

Our Reconciliation Action Plan

By Chris Ronalds SC and Megan Black

It has been estimated that there are 208,364 Aboriginal and Torres Strait Islander people living in New South Wales. This represents 2.9 per cent of the overall population in New South Wales.

Recent statistics from Corrective Services NSW show that there were 5,368 Aboriginal and Torres Strait Islander people in NSW prisons. This represents 27.4 per cent of the overall prison population in New South Wales.

The challenges faced by Aboriginal and Torres Strait Islander people are serious. Policies and programs to improve health, educational attainment and rates of incarceration have had mixed success.

The Bar Association values Aboriginal and Torres Strait Islander heritage, culture and people. The approach of the association, especially through the work of the Indigenous Barristers Strategy Working Party and the Indigenous Barristers Trust The Mum Shirl Fund (the trust) reflect a strong commitment to make the New South Wales Bar more representative of the community in which we live and work.

To be consistent with the Indigenous population, there should currently be at least 62 Indigenous barristers in NSW.

While the number of Aboriginal and Torres Strait Islander barristers at the New South Wales Bar remains disappointingly low, there are some of the brightest and best currently honing their advocacy skills as solicitors in the NSW court system with plans to join the New South Wales Bar within the next five years. This new generation will make a substantial contribution to the NSW Bar in time and provide an active example of the benefits of effective reconciliation and the advantage of long term, careful career planning. To be consistent with the Indigenous population, there should currently be at least 62 Indigenous barristers in NSW.

In 2002, after a battle with the Australian Taxation Office for deductible gift recipient status¹, the New South Wales Bar established the trust to provide a pool of funds to assist Aboriginal and Torres Strait Islander people in coming to the NSW Bar. Meanwhile, the Indigenous Barristers Strategy Working Party

focused its efforts on providing pathways to the New South Wales Bar for Aboriginal and Torres Strait Islander law students studying law at NSW universities. The association maintains regular contact with all NSW law schools and provides information on its programs and conference funding opportunities when appropriate.

Programs in this area include an Indigenous mentoring program for law students. Since 2008, this program has run successfully and currently there are 31 barristers being mentors for NSW law students. There are a further 10 barristers who have continued to maintain regular contact with lawyers whom they mentored when law students. Indigenous law student part-time employment opportunities with barristers and chambers are organised with five students working for barristers in 2013.

Trish McDonald SC has been the mentor for Merinda Dutton, UNSW law student and says:

I have to confess in volunteering to be a mentor in the Indigenous law student mentoring scheme I wasn't solely motivated by altruism - there was a large element of self interest - could I possibly be matched with a relative of an Aussie Rules legend - maybe Adam Goodes' cousin or Michael O'Loughlin's sister?

Instead I was matched UNSW law student Merinda Dutton who is vibrant, confident, intelligent and a rugby league enthusiast. My initial impression on meeting her for the first time was that Merinda should be mentoring me - this has been confirmed over time.

During our mentoring relationship, we have discussed her university subjects, uni life, assignments, the pros and cons of subject options, commiserated on the difficult subjects ('Yes I never understood Real Property'), assessed possible internships, job opportunities and Merinda's future career. Another confession, I have acted on an ulterior motive in these discussions as I subtly advocate subjects or experiences that would assist Merinda ultimately in a career as a barrister ('the option Advanced Litigation would be a very good idea').

We also discuss sport, gyms, films and life in general. We share Imelda Marcos tendencies and recent shoe acquisitions are always compared.

During our relationship I have gained so much - I have learnt about Merinda's family, her culture and her background. As Merinda is very active in Indigenous affairs, I am now more knowledgeable about these issues.



Justice Joe Williams from New Zealand, Kristy Kennedy, Aboriginal solicitor, two Aboriginal barristers - Tony McAvoy and Mullenjaiwakka and Justice Michael Slattery.

Merinda has become an integral part of my life at the Bar, she comes to Chambers, has attended court with me and celebrated with me when I became senior counsel. I still have my fingers crossed that in the future I will be referring to Merinda Dutton barrister but in the meantime, my final confession, I have failed in my attempted conversion of her to Aussie Rules football.

In July 2013, Merinda Dutton was in her final semester of a Bachelor of Jurisprudence (criminology)/ Laws. She is a Gumbaynggirr and Barkandji woman, who grew up on the north coast of NSW. She says:

I have participated in the Bar Association's Indigenous Mentoring Program since my first year of uni, and was paired with Trish McDonald. As an Indigenous person, I am the first person from my family to enter the legal profession, and indeed, one of the first people in my family to study at university. Being paired with a barrister mentor offered me a unique and practical insight into a career at the Bar. Through participating in the Bar Association's Indigenous Mentoring Program, I was given the opportunity to network with various people in the legal profession, including barristers and judges. This is an opportunity which I would not have had otherwise.

Trish has been a great source of advice in both a professional and personal manner, and has been extremely generous in giving me an understanding of the practice of law. I am extremely grateful to Trish for her encouragement and for

taking the time to have lunch or coffee with me despite her extremely busy schedule.

I think that through meeting people such as Trish, I have developed a keen interest in practising law as a solicitor and to consider a career as a barrister at the NSW Bar.

The Bar Association hosts social events to build relationships between Indigenous law students and lawyers and members of the bar. In 2012, a successful night was held at Circular Quay when attendees watched the wonderful Vivid light show and listened to the journey of leading Maori judge, the Honourable Justice Joseph Williams.

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The trust has played a significant role in providing funding support for Indigenous law students and lawyers to attend national and international Indigenous conferences. The association created the National Indigenous Legal Conference and held the



Brett Marshall, Julie Marshall, Chris Duncan, Kristy Kennedy, Merinda Dutton, John Mewburn, Stephanie Bott, Mark Holden and Gemma McKinnon at the World Indigenous Legal Conference in Hamilton, New Zealand in September 2012.

inaugural conference in Sydney in 2006 and hosted the 2011 conference. This conference is now the premier Indigenous legal conference in Australia and provides an important networking opportunity and a focus on a wide range of Indigenous legal issues. The next conference will be held in Alice Springs in October 2013. The trust funded 10 students and lawyers to attend the World Indigenous Legal Conference in September 2012 in Hamilton, New Zealand.

Since December 2002, the association has hosted students participating in the Indigenous Pre-Law Course at UNSW. The course is a pathway to law school. During their visit, the students listen to some barristers' war stories, visit Chambers and sit in on a court case and then speak to the presiding judicial officer. The purpose of the day is to demonstrate the many aspects of the work of the NSW Bar and to encourage the students to consider the bar as an option further in their career.

In the next major step, the Bar Association has launched its Reconciliation Action Plan (RAP) and it commenced on 1 January 2013.

The Bar Association remains concerned about the

under-representation of Aboriginal and Torres Strait Islander people practising at the New South Wales Bar and seeks a legal profession in NSW that demonstrates equality and an absence of any discrimination, while reflecting the cultural and racial diversity of the NSW community.

The development of the RAP is important not only because it ensures that the association's efforts are consistent with national efforts towards reconciliation, but also because it documents the association's responsibility to ensure that the NSW Bar reflects the values of equity and diversity.

Reconciliation Australia has endorsed the association's RAP. Leah Armstrong, the CEO of Reconciliation Australia, has written:

The Association has a long history in engaging with Aboriginal and Torres Strait Islander communities—working with Aboriginal and Torres Strait Islander lawyers and law students since 1998 to assist them in developing and advancing their careers. In launching its RAP, the Association is continuing its commitment to improving educational pathways and the career prospects for Aboriginal and Torres Strait Islander lawyers in NSW.

I encourage all Aboriginal and Torres Strait Islander law

The RAP clearly sets out the Bar Association's goals for the coming years and the way that those goals can be achieved.

students and lawyers to make contact with the NSW Bar Association to take advantage of the opportunities available. It is through building these relationships that the Association will realise its goal of increasing the number of Aboriginal barristers practising at the NSW Bar.

Justice Michael Slattery, a long serving trustee of the Indigenous Barristers' Trust and a former association president, said:

The RAP demonstrates the leading role played by the NSW Bar in working with Indigenous communities especially in NSW to provide career development opportunities for Indigenous law students and lawyers. With barristers actively working with the students and developing close personal and professional relationships, the reality of reconciliation is reflected in the contact and benefit to all parties. Many barristers report that they fear the relationship is more beneficial for them than the student in light of the exchanges between them. Barristers can assist the student with their studies by providing guidance on essay writing, studying tips and effective ways to organise their studies. The students attend court and have an opportunity to review the brief and assist in research when they are more senior students. This means that the judgments they study at law school come to life and have more depth as they better understand the processes involved in successfully bringing a claim to court. To assist their future career development, the barrister is able to provide a reference when the student is seeking employment as a new solicitor and provide all important contacts to open the doors to future prospects.

These are just some of the practical ways that the Association continues to work with Indigenous law students and lawyers to ensure an increase in the participation rate of Aboriginal and Torres Strait Islander lawyers in the legal profession in NSW.

The RAP is an important document as it brings all the Association's programs and policies together in one coherent document and the annual review mechanism ensures that the RAP will remain fresh and relevant in the future.

The RAP clearly sets out the Bar Association's goals for the coming years and the way that those goals can be achieved. In doing so, the association is building on over 15 years' experience in creating pathways for Aboriginal and Torres Strait Islander people to the New South Wales Bar.

The RAP focuses on:

- Building relationships with the Indigenous Lawyers and Law Students Association of NSW, law schools, the Law Society, the Law Council of Australia, Aboriginal Legal Service, the association's committees and celebrating National Reconciliation Week.
- Building respect by engaging in cultural learning, acknowledgement of country, continuing professional development and participation in NAIDOC Week.
- Providing opportunities for Aboriginal and Torres Strait Islander people by supporting the Indigenous Barristers' Trust the Mum Shirl Fund, promoting participation in the Indigenous Barristers Strategy Working Party, promoting the Indigenous mentoring and employment schemes, hosting a seminar for the pre-law Indigenous students at UNSW, supporting the National Indigenous Legal Conference and engaging with Supply Nation (formerly Indigenous Minority Supplier Council).

Information in relation to the Indigenous Barristers Strategy Working Party, the trust and the association's Reconciliation Action Plan can be found on the association's website. Any enquiries can be directed to the chair of the Indigenous Barristers Strategy Working Party, Ms Chris Ronalds AM SC (ronalds@fjc.net.au) or senior policy lawyer, Megan Black (mblack@nswbar.asn.au).

Endnotes

1. *Trustees of the Indigenous Barristers' Trust v Commissioner of Taxation* [2002] FCA 1474; (2002) 127 FCR 63.