

## **CHAPTER 2**

### **ANNUAL REPORTS OF STATUTORY AUTHORITIES**

2.1 The following annual reports of statutory authorities were referred to the Committee:

- Aboriginals Benefit Account
- Aboriginal and Torres Strait Islander Social Justice Commissioner: Native Title Report
- Aboriginal and Torres Strait Islander Social Justice Commissioner: Social Justice Report
- Director of Public Prosecutions
- Family Court of Australia
- Family Law Council
- Federal Police Disciplinary Tribunal
- Goldfields Land and Sea Council
- Gurang Land Council (Aboriginal Corporation)
- Industrial Relations Court of Australia
- Insolvency and Trustee Service Australia
- Kimberley Land Council
- Migration Review Tribunal
- Ngaanyatjarra Council (Aboriginal Corporation) Native Title Unit
- Office of Parliamentary Counsel
- Refugee Review Tribunal
- South-West Aboriginal Land and Sea Council Aboriginal Corporation
- Yamatji Marlpa Barna Baba Maja Aboriginal Corporation

2.2 The Committee has chosen to provide comments on the following agencies: the Australian Federal Police; the Family Court of Australia; the Gurang Land Council (Aboriginal Corporation) Native Title Representative Body; the Kimberley Land Council; the Office of Parliamentary Counsel, and the Yamatji Marlpa Barna Baba Maja Aboriginal Corporation.

## Australian Federal Police

2.3 The Executive Review of the Annual Report advises that throughout the reporting period:

... the spectre of terrorism continued to dominate the international law enforcement environment. The bombing outside the Australian Embassy in Jakarta, in September, served to emphasise the ongoing threat to Australian interests and the importance of a strong and comprehensive national response.<sup>1</sup>

2.4 Over the reporting period, the AFP provided valuable assistance to foreign police forces following a number of incidents, including the Bali, JW Marriot, and Australian Embassy bombings in Indonesia and the *Superferry 14* fire in the Philippines. The nature of AFP assistance encompassed a range of police related disciplines such as crime scene analysis, post bomb blast expertise and forensics.

2.5 The report advises of the role of the AFP in managing the implementation and development of the Jakarta Centre for Law Enforcement Cooperation (JCLEC) in Indonesia and outlines the key objectives of the Centre as being:

... to enhance the operational expertise of regional law enforcement personnel in dealing with transnational crime, with a primary focus on enhancing counter-terrorism skills.<sup>2</sup>

2.6 It is further intended that JCLEC should also act as a vehicle to promote closer operational ties and assist operational integration between police forces in the Asia-Pacific region including Indonesia, Malaysia, Thailand, the Philippines and Singapore.

2.7 The committee notes the continuing work of the Australian High-Tech Crime Centre (AHTCC) in combating crimes such as online child abuse, computer intrusions and in responding to threats against Australia's critical national information infrastructure.

2.8 The reporting period saw the AHTCC launch Operation Auxin in response to information obtained from the US led Operation Falcon, an investigation into online child sex abuse. Operation Auxin resulted in:

... the execution of more than 548 search warrants and the arrests/summons to be issued on 318 persons of interest across Australia by state and territory police services.<sup>3</sup>

2.9 The committee also notes that the reporting period marked the AFP's 25<sup>th</sup> anniversary with a number of commemorative events taking place throughout 2004.

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1 Australian Federal Police, *Annual Report 2004 - 2005*, p. 2.

2 Australian Federal Police, *Annual Report 2004 - 2005*, p. 22.

3 Australian Federal Police, *Annual Report 2004 - 2005*, p. 39.

The report advises that as part of the celebrations, the AFP was afforded the keys to the city of Canberra on 19 October 2004. The committee extends its congratulations to the AFP upon reaching this significant milestone in its history.

2.10 The Committee considers the annual report of the Australian Federal Police to be 'apparently satisfactory'.

### **Family Court of Australia**

2.11 The reporting period saw the release of the Government's Framework Statement for the reform of the family law system. Four major areas of reform were identified by the Statement:

- the establishment of a network of Family Relationship Centres (FRC's);
- the creation of a combined 'family law registry' for the Family Court of Australia and the Federal Magistrates Court;
- a less adversarial approach to children's cases; and
- a greater emphasis on shared parental responsibility.<sup>4</sup>

2.12 The report advises that the Family Court of Australia and the Federal Magistrates Court commenced work on a combined family law registry in July 2004. The Combined Registry Program will see the two courts establish a system based on one form and one file. It will incorporate a number of sub-programs which will assist to integrate the two courts in such areas as communications, internet, intranet and telephony services, rules harmonisation, single file, single application form and single family reports.

2.13 The Court will introduce a one-off pilot of a new Integrated Child Dispute Resolution Model in the Melbourne registry commencing in October 2005. The model is intended to provide for:

... greater focus on children by way of earlier opportunities to obtain the views of children and to interview parents. It also provides for the same mediator to work with a family throughout its time in the Court and to feedback views to parents at various stages during the matter.<sup>5</sup>

2.14 During the reporting period, the Court received a federal government grant of \$108,000 in order to develop family law education strategies for emerging Afghani, Somali, Eritrean, Ethiopian, Sudanese and Iraqi migrant communities.

Pilot initiatives are being developed in four states: South Australia, New South Wales, Tasmania and Victoria. One of the expected outcomes is a

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4 Family Court of Australia, *Annual Report 2004 - 2005*, p. 1.

5 Family Court of Australia, *Annual Report 2004 - 2005*, p. 3.

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model for best practice consultation with non-English speaking communities for use by the Court and other agencies.<sup>6</sup>

2.15 The Committee considers the annual report of the Family Court of Australia to be 'apparently satisfactory'.

### **Gurang Land Council (Aboriginal Corporation) Native Title Representative Body**

2.16 The Chief Executive Officer's Report advises of a number of areas in which the Gurang Land Council has been active throughout the reporting period. These areas have included the ongoing delivery of Native Title services, the continuation of the Regional Research Plan, and the consolidation of relationships with other key parties to the Native Title system such as the National Native Title Tribunal, the Queensland Government and the Federal Court.

2.17 The Gurang Land Council's ongoing commitment to the Regional Research Plan has involved all six sub-regions within the Land Council and has seen Implementation Reports prepared by a number of Coordinating Anthropologists and two Connection Reports. The reports will assist the Council to resolve what it sees as, a relatively high number of existing overlapping Native Title Claimant Applications.

2.18 The Council also reports that the level of research activity presently being undertaken has seen a rise in the number of Native Title group members engaging with staff and researchers from the Council.

2.19 The Gurang Land Council is actively seeking alternatives to what it sees as costly and time consuming litigation in relation to Native Title matters. The report states that:

... negotiated outcomes (agreements) are far more cost effective productive and beneficial for Native Title claimants than litigation... The very essence of agreement making is bringing parties, including the wider community, together to create enduring relationships which will deliver substantive outcomes and improve the quality and opportunities for Native Title claimant group members.<sup>7</sup>

2.20 The Gurang Land Council region is an area rich in both mineral and gas resources including deposits of opal, gold, copper, tungsten, vanadium, natural gas and crude oil. The area is particularly rich in coal reserves. As a result, the Council devotes much of its time and resources to processing Future Act Notices under the *Native Title Act 1993 (Cth)*.

2.21 The 2004-05 reporting period saw the Council process 656 Future Act Notices, of which 547 were non-mining notices relating predominantly to the

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6 Family Court of Australia, *Annual Report 2004 - 2005*, p. 5.

7 Gurang land Council (Aboriginal Corporation), *Annual Report 2004 - 2005*, p. 5.

activities of state government departments and local shire councils. Of the 109 mining related Future Act Notices, 61 were for exploration permits, and an additional four were for a high impact exploration permit.

2.22 The Committee considers the annual report of the Gurang Land Council (Aboriginal Corporation) to be 'apparently satisfactory'.

### **Kimberley Land Council (KLC)**

2.23 The Report raises several matters which the Council Chairman believes reduced the KLC's ability to adequately represent Kimberley Traditional Owners. Over the reporting period the KLC operated under a Grant Controller, which the report advises limited the flexibility of the KLC to deal effectively with Native Title matters. The report also advised that, 'Despite the formal expiry of arrangements, it took a further nine months before the Grant Controller was removed.'<sup>8</sup>

2.24 The Chairman raises the issue of the lack of funding of Prescribed Bodies Corporate which hold Native Title on behalf of Traditional Owners, and draws attention to the fact that under the terms of its funding agreement, the KLC is prohibited from assisting the operation of Prescribed Bodies Corporate. The KLC sees Prescribed Bodies Corporate as integral to the engagement of Traditional Owners in the planning and development of their country.

2.25 During the reporting period the Federal Court formally recognised the Wanjina Wunggurr Willinggin and Karajarri peoples as the owners of their traditional lands. The KLC undertook to assist with the establishment of Prescribed Bodies Corporate for the owners and to develop a timetable for the negotiation of co-existence agreements with pastoralists.

2.26 The KLC assisted in progressing a number of agreements, including what the KLC describes as an 'outstanding' resource sector agreement between Tanami Gold and the Tjurabalan community. The report advises that the agreement will:

... deliver strong employment, training and business development opportunities, together with community development benefits for the area's Aboriginal people.<sup>9</sup>

2.27 The committee notes that the report advises of significant growth in the level of Future Act activity in the Kimberley region, rising from 268 in the 2003-04 year to 282 in the 2004-05 year and is expected to reach more than 520 in the 2005-06 year.

2.28 The KLC has signed an agreement with Woodside Petroleum to facilitate meetings between Woodside and traditional owners. A successful agreement would allow Woodside to assess the feasibility of bringing a gas pipeline ashore from the

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8 Kimberley Land Council, *Annual Report 2004 – 2005*, p. 4.

9 Kimberley Land Council, *Annual Report 2004 – 2005*, p. 7.

Bowes Basin. In the event that the project is assessed as feasible, Woodside has agreed to enter into an Indigenous Land Use Agreement with the affected traditional owner group.

2.29 The Committee considers the annual report of the Kimberley Land Council (Aboriginal Corporation) to be 'apparently satisfactory'.

### **Office of Parliamentary Counsel (OPC)**

2.30 The report advises of an additional funding increase of \$8 million over four years which has been allocated for the expansion of drafting resources. It is anticipated that the funding will enable the OPC to increase the number of drafters and assist with the training and retention of high quality drafters.

2.31 The OPC has established an in-house position titled Director of Drafter Training which has led to increased coordination of formal training activities for drafters. Since the establishment of the position the OPC has developed a program of internally-provided training for drafters through to the end of 2006. Sessions held in the 2004-05 year included information on:

- constitutional law;
- statutory corporations;
- statutory interpretation;
- legislative instruments; and
- parliamentary practice and procedure.

2.32 During the reporting period the OPC commenced a six month exchange arrangement with the drafting office of New Zealand. The exchange is facilitated under provisions within the OPC Certified Agreement and is seen as a valuable developmental experience for the drafters involved. It is hoped that such exchanges can be organised with other drafting offices in the future.

2.33 The First Parliamentary Counsel visited Brunei Darussalam in March 2005 as the guest of the Government of Brunei. Whilst there:

... he met with the Attorney-General of Brunei and provided training to staff of the Attorney-General's Chambers on the establishment and running of a drafting office and in legislative drafting. There was a particular focus on plain-language drafting. It is hoped that an on-going relationship will be developed with the drafters in Brunei.<sup>10</sup>

2.34 During the year, 217 Bills totalling more than 7,200 pages were introduced to the Parliament. The report indicates that taxation legislation and the Attorney-General's portfolio were areas of substantial demand. The Attorney-General's portfolio

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10 Office of Parliamentary Counsel, *Annual Report 2004 – 2005*, p. 4.

had 42 Bills and approximately 1,500 pages of legislation introduced to the Parliament over the year.

2.35 The Committee considers the annual report of the Office of Parliamentary Counsel to be 'apparently satisfactory'.

### **Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation (YMBBMAC)**

2.36 The Executive Director notes a number of significant achievements by the YMBBMAC over the reporting period. They include:

- handing custodial care of Walga Rock to its traditional owners;
- the Ngarluma Yidjibarndi native title determination;
- Future Act agreements signed with mining companies, including BHP Billiton, Range River and Gunson Resources; and
- the resolution of the overlap between Ngooonooru Wadjarri and the Wajarri Elder claims and the subsequent formation of the Wajarri Yamatji claim.<sup>11</sup>

2.37 As a result of the resources being expended upon Native Title determinations, the YMBBMAC expects to have an increased number of connection reports produced by its anthropologists and researchers.

2.38 The Co-chairpersons' Report details some important observations concerning the effectiveness of Native Title negotiations from the perspective of the YMBBMAC. The report states:

Many of the future act agreements ... have demonstrated the value of transparency and co-operation by mining companies with native title working groups. When proponents come to the negotiating table with full information and commitment to reaching an agreement, the result is almost always a short and positive negotiation followed by quick agreement.<sup>12</sup>

2.39 Over the reporting period the YMBBMAC provided representation and assistance in relation to thirteen registered claims in the Yamatji region and a further twenty claims in the Pilbara region. The assistance given by the YMBBMAC in regard to the claims was varied and included conducting working group meetings, ongoing anthropological research for connection reports, and facilitating community meetings.

2.40 The Committee considers the annual report of the Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation to be 'apparently satisfactory'.

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11 Yamatji Marlpa Barna Baba Maaja, *Annual Report 2004 – 2005*, p. 5.

12 Yamatji Marlpa Barna Baba Maaja, *Annual Report 2004 – 2005*, p. 4.

