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in practice.

The Society consults on practice issues and liaises with LeMessurier Harrington as required, including on practice issues such as Information Barrier guidelines.

The Society regularly considers, and comments on, relevant legislation. Whilst it can easily be seen from some current Bills that our