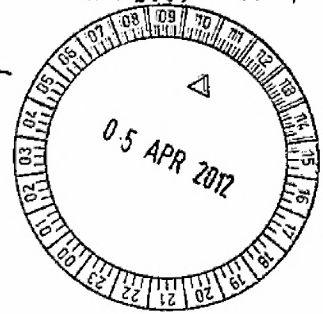


**Kott Gunning**  
LAWYERS



5 April 2012

Hon Brian Ellis  
Standing Committee on Environment & Public Affairs

Our Ref: MOUR-V/101048  
KJC:1177201\_1

Writer: Kellie Cook  
9321 3755

By Facsimile: 9222 7805

kcook@kottgunn.com.au  
Partner: David Miller  
9321 3755  
dmiller@kottgunn.com.au

Dear Sir

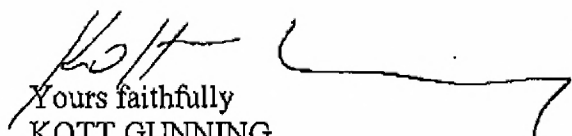
**WAJARRI PEOPLE'S TRUST**

We refer to the above matter and confirm that we act for Victor Mourambine.

Victor has provided our office with a copy of your letter dated 8 March 2012, requesting submissions be made in relation to Petition No. 149.

Please find enclosed a copy of the submission we have prepared on behalf of our client. We hope the submission provides sufficient information with respect to the background of the matter, and some issues and concerns that have been raised throughout.

Should you require any further information, or wish to discuss the matter please do not hesitate to contact Kellie Cook of our office.

  
Yours faithfully  
KOTT GUNNING  
Enc.

**SUBMISSIONS TO  
THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC  
AFFAIRS**

Kott Gunning has been instructed by Victor Mourambine with regards to the Wajarri People's Trust (the Trust). Abul Shahid who is an accountant with offices in Geraldton is the sole trustee of the Trust (the Trustee).

Kott Gunning initially made contact with the Trustee by letter dated 25 May 2010 seeking information. A response from the Trustees lawyers, Dwyer Durack, on 16 June 2010 stated that such information could not be provided until mid August 2010.

Since this time Kott Gunning made an application under Section 20 of the *Charitable Trusts Act* to the Attorney General for a review of the administration and management of the Trust. This request was passed to the State Solicitor's Office on 30 July 2010 at the direction of the Attorney General. The State Solicitor's Office conducted a preliminary review which completed in September 2011, with the receipt of a letter from the Attorney General advising that he would not be conducting a review. No further information was provided.

Our client has not made a complaint in relation to this matter to the Parliamentary Commissioner for Administrative Investigations.

**Background and Concerns**

The Trust was established by deed dated 4 May 2004 for the purpose of '*the relief of poverty, sickness, suffering, distress, misfortune or destitution of the Primary Beneficiaries*', with the primary beneficiaries being defined as '*the Wajarri People*'.

In 2005 a supplementary trust deed was executed by the Trustee which altered the definition of a beneficiary to be '*people of Aboriginal Descent living (permanently or temporarily) in the State of Western Australia*'. Prior to Kott Gunning's involvement an explanation for the execution of this supplementary deed was never provided although it significantly broadens the scope of beneficiaries. We have been informed now by letter that the amendment occurred at the request of the Australian Taxation Office in order to retain the Trust's classification as a charitable organisation. We have requested copies of this communication but to date none has not been provided.

There is an Advisory Committee set up through the Trust in order to make recommendations to the Trustee in relation to the investment and distribution of the Trust's monies. However the Trustee does have sole discretion in making decisions and is not bound to act on any recommendations made by the Advisory Committee.

Clauses 9.3 and 9.5 of the Trust Deed provides that the Trustee is required to consult each member of the Advisory Committee in relation to all distributions, expenses and variation prior to making a decision. We have raised concerns that this process is not occurring. We have been provided with a statutory declaration from David Jones (copy enclosed), a member of the Advisory Committee, which confirms that not all members of the Advisory Committee are consulted with regards to meetings, distributions, investments or the variation to the Trust Deed.

The Wajarri community is generally unaware as to how the Trustee is applying the funds of the Trust, especially as he has not provided a policy for how he determines requests from the community or the needs of the community. The Trustee has not provided any information as to what payments have been made to meet the purpose and what policies he is applying.