

Australian Native Title Law

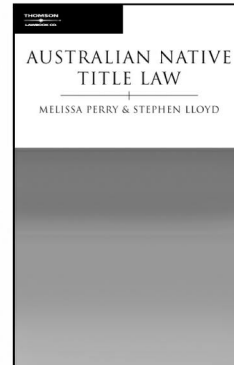
Melissa Perry and Stephen Lloyd

Native title issues continue to affect a wide range of interests, not only through native title litigation, but also in areas such as planning and development, and mineral exploitation.

This important new text provides a sound understanding of the law of native title in Australia. The *Native Title Act 1993* is annotated and explained in detail, with comprehensive references to relevant authority and materials. The introductory chapters place the Act in context, and explain essential concepts and principles, which underpin the Act, including relevant principles of constitutional, property and discrimination law. The authors' extensive experience in this and related areas finds reflection in the depth of analysis and practical insights provided by the book.

This outstanding new work will provide a valuable contribution to the area of native title law, and appeal to practitioners and those who advise in this area.

A resource CD is included for immediate access to the significant cases referred to in the text, and to key legislation.



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US Free Trade Agreement bedevils public interest law and policy

Dr Patricia Randal, *Principal Policy Officer*

The 1000 page text of the Australia US Free Trade Agreement (USFTA) released in March has been surrounded by controversy. The government claims there are economic benefits for Australia, but economic studies predict either marginal benefits or slight losses. Economists ranging from the *Sydney Morning Herald's* Ross Gittins to *The Australian's* Allan Wood have been sceptical, given the exclusion of sugar and limited access to other US agricultural markets.

The concerns of PIAC and other community organisations in the Australian Fair Trade and Investment Network (AFTINET) are about the restraints the USFTA places on important public interest regulation. US negotiators openly identified as barriers to trade Australia's price controls on medicines through the Pharmaceutical Benefits Scheme, quarantine law, labelling of genetically engineered food and Australian content rules in film and television. The Australian government claims that no important concessions have been made in these areas.

But the devil is in the detail. Our analysis of the text shows that the agreement does indeed set up a series of processes that undermine the ability of governments to regulate in the public interest in key areas. Once social policy processes are in a trade agreement they are subject to a trade tribunal disputes process based on trade law, not on public interest criteria. The decisions are made by three trade law specialists, and can be enforced by trade or financial penalties. A similar disputes process in

the World Trade Organisation found recently that US laws restricting access to internet gambling to prevent social harm are a barrier to trade. Trade law does not recognise social harm. PIAC has argued consistently that social policies should not be subjugated to trade law in this way and that they should be totally excluded from trade agreements.

The USFTA pressures Australia to adopt US models of regulation, rather than vice versa. The clearest example is the commitment to adopt US copyright laws, which means that royalties must be paid for an extra 20 years. As Australia is a net importer of copyrighted works, this will be costly for libraries and educational bodies.

In other areas, we have not immediately adopted the US standard. But the agreement enables US drug companies to seek reviews of decisions of the Pharmaceutical Benefits Advisory Committee, which will mean pressure for higher prices. The agreement also sets up Joint US-Australian committees to review future Australian policies on medicines, on quarantine and on technical standards like food labelling, including labelling of GE foods. This will mean continual US pressure to adopt their standards, backed up by use of complaints to the trade tribunal.

The USFTA also has a "negative list" structure for services and investment. The implication of such a list is that all regulation of services and investment is subject to the agreement unless it is specifically excluded.

➔ p 2

From the Director

Just over ten years ago, the South African Independent Electoral Commission (IEC) asked me if I would accept a short-term appointment as Director, Monitoring of the South African elections for Australia. I had left South Africa for Australia almost 5 years earlier and had been at PIAC for three. What the appointment entailed was working with the Australian and New Zealand Electoral Commissions to ensure that South Africans living or travelling in both countries in April 1994, could exercise their vote in South Africa's first non-racial, democratic election. PIAC supported the appointment and was engaged by the IEC to provide services to facilitate my role.

Working into the late evenings and at night when South Africa began its day, PIAC's then Director, Michael Hogan and office co-ordinator, Launa Jabour, guided me in contacting people in each state and territory to act as observers and monitors at various polling booths across Australia and New Zealand who were to oversee a "free and fair" election. While we were obviously removed from the actual site of change, we undertook our task knowing that we had been given an incredible

opportunity and privilege, that in some small way, we were contributing to the transformation of a nation that was struggling towards a just and democratic society.

As South Africa celebrates 10 years of freedom, I look back on almost 13 years at PIAC in various roles, 7 as Director, with a similar appreciation of my task. Working at this "gutsy little legal Centre" (so described by *Sydney Morning Herald*, journalist, Debra Jopson in a recent article on Stolen Wages) has been an extraordinary and transformative experience. During my time at PIAC we have navigated the rough seas of changing times and tackled unpopular and complex issues in the hope of creating fair and just outcomes for our clients and constituencies.

In June this year, I will leave PIAC and take up an appointment at the School of Law at the University of NSW. Over the years, I have worked on a variety of legal cases, policy projects, training and communication initiatives and programs, such as the Public Interest Law Clearing House and the Homeless Persons Legal Service. My work has covered a fascinating array of areas – access to justice, health, consumer

protection, human rights, Indigenous justice – and exposed me to the expertise and commitment of my colleagues and members of my Boards, to the extraordinary generosity from funders, government, the private legal profession, and individuals like Dr Peter Cashman, and to consistent support from the media, universities and academics and community organisations, in Australia and abroad.

To have the freedom to work in an independent organisation with an ambitious public interest charter, is a freedom which we cannot take for granted. As Australia slides towards an insidious erosion of rights, it is critical that organisations such as PIAC continue to be supported and indeed bolstered, so that the significant challenges thrown up by a declining democracy – many displaying features alarmingly reminiscent of apartheid South Africa - can be effectively addressed.

Thank you to all my colleagues, past and present, to the PIAC and PILCH Boards and to our extraordinary clients and supporters. May our paths continue to cross and may PIAC and PILCH get more "gutsy" by the minute.

US Free Trade Agreement devils

continued from page 1

Australia has not excluded electricity or water services. This means that future government regulation of these services could be challenged if it does not give "national treatment" and full market access to US firms, or if it is considered "too burdensome" for business.

It may be in the public interest to limit foreign ownership or management of water resources.

In the regulation of markets in water rights for the Murray-Darling Basin,

there may be arguments for be some priority for local landholders, or some limits to be placed on foreign investment. Such regulation would be inconsistent with the agreement and could be challenged by the US government.

A Senate Select Committee and the Joint Standing Committee on Treaties are currently conducting inquiries into the text of the USFTA, with public hearings and reports to parliament in June and July. Like all trade agreements, parliament does not vote on the whole treaty, but only on the selected pieces of legislation required for implementation. The US FTA was signed on 18 May. But the agreement will only be valid if the

implementing legislation is passed through the Australian Parliament after debate in August.

The agreement also has to be approved by the US Congress. The ALP, Democrats and Greens have all pledged to vote against the implementing legislation in the Senate if it does not meet the interests of Australians. The inquiries provide an opportunity for community organisations to assess the agreement and to tell our political representatives to vote against the implementing legislation if it is not in the national interest. See www.aftinet.org.au for further information.

Stolen Aboriginal wages

Alexis Goodstone, Senior Solicitor

Over the last few years, PIAC's work with Indigenous communities has led to the investigation of claims by clients who were denied access to wages, allowances and pensions held on trust by the Aborigines Welfare Board (AWB) and subsequently the NSW Government. PIAC currently has over 50 clients who claim they are owed Trust Fund monies.

Background

Between around 1930 and 1969, Trust Funds were established for Aboriginal apprentices (mostly domestic workers and farm labourers), recipients of child or other endowments, pensioners (eg widow's pension) and beneficiaries of other payments in NSW. In many cases, a small amount was paid directly to the Aboriginal worker or person entitled, and the remaining monies held by the AWB in a Trust Fund on their behalf.

This arrangement originated from a belief held by governments of the day that Aboriginal people could not adequately manage their own money without the intervention of the State. To date, many Aboriginal people have never received the money owing to them from these Trust Funds.

When the AWB was abolished in 1969 its responsibilities passed to the Department of Youth and Community Services, now known as the Department of Community Services (DoCS).

PIAC FOI

In 2003, PIAC obtained documents from the Department of Community Services (DoCS) under the *Freedom of Information Act 1982* (Cth), which revealed that DoCS had considered implementing a scheme to repay Aboriginal people their Trust Fund monies. The proposal, which was never implemented, was developed in 1998 and was relatively detailed and advanced.

The pay-back proposal, developed in 1998, appears to have formed the basis of a Cabinet Minute dated 12 April 2001

titled *Aboriginal Trust Funds Payback Scheme Proposal*, details of which appeared in the *National Indigenous Times*. The Minute sought to gain Cabinet's endorsement for the establishment of a scheme to reimburse Aboriginal Trust Funds monies to rightful claimants at fair value in contemporary currency.

PIAC Advocacy

Following the discovery of key documents under FOI, PIAC sought an urgent meeting with the DoCS Director-General to discuss the proposed payback scheme and the entitlements of our clients. The Director-General did not take up our invitation. Following publication of the FOI documents by the *Sydney Morning Herald*, briefing meetings were held between PIAC, the Greens and cross-benchers and senior staff of the Minister for Community Services.

At these meetings, PIAC advocated for the implementation of the scheme devised by DoCS in 1998, following comprehensive consultation with the Aboriginal community. We emphasised the importance of an expeditious scheme with fair criteria for eligibility and proof of claims, a commitment to compensating heirs, an appeals process and the provision of independent legal advice.

Carr's Announcements

On 11 March 2004, the Premier of NSW, Mr Bob Carr, formally apologised to Aboriginal people who had their wages and other entitlements stolen between 1900 and 1969. Speaking in the NSW Parliament, the Premier also gave in principle support to develop a scheme to identify and reimburse those who are owed money from Aboriginal Trust Funds. The announcement by the Premier to develop the payback scheme indicates a long overdue but nevertheless welcome commitment by

the NSW Government to pay outstanding debts.

More recently, on 5 May, this commitment was furthered with the announcement by the Premier that a panel of three Indigenous experts will oversee the development of the scheme and the consultation process.

As the NSW Government begins preparations for assessing and repaying outstanding monies owed to Indigenous people who have had their wages and other entitlements withheld since the early 1900s, Indigenous leaders in Queensland have called on the Queensland Government to renegotiate its stolen wages offer, saying that the NSW offer has 'outstripped that offered to Queenslanders'.

Perhaps the key to the discrepancy is that the Queensland Government has described the repayment of these debts not as 'replacement of money owed, but (as) a gesture of reconciliation'.

Queensland's Indigenous Affairs Minister, Liddy Clark, said while no amount of money could make up for past injustices, her government was proud of its offer. Indications to date are that the NSW Government sees the money owed as constituting a debt. To use reconciliation as a basis for repayment is a cynical gesture and can only undermine both the Queensland Government's bona fides and the spirit of reconciliation. We hope the NSW Government's commitment to those owed money is not muddied by notions of reconciliation.

In the interim, PIAC will continue to act for our clients in investigating legal claims. At the same time, we hope to continue our dialogue with Government on the implementation of the payback scheme.

For more information about PIAC's work on the Stolen Wages issue, please contact Alexis Goodstone or Shahzad Rind at PIAC on 02 9299 7833 or by email at agoodstone@piac.asn.au or srind@piac.asn.au.

Homeless Persons Legal Service: Free legal services for the homeless and those at risk of homelessness

Andrea Durbach, *Director and PILCH Co-ordinator*

After Bryce Brudges, solicitor for Edward Eagar Lodge, a Wesley Mission centre for homeless people in Darlinghurst, signed a memorandum of understanding with PILCH law firm, Allen Arthur Robinson detailing their roles and responsibilities as partners of the PIAC/PILCH Homeless Persons Legal Service, he wrote to PIAC saying:

"On behalf of the Wesley Mission I wish to express our gratitude to PIAC and to Allens for including Edward Eagar Lodge in this exciting project. I have been with the Mission for approximately 20 years and I know that this is the first time that any members of the legal profession have given support to us in caring for the needy and disadvantaged, for persons with disabilities or for those with social and financial problems as encountered by our Lifeline Services."

Early in 2003, PIAC undertook preliminary research into issues surrounding homelessness and the law. We took our lead from the establishment by PILCH Victoria of a Homeless Legal Persons Clinic in Melbourne, which had operated with great success. In September last year, after the completion of a comprehensive legal analysis and feasibility study, the Public Interest Law Clearing House (PILCH) approved a proposal to implement a joint project with PIAC to provide legal services to homeless people in New South Wales.

The Homeless Persons Legal Service, launched by NSW Attorney General, Bob Debus and Clover Moore MP, Lord Mayor of Sydney, in May this year, will see extensive resources committed to the Service by PILCH member firms to assist one of the most disadvantaged and marginalised sectors in the Australian community. One quarter of Australia's homeless youth live in NSW

and the state hosts a large percentage of Australians living in impoverished dwellings (30%). Importantly, the Commonwealth Department of Family and Community Services, via its National Homelessness Strategy, and the NSW Attorney General's Department (via the Public Purpose Fund) have supported the Service by approving grants funding its operations.

The provision of housing is often seen as a simple, efficient solution to the needs of the homeless. During the consultation process which gave rise to the feasibility study, PIAC/PILCH identified that unresolved legal issues often lead to homelessness. Unless these underlying issues were resolved in a way which offered a durable solution, the risk of homelessness remained – a situation which the provision of housing per se may fail to remedy. More particularly, it was found that when legal issues are not addressed at an early stage, they compound to create barriers to maintaining stable and/or long-term accommodation. For example, where a person accumulates fines for a series of minor offences or is increasingly finding it hard to meet maintenance obligations and is unable to access social security services, defaults in rent payments usually follow with the threat of eviction.

Lawyers from PILCH member law firms will attend welfare agencies accessed by homeless people and people at risk of homelessness, to provide targeted legal information, advice and representation. The Service model has been developed to allow for:

- face-to-face legal services with a continuity of legal personnel;

- the provision of legal services at locations familiar to and easily accessible by clients;
- the availability of complimentary services required by homeless people, such as financial counselling, drug and alcohol counselling and accommodation crisis assistance.

In addition, PIAC/PILCH developed and co-ordinated a training program which brought together over 100 lawyers participating in the Service in April and May to hear experts from community legal centres, the homeless community, PILCH law firms, community agencies and the NSW Legal Aid Commission. The training program introduced lawyers to both the social and legal issues facing homeless clients, including communicating with homeless clients, housing and tenancy law, fines, intellectual disability and mental health, guardianship, victims compensation, social security, wills and estates, debt, consumer credit and bankruptcy, employment and discrimination, criminal law, family law, child support and immigration.

PIAC/PILCH and Service lawyers will also undertake policy and law reform work and community education to address systemic issues (identified via the Service) affecting homeless people.

The Service is currently administered by Co-ordinator, Michelle Rabsch, on secondment to PIAC for 6 months from PILCH firm, Minter Ellison. PIAC's Principal Solicitor, Simon Moran, will work with the Service Co-ordinator and Reference Group in overseeing legal practice issues and general management of the Service. For information about the Service, such as hours of operation, please call Michelle Rabsch on 02-9299-7833.

Federal government seeks to exclude drug addiction from the protection of disability discrimination law

Anne Mainsbridge, *Solicitor*

In February 2004, PIAC was one of 118 concerned organisations and individuals to lodge a written submission with the Senate Legal and Constitutional Legislation Committee of Inquiry (“the Committee”) into the provisions of the Disability Discrimination Amendment Bill 2003.

The Bill, which was introduced into the House of Representatives by Attorney-General Ruddock on 3 December 2003, seeks to amend the *Disability Discrimination Act, 1992* (Cth) by removing the prohibition on disability discrimination on the ground of a person’s addiction to a prohibited drug. If enacted, the Bill would effectively sanction discrimination against people who are addicted to prohibited drugs, unless they are receiving treatment for their addiction. Such discrimination would be lawful in a wide range of areas of public life, including employment, education, provision of goods and services and accommodation.

On 4 December 2003, the Senate referred the provisions of the Bill to the Committee for inquiry and report.

PIAC’s submission to the Committee strongly opposed the Bill, highlighting its potential to contravene Australia’s international human rights obligations and to further marginalise vulnerable social groups, including the homeless. In addition, PIAC pointed to the enormous practical difficulties faced by many drug dependent people in accessing treatment, particularly if they suffer from other disabilities or if they live in rural or remote areas.

Anne Mainsbridge, a solicitor with PIAC, was one of 26 witnesses who appeared at public hearings held by the Senate Committee in March 2004.

The Committee’s Report, which was tabled on 15 April, recommended that the Bill would benefit from wider consultation and that it be referred to the Ministerial Council on Drugs Strategy for consideration. It also recommended that if the legislation is viewed as necessary for employment, then if the Bill proceeds, its application should be restricted to the employment environment only. Dissenting reports by the Labour Senators and the Australian Democrats recommended that the Bill not proceed at all.

PIAC’s submission was referred to throughout the Committee’s Report. The Report particularly noted PIAC’s concerns in relation to homeless people, quoting PIAC’s submission that “The Bill will not protect the spouse or child of a drug user if they become homeless as a result of the drug user being denied employment or evicted from their accommodation” (p 41).

In addition, the Report referred to PIAC’s concerns in relation to people with addiction problems who live in rural and remote areas. These people, “often face significant geographical and practical barriers in accessing treatment services. It is not uncommon for such people to have to travel considerable distances to access treatment, assuming that treatment is available” (p 32).

The Committee’s Report and copies of submissions (including PIAC’s submission) can be accessed via the Senate website www.aph.gov.au/senate_legal.

For further information please contact Anne Mainsbridge at PIAC on (02) 9299 7833 or amainsbridge@piac.asn.au.



*Judith Levitan, Kristen Howden, Michelle Rabsch, and Lindsay Prehn.
Past and present HPLS Minter Ellison secondees at the launch of the Homeless
Persons Legal Service on 20 May.
(Photo: Anton Hermann)*

Vale Trish Benson

Andrea Durbach, *Director*

Trish Benson, Senior Policy Officer with PIAC's Utility Consumers' Advocacy Program passed away on 8 January 2004 after suffering a brain aneurysm in late December.

Reproduced below is the eulogy delivered by Andrea Durbach, PIAC's Director, at Trish's funeral on 12 January 2004.



To Trish's mother, Enid, sisters, Judy and Marilyn, brother, Peter and precious daughter, Phoebe

The loss of our loved and treasured colleague and friend, Trish, has left every one of us at PIAC, staff and Board, filled with deep, deep sadness and inconceivable shock. As most of you will know, Trish (or Teeb, as I called her), joined PIAC 5 years ago to head the newly established Utility Consumers' Advocacy Program (UCAP).

Before working at PIAC, Trish had steered a formidable history of achievement working at the Combined Pensioners and Superannuants Association of NSW, the Consumers' Telecommunications Network (CTN), the Disability Council of NSW, the Council of Social Service of NSW

(NCOSS) and a number of housing organisations and women's refuges. She turned UCAP into an extraordinarily successful and highly respected powerhouse brokering relationships between government, utility providers and communities to magnificent effect. We are all immensely proud and appreciative of her work in this regard.

As a colleague, Trish's skills, commitment and passion travelled into boundless areas and touched many people across different lives and worlds. The endless daily calls of concern about Trish to PIAC throughout the last 2 weeks are testimony to Trish's reach. Her energy and capacity to take life on was striking. Never content just to do what her significant UCAP role demanded, Trish leapt into other areas of PIAC's work. She co-ordinated and edited the second edition of PIAC's advocacy training manual, *Working the System* (with Bev Duffy), initiated the Refit project (boasting collectors item showerheads) and with Shaz Rind, PIAC's Indigenous justice solicitor, innovated an electricity payment scheme for residents of the Block at Redfern. And despite her prolific production of submissions on megawatts of electricity, grids, consumption of kilojoules and site inspections of transformers and gas pipes and underground lines, all decked out in her hard-hat, she still found time to read heady volumes of Eric Hobsbawm, tackle the daily crossword, do exquisite tapestry and in between making duck L'orange and Italian feasts, would find me the best recipe for a good old-fashioned hot toddy to fight winter flu.

Trish, as your colleagues, we delight in your integrity, your unyielding

curiosity, your firm and robust views, your sassy, incisive mind, your constant eye for opportunity. And as our friends, we adore your care and warmth, your feisty stance, your dry and quirky wit, your direct gaze, your loyalty and your strong and ready laugh. As PIAC Board Director, Joanna Kalowski said: You will leave a very large space for so slight a woman. For all of this we thank you and for something more - for bringing into our lives a spirit so strong and one which has carried all of us through the last few weeks. The spirit and the strength that is Phoebe. Trish, your adored Phoebe, is so much a part of us all at PIAC. We have shared your times of pride in her, of concern for her, and the joy that she brought you. And we have been lucky to have Phoebe work as part of the PIAC team from time to time and bring us her beauty, her grace and now her extraordinary strength. Phoebe, like Trish, you are a part of us and we love and cherish our relationship with you.

I end with the words of Pablo Neruda from his poem, *I Will Come Back*:

"Some time, man or woman, traveller, afterwards, when I am not alive look here, look for me here between the stones and the ocean, in the light storming in the foam.

Look here, look for me here, for here is where I shall come, saying nothing, no voice, no mouth, pure here I shall be again the movement of the water, of its wild heart, here I shall be both lost and found - here I shall be perhaps both stone and silence."

Go gently, dear Trish

PIAC advocates for unfettered discretion in civil penalty case

Simon Moran, *Principal Solicitor*

In a case which raised the role and functions of a court and in particular, the exercise of its discretion, PIAC was granted leave as amicus curiae before the Full Federal Court to consider the Court's powers and responsibilities when asked to give effect to a civil penalty agreed to by the parties (the Minister, as regulator, and Mobil Oil, who admitted to breaching legislation).

The decision in *Minister for Industry, Tourism and Resources v Mobil Oil* [2004] FCAFC 72, handed down on 30 March 2004, considered a specific question referred to the Full Court by Chief Justice Black on the recommendation of Justice Gyles, who was to determine the matter at first instance. The question concerned whether the Court was bound to accept – in effect, rubberstamp – a civil penalty negotiated and agreed to by the parties.

The matter concerned the operation of the *Petroleum Retail Marketing Sites Act 1980* (Cth) (the "Sites Act"). Pursuant to the Sites Act, oil companies are allowed to operate a proscribed number of petroleum retail outlets. Between January 1998 to January 2000, Mobil operated in excess of their allowed quota. Mobil admitted breaches of the Sites Act to the regulator, the Minister for Industry, Tourism and Resources ("the Minister") and accordingly, became liable to pay a civil penalty.

The Minister and Mobil agreed on a penalty and proceedings were initiated in the Federal Court. The Federal Court is authorised by the Sites Act to determine questions of contravention and the levels of penalty.

The parties filed an agreed statement of facts and advised the Court of the agreed penalty. Relying on *NW Frozen Foods Pty Ltd v Australian Competition and Consumer Commission* ("NW Frozen Foods"), the parties argued that the Court was bound to accept the penalty amount agreed to by the parties.

Justice Gyles recommended to the Chief Justice that the question as to whether he was obliged to follow *NW Frozen Foods* and whether *NW Frozen Foods*, appropriately applied, required him to accept the agreed penalty amount, be referred to the Full Court.

In its submission to the Full Court, PIAC as amicus curiae, contended that the *Sites Act* required the Court to determine whether a party had contravened a section and set a penalty based on the evidence before it. While the Court could be assisted by a joint submission, it had ultimate responsibility for determining the penalty and consequently, was not bound by a joint submission from the parties as to penalty.

Thus, it was argued that the proceedings were evidently commenced to obtain orders from the Court giving effect to the agreed outcome (the penalty), without a transparent examination of the issues in contest or those underlying the agreement. Accordingly, the Court was left without any independent, objective standard against which to measure the "agreed facts" or the appropriateness of the penalty proposed by the parties.

PIAC's submissions also addressed the existence, nature and scope of

discretionary powers inferred upon the Court by statutory provisions and considered fair and transparent procedures the Court might adopt for dealing with proposals for "agreed outcomes" in similar cases.

The Full Federal Court held that it was not bound to accept the agreed penalty and stressed that the Court has the responsibility of exercising its discretion as to whether a proposed penalty is within the appropriate range for the relevant contravention. The Court highlighted the significance of relevant evidence. It said at [79]:

"the Court should be satisfied that it is being given accurate, reliable and complete information on critical questions. If not satisfied that it has sufficient information to support the "agreed" approach, the Court can request the parties to provide additional evidence or information. If that information or evidence is not provided, the Court might well decide that it should impose a different sentence or penalty from that proposed by the prosecution or regulator (as the case may be)."

On the role of amicus curiae, the Court stated that in a case involving a civil penalty where there is no contradictor, the Court may request assistance from an amicus curiae or a potential intervenor pursuant to the Federal Court Rules (Order 6 rule 17) to assist it in its deliberations as to penalty.

The Australian Competition and Consumer Commission also sought and was granted leave to intervene.

PIAC is grateful to Mr Geoff Lindsay SC and Mr Tony Payne who acted as pro bono counsel in the matter.

PILCH News and Views

PILCH lawyers support homeless

Over 100 PILCH lawyers have taken up the opportunity to assist the Homeless Persons' Legal Service (HPLS), a joint initiative of PILCH and PIAC. Following intensive training on social and legal issues confronting those experiencing homelessness, volunteer lawyers are providing free face-to-face legal services to homeless clients and those at risk of homelessness at five welfare agencies, four located in the inner city and one at Parramatta. The HPLS was launched in May as a pilot and the aim is to expand the Service following the implementation phase.

PILCH member firm support for the HPLS has been a significant factor in the development and implementation of the initiative – representation on the HPLS Steering Committee, the provision of solicitors on secondment to conduct a legal needs analysis and develop and implement the model of service, volunteer lawyers from 6 member firms undertaking responsibility for the agency-based legal services, provision of presenters and training facilities for the training program for Service lawyers and development and printing of HPLS promotional material. Our thanks to all PILCH members who have supported this important undertaking.

For information on the HPLS and opportunities to participate contact Michelle Rabsch at homelessproject@piac.asn.au.

New members

PILCH is delighted to welcome new members Clayton Utz and Watts McCray. Both firms have a demonstrated commitment to pro bono legal service and we look forward to working with their lawyers.

Secondees – a firm commitment

Secondees continue to make a vital contribution to PILCH's assessment and referral work as well as assisting with projects and promotional activities. Graeme Edgerton from Gilbert + Tobin completed a three month secondment in February 2004 and was followed by Jennifer Cripps from Freehills.

PILCH is currently seeking to extend the period of secondments from 3 to 4 months. Our thanks to Minter Ellison and Allens Arthur Robinson who have each agreed to provide a solicitor on 4 month secondments covering the period June 2004 to end January 2005. Secondees are now being sought for 2005. Secondee solicitor, Graeme Edgerton, wrote:

"It has been rewarding to assist non-profit organisations and disadvantaged clients to obtain legal advice. My knowledge of the community sector and the legal issues faced by its members has increased significantly. The breadth of services and the number of projects being undertaken is far greater than I realised, and I have an increased understanding now of the importance of assisting these organisations through pro bono legal advice. A PILCH secondment is an excellent way in which junior lawyers can acquire skills with a wide application."

Please contact Sandra Stevenson for information about secondments at sstevenson@piac.asn.au.

Practising in the public interest

The PIAC/PILCH *Practising in the Public Interest* (PIPI) course conducted twice a year as a Summer and Winter School for senior law students from participating universities is now entering its fifth year.

PILCH members continue to play a major role in the delivery and success of the course through the provision of training facilities, speakers for the training component of the course and accepting students for the 2-day placement component of the program.

The PIPI Summer School, with the Universities of Sydney and Wollongong, was hosted by Freehills in February. Planning is underway for the July Winter School for law students from the University of Western Sydney and Macquarie University. The course will be hosted by Coudert Brothers.

On Board

We welcome new Board members John Taberner, Freehills, Keith Robinson, Minter Ellison, David Hillard, Clayton Utz, Robert Bryden, Brydens Law Office, Cassandra Reynolds, PricewaterhouseCoopers and Geoff Lindsay SC.

Our thanks to retiring Board members Sarah Dunn, Joe Catanzariti, Michael Lee, Alan Kirkland, Hugh Marshall SC and Stephen McClintock .

Annual summer clerks function

A record number of summer clerks from PILCH member firms attended the annual PILCH function for clerks held on 28 January 2004. Over 140 clerks attended the PILCH breakfast hosted by Deacons. Clerks were addressed by Deacons partner Mitchell Mathas, PILCH Co-ordinator Andrea Durbach, and PILCH secondee solicitor, Graeme Edgerton. The large number of clerks attending the breakfast and their enthusiastic response to the discussion of pro bono issues demonstrated the interest of law students and young lawyers in seeking out and undertaking pro bono work as part of their private practice.

PILCH Referrals

Discrimination/Human Rights

John Basten QC provided advice to an advocacy organisation representing non-English speaking people with disabilities. The advice considered the Minister for Immigration's power to reconsider a decision cancelling a visa where a person's disability was not taken into account when determining the cancellation. **Chris Ronalds**, barrister, advised on a complainant's prospects in an Administrative Decisions Tribunal sex discrimination action against a former employer.

Management and Governance

Minter Ellison assisted a community agency providing services to women escaping domestic violence to redraft its constitution and advised them on an organisational restructure. **Tress Cox** advised a peak community sector agency regarding the negotiation of policies as part of a bulk buying insurance scheme aimed at providing cover for community sector organisations. An organisation promoting reconciliation was advised by **Gilbert + Tobin** on alterations to its constitution.

PricewaterhouseCoopers Legal advised a community legal research centre on public indemnity and insurance issues.

Minter Ellison assisted a peak community services body in relation to the organisation's membership definition under its constitution.

Phillips Fox advised a community organisation providing support and assistance to the aged and people with disabilities on its incorporation under the Corporations Act 2001 (Cth) and related tax implications.

Leases

Coudert Brothers assisted an organisation providing services to the

frail and aged on special conditions regarding its leasing arrangements.

Mallesons Stephen Jaques advised an immigrant women's organisation on lease arrangements. **Freehills** provided assistance to a cultural organisation regarding an application for DGR status. **Baker & McKenzie** assisted a community centre with drafting a memorandum of understanding with a local council concerning leasing and operational issues. An organisation providing support to families dealing with alcohol and drug abuse was advised by **Allens Arthur Robinson** on insurance and leasing arrangements.

Workplace issues

Henry Davis York provided advice on the implications of recent amendments to the *Legal Profession Act 1987* (NSW) for advice given by tenancy workers at community legal centres. **Ebsworth & Ebsworth** assisted an individual with chronic fatigue syndrome seeking redress against a former employer and its insurance company in relation to the cessation of income protection insurance payments. **Baker & McKenzie** advised a community health agency concerned with adolescent health in respect of a draft employment contract. **Deacons** provided industrial relations advice to a community legal centre.

Funding

Barrister **Steven Reeves, 5th Floor Wentworth Chambers**, advised a community legal centre in relation to Commonwealth funding issues.

Tax

Acuiti Legal assisted a community legal research centre to establish a charitable entity. **Corrs Chambers Westgarth** advised a community services organisation on its PBI status following a recent ATO determination. **Freehills** provided advice to a peak community organisation on the impact of the *Tax*

Laws Amendment (2004 Measures No.1) Bill (Cth) on PBIs and non-profit organisations with PBI exempt status.

Refugees / Immigration

A refugee on interim release from detention following habeas corpus proceedings was assisted by **Henry Davis York** in relation to final orders.

Environment

Woolf Associates advised a community environmental organisation seeking to challenge the development of an industrial facility on prospects of appealing a Land and Environment Court decision.

Other matters

Holding Redlich assisted an arts program in drafting an intellectual property agreement to promote the protection of the IP rights of young artists. A former resident of a nursing home seeking to obtain a portion of a consolidated fund administered by the nursing home in which he claimed a beneficial interest was assisted by barrister **Matthew Darke, 10th Floor Selborne Chambers**. **Whyburn & Associates** advised a peak organisation representing legal centres in relation to a disclaimer clause required to be signed in respect of data recording.

Allens Arthur Robinson assisted an Aboriginal family group seeking compensation from the Coal Compensation Board for coal allegedly within the boundaries of traditional Aboriginal land. A residents' group opposing a Local Council Plan of Management was advised by **Wiltshire Webb**.

Ebsworth & Ebsworth is advising a peak organisation for the community television sector in relation to litigation concerning access to digital pay television services.

The Women's Report Card

Anne Pettitt, Policy Officer

International human rights processes often provide an opportunity to stimulate advocacy work in Australia. Similarly, the United Nations (UN) human rights treaty monitoring processes provide an opportunity for governments and communities to assess and evaluate Australia's human rights performance.

Non-government organisations (NGOs) are encouraged to submit 'shadow' or 'alternative' reports to the UN. This is an opportunity for civil society to provide a particular UN Committee with a more detailed picture of the government's human rights performance.

At the end of 2003, the Australian Government submitted its combined 4th and 5th reports to the UN Committee overseeing the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW). This Committee will review Australia's human rights performance with regard to the Convention in 2005.

For the past year, the Women's Rights Action Network Australia (WRANA) has been co-ordinating a national project to document women's experiences in relation to human rights and gender equality in Australia to prepare an NGO report for the CEDAW Committee. PIAC Policy Officer, Annie Pettitt, has been involved in the project as the co-convenor of the National Working Group.

Following national consultations the Women's Report Card project will produce two reports – a Community Report and a CEDAW Shadow Report. The Community Report will present an analysis of women's rights in each State and Territory and federally in Australia. Informed by the Community Report, the Shadow Report will be presented to the CEDAW Committee to inform their consideration of the Australian Government's human rights performance. It will also be presented to

the Federal and State/ Territory governments so they can appreciate what women in Australia consider to be important human rights issues.

The Women's Report Card is focusing on 7 areas that broadly encompass the rights contained in CEDAW. They are: economic security/development; education; health; housing and utilities; leadership/ political participation; legal status, and violence against women.

State and Territory consultations are now well underway. Each State / Territory has a working group made up of individuals and women representing NGOs. The National Network of Indigenous Women's Legal Services is also supporting the project and will co-ordinate consultations with Indigenous women across Australia.

In NSW consultations have been undertaken by Immigrant Women Speakout and People with Disability (PWD). The largest public consultation took place at the *Our Rights, Our Voices* forum in March in Merrylands, co-ordinated by NSW Council of Social Service and the NSW State Working Group.

Our Rights, Our Voices was attended by nearly 100 women from a broad cross-section of the community. The Older Women's Network Choir performed a fabulous selection of sassy political numbers and the South Western Sydney Legal Theatre Project conducted a theatre workshop on domestic violence.

Together with PWD, Speakout and Kingsford Legal Centre, PIAC provided training about women's human rights and the international human rights treaty monitoring process. However, the largest part of the day was spent in talking circles. The talking circles were a combination of open sessions and separate sessions devoted specifically to address issues faced by Indigenous women, women from culturally and

linguistically diverse worlds and women with disability. Key issues raised at the forum include:

- **Housing** – availability and affordability; adaptability of housing for women with disability; unsuitable location of emergency housing impacting especially on Indigenous women.
- **Health** - problems associated with interpreters used for women from CALD backgrounds.
- **Law and Justice** – lack of understanding about rights; need more education; lack of Domestic Violence Aboriginal Liaison Officers.
- **Education, Economic Security and Employment** – need for education about Aboriginal culture; access to education, employment and economic security for women with disability.
- **Political participation** – insufficient education, training and support for women to participate in the political arena; lack of Indigenous representation in government institutions.
- **Violence against Women** – insufficient resources and services; need for more funding; for Indigenous women the whole family needs to be healed – services need to recognise and respond to this need.

The Community Report will be useful for women involved in local advocacy and campaigning. In particular, the report will be used in the lead up to the federal election to be held later this year to inform political parties and to let political candidates know what issues concern women in their electorates.

An integral component of the project is the opportunity to strengthen women's knowledge about protecting human rights and specifically about CEDAW.

Litigation update

In a test case examining the rights of unaccompanied minor asylum seekers to procedural fairness, PIAC is assisting an unaccompanied minor from China in proceedings in the Federal Court. The Department of Immigration & Multicultural & Indigenous Affairs (“DIMIA”) denied our client’s application for protection and she subsequently sought review in the Refugee Review Tribunal (“RRT”). She alleges that her migration agent failed to inform her of her right to appear at the RRT hearing. As a result she did not attend the hearing, effectively abandoning her application. Despite our client’s non-attendance at the hearing, the RRT affirmed DIMIA’s decision.

The grounds of our client’s application to the Federal Court are, inter alia, that the RRT failed to accord procedural fairness in that it made no inquiries as to whether:

- the minor had appropriate legal assistance,
- understood any advice given to her;
- and had the assistance of an appropriate guardian.

Counsel John Basten QC and Shane Prince have been instructed.

The **rights of people with disabilities to access to premises and services** was the central issue in *Andrews v Inverell Shire Council*. The matter has settled successfully. Mr Andrews, who is blind, claimed that as a consequence of his disability and the absence of appropriate road crossings, he was unable to access the centre of his local town, Inverell, on his own. He made a complaint of disability discrimination to the Human Rights & Equal Opportunity Commission (“HREOC”). The complaint was not successfully conciliated and Mr Andrews lodged an application to the Federal Magistrate’s Court in which he sought the construction of appropriate street crossings.

After intensive negotiations a settlement was agreed between the parties which

resulted in the construction of two crossings in the Inverell CBD. Shortly after the settlement of this matter, Tamworth Shire Council announced that it would also construct a number of crossings in its CBD to facilitate access to all the areas of the CBD.

The **rights of children to education** that is relevant and of good quality and reflects individual need was the subject of a written advice by PIAC to the Dusseldorp Skills Forum (DSF). DSF have recently published the advice. DSF had requested advice on the nature of Australian governments’ obligations, if any, to provide relevant and good quality education in the context of the implementation of legislative extensions of the period of compulsory education.

PIAC’s advice considered the right to education in international law, under Australian statutory provisions and in the common law. The advice concludes with a consideration of the implications of increasing the school-leaving age and finally, explores legislative amendments which could be proposed to ensure that children have a right to education that is relevant, of good quality and reflects individual need. Simon Moran will address the Learning Choices Expo on this topic in late June.

In a matter raising important issues regarding the accountability of organisations which store **confidential information** electronically, PIAC successfully assisted a client whose confidential information was inadvertently disclosed on the internet by a service provider. Our client alleged that the organisation’s conduct breached a number of **Information Protection Principles** under the *Privacy and Personal Information Protection Act, 1998* (NSW) (“the PPIP Act”).

PIAC requested the service provider to conduct an internal review of the alleged breaches pursuant to section 53 of the PPIP Act. Our client considered the review unsatisfactory in a number of

respects and an Application for Review was subsequently filed in the Administrative Decisions Tribunal of NSW (“ADT”). Following informal settlement negotiations between the parties, the matter was settled on a confidential basis. PIAC understands that the service provider has now made certain administrative and technological changes to its computer systems to ensure that there is not a recurrence of such an event.

At a time of intense public debate over the protection the Disability Discrimination Act affords to drug users, PIAC is representing a client who was effectively demoted by his employer and subjected to other forms of detrimental treatment after the employer became aware that he was receiving treatment for a methadone addiction. Our client has lodged a complaint of disability discrimination in employment with HREOC and seeks an apology, compensation and reinstatement to his former position.

In a case which challenges assumptions about people with disabilities, PIAC acts for a client who was denied a component of a loan repayment insurance policy on the basis that he suffers from diabetes. Our client alleges that he was **denied insurance** as the company based its assessment of his application on stereotypical assumptions. Although our client had lodged a complaint of disability discrimination in the Anti-Discrimination Board of NSW (“ADB”) several years ago, the named respondent had failed to respond to the complaint and no progress had been made towards resolution of the matter.

The matter was subsequently referred to the ADT by the President of the Anti-Discrimination Board, at which point PIAC agreed to represent the complainant. Settlement negotiations between the parties are underway, following two case conferences in the ADT.

Policy Report

Dr Patricia Ranald, *Principal Policy Officer*

Protecting Human Rights

The education kit which comprises the first stage of PIAC's Protecting Human Rights project, funded by the Myer Foundation, was released in June 2004. The kit begins with an introduction to international human rights conventions, notes that Australia is one of very few industrialised countries with no Charter or Bill of Rights and discusses different options for better protection of human rights.

The kit contains fourteen fact sheets each with case studies showing the lack of human rights protection in specific areas. Examples range from civil and political rights, race, religious, age and sexuality discrimination, to the rights of women, workers, people with disability, Indigenous people, refugees and asylum seekers. The fact sheets, developed by Annie Pettitt and Pat Ranald in consultation with a wide range of community organisations, also cover rights to health, education, social security, housing and environmental protection.

The kit, launched in June by Professor Hilary Charlesworth, is available on the PIAC website. Stage Two of the project will use the kit to train 60 trainers from community organisations across Australia who will conduct training in their own communities. Stage Three will focus on policy development and advocacy work with political parties. Funding is still being sought for the second and third stages of the project.

Fair Trade and Human Rights

"Ten devils in the detail of the US Free Trade Agreement", published by AFTINET, was launched at a public meeting in April. The publication, written by Pat Ranald and Louise

Southalan, attracted wide media and community interest, with 40,000 copies distributed in three weeks.

The publication summarises the text of the agreement and assesses its impacts on public policy in a range of areas including access to affordable medicines, regulation of essential services like water, Australian content rules for new media, quarantine and food labelling (See front page article).

Pat Ranald presented a submission to the Joint Standing Committee on Treaties Inquiry into the USFTA on April 19 elaborating on these issues. For copies of the publication and submission, and more information about the Inquiries see www.aftinet.org.au

UN Optional Protocol on Economic, Social and Cultural Rights

PIAC and other community organisations wrote to the UN Commission on Human Rights, expressing support for an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Such a protocol would enable people in Australia to make complaints to the UN about breaches of these rights once domestic legal remedies had been exhausted.

While the Australian Government has not supported continued work on the adoption of the Protocol, other countries have indicated support and a working party of the UN Human Rights Commission will continue to progress this initiative.

Anti-terrorism Bill 2004

In March the Anti-Terrorism Bill 2004 proposed by the Federal Government was referred to the Senate Legal and Constitutional Committee. PIAC made a submission to the Committee about several of the amendments proposed.

PIAC argued in its submission to the Committee that the Bill's proposed amendment of the *Crimes Act 1914* (Cth) breached fundamental civil liberties. The Bill proposes to extend the permitted interrogation period to a maximum of 20 hours. Currently, the *Crimes Act* allows for the detention of a suspect for up to 4 hours (2 hours for people under 18 years and Indigenous people), with the option to extend this by a maximum of 8 hours in the case of serious offences. The amendment would mean that people could be detained without charge for up to 24 hours or 22 hours for people under 18 and Indigenous people.

Moreover, the amendments would allow investigators to suspend or delay the investigation period in order to make international inquiries in different time zones. PIAC's submission argued that extensions to this "dead time" could mean there is no limit on the time that a person can be detained without charge.

PIAC also objected to the proposed definition of a 'foreign indictable offence', which specifically includes offences tried by a military commission of the United States of America. If passed this definition would give recognition in Australian law to offences that are the creation of the executive arm of the United States Government. This would breach a basic cornerstone of democracy and the Australian political and legal system, the separation of powers.

PIAC's submission can be found on our website www.piac.asn.au

Training News

Carolyn Grenville, *Training Co-ordinator*

Practising in the public interest – sending students out to “save the world”

For four years PIAC and PILCH have been partnering with universities to run *Practising in the Public Interest* (PIPI) courses. The week-long PIPI course aims to give students a taste of practising law in the public interest, whether in a private law firm with a pro bono program, or in public agencies such as the Legal Aid Commission, Aboriginal Legal Service or Human Rights and Equal Opportunity Commission.

The course often has a dramatic impact on students who come away inspired to seek out jobs with public interest and pro bono opportunities. Some students are delightfully surprised by the pro bono programs that are quietly run by many private law firms. Other students are excited and confronted by the demanding work that the public agencies undertake.

During the university vacation in February PIAC ran a summer school for final year law students from the Universities of Sydney and Wollongong. 12 students attended three days training, together with two days of placement in law firms and organisations that undertake pro bono and public interest work. The training days were generously hosted by Freehills, a PILCH member firm.

PIPI certainly hit the mark for one Sydney University student, Katie Walsh, who wrote to us after this year's summer school. She said:

“Just a quick note to thank you for the brilliant PIPI course which I had the good fortune to attend in February. It

was great to get an insight into all the facets of advocacy, and truly inspiring that there are organisations out there like PIAC who are fighting for change, for the benefit of all....My scepticism and disillusionment have been tempered; my motivation reinstalled. The placement at the Aboriginal Legal Service was also fantastic, a thought provoking learning experience.”

The PIPI winter school will be held 19-23 July in partnership with Macquarie University and the University of Western Sydney.

Training wheels

PIAC Training Coordinator Carolyn Grenville has her bags permanently packed at the moment as she takes PIAC's training on the road. Demand for advocacy training is high in regional and rural NSW, and around Australia.

2004 sees PIAC training transported to:

- Orange and Tamworth to train health consumer advocates with the Cancer Council of NSW
- the Hunter region, Byron Bay and Coffs Harbour to train Emergency Relief Workers for the NSW Council of Social Service
- Far West NSW (Walgett, Bourke, Broken Hill and Dareton) to train community and consumer advocates through the Far West Area Health Service.

In 2003 PIAC training was delivered to organisations and groups in Melbourne, Brisbane, Townsville, Wagga, Canberra, Newcastle, the Illawarra, Geraldton, and Byron Bay.

Advocacy training at the beach

Last December PIAC Principal Solicitor Simon Moran was a guest presenter at the Southern Cross University Public Interest Advocacy Summer School at Byron Bay. The course was a great success, bringing together academics, visiting advocates and North Coast activists with loads of experience in running local “green” campaigns. The university organisers are intending to run it again in December this year. If you want to know more about the course, contact Carolyn Grenville at PIAC (see details below).

Au revoir Sarah – welcome Katharine

If you have attended PIAC training you will probably have been assisted by administrator Sarah Mitchell who is taking maternity leave from May to have her first baby. Our thanks and best wishes go with Sarah on her new adventure. We are delighted to welcome Katharine Slattery to fill in for Sarah over the next year.

2004 advocacy training program

PIAC is a Registered Training Organisation as assessed by the NSW Vocational Education and Training Board. We deliver public training programs to assist individuals and communities to be effective advocates, whatever your issue or cause. We can also customise our training and bring it to your group or organisation.

For more information or to join our mailing list please contact Carolyn Grenville or Katharine Slattery on 02 9299 7833 or piac@piac.asn.au

UCAP Report

Jim Wellmore, Senior Policy Officer, UCAP

Doubts over energy regulation

PIAC continues to be disappointed with the outcomes for residential consumers of recent reforms in the energy industries. Households continue to face pressure for significant price increases despite a series of costly and complex reforms which had been promised to deliver economic benefits and lower prices.

The important question is whether the regulatory approach adopted for these industries continues to be appropriate. The standard approach to measuring earnings and setting prices for providers of energy and water is 'incentive regulation'. Both the Independent Pricing and Regulatory Tribunal (IPART) in NSW and the ACCC nationally use this model. Incentive regulation is supposed to create cost efficiencies within the businesses and pass some of these to customers in the form of lower prices.

Yet, in recent months PIAC has observed that the utility businesses increasingly are being rewarded, through higher prices, for manipulating their costs. In both the transmission and distribution areas of the electricity industry the businesses are learning that they can exceed their forecast spending on new assets without attracting a penalty from the regulators. Since the total value of assets is a major factor in final prices the conservative stance of the regulators to this capital spending means that large price hikes for customers are becoming almost automatic.

In energy retailing the news for NSW consumers appears to be slightly better. Retail is the smallest segment of these industries, covering less than 10% of a total household energy bill. Nonetheless, the NSW Government has made an important decision in choosing to retain a system of price caps on retail charges.

While retail is seen as an obvious area for competition between providers, the majority of households will remain in a monopoly arrangement with their existing supplier. Here choice is exercised not by consumers but by the retailers. In many cases they refuse to accept people as customers on competitive supply contracts. This situation is observed in even more mature energy markets such as in Britain. The potential for price exploitation of 'undesirable' customers, especially those on low-incomes or with small consumption, will be a permanent problem.

There are crucial differences between retail and the other segments of the energy industries. Distribution and transmission are natural monopoly industries and not open to competition. Yet, without price protection such as that implemented in NSW, household consumers in other states have seen their electricity prices rising steadily since the introduction of competition.

While sceptical about the claims made for competition reform in utilities, PIAC believes there is clear evidence emerging of the need for a strengthened regulatory regime in these industries.

Households and water

The demand for water in the Sydney metropolitan area continues to be a major focus for UCAP. This is a difficult public interest issue because of the need to balance the obvious need of the community for an affordable and reliable water supply with the longer term concerns about the capacity of the environment to continue to meet the needs of our population.

Currently Sydney as a whole is using more water than what is 'safely sustainable' for the environment. This represents an intergenerational issue -

failure to deal with the problem now will force a more drastic response in the future. The NSW Government, IPART, Sydney Water and community groups have been debating what might be the appropriate mix of price and other measures for resolving this question.

PIAC has been at pains to argue the damaging social iniquity of relying on price to meet water conservation targets. Instead, we have been promoting consideration of 'water efficiency' retrofitting schemes directed at residential water users. This has been based largely on the success of our pilot REFIT scheme for energy efficiency undertaken in the Hunter region in 2002. While modest price increases would be needed to fund such a scheme for water, the program could readily be targeted at low-income people in the first instance, thus offsetting the impact of higher prices.

PIAC also has pointed to the need for Sydney Water to make a greater effort in reducing water use. This includes devoting more resources to reducing 'system losses' through leaking mains pipes as well as consumer education. Unfortunately, recently announced budget cuts affecting Sydney Water will threaten even their existing programs on water conservation.

UCAP Staff

Elissa Freeman has joined PIAC in the role of UCAP Policy Officer. A welcome addition to our small team, Elissa brings experience with disadvantaged clients at the Legal Aid Commission and community consultation from her time with the Roads and Traffic Authority in the area of regulatory affairs. Formal training in economics will also ensure that Elissa adds a valuable contribution to our utilities work.

PIAC People

The past 6 months have seen many changes to the staff at PIAC. In January, Trish Benson, consumer advocate extraordinaire, passed away leaving us all deeply shocked at the loss of our friend and colleague (see page 6).

After almost 13 years, firstly as Assistant Director, then head of PIAC's legal practice, PIAC Director and PILCH Co-ordinator of seven years, Andrea Durbach, has taken a new direction. She will join the School of Law at the University of New South Wales as an Associate Professor and Director of the Australian Human Rights Centre (AHRC). She will start her appointment at UNSW in late July after a farewell bash to end all farewell bashes in early June and a well-deserved break. PIAC and PILCH Board and staff wish Andrea well in her new endeavours (see From the Director on page 2).

In June, we welcome PIAC's new Director, Robin Banks. Robin joins us from solicitors, Henry Davis York, where she has been a Senior Associate, specialising in employment and discrimination law. She was previously

Co-ordinator of the Disability Discrimination Legal Centre (DDLC) and has worked as a policy officer at the Victorian Federation of CLCs, at the Canadian Human Rights Commission and as a disability advocate in Alice Springs. Robin is also the Secretary and NSW Convenor of Australian Lawyers for Human Rights

As mentioned by Carolyn Grenville in the Training News on page 13, Sarah Mitchell, Policy & Training administrator is taking maternity leave from May to have her first baby. Our thanks and best wishes go with Sarah as she embarks upon her new adventure! We are delighted that Katharine Slattery joined us in May to fill in for Sarah over the next year. Katharine comes to us from Ireland where she worked with University College Dublin.

Elissa Freeman joined PIAC in March as a Policy Officer with the Utilities Consumers Advocacy Program. Elissa has previously worked with the NSW Legal Aid Commission and the RTA.

As always, PILCH member firms have made an enormous contribution by seconding solicitors to PIAC and PILCH to assist with projects and litigation. Minter Ellison and Freehills have assisted with seconding solicitors to PILCH for various periods. PILCH thanks these firms for their generous commitment and our appreciation to Michelle Rabsch, Lindsay Prehn and Jennifer Cripps for their work with the Homeless Persons Legal Service and PILCH.

PIAC's work is also enhanced from time to time by College of Law placements and other volunteers.

Our most recent College of Law placement, Victoria Lee, has provided excellent support to the litigation team from January to May. Daniella Gavshon, a student from the University of Sydney Law School, worked with PIAC lawyers as part of her clinical studies course, and is also undertaking a project on child trafficking. University of Wollongong student, Linda Steele, has been assisting PIAC solicitors by undertaking research into Aboriginal Stolen Wages.

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