



The Hon. Gladys Berejiklian MP
Premier of New South Wales

The Hon. Michael Speakman SC MP
Attorney General of New South Wales

31 July 2020

Dear Premier and Attorney General,

First Nations lawyers call for Walama Court to address First Nations over-incarceration

Ngalaya (nar-lee-ah) writes on behalf of the undersigned, and the 750 First Nations lawyers and law students that we represent across New South Wales. Founded in 1997, Ngalaya supports the growing number of First Nations legal practitioners, students and academics. Our membership ranges from our most senior members of the profession and academia, to the next generation of First Nations law-makers. We draw on our collective expertise in our call for urgent action on the over-incarceration of First Nations people in NSW.

On 30 July 2020 the Joint Council on Closing the Gap released the new National Agreement on Closing the Gap (CTG). That agreement includes justice targets in the CTG process for the first time. The proposed targets require a fifteen per cent reduction in the over-incarceration of First Nations people by 2031.

We urge the NSW Government to pursue the immediate establishment of the Walama Court as a keystone reform in its 12 month implementation plan for the new CTG Justice targets. The hybrid model of the Walama Court is based on sentencing practices that are proven to reduce recidivism and incarceration compared to conventional sentencing. BOCSAR has demonstrated the benefits of Circle Sentencing in NSW, and we commend the NSW Government on its expansion of the Youth Koori Court. It is time to extend and broaden this approach for First Nations men and women to reduce their over-incarceration at a rate 13.5 times higher than non-Indigenous people in New South Wales.

The Walama Court is an evidence-based model with strong support from First Nations people, the District Court, and the legal profession. It will be an Indigenous sentencing court within the District Court of NSW and will reduce the number of First Nations people in the criminal justice system by reducing recidivism and increasing compliance with court orders. The Walama Court model recognises the cultural authority of First Nations Elders and the importance of community-centred, holistic support for First Nations people.

The Department of Justice's costings demonstrate that a Walama Court will provide a net economic benefit to the state. The Walama Court has been recommended by the NSW Ice Inquiry (2020) and the ALRC's *Pathways to Justice* Report (2017). There are strong economic, social and evidence-based arguments in favour of the Walama Court.

Ngalaya recommends the NSW Government establish the Walama Court as a matter of urgency. As a collective of First Nations legal practitioners committed to empowering First Nations people, we add our voice to the chorus of support for a Walama Court. It is our view that whatever response NSW ultimately adopts to the CTG Justice targets, a Walama Court must be part of that process.

Please do not hesitate to contact us should you wish to discuss the Walama Court or any other related matter.

Yours faithfully,

Kate Sinclair
Chairperson
Ngalaya Indigenous Corporation

Tony McAvoy SC, Barrister
Frederick Jordan Chambers

Dr Terri Janke, Solicitor
Director, Terri Janke and
Company

Brian Bero, Principal Solicitor
Jaramer Legal

Damian Beaufile, Barrister
Garfield Barwick Chambers

Loren Collyer, Student
Advancement Officer & Casual
Academic, Wollotuka Institute,
Newcastle University

Jessica Kitch, Solicitor
Legal Aid NSW

Ganur Maynard, Graduate
Herbert Smith Freehills

Distinguished Prof. Larissa
Behrendt AO, Professor of Law
and Director of Research,
Jumbunna Institute for
Indigenous Education and
Research

Duane Keighran, Partner
Colin Biggers & Paisley

Emmanuel Bell, Associate
Dentons

Alison Whittaker, Senior
Researcher, Jumbunna Institute
for Indigenous Education and
Research

Kishaya Delaney, Legal
Researcher, Public Interest
Advocacy Centre

Oscar Monaghan, Solicitor
Aboriginal Legal Service

Professor Megan Davis,
Professor of Law and Pro
Vice-Chancellor Indigenous,
Balnaves Chair in
Constitutional Law UNSW
Sydney

Carrie Nicol, Solicitor
Director, Karim + Nicol
Lawyers

Teela Reid, Solicitor
Legal Aid NSW

Eddie Synot, Centre
Manager Indigenous Law
Centre UNSW Sydney

Mark Holden, Solicitor
Financial Rights Legal
Centre

Jason O'Neil, PhD
Candidate Nura Gili UNSW

Zachary Armytage, ALAP
Coordinator CLCNSW

Danielle Captain-Webb,
Solicitor Legal Aid NSW

Dayne Syron, Industrial
Officer CFMEU

Jake Fing, PLT Law Graduate,
NSW Government

Michelle Toy, Graduate
Nous Group

Charisma Cubillo, Solicitor
Terri Janke and Company

Tori Pearson, Graduate
Herbert Smith Freehills

Faith Sheridan, Legal
Researcher, Gilbert + Tobin

Isabella Borchert-Jonker
Paralegal, ANU Legal Office

Noah Bedford, Law Student
UNSW Sydney

Olivia Henderson,
Law Student UTS

**Jumbunna Institute for
Indigenous Education and
Research**

**Indigenous Law Centre
UNSW Law**

**Public Interest Advocacy
Centre**

**Community Legal Centres
New South Wales**

Ngalaya members available for comment

Ganur Maynard, Graduate, Herbert Smith Freehills: Ganur.Maynard@hsf.com

Damian Beaufiles, Barrister, Garfield Barwick Chambers: dbeaufiles@chambers.net.au