



***Kimberley Community Legal Services Incorporated  
ANNUAL REPORT 2014-2015***

**KCLS acknowledges that we work on Aboriginal land  
and pays respect to Elders past and present**

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## KCLS Vision, Values, Mission



### ***Who we are***

KCLS is an independent, not-for-profit community organisation.

KCLS is the largest, remotely located civil law service in Australia and 96% of our clients are Indigenous.

### ***Our vision***

Dignity, human rights and social justice for all people in the Kimberley.

### ***Our mission***

To be a dynamic organisation that makes a positive difference to the people and communities of the Kimberley.

### ***Our values***

- Community participation and collaboration
- Cultural awareness and respect
- Quality and responsive services
- Early intervention in legal issues to prevent escalation.

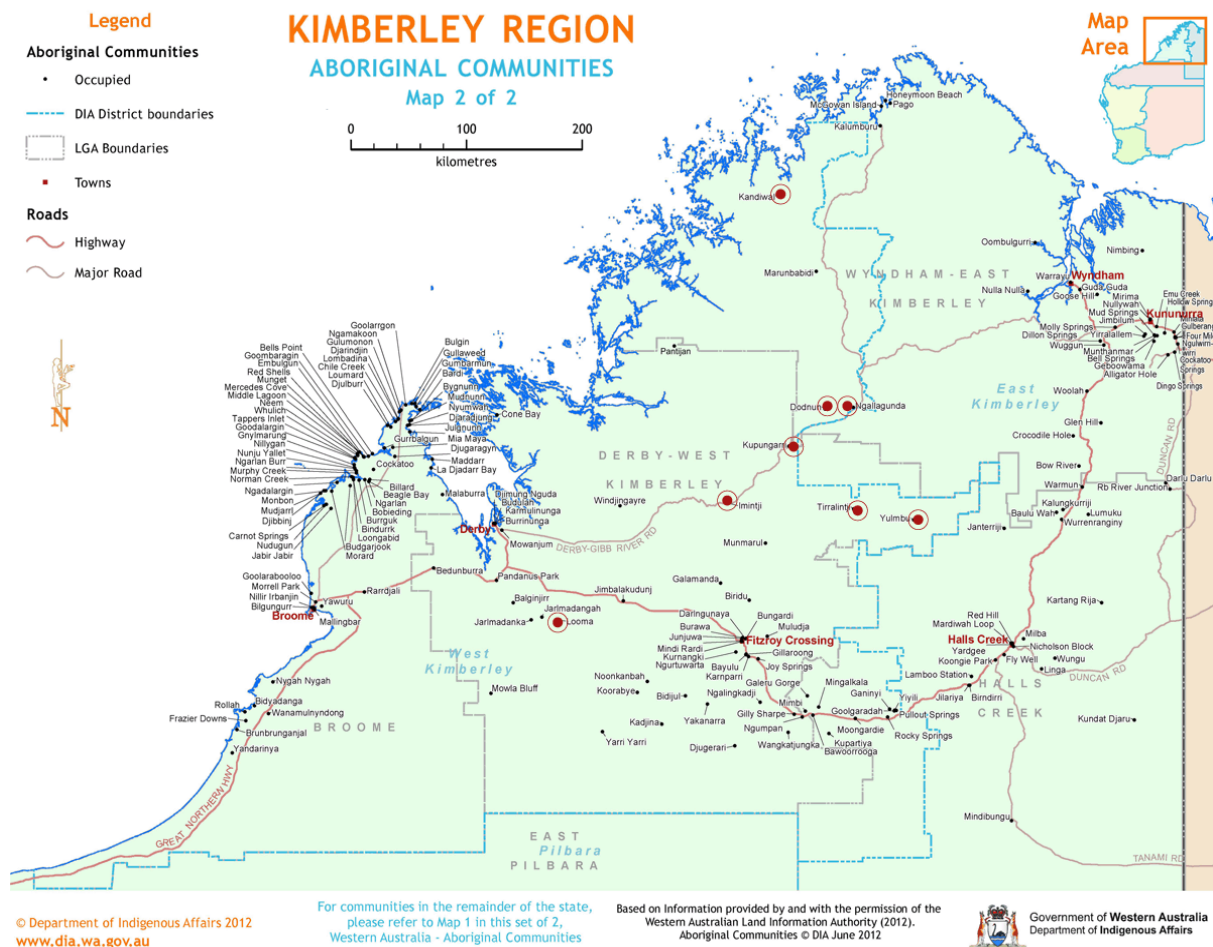
### ***Our services***

- Legal advice, information and assistance, casework, representation and referral
- Community legal education
- Law reform
- Indigenous Women's Program
- Tenancy Advice and Education Service
- Indigenous Tenancy Advocate Service
- Public Tenancy Support Service
- Financial Counselling Service
- Outreach across the Kimberley.



# 1. Introduction

Kimberley Community Legal Services Inc. (KCLS) operates across West Australia's Kimberley region, from its base in Kununurra and branch office in Broome.



KCLS is an independent, not-for-profit community organisation governed by a community-based Board of Management.

KCLS forms part of a national network of community-based legal services and is a member of the National Association of Community Legal Centres (NACLC) and Community Legal Centres Association (WA) Inc. KCLS's participation in a range of networks provides opportunities for joint initiatives and partnerships in professional development, program delivery, policy-making and law reform.

## 1.1 Our Services

- ❖ A Community Legal Centre generalist legal service, which provides advice, referral, legal information and casework assistance, representation and community legal education, as well as engaging in law reform.
- ❖ Outreach services to the towns of Wyndham, Halls Creek, Fitzroy Crossing, Derby and Broome as well as to Warmun, Kalumburu, Balgo, Mulan, Billiluna, Ringer Soak and other – predominantly East Kimberley – remote communities.

- ❖ Outreach Community Legal Education (CLE) for community service providers and clients throughout the Kimberley.
- ❖ Tenancy advice and education and generalist services in the West Kimberley, from Broome.
- ❖ An Indigenous Women's Program that assists Aboriginal people – particularly women – to access legal services, information, advice and education, with a focus on family law and child protection.
- ❖ A Tenancy Advice and Education Service which provides information, advice and workshops to public and private residential tenants, to foster both the understanding and exercise of their rights as tenants.
- ❖ A Public Tenancy Support Service which provides early intervention services to Department of Housing (DoH) - including Community Housing - tenants in Kununurra, to sustain tenancies and prevent eviction and homelessness.
- ❖ An Indigenous Tenancy Advocates Service which supports Aboriginal people in public housing in Kimberley townships.
- ❖ A Financial Counselling Service offering financial counselling, education and advocacy for individuals and families – mainly Aboriginal people from Kununurra and surrounding communities – who are on low incomes and experiencing financial difficulties.
- ❖ A budgeting, credit and debt and financial management service for low income and income-managed clients.



## 1.2 Opening Hours

### Kununurra

KCLS Kununurra office is open Monday to Thursday 8.30am – 4.30pm.

A drop-in service operates Monday to Wednesday 8.30am – 1:00pm when clients can attend in person or via telephone.

The office is closed on Friday with a telephone service available 8:30am – 12:00pm.

KCLS Kununurra office provides a weekly service to Wyndham and a fortnightly service to Warmun and Halls Creek.

### Broome

KCLS Broome office opens Monday to Friday 8.30am – 4.30pm and provides fortnightly services to Derby.

Other towns and remote communities within the Kimberley region are catered for via outreach. Staff members consult clients at mutually agreed locations, such as the offices of local community or government organisations or in the client's home.

## 1.3 Funding

### Commonwealth Government

- **The Commonwealth Government Attorney-General's Department/Legal Aid** – as part of the Commonwealth Community Legal Services Program (CCLSP) – funds 151 community legal services across Australia. The CCLSP partially funds our generalist services.
- **Department of Social Services (Financial Wellbeing and Capability)** – funds our budgeting, credit and debt and financial management service for low income and income-managed clients.
- **Prime Minister and Cabinet** – funds our Indigenous Women's Program.

### State Government

- **Department of Housing** – funds our Indigenous Tenancy Advocates Service to 31 December 2014.
- **Department of Commerce** – funds our Tenancy Advice and Education Service.
- **Department of Child Protection and Family Services** – funds our Financial Counselling Service and Public Tenancy Support Service (part of National Partnerships Agreement on Homelessness).

## 1.4 Statistics

In 2014/15 KCLS provided assistance to **1229** clients, comprised of:

- 459 new clients
- 169 repeat clients
- 601 existing clients

Number of clients who received advice	893
Total number of cases opened	294
Community Legal Education & Law Reform projects	96
Test cases	1
Public interest cases	1
Percentage of clients who are Indigenous	96%

## 2. Board and Staff

### 2.1 Board 2014/15

Chair	Andrew McDonagh/Matt Panayi/Brenda Garstone
Vice Chair	Jade Wade
Treasurer	Yale Bolto
Secretary	Vacant
	Bev Russ
	Gloria Martin
	Debbie Cain
	Karyn Apperley

### 2.2 Staff

#### *Kununurra*

Director	Liz O'Brien
Office Manager	Caroline McKenzie
Indigenous Women's Program Worker	Ruth Abdullah
Tenancy Advice & Education Solicitor	Andrew Turner/Ismail Hasan
Public Tenancy Support Officer	Healema Ward & Karen Gore
Indigenous Tenancy Advocate	Carlos Waina
Reception	Charlyne Johnson
Administrative Support	Erika Parsons
Principal Solicitor	Tom Allen
Senior Solicitor/Financial Counsellor	Hannah Levy
Solicitors	Melissa Bateman & Meghan Tait
Paralegals	Lucy Hopkinson/Vanessa Lynch

#### *Broome*

Senior Solicitor	Sarah Meehan/Kaylene Hunter
Junior Solicitor	Carol Wei



## KCLS Board Members 2014/15



**Left to right (back): Karyn Apperley, Bev Russ, Debbie Cain**  
**Left to right (front): Jade Wade, Brenda Garstone (*Chair*), Yale Bolto CPA (*Treasurer*).**

**Absent: Andrew McDonagh/Matt Panayi (*Chairs*), Gloria Martin.**

## KCLS Staff Members 2014/15



**Ruth Abdullah**  
*Indigenous Women's  
Program Worker*



**Thomas Allen**  
*Principal Solicitor*



**Hannah Levy**  
*Senior Solicitor*



**Melissa Bateman**  
*Solicitor*



**Carlos Waina**  
*Indigenous Tenancy  
Advocate*



**Liz O'Brien**  
*Director*



**Caroline McKenzie**  
*Office Manager*



**Sarah Meehan**  
*Senior Solicitor*



**Vanessa Lynch**  
*Paralegal*



**Healema Ward**  
*Public Tenancy Support  
Officer*



**Erika Parsons**  
*Administrative  
Support*



**Andrew Turner**  
*Tenancy Advice &  
Education Solicitor*



**Left: Carol Wei, Senior Solicitor**  
**Right: Kaylene Hunter, Solicitor**



**Meghan Tait**  
*Solicitor*



**Charlyne Johnson**  
*Reception*



**Lucy Hopkins**  
*Paralegal*

**Absent: Ismail Hasan, Tenancy Advice & Education Solicitor**



## 2.3 Volunteer and pro bono work

Judy Harrison, a senior practitioner and senior lecturer at the College of Law, ANU has provided extensive pro bono support to KCLS and its clients, focusing mainly on Stolen Wages issues. Clayton Utz and Herbert Smith Freehills are similarly acknowledged for their assistance.

We also recognise the contributions of the law students who worked on Stolen Wages while on Practical Legal Training Placements at KCLS during the year: Lucy Hopkinson (later a KCLS paralegal); Stephanie Triefus; Verena Pichler, Susan Flynn and Harry Lewis. Finally, we thank Workplace Learning student, Clarissa Bin Omar, from Kununurra District High School, who enjoyed her KCLS experience enough to return to us three times on placement!



### A Summer Legal Internship in the Kimberley (February/March 2015)

KCLS is a fantastic place to undertake an Aurora internship and has a lot of experience hosting students and graduates. There isn't a typical day at KCLS, because there's always so much going on. KCLS conducts outreach every Monday in Wyndham, where they run a drop-in service and visit ongoing clients at home. Days in the office involve: seeing clients through the drop-in service, formal appointments and home visits; picking clients up and taking them to the Department of Housing or Centrelink; attending court; working on files by drafting letters and documents; making 'phone calls or researching, and sitting in on staff meetings and meetings with other local service providers, like the Arts Law Centre or Knowmore.

***Interns can be involved in everything that KCLS does, including writing submissions to government inquiries and lobbying the State government to change its policies. There is scope for interns to choose an area of interest and be more involved in that ...***

KCLS assists clients with matters involving tenancy, credit and debt, family law, child protection, employment, criminal injuries compensation, government compensation schemes, consumer law and some criminal matters. Interns can be involved in everything that KCLS does, including writing submissions to government inquiries and lobbying the State government to change its policies. There is scope for interns to choose an area of interest and be more involved in that area. KCLS placements can be counted towards Practical Legal Training and Tom Allen (the Principal Solicitor) works hard to ensure that interns gain as much experience and as many skills as possible.

KCLS does a fortnightly three-day outreach trip to Warmun and Halls Creek, which I was fortunate enough to attend. The outreach trip demonstrates a different way of practising law, for example, taking instructions in the op shop or on a client's driveway and appearing in a less formal Magistrate's court. In the dry season, KCLS conducts extended desert trips to remote communities like Balgo, Bililuna and Mulan.

***Half of KCLS's sixteen staff members are Indigenous women from the Kimberley, whose value to KCLS is crucial.***

KCLS focuses on making its services accessible to people who would otherwise have difficulty accessing legal help due to location or capacity. This means you are out and about looking for clients, taking people places and making sure that they are able to participate in and understand legal processes that can have a huge impact on their lives. This can be both very rewarding and also frustrating work, because progress is often slow. Patience and willingness to learn about and understand the underlying issues faced by Aboriginal people in the East Kimberley, are important attributes for this kind of work. Half of KCLS's sixteen staff members are Indigenous women from the Kimberley, whose value to KCLS is inestimable. These staff members do an invaluable job interpreting cultural mores, assisting the lawyers to find and help clients and ensuring that KCLS's approach is culturally appropriate.

Kununurra is a small rural town of 4,500 people. Most things in town are within walking or cycling distance, if you can get your hands on a bike. There's a large Coles, stocked with any food item you could want, though fruits and veggies are a bit more expensive and a bit less available out of season, than they are in bigger cities. There are a number of cafes and restaurants around town, such as the Pumphouse, where you can get a fancy feed and catch one of the Kimberley's famous sunsets over Lake Kununurra.

Visiting Kununurra in the wet season has positives and negatives, in that some activities such as the Picture Gardens (outdoor cinema) and El Questro (nature park) are closed, although there are lots of beautiful natural waterholes and waterfalls flowing with the rains (just be careful not to get bogged!) KCLS only goes on extended outreach trips further afield during the dry season, because roads flood in the wet. The wet season's very hot and humid weather, is balanced by beautiful lightning storms and every building has air-conditioning.

***... you might find yourself ... helping clients to navigate Centrelink and Department of Housing bureaucracy ... or chasing clients up when they fall out of contact or driving them from place to place.***

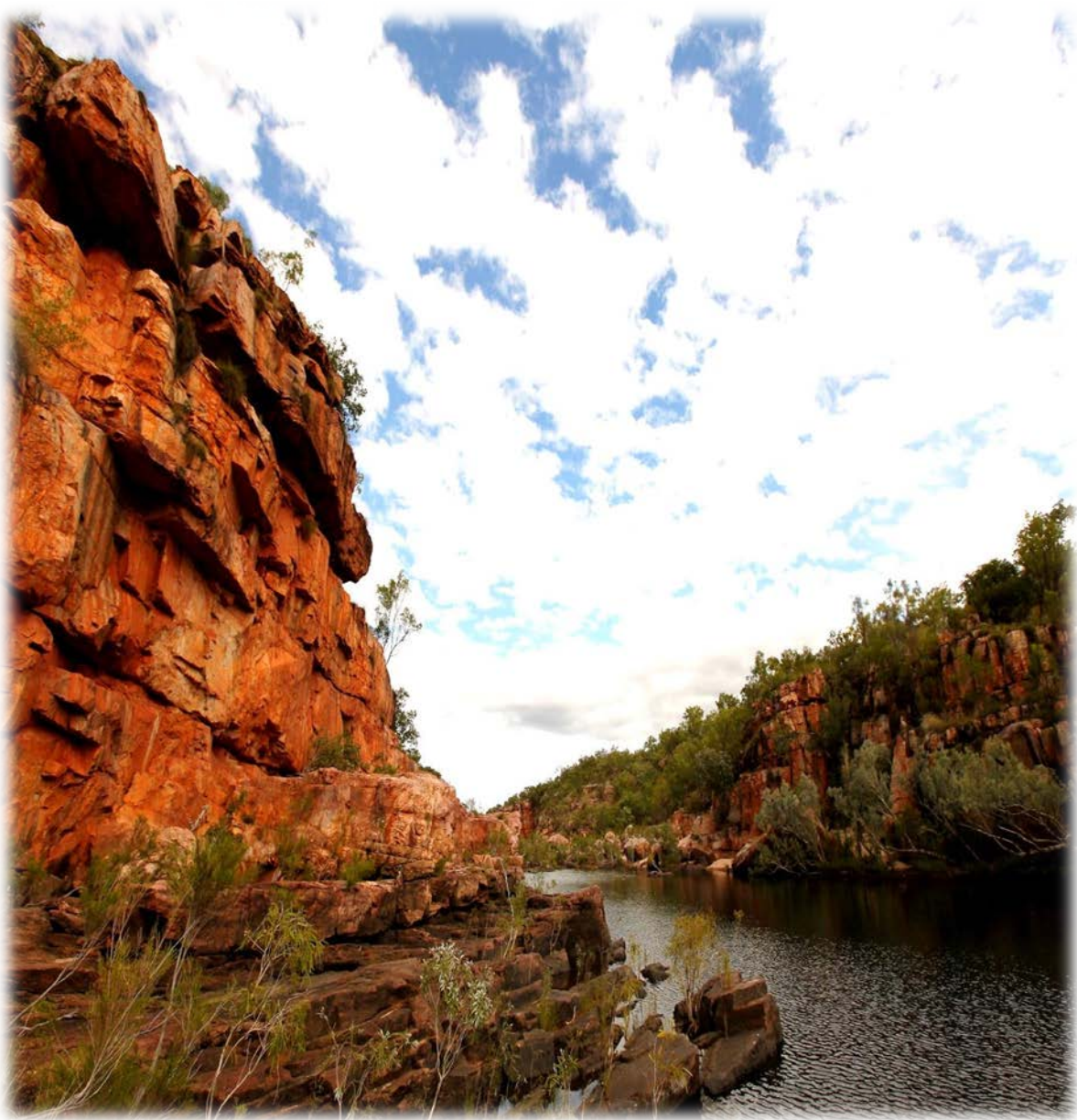
I would highly recommend interning with KCLS. I learned so much about working in a community legal centre and the areas of law with which KCLS deals, such as tenancy and criminal injuries compensation. KCLS is a holistic organisation and is sensitive to the various problems that cause, are caused by and surround legal issues. This means that not all of KCLS's work is of a strictly 'legal' nature; you might find yourself doing some social work – such as helping clients to navigate Centrelink and Department of Housing bureaucracy – or chasing clients up when they fall out of contact or driving them from place to place. I really enjoyed this aspect of KCLS's work and found it much more interesting and fulfilling than places I have worked previously, where there is no client contact.

KCLS staff members are good at their jobs and advocate passionately for the rights of people in the Kimberley. KCLS has been heavily involved in ensuring that the WA government compensation schemes of 'Redress WA' and 'Stolen Wages' have been accessed by as many eligible people as possible, and has facilitated protest applications for those unfairly excluded. KCLS has also been agitating for a review and re-opening of the Schemes for those who missed out, as well as making submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, to ensure

that mistakes are not repeated. Listening to clients tell their stories about being forced to work as stockmen, being taken away from their families and being abused as children, is confronting and humbling. Studying these things at university or watching documentaries is no substitute for talking with clients about their experiences and trying to help them gain some recognition. Judy Harrison's and Liz O'Brien's commitment to pursuing this cause and practising law within a human rights framework is inspiring and I am grateful to them for involving me in this process.

My Aurora internship has been an excellent experience and I would recommend it to all law students. Further details can be found at the website: [www.auroraproject.com.au](http://www.auroraproject.com.au) and application forms can be accessed on-line at [http://www.auroraproject.com.au/about\\_applying\\_internship](http://www.auroraproject.com.au/about_applying_internship).

**Stephanie Triefus, *Aurora Intern***





## 3. Reports

### 3.1 Chair

**On behalf of all staff and Board members of the Kimberley Community Legal Service Inc (KCLS), I wish to acknowledge the traditional owners of the Kimberley lands on which we operate and pay my respect to Elders past and present.**

This year I joined the Board and subsequently assumed the position of Chair, following Matt Panayi and before him, Andrew McDonagh; I thank both Matt and Andrew for their passion and commitment and for their outstanding contributions to the development of KCLS.

The 2014/15 financial year was marked by funding cuts, redundancies and a degree of budget uncertainty.

Our core service provision this financial year, continued to be in providing generalist legal advice and services in family law and care and protection matters, tenancy advice and assistance, financial counselling and associated legal assistance, obtaining violence restraining orders for victims of family and sexual violence, claiming criminal injuries compensation for victims of crime and delivering community legal education sessions to schools, community and government agencies and the public at large. More detail features in the report from Principal Solicitor, Tom Allen.

KCLS also continued to deliver outreach services to people in towns and communities across the Kimberley this year: from Broome in the West, to the NT border in the East, Kalumburu to the North and Balgo to the South.

We maintained our focus on addressing historic injustices, by working to revive the WA Redress and Stolen Wages Schemes, and compiling submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, all of which are elaborated upon in the section 'Law Reform'.

A crowd of new faces joined the Board aside from myself, including Bev Russ, Debbie Cain, Karyn Apperley and Gloria Martin. Yale Bolto continued to provide financial leadership in his role as Treasurer and Jade Wade proved her strong, ongoing support, by continuing in her role as Vice Chair.

Thanks to all Board members for the generous gift of their time, effort and commitment over the past year, and for their dedication to ensuring that KCLS continues to flourish and to build strong, collaborative partnerships across this vast Kimberley landscape, for the benefit of our communities.

I'd also like to thank Liz for her remarkable service to KCLS and all KCLS staff for another successful year.

Finally, I'd like to welcome Libby Stewart, who is taking over the role of Director of KCLS. Libby has an extensive background in community development and has managed and evaluated organisations and programs in a wide range of contexts, in urban, rural and remote settings, both in Australia and overseas. Libby's considerable, wide-ranging skills and experience, bode well for the future development of KCLS.

**Brenda Garstone, Chair**

### 3.2 Director

This is my last annual report for KCLS after five and a half rewarding and challenging years. I pay tribute to the Aboriginal people of the Kimberley for their strength, kindness, respect and care of this land. The East Kimberly is strong and beautiful country and I will miss it and its people.

KCLS worked tirelessly in 2014/15 to advance the civil and human rights of our clients.

You will see from the various reports, that our clients have been closely engaged with the service for assistance in legal matters and for financial advice and housing support. All the staff at KCLS have made great contributions to the continuing growth and strength of our service.

In July 2014, KCLS was required to re-apply for funding through the Indigenous Advancement Strategy, for our Indigenous Women's Program. The process was heavily criticised by service providers and community leaders, for being rushed and insufficient, although KCLS was successful in maintaining funding, albeit in an area which continues to be chronically under-funded. We also successfully applied for re-badged funding from the Department of Social Services to support our income management services.

KCLS continued to play an important role in Working in Partnerships meetings and the Strong Families Regional Management Group. The cycle of over-crowding and homelessness remains the most significant factor contributing to 'at risk' tenancies and evictions, in the East Kimberley.

In 2015, our Broome office farewelled its founding Solicitor, Sarah Meehan and welcomed Kaylene Rawlings-Hunter to the service. Sarah established the KCLS Broome office and together with Carol Wei, built a strong and vital service to the West Kimberley. The reversal of the Commonwealth Government's decision to withdraw funding, was crucial in enabling us to maintain the Broome office. Thanks to the National Association of Community Legal Centres and our many allies, for the hard work and lobbying that produced this good result.

My thanks to the Board for its support throughout the year and to all those who have served on the Board while I've worked at KCLS. During the year, we farewelled our Chair, Andrew McDonagh and I thank him for his commitment and contribution. Matt Panayi took over the role and has also now left the Kimberley; Matt's contribution to KCLS has been tremendous.

Many thanks and my grateful acknowledgement to Principal Solicitor, Tom Allen, to Ruth Abdullah for her leadership and to Judy Harrison who has volunteered at KCLS for the past five years and has been a leader in our work on Redress and Stolen Wages.

Many thanks to all the staff, whose work individually and as a part of a Community Legal Service, ensures that we continue to adapt and adjust to fluctuating circumstances and to play a part in bringing about positive change for our clients and Kimberley communities.

**Liz O'Brien, Director**



### 3.3 Legal Services

#### *Principal Solicitor's Overview*

On behalf of the Kimberley Community Legal Services Inc. (KCLS) legal team, I acknowledge the traditional owners of the lands on which we work and pay my respect to their Elders, past and present.

I also acknowledge KCLS's Aboriginal staff and Board members. At the time of writing this report, more than 50% of KCLS's staff and Board members, are Aboriginal women from the Kimberley. These strong and talented women are employed or elected at all levels of KCLS, and their work continues to make our service relevant, responsive and accountable to the communities in which we operate.

#### Background and Key Statistics

2014/15 was a year characterized by a small increase in clients and complex legal work performed despite funding cuts, redundancies and budget uncertainty. In fact, KCLS shrunk by three FTE staff members during the year, which put a noticeable strain on our capacity to travel and to take on new matters. In this environment, the legal practice continued an extraordinary four years of growth, in terms of both raw numbers and the complexity and importance of matters dealt with. Additionally, we continued to participate in law reform initiatives in Western Australia and nationally.

***As in the previous three years, KCLS increased both new client numbers and the number of previous clients who again accessed our legal service. This likely reflects the high quality of the legal services that clients receive and their willingness to recommend KCLS to friends, family and colleagues. It certainly shows the ongoing and unmet need for generalist civil law Solicitors in the Kimberley and the immediate value of the work done by our two offices.***

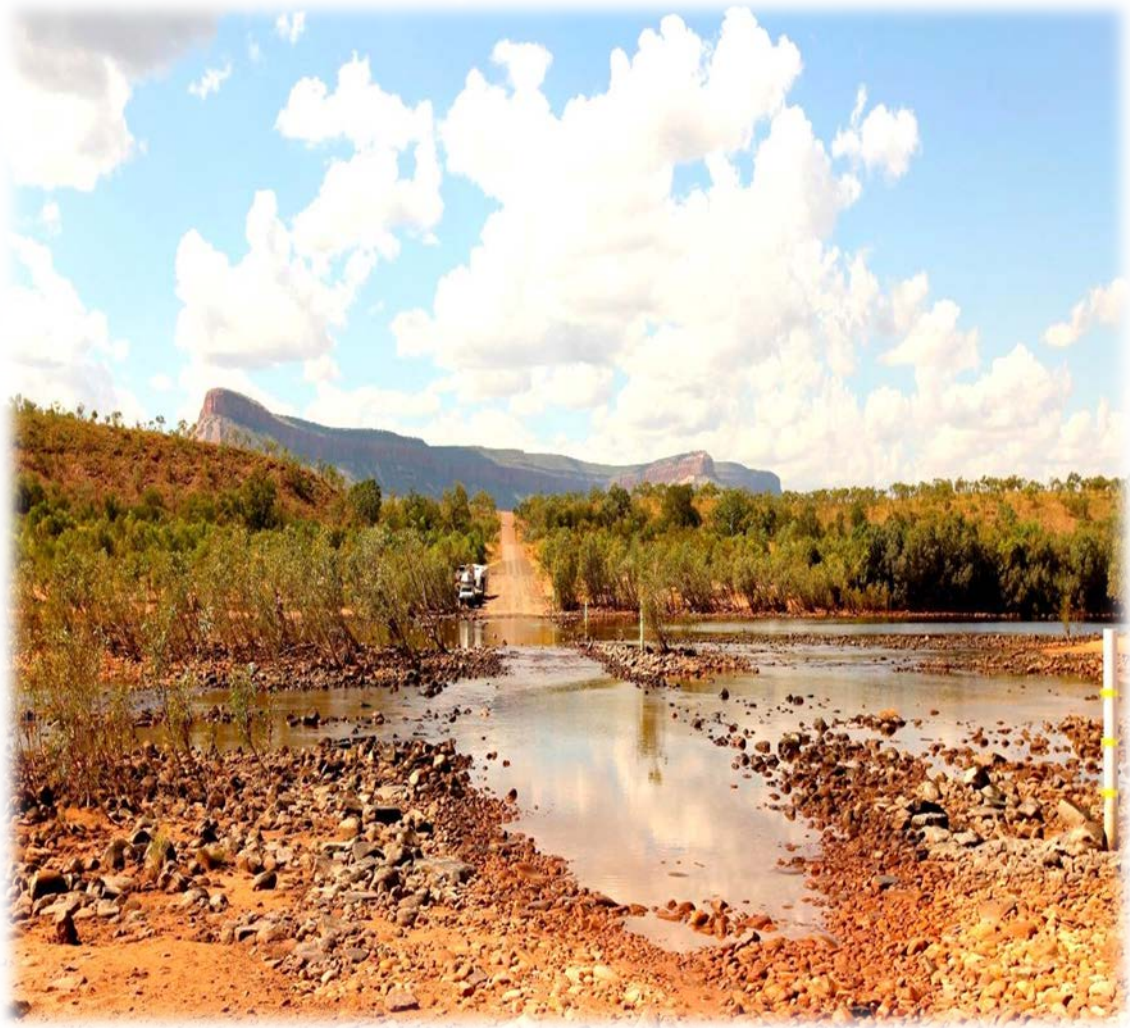
From the perspective of staff development, we saw an increase in contested advocacy (including trials), published work, participation in local and national forums, formal qualifications and invitations to collaborate with other services. This commitment to skills and careers development, has been maintained despite the additional pressures on the service.

In 2014/15, we provided advice and casework across a range of practice areas, including:

- Tenancy, Family Law, Credit and Debt, Care and Protection, Wills and Estates, Restraining Orders, Compensation, Reparations and Historic Injustice (Criminal Injuries Compensation, Stolen Wages, Redress, Country High Schools ex-gratia Scheme, Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse), Crime, Licensing, Superannuation, HUGS, Employment, Guardianship, Financial Services, Fines, Social Security and Consumer Protection.

We advocated for clients in the following courts and tribunals:

- Magistrates Court, District Court, Children's Court, Federal Circuit Court, Criminal Injuries Compensation Assessor and Social Security Appeals Tribunal.



Our services were delivered at:

- Kununurra Monday – Wednesday drop-in and by appointment
- Broome Monday – Friday drop-in and by appointment
- Derby Every second Thursday by appointment/referral
- Wyndham Every Monday – drop-in and by appointment
- Warmun Every second Tuesday/Thursday – drop-in and by appointment
- Halls Creek Every second Wednesday – drop-in and Thursday by appointment
- Desert Three extended visits
- Kalumburu Court Circuit
- Gibb River Two extended visits
- Yiyili Two extended visits
- Ringer Soak One extended visit



The following work was carried out during this period:

- We advised 459 new Clients, 169 repeat Clients and 601 existing Clients, which resulted in:
  - 294 new cases being opened;
  - 401 cases being finalised and closed;
  - 587 cases remaining open (including Redress and Stolen Wages cases), and
  - 893 separate advices being provided.
- Additionally, 96 separate projects (including CLE and law reform) were completed during the year;
- **In relation to the previous reporting period this represents:**
  - **12% increase in repeat clients;**
  - **14% increase in new clients;**
  - **81% increase in non-casework projects completed, and**
  - **A higher achievement with less staff (Solicitors and support) than in the previous 12 months.**



### Acknowledgement of Staff and Volunteers

I acknowledge the following contributions of my colleagues.

- Liz O'Brien whose knowledge, experience, uncompromising hard work and leadership, set KCLS on its current successful path. Without Liz and a dedicated team, KCLS's funding was likely to be lost and the service was likely to close. From this watershed moment and under



Liz's stewardship, KCLS grew in many directions: accuracy in record-keeping and increases in funding, training and capability, client numbers (importantly repeat clients), relationships and Indigenous and non-Indigenous staffing, have all been sustained. By whatever measure, Liz's tenure in the Kimberley was a success. Everyone at KCLS owes a great debt to Liz and her vision for community legal work, education and reform. I wish Liz a wonderful retirement and thank her immensely for her support.

- Hannah Levy who continues to grow as an advocate and win the respect of her colleagues. Hannah has given me unwavering support throughout my time as Principal Solicitor, making me a more effective practitioner and the service more able to represent clients' needs. She is thorough, persuasive, understanding and critical. She has many facets and represents her clients' interests with a high level of skill. I acknowledge her efforts and thank her for supporting me in a difficult year. Her maturity as a Solicitor should not be under-estimated.
- Broome benefitted from the services of outstanding advocate Sarah Meehan, who not only established the West Kimberley office in the previous year, but proceeded to achieve great outcomes in almost every matter she contested. Her incredible skills, ensured that KCLS's first satellite was a success, lasting changes in tenancy law were achieved and client needs were met with few resources. I wish Sarah all the best as she departs the Kimberley and I know her impact will be felt for a long time. Sarah was supported by Carol Wei, whose legal career continues to grow. Carol increased the breadth of her legal skills across many new practice areas and invariably achieved her client's objectives in a range of tricky matters. Following Sarah's departure from Broome, KCLS was fortunate to recruit Kaylene Rawlings-Hunter to the role of Senior Solicitor. Kaylene brings many skills to the role and has quickly established herself in her hometown. It is no mean feat that KCLS has been able to welcome two Aboriginal women, selected on merit, to run the Broome office. This has been both personally satisfying and professionally rewarding, as outcomes are strong, community perception is positive and employee satisfaction is high.

***... all four Solicitors have grown as practitioners and should positively reflect on their achievements throughout the year.***

- The balance of KCLS's legal work during the year, was performed by four practitioners who achieved outstanding results for their clients and have wonderful legal careers ahead of them. Melissa Bateman (now a Senior Solicitor), Meg Tait, Ismail Hasan (on contract) and Tess Matthews (now with the Victorian Supreme Court) have been the engine room that consistently provided high levels of legal support to clients. The majority of their collective work focused on supporting vulnerable tenants, who invariably were at risk of losing their homes. Aside from providing a roof over their clients' heads, these Solicitors ensured families stayed together, at risk children were made safe, unscrupulous practices were halted and women as head of the household, were supported. The value of this work is immeasurable and spanned the civil/generalist legal system with new skills acquired and old ones refined. All four Solicitors have grown as practitioners and should positively reflect on their achievements throughout the year. I wish Tess and Ismail all the best as they return to their homes after short Kimberley stints.
- I also acknowledge our paralegal Vanessa Lynch. In 2015, Vanessa commenced a Diploma of National Indigenous Legal Advocacy with Tranby Aboriginal College (Sydney). Many young women and men in Kununurra view Vanessa as a role model and her achievements will inspire others to further and specialised study. Personally, this course has given Vanessa confidence in her voice and made her a more capable colleague. Good luck finishing the Diploma in late 2015 Vanessa and your courage to spend the cold season in Sydney, on your own and away from family, is noted!

- KCLS continues to be enhanced by volunteers and students. In the previous two Annual Reports, I have thanked Judy Harrison for her work as a volunteer. Having Judy for another year, meant that KCLS continued to work tirelessly on historic injustice projects, including challenging state reparations programs, namely Redress and Stolen Wages WA. Without Judy's skills, the projects would have floundered many years ago. In 2015/16, thanks largely to Judy's efforts, this work may escalate politically and legally, and is likely to be the subject of many Annual Reports to come. The consolidation of three important relationships with the Aurora Project, Australian National University College of Law and Deakin University, saw KCLS hosting a number of students on placement. The students helped me to manage my own file load and the service generally, assisting with outreach trips, our Wyndham service, Stolen Wages, administrative tasks and a range of court and file work. As always, the influence of KCLS on students shapes their fledgling legal careers and fertile legal minds, while the impact of students on KCLS is similarly immense, as their sharp legal skills, online connectivity and contemporary learnings keep KCLS vibrant, dynamic and relevant!

### KCLS Objectives

- In accordance with KCLS policies and procedures regarding the provision of legal services, we continue to strive to empower people by:
  - helping people to understand their rights;
  - advising people of all available strategies to ensure their rights are respected;
  - detailing available remedies where rights are being overlooked or a wrong and adverse decision has been made, and
  - advocating for and representing people when requested, to ensure that their rights are protected.



## Significant Matters

The following examples of legal advocacy from 2014/15 deserve mention.

- Advice and advocacy for clients involved in Care and Protection proceedings brought by the Department of Child Protection and Family Support. As any practitioner operating in this space knows, this is tough work, and despite the overwhelming odds faced by many clients, KCLS helped broker outstanding results. Children have been returned to parents and family members and departments have been held accountable. Clients' stories have been better understood and attitudes have been changed. KCLS Solicitors have been strong advocates in the Children's Court, built better relationships with CPFS lawyers and staff, fostered respectful relationships with clients and drawn on the invaluable support of the Legal Aid Commission of Western Australia and the Women's Legal Service. While this remains a difficult area of practice, all practitioners have worked diligently to keep Kimberley families safe, strong and together.
- Training and guidance for a range of NGOs based in Broome and in neighbouring Derby, where there are no resident legal services in the field of tenancy law. Such collaborative partnerships enhanced the work of the two KCLS Broome-based Solicitors and meant that many more clients received quality support. The value of a KCLS presence in Derby cannot be underestimated, especially for vulnerable tenants who would otherwise miss out on face-to-face advice, due to the 220 kilometre distance from Broome. The assistance of the Broome Aboriginal Family Law Service in delivering this outreach service to Derby is noted, and such partnerships emphasise the collaborative nature of CLC practice.
- Work with clients who have experienced historical injustices. In 2014/15 KCLS Solicitor Judy Harrison was published in the *Griffith Review*, and KCLS featured in the Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse submissions page (x2) and national broadcasts on ABC radio and television. Many questions remain unanswered, and the recent example of political change in Queensland, may provide the template for a similar review in Western Australia. After foreshadowing further action in last year's Annual Report, it is important that momentum for review and proper consultation continues. We also thank colleagues in other legal services, including the Aboriginal Legal Service of Western Australia, for amplifying the voices of their clients in advocating for change.
- An increased number, variety and complexity of Family Law, Tenancy, Consumer Credit and Financial Services matters, matched by an increase in the level of skill required by Solicitors in these practice areas. For example, Meg and Melissa commenced training as Financial Counsellors and Melissa and Kaylene worked with Tenancy WA, to provide this important peak organization with KCLS's experiences in defending public tenancy applications. We have also built better relationships with local Department of Housing (DoH) staff, which translates into more 'at risk' tenancies being sustained. I thank senior management at DoH and the team in 'tenancy land', for making this tough and often abrasive relationship more productive for our shared clients. Hannah continued to increase her Family Law file load with outstanding results. This is a particularly difficult area, with little pro bono support for clients who may not meet the strict funding guidelines set by other services.

I thank our pro bono partners and the work of both Clayton Utz and Herbert Smith Freehills, and acknowledge our educational partners, ANU College of Law, Aurora Project and Deakin University.

Finally, I thank KCLS staff and the Board for their support throughout my time as Principal Solicitor. In the last three years, the legal team has worked with our valued clients to achieve a raft of immediate and sustainable changes across the legal spectrum - from the waiver of pressing debts, to the lobbying of Ministers and contested courtroom trials - and I know that their dedication and hard work will continue to bring about even greater outcomes into the future.

**Thomas Allen, Principal Solicitor**

## *Our West Kimberley Office*



***Kaylene Hunter, Senior Solicitor & Carol Tang, Wei Solicitor, KCLS West Kimberley***

The West Kimberley office has now been operating for nearly two years and the past 12 months have proved to be a significant period of both consolidation and transition for the service and staff.

***... the service has consolidated its position and reputation as the West Kimberley's lead agency for advice and representation on all aspects of tenancy law, while also filling gaps for general civil law advice ...***

Building on the strengths of the 2013/14 establishment phase, the service has consolidated its position and reputation as the West Kimberley's lead agency for advice and representation on all aspects of tenancy law, while also filling gaps for general civil law advice within the community, by providing assistance where other service providers are unable to do so.

Notably, the establishment phase was largely co-ordinated by Sarah Meehan, under the guidance of Tom Allen and Liz O'Brien in the Kununurra office, until Carol Wei was recruited to expand the service in early 2014. In March 2015, Sarah left KCLS, precipitating several months of transition while Kaylene Rawlings-Hunter was recruited. During this period, Tess Matthews was employed on a short-term contract and Melissa Bateman arrived from the East Kimberley office to conduct Magistrates Court hearings and to assist Carol with casework, after she returned from extended leave. Kaylene and Carol are now focused on delivering consistency and results for their clients and expanding their commitment to community legal education and stakeholder engagement.

Over the past year, the West Kimberley office has delivered the following:

- Successfully sustained the tenancy of several clients facing termination of their tenancy agreements under the Department of Housing's (DoH) Disruptive Behaviour Management Strategy ('Three Strikes' policy).

- Positive outcomes were achieved through a combination of trial work and negotiation and the high level of advocacy was believed to have led to a further two trials being discontinued by DoH.
  - Notably, Sarah Meehan and Melissa Bateman must be commended for their time and effort in defending eviction applications in the Broome and Derby Magistrates Courts.
- Successfully sustained the tenancy of at-risk clients who have faced issues in relation to arrears, repairs and maintenance, bonds and housing applications and allocations, including Priority Assistance Transfer appeals.
  - Filled gaps for general civil law advice on matters relating to credit and debt, care and protection, wills, criminal injuries applications and consumer complaints.
  - Provided a regular fortnightly outreach service to Derby that is underpinned by consistent referrals from local agencies, including Nunga Women's Resource Centre and Derby Aboriginal Health Service.
  - Commenced outreach trips to the Dampier Peninsula and Fitzroy Crossing with the Aboriginal Legal Service of WA.

In closing, the West Kimberley office would like to add a heartfelt farewell to Liz O'Brien, whose departure into retirement heralds another phase of transition for the service. Liz's presence will be missed in Broome, despite the kilometres of pindan and bitumen between the offices.

## Case studies

### *Case study 1*

Our client (C) is a 25 year old Aboriginal mother of three children. C sought our assistance after DoH commenced proceedings to terminate her tenancy, on the basis that C had caused or was likely to cause injury to her neighbours. C was worried that if she lost her home, it would be "impossible" for her to have her children returned to her care.

The behaviour complained of, related to foul/abusive language and threats. C had recently been diagnosed with bipolar disorder and said her illness caused her to have outbursts of anger. However, following the stabilisation of C's medication, her symptoms had improved.

We sought to negotiate with DoH and avoid the continuation of the court proceedings, on the basis that C's behaviour was connected to her mental illness, she was now receiving treatment and things had settled down. Given these circumstances, DoH agreed to seek an adjournment to monitor C's behaviour at the property. At the second court hearing, DoH confirmed that there had been no further complaints, the matter was dismissed and C was able to remain in her home.

Another favourable outcome was achieved for C, when she recently returned to our office for advice regarding a further tenancy matter. DoH had advised C that her tenancy agreement would not be renewed, and C was concerned about becoming homeless, as she had no appropriate alternative options for accommodation. We were able to assist C, by negotiating a transfer to another home and a further six-month tenancy agreement.

### *Case study 2*

Our client (C) is a 44 year old Aboriginal woman, who was allocated a home through Nyamba Buru Yawuru's Social Housing Program. C was referred to KCLS by a public tenancy support worker, after proceedings to terminate her tenancy were commenced on the basis that serious damage had been

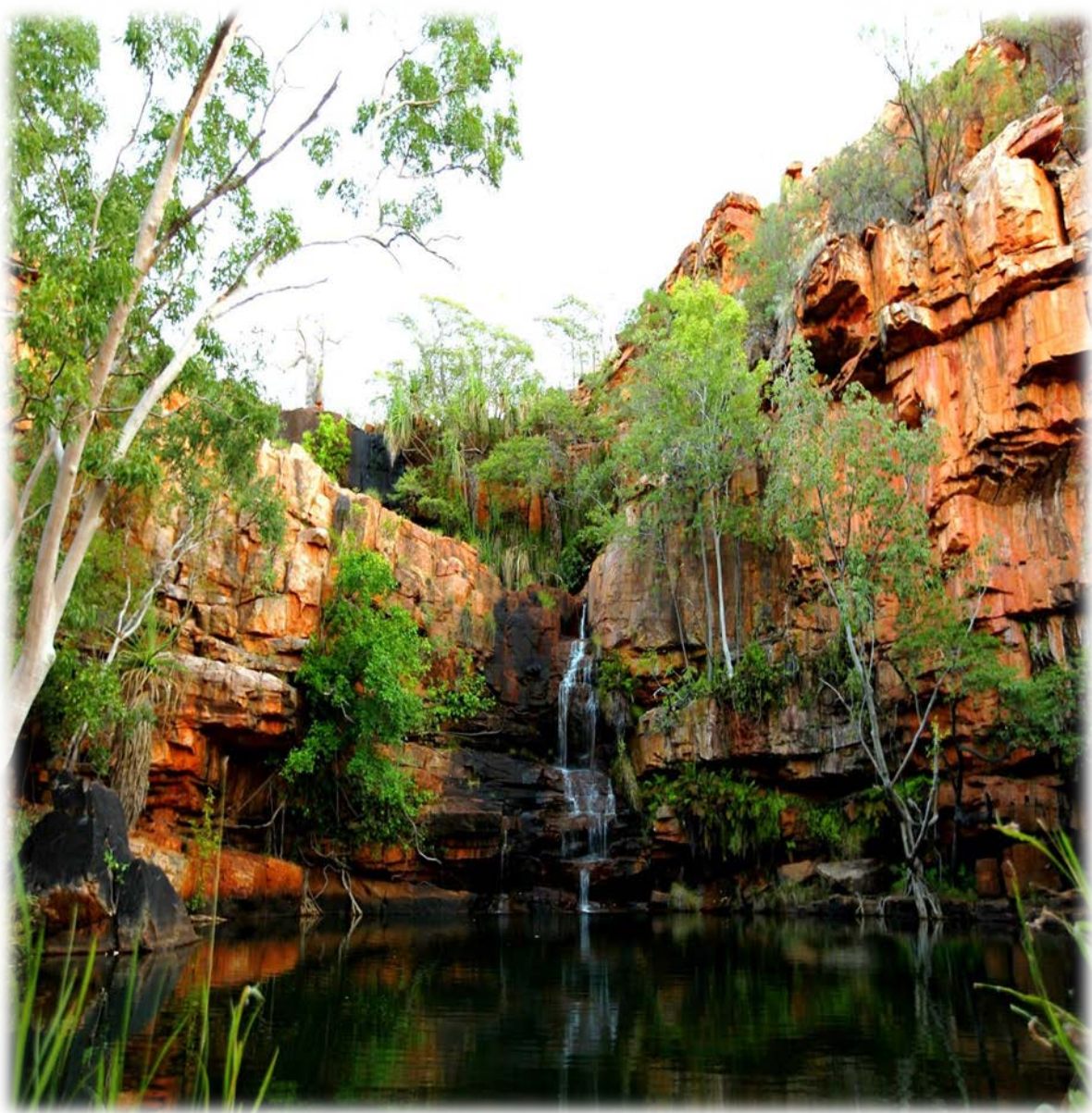


caused to the property. The property manager advised KCLS that the house would need to be gutted. C said she would give up the house if she didn't have a strong case.

KCLS visited C's house and formed the view that the damage to the property was mostly minor, rather than serious. Accordingly, KCLS advised C that she had a good case to dispute the termination, KCLS could represent her in court and she could remain in the house, pending the determination of the matter. C said she wanted to fight for the house if she could, because she and her partner had nowhere else to go if she was evicted.

At the final court hearing, the Magistrate dismissed the termination application and C was able to remain in her home.

**Kaylene Hunter, *Senior Solicitor* & Carol Tang Wei, *Solicitor***



## ***Paralegal Reflections***

I have been in my position as a Paralegal at KCLS for about a year now. Having previously only worked in administrative roles, I had never even considered working in the legal area. I heard about Tranby Aboriginal College in Sydney through my aunty and she encouraged me to follow it up.

After practically stalking the college for about four months, my application to study at Tranby was approved. I enrolled in the Diploma of Aboriginal and Torres Strait Islander Legal Advocacy course, as I felt it would be beneficial to my position. The course, which commenced in February this year, is delivered in one-week blocks over eight months and I will graduate at the end of October.

My main motivation for enrolling at Tranby was to build up my self-esteem, knowledge-base and communication skills. Attending Tranby has allowed me to feel confident and comfortable enough to carry out my assigned tasks and duties.

I appreciate the fact that the course was delivered in a culturally acceptable manner and would like to pay credit to our lecturers, Pearl Beaumont and Jannali Jones, for their support and assistance. Studying at Tranby has been an incredible experience and I encourage anyone who is interested in furthering their education and gaining valuable life skills, to explore the courses available.

**Vanessa Lynch, *Paralegal***

### **About Tranby Aboriginal College**

Tranby Aboriginal College is Australia's oldest, independent Indigenous education provider, and is a function of the Co-operative for Aborigines Limited. The College is a not-for-profit organisation established in 1958, whose main function is to deliver VET accredited courses to Aboriginal and Torres Strait Islander students from across Australia, offering specialised courses in an environment that supports Aboriginal ways of learning. The College has been a pioneer in Aboriginal and Torres Strait Islander adult education, training and social action for over 50 years.

Tranby provides fee for service courses for a range of organisations, such as Aboriginal Land Councils and the Aboriginal Legal Service, and offers venue hire services for organisations to undertake seminars and planning days. The College also partners with other organisations to deliver programs to benefit Indigenous people, such as the Indigenous Youth Leadership Program in partnership with Gilbert & Tobin, and the Indigenous Women's Leadership Program in partnership with NCOSS.

Tranby offers four nationally accredited Diploma courses which include:

- \* 10408NAT Diploma of National Aboriginal and Torres Strait Islander Legal Advocacy
- \* BSB50710 Diploma of Business (Governance)
- \* 91541NSW Diploma of Applied Aboriginal Studies
- \* CHC50708B Diploma of Community Development

These courses have been developed in consultation with Indigenous Elders and community members in response to community needs and aspirations. The focus of the courses available at Tranby is to consolidate skills, knowledge and expertise, which enhances the abilities of community organisations and individuals to determine their own directions.

Tranby prides itself on its informal and friendly atmosphere while aiming to achieve the highest standard of educational outcomes for students. Featuring unique, culturally appropriate architecture and surroundings, and tailored teaching, communication and assessment methods, Tranby's learning environment nurtures the needs of the individual and the community.



### 3.4 Indigenous Women's Program

Since my last report, I am proud to say that a lot of programs and activities have been achieved by all the KCLS staff and a lot of positive feedback has been given by the Kununurra members and clients who have walked through our door for some form of assistance and advice, including in remote areas.

We have lost some staff during this period and have gained some hard workers. It will be a sad day when Liz O'Brien (Director) retires next month from KCLS. In my view, Liz has added much time and effort to bringing KCLS up to what it is today. Libby Stewart will soon take over as Director and I am sure that with help and support from KCLS staff and the Board, she will quickly fit into the role of leading KCLS into 2016.

In the past year, several outreach trips to remote areas and teaming up with other government agencies and NGOs, has been very positive for the delivery of our services.

#### *2014/15 Outreach trips (Clients)*

- Warmun, Doon Doon Station, Bow River, Frog Hollow, Halls Creek, Yiyili.
- Wyndham, Kalumburu, Gibb River.
- Mindibungu, Mulan, Wirrimanu.



***Ruth Abdullah, Senior Aboriginal Woman Project Worker, Indigenous Women's Program***

#### *Involvement with other Departments/Committees*

- Ongoing involvement with the Royal Commission into Sexual Abuse, including relevant consultation with Anglicare.
- Regular, collaborative visits with AJP/Legal Aid to remote communities, to deal with motor vehicle issues and licenses etc.
- Meetings with other departments regarding family violence, community issues, children at risk, housing, education issues and counselling.
- Follow-up on KCLS clients' Stolen Wages/Redress issues in relation to where the Government is at and relaying information to the relevant clients involved.

- Membership of the Board of the new *Empowered Communities* group comprising Aboriginal leaders from eight regions across Australia, who are working together at a national level, to create a platform for engaging with the Australian Government on the Social Reform Agenda. The main purpose of this forum for the East Kimberley region, is to engage Aboriginal leaders in discussions on how they would like to drive the Social Reform Agenda. Meetings are held frequently and the information is filtered back to KCLS staff.

Most of my outreach work in 2014/15 has focussed on the following activities.

- Assisting KCLS legal staff to deal culturally appropriately and effectively with Aboriginal clients and communities, in town and remote areas.
- Liaising and meeting with community leaders and members regarding protocols, family safety, housing needs and community issues.
- Delivering sessions to groups and holding family sessions on tenant rights and obligations.
- Working with other agencies on issues of safety for children and the importance of education.
- Collaborating with female lawyers to assist a self-guided women's meeting to discuss issues relating to children safety, education, health and community.
- Working with KCLS lawyers and other agencies in most of the remote and town communities of the East Kimberley, when community members request information about motor vehicle issues, fines and different licences.
- Networking with all appropriate community members, so that staff from KCLS are up-to-date regarding the key contact people for communications and discussions.
- Delivering community legal education (CLE) to several remote schools at Gibb River Station, Kupangarri community, Mindibungu and Wirrimanu, via *Human Rights are Aussie Rules* for young people. These CLE sessions were very well received and enjoyed by both students and teachers and are an ideal cultural approach, designed to teach young people about respect and dignity in personal relations, in schools and on their communities.
- Making non-Aboriginal staff aware of kinship, skin groups and cultural aspects of where the children and family groups can mix or sit face-to-face, and conducting *Cultural Awareness* sessions for new KCLS staff and students on placement, as well as refresher courses for others.
- Arranging the involvement of different agencies in the Kununurra area in *Bring your Bills Day*, where community members bring their current, outstanding bills to participating organisations situated at one venue, for assistance. Personnel in attendance come from the Sheriff's office, Centrelink, Job Pathways, Motor Transport, Department of Housing, Birth/Deaths/Marriages, the local court, KCLS, Waringarri Money Management and Financial Counselling. Aboriginal Interpreters from the Waringarri Language Centre are also on hand for clients whose English is their second language. *Bring your Bills Days* enable clients' queries and bills be dealt with in one day, under one roof. Attendance and feedback from clients at these events bears testament to their popularity and success.
- Assisting other staff where appropriate, in the day-to-day running of the KCLS office and with clients, and participating in KCLS Strategic Planning exercises.

**Ruth Abdullah, Indigenous Women's Program**

### 3.5 Tenancy Advice and Education Service

I began work at KCLS in February 2015, working alongside Tenancy Solicitor, Ismail Hasan and Public Tenancy Support Service (PTSS) workers, Karen Gore and Healema Ward.

Tenancy continues to be a key practice area for KCLS, with many tenants seeking advice and assistance on issues such as debts, maintenance and applications for housing. As in previous years, most of our clients continue to be public and community housing tenants. Many of our clients also have other legal or financial problems and continue to receive assistance from KCLS after their tenancy matters are resolved.

***... we regularly negotiate with the Department of Housing [as] good communication between our offices is essential to improving outcomes for clients.***

Early intervention and assistance means we are able to resolve most of our matters by agreement. As we regularly negotiate with the Department of Housing (DoH), good communication between our offices is essential to improving outcomes for clients. KCLS regularly meets with DoH staff, to identify key issues of concern and to build relationships with staff members.

Although we try to resolve as many matters as possible out of court, a significant number of clients are facing eviction when they approach KCLS for assistance. Many of our court matters are for non-payment of rent, although 2014/15 has also seen an increase in the number of evictions for anti-social behaviour under the Department of Housing's 'Three Strikes' policy. Throughout the last financial year, KCLS prioritised strategic advocacy in relation to this issue, with Melissa Bateman appearing in three trials in early 2015, all of which were dealing with the disruptive behaviour provisions of the *Residential Tenancies Act*. Melissa achieved positive outcomes for all three clients with one win, one matter negotiated by consent and one matter adjourned indefinitely. We anticipate disruptive behaviour notices and strikes will continue to be key issues facing our clients in the forthcoming year.

***... the effect of a probationary tenancy trial in the East Kimberley would be significant and severely detrimental, and we ... support Tenancy WA's work in this area.***

Another key concern, is the potential impact of the proposed 'P Plate' trial for public housing tenants in Fremantle. The trial has been introduced in response to negative public reactions towards current levels of debt in public housing tenancies, and seeks to increase control and management of tenancies, as a way of combatting this issue. The proposal will see all tenants involved in the trial placed on six-month, fixed-term probationary tenancies, with thresholds around debt, standards and behaviour. While there is no plan to implement such a trial in the East Kimberley region at present, our office has noted a shift towards fixed-term tenancies as a negotiated outcome for clients who have faced debt-related court action. KCLS believes the effect of a probationary tenancy trial in the East Kimberley would be significant and severely detrimental, and we continue to work alongside and support Tenancy WA's work in this area.

We provide a weekly outreach service to Wyndham, visit Halls Creek and Warmun every fortnight, and make bi-annual visits to communities on the Gibb River and Tanami Roads. Many of our clients in these communities seek tenancy advice or assistance, and we also use these trips as an opportunity to identify issues for future community legal education sessions. We also participate in a weekly community legal education project currently run by the East Kimberley Legal Services Network at Ngowar Aeowar. We hope to increase our CLE projects over the next financial year, both in Kununurra and during our outreach trips to communities.

Finally, I would like to say it has been fantastic to work with such dedicated and skilled colleagues in my first year of legal practice. Thank you all for your support and assistance!

**Meghan Tait, Solicitor**



### 3.6 Public Tenancy Support Service

Our client targets for this program are:

- Existing Department of Housing (DoH) tenants whose tenancy is in danger or 'at risk' of eviction and homelessness.
- New DoH tenants identified as 'at risk'.

Early intervention helps sustain housing and prevent homelessness. PTSS and mainstream services provide an integrated response to homelessness to move people out of crisis into long-term, sustainable accommodation.

In 2014/15, 31 individuals were assisted to maintain their tenancies. Aboriginal people comprised 94% of PTSS clients; 94% of clients were female and 90% were unemployed and in receipt of a government benefit/pension; 80.6% of clients were residing in Kununurra and 19.4% in Wyndham.

Feedback from PTSS clients highlights a critical lack of accessible, culturally appropriate information regarding DoH rules and responsibilities for maintaining tenancy. Clients are particularly uninformed about the 'Three Strikes' rule and DoH regularly fails to meet its obligations to inform PTSS of court actions and/or inspection notices issued to our clients.

PTSS continues to work to empower our clients by raising awareness of tenancy obligations and supporting clients to move towards managing their own tenancies. Community education, personal coaching and practical supports - such as brokering rubbish removal and gardening services - are some methods used by PTSS to achieve positive outcomes for clients. PTSS activities in 2014/15 have included the delivery of:

- Good standards/Bad standards workshops (with Waringarri Money Management);
- Anti-social behaviours/Safe behaviours workshops and one-on-one coaching sessions;
- 'Read your bills' workshops;
- One-on-one coaching on the procedures for addressing DoH letters of complaint;
- Workshops on understanding tenancy contracts, and
- Community awareness stalls in Kununurra and Wyndham.

Clients are linked to KCLS legal services (for help with tenancy issues and evictions), Waringari's Money Management program (for budgeting assistance), Strong Families (support network) and Parenting Support Services.

PTSS clients continue to struggle with housing services which lack understanding and protocols for dealing with cultural difference and the pressures and demands associated with cultural obligations. For example, over-crowding and domestic noise is often part of an unwelcome package for many Aboriginal families, when relatives come to town for funerals or for other family matters.

Lack of cultural awareness amongst DoH housing officers impacts upon the timely delivery of property maintenance, contributes to a deterioration in housing standards and compounds the difficulties that many PTSS clients face. For instance, clients who call the DoH 'maintenance hotline' often have difficulty being understood, and many DoH workers are unaware that English is a second or third language for most Aboriginal people in the Kimberley. KCLS has attempted to ameliorate some issues by educating DoH officers about the customary requirements for short-term absences, and clients about the necessity to notify their HSO when they need to attend to cultural business.

**Healema Ward, PTSS Officer**



### 3.7 Financial Counselling Service

During 2014/15, the KCLS Financial Counselling Service assisted over 400 clients, most of whom were Aboriginal women aged between 25 and 34 years. The Hardship Utilities Grant Scheme (HUGS) remains a major reason that clients approach our financial counselling service and this is reflected in the high number of HUGS grants. We assisted 146 individuals with HUGS in the last six months. Assessing a client for HUGS, involves working with them to develop a budget, providing them with advice and assistance to obtain benefits and entitlements, and providing legal advice for credit and debt matters identified in their budget.

The nature of financial counselling inherently requires wide-ranging discussions with clients, which often reveal a range of unrelated legal matters, which are then explored and resolved with a client's consent. Consequently, a problem which may present as a simple debt, can turn into an issue which is more complex, requiring legal advice in the areas of tenancy, family law and care and protection.

KCLS has continued to build strong partnerships with other local legal services to address financial and civil community needs. This year, we worked with Legal Aid to arrange *Bring Your Bills Day* in Kununurra. The day offered a 'one-stop-shop' for clients who received financial counselling and legal advice, prior to dealing with officers from Department of Housing, Community Housing, Centrelink, Horizon Power and the Sheriff. Clients reported that *Bring Your Bills Day* is an accessible forum, which enables them to resolve lingering issues. The day was a success and we thank the services that participated, for their willingness to be involved in the project.

Lastly, thanks to my brilliant colleagues within the legal service for their dedication, skill and persistence, which continues to create a positive, meaningful and lasting impact on the lives of the clients we serve.

#### Case studies

##### *Case Study 1*

A man attended the service after being issued with a breach for non-payment of rent by the Department of Housing (DoH), for arrears totalling \$4,000. He told us that he had a termite problem and we attended his house to take photographs and to discuss his options. Following our advice, the client decided he would breach DoH on the basis that the property was likely to be structurally unsound. Following the breach, DoH inspected the property and agreed that it was unsafe for habitation. As a result of the intervention, our client was relocated and compensated for the state of his property and his arrears were waived.

##### *Case Study 2*

An elderly woman, who was solely dependent on the Disability Support Pension, approached the service for financial assistance with her power bill. The woman had previously attended KCLS for legal advice and was at risk of having her power disconnected. She explained that her adult children and her grandchildren were homeless and had moved in with her, escalating her power usage and leaving her to cover the cost of the bill. We assisted our client to prepare a budget and to apply for HUGS in order to alleviate some of the pressure of her power bill. We visited the client's home with her consent, to meet with her adult children and explain her financial predicament, and to help her to ask them to contribute to the costs of power usage. At the conclusion of the meeting, an agreement was reached, ensuring that our client would receive \$400 towards her power bill each fortnight, via Centrepay.

**Hannah Levy, Senior Solicitor and Financial Counsellor**



## 3.8 Law Reform and Legal Policy

### Stolen Wages



The *WA Stolen Wages Reparation Scheme* continued to be a major focus for law reform and legal policy work at KCLS this year. Most KCLS staff were involved in liaising with clients about Stolen Wages and undertaking activities to keep people informed of developments.

#### **Background**

The WA Government's Stolen Wages Reparation Scheme, spanned less than nine months - from 6 March 2012 to 30 November 2012 - and involved an ex-gratia payment of \$2,000 to Aboriginal people who met certain criteria. Specifically, claimants must have been born before 1 January 1958, and when living at a West Australian 'Government Native Welfare Settlement', must have had their income withheld and not repaid.

As outlined in the last two Annual Reports, KCLS staff talked to hundreds of Aboriginal people, many of whom strongly believed that the Scheme was unfair, because it failed to:

- respond to the effects of Stolen Wages on Aboriginal people as a group, as families and as communities;
- respond to the life experiences of people who had passed away or allow families to apply to honour deceased family members by, for example, erecting a headstone on their graves;
- allow families, Aboriginal communities or Aboriginal organisations, to apply for funds for programs or projects or even to acknowledge and record what had happened, and
- assist non-Aboriginal people to understand and properly respond to the treatment survivors had suffered.



Aboriginal people also felt that the amount of \$2,000 was far too little and was hurtful and insulting, given the context in which they had been denied income of all kinds and were required to work for rations or for rations and meagre wages.

The Scheme did not represent a negotiated settlement with Aboriginal people. The Government initiated the Scheme without notice and at the same time, released the WA Stolen Wages Taskforce Report, which it had withheld for almost four years. Prior to establishing the Stolen Wages Scheme, the Government failed to report back to Aboriginal people on the findings and recommendations of the Taskforce and to explain the reasons for rejecting many of its recommendations.

During the implementation of the Scheme, the Government refused to apologise to Aboriginal people regarding Stolen Wages and to provide basic information, such as the definition of '*Government Native Welfare Settlement*' (GNWS), which was a new term created to assess eligibility. Instead, people were advised to apply if they thought they might be eligible.

A significant number of Aboriginal people from the Kimberley region who worked on stations, were excluded from applying under the Scheme; many people sought to inform the Government of their problems, hoping that it would listen and negotiate a fair and proper process with them. Consequently, when the Scheme closed, Aboriginal people across WA had submitted almost 2,000 personal stories with their Stolen Wages applications, even though they were not required to do so.





### *Major developments during the year*

In 2014/15 KCLS worked with clients to advocate for a new process to address the injustices of Stolen Wages in WA. The focus of our work is outlined below.

- Explaining why the Government had assessed certain people as ineligible under the Scheme. The 60 clients who had successfully qualified for reparations, had nominated two or more locations and periods during which their income was withheld, in their applications. As the Government refused to write to clients to specify which location(s) and period(s) satisfied the eligibility criteria, KCLS used material obtained under Freedom of Information to advise clients as best we could. KCLS believes that clients have 'a right to know' and that details relating to eligibility may likely be relevant, if further reparations are provided for Stolen Wages in future.
- Acting for clients who sought to have questions regarding the development and operation of the WA Stolen Wages Scheme, asked in State Parliament.
- Preparing regular Stolen Wages information updates for clients and communities, which were often used as a 'script' to help staff provide progress reports to clients.
- Continuing to offer people the opportunity to sign a petition to the WA Legislative Council protesting the WA Government's response to Stolen Wages. KCLS Aboriginal workers, Ruth Abdullah, Healema Ward, Vanessa Lynch and Carlos Waina, together with KCLS Solicitors, Hannah Levy, Melissa Bateman, Andrew Turner, Sarah Meehan, Carol Wei and Meg Tait, all helped to spread word of the petition.
- Equipping Robin Chapple, Greens MLC for the Mining and Pastoral Region, with a petition of over 400 signatures (in June 2014), which was tabled in the WA Legislative Council. Further signed petitions were tabled in February 2015. The petitions called for the Legislative Council to establish a new process for Stolen Wages, which would involve consultation and negotiation with Aboriginal people. Under Legislative Council rules, the petition was referred for inquiry by the Environment and Public Affairs Committee, which neither called for public submissions nor evaluated the issues. Instead, the Committee concluded its process in September 2014, simply by noting the response from the Minister for Aboriginal Affairs.
- Using the Freedom of Information Act (in January 2015), to gather over 800 pages of material on the actuarial modelling undertaken by the 2007/8 WA Stolen Wages Taskforce. KCLS then sought clarification of certain matters relating to the completeness of the disclosure via internal review, and requested an external review by the WA Information Commissioner, which was still in progress at the end of the year. The material regarding actuarial modelling indicated that the Stolen Wages Taskforce recommended a payout of around \$60 million. The Scheme which the Government implemented, paid out less than 5% of this figure or \$2,526,000. The actuarial modelling, the absence of any reference to dollar figures in the published Stolen Wages Taskforce Report and the discrepancy between the modelling and the Scheme as implemented, were subsequently raised in debate in the WA Parliament.
- Facilitating the publication of the article *'Finger Money: The black and the white of Stolen Wages in Western Australia'* by Steve Kinnane, Judy Harrison and Isabelle Reinecke (in 'Looking West', Griffith Review, Vol 47). Published in February 2015 in Perth, by Her Excellency the Honourable Kerry Sanderson AO, Governor of Western Australia, the article traced and contextualised advocacy by Aboriginal people and KCLS in relation to Stolen Wages in Western Australia. 'Looking West' was also launched interstate, providing a further

opportunity for KCLS to extend awareness and networks in relation to Stolen Wages WA.

***In March 2015, Robin Chapple brought on a parliamentary debate in the Legislative Council which focused on the WA Government response to Stolen Wages. During the debate, Stephen Dawson, Labor MLC for the Mining and Pastoral Region, referred to the response so far, as: “another shameful stain on the state’s history of dealing with Aboriginal people in this State” (Legislative Council Hansard, 26 March 2015).***

- In May and June 2015, assisting reporter Ginny Stein, to prepare a story on WA Stolen Wages for ABC Lateline. The report (aired nationally on 27 July 2015), focused on the experiences of former station workers at Moola Bulla and around Halls Creek. Jane Butters, Oscar Yanigee and Josie Farrer, MP for the Kimberley, told their stories for the program.



### **Future directions**

In May 2015, the new Queensland ALP Government announced that it would allocate a further \$21 million to Stolen Wages in that State. This re-opened what had been a highly contentious Scheme after it began in Queensland in 2002. The renewed response in Queensland, provides a concrete example for Western Australia. Notably the ALP (WA) has committed to reviewing the issue.

At the close of the financial year, KCLS was still seeking material relating to Stolen Wages under the Freedom of Information Act and was providing information and assistance to the following three groups, so that they could express their views on what was happening:

- clients;
- community groups, and
- networks of services and agencies, advocates, academics and the media.

KCLS maintains contact with the WA Aboriginal Legal Service, concerning its work on commencing legal proceedings in relation to Stolen Wages.

**Judy Harrison, *pro bono* Solicitor**



### **WA Redress Scheme for Aboriginal people in the Kimberley**

This year – in collaboration with clients and networks in the Kimberley – KCLS continued its efforts to re-open the WA Redress Scheme.

#### ***Background to the Redress Issue***

The WA Government Redress Scheme was an administrative scheme which ran for 12 months from 1 May 2008, through which, people aged 18 years or over, who were abused or neglected in State care in WA before March 2006, were eligible to apply for redress. Potential applicants included Aboriginal and non-Aboriginal people (such as former British child migrants brought to Australia during WWII). Successful applicants were offered an ex-gratia payment of up to \$45,000, counselling and an apology.

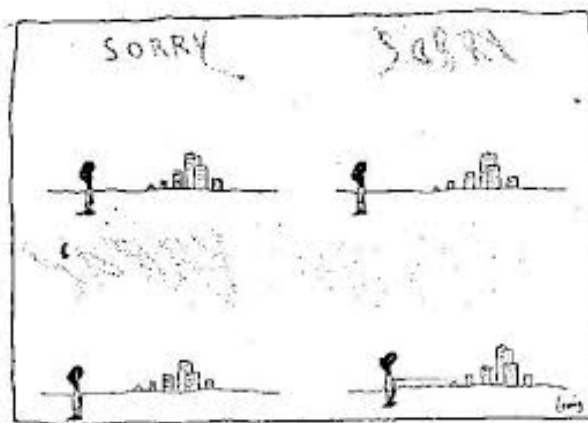
KCLS research undertaken in 2012, began to reveal the extent of the failure of the WA Redress Scheme, not only for Aboriginal people in the Kimberley, but also for Aboriginal people - particularly in remote areas - across the State. KCLS has collected hundreds it closed before they heard about it.

During 2014/15, KCLS worked with people who may have been eligible for redress, outlining the nature of the Scheme and documenting the names of clients who knew of it, who had applied and their outcomes. The work provided deeper insight into the numbers who missed out or who applied and received less than they should, because for example, they lost the opportunity to tell their full story.

Aboriginal people in the Kimberley and those across the State, had no voice in the development and implementation of the WA Redress Scheme. The Scheme appears to have been most effective in urban, rather than in regional and remote areas, and least effective for the most vulnerable, such as Aboriginal people with low literacy and limited access to information and assistance (which is common in remote areas).

The WA Government's resistance to evaluating the implementation, outcomes or impacts of the Scheme for Aboriginal people, continues and compounds the lack of focus on *substantive* equality, which also explains the failure of the Scheme.

KCLS research in the Kimberley, indicates that the majority of Aboriginal people affected by the WA Redress Scheme, have strong views about what went wrong. Many were unaware of the Scheme when it was open and want their experiences to be taken into account in the design of a new Scheme, specifically catering for Aboriginal people. Their desire for redress, contradicts the argument that revisiting the WA Redress Scheme would be distressing for those affected and that people have moved on. In fact, many Aboriginal people want to express their views, because they are still distressed by their treatment in care and under the Redress Scheme in WA.



KCLS has identified ways forward, which accord with the *Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of Human Rights and Serious Violations of International Humanitarian Law*, the internationally regarded standard for effective reparations (HREOC, 1997, Shelton, 2005 pp.11-34, UN General Assembly, 2005, Lawry, 2010).

The way forward begins by enabling Aboriginal people to determine and express their desire for a new Scheme and continues through a process of negotiation, which, in the spirit of the Basic Principles and Guidelines, involves the WA Government in developing the terms for reparations *in consultation with Aboriginal people*. Such an approach would address the requirement for reparations to represent a settlement, not something unilaterally determined and imposed by those seeking to make reparation.

KCLS research indicates that Aboriginal people want to be empowered during and through the reparation process and that they particularly favour:

1. The removal of time limits on a Scheme.
2. A revision of the methods for administering, monitoring and progressively evaluating the Scheme, so that Aboriginal people, families and communities affected, are involved in ensuring the its accountability.
3. Attention to details of the Scheme, including:
  - the form and processes of the apology;
  - ways to avoid recurrence;
  - means for recognising and honouring those who have passed away;
  - emotional support for individuals, families and communities;
  - forms of assistance for individuals who may wish to apply or re-apply, and
  - revision of the amount payable, options for payment in-kind or options other than one cash payment.
4. Consideration of the four key historical injustices experienced by Aboriginal people - which are currently treated separately in Government responses - as concurrent issues, namely:
  - Redress Scheme – abuse and neglect of Aboriginal people in State care;
  - Stolen Generations – the taking away, treatment and effects;
  - Stolen Wages – withholding income from Aboriginal people whether in institutions, on stations and in other contexts, and
  - Forced Adoption – removal of babies and children from Aboriginal mothers and families without their consent.



The main highlights of 2014/15 regarding WA Redress are listed below.

- Client-led efforts to raise complaints with members of Parliament and through questions in Parliament.
- A meeting between Josie Farrer, MP Member for the Kimberley and three sisters, now in their 50s, who asked for help to organise a public meeting in Halls Creek for former residents of Charles Perkins Hostel. The aim of the public meeting was to discuss the possibilities for making a joint submission to the WA Government to re-open the WA Redress Scheme. KCLS assisted and meeting arrangements were well-progressed by the end of the year. A precedent for the request lies in the 2013 inquiry and response by the WA Government regarding abuse at St Andrews Hostel at Katanning<sup>1</sup>.
- Securing information under the WA Freedom of Information Act, regarding internal Departmental reviews conducted into the effectiveness of the WA Redress Scheme. The information received, together with Ministerial responses to Parliamentary questions, confirmed that no process for community or stakeholder input into the effectiveness of the WA Redress Scheme was undertaken.
- Compiling submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse, which incorporated client experiences regarding the failures of the WA Redress Scheme. KCLS submissions contradicted those from the WA Government, which represented the WA Scheme as a success. KCLS highlighted how the WA Redress Scheme had failed many Aboriginal people in remote areas. Among the points which the Royal Commission has accepted, is that long periods should be allowed for people to apply for reparations and that short timeframes - such as that which occurred under WA Redress - are unsuitable and inadequate.

At the end of the year, KCLS was committed to working with affected clients to re-open the WA Redress Scheme.

## References

- Find and Connect, History and Information about Australian Orphanages, Children's Homes and Other Institutions, Country High Schools Hostels Ex Gratia Scheme, viewed 24 September 2015, <http://www.findandconnect.gov.au/ref/wa/biogs/WE00921b.htm>
- HREOC 1997. Bringing them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families Human Rights and Equal Opportunity Commission, Sydney, viewed 17 October 2012, <[http://www.humanrights.gov.au/social\\_justice/bth\\_report/index.html](http://www.humanrights.gov.au/social_justice/bth_report/index.html)>.
- Lawry, C. 2010. Moving Beyond the Apology: Achieving Full and Effective Reparations for the Stolen Generations. *Australian Indigenous Law Review*. University of New South Wales, Indigenous Law Centre, Sydney, Vol 14, Issue 2, pp. 83-99.
- Shelton, D. 2005. The United Nations Principles and Guidelines on Reparations: Context and Principles. In: Feyter, K., Parmentier, S., Bossuyt, M. & Lemmens, P. (eds.) *Out of the Ashes: Reparation for Victims of Gross and Systematic Human Rights Violations*. Intersentia, Antwerp and Oxford, pp. 11 -34.
- UN General Assembly 2005. The Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of Human Rights and Serious Violations of International Humanitarian Law United Nations, New York, Resolution 60/167, UN Doc A/Res/60/147, viewed 24 September 2015, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>.

**Judy Harrison, *pro bono* Solicitor**

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<sup>1</sup>Find and Connect, History and Information about Australian Orphanages, Children's Homes and Other Institutions, Country High Schools Hostels Ex Gratia Scheme, viewed 24 September 2015, <http://www.findandconnect.gov.au/ref/wa/biogs/WE00921b.htm>

## 4. Treasurer's Report and Audit

### 4.1 Treasurer's Report

KCLS reported a decrease in grant funding of 2% compared to the 2013/14 financial year. During the financial year, KCLS was required to find savings, as it decreased its unexpended grants and also received less grant funding. KCLS is now operating on minimum staff and conducts regular budget reviews.

KCLS received another unqualified audit report for the period 1<sup>st</sup> July 2014 – 30<sup>th</sup> June 2015. Congratulations goes to management and the team at KCLS for another successful year of providing legal services to the community, whilst also complying with all statutory accounting regulations and providing an unqualified audit report.

I also wish to thank Wunan Kimberley Business Support for their professional support over the past 12 months and for helping with the year-end audit. The audit was completed by LBW Chartered Accountants again this year.

**Yale Bolto CPA, Treasurer**

### 4.2 Auditors Report

#### Contents

1. Kimberley Community Legal Services Inc.
2. Commonwealth Community Legal Services Program
  - Family Relationship Centre
3. Indigenous Women's Program
4. Tenancy Advice and Education Service
5. Public Tenancy Support Service
6. Indigenous Tenancy Advocate Service
7. Financial Counselling Service
8. Commonwealth Financial Counselling Program