

**Joint presentation of the Ngará Yura Committee of the Judicial
Commission of NSW and the Francis Forbes Society for Australian
Legal History**

The history and personalities of the District Court's Walama List

Chair: The Hon. Justice Dina Yehia, Supreme
Court of NSW, Chair of the Ngará Yura
Committee

Panellists: Her Honour Judge Sarah Hopkins
Edwina Crawford
Elder Aunty Marcia Ella-Duncan OAM
Vanessa Edwige
Emma Hudson-Buhagiar
Anthony Brookman

Date: Tuesday, 5 November 2024

Time: 5.30pm – 6.30pm



ORDER OF EVENTS

1. **WELCOME TO COUNTRY** – by Aunty Marcia Ella-Duncan
2. **WELCOME** – by the Hon. Justice Dina Yehia, Supreme Court of NSW, Chair of the Ngara Yura Committee
3. **PANEL PRESENTATION**
4. **THANKS and CLOSE OF PROCEEDINGS** – by the Chair

THE HISTORY AND PERSONALITIES OF THE DISTRICT COURT'S WALAMA LIST

The List, commenced as a pilot in February 2022, provides a therapeutic and holistic approach to the sentencing of eligible Aboriginal and Torres Strait Islanders bringing elements of community into the process, creating a culturally responsible court. This panel discussion will follow the historical path that led to the establishment of the List and hear from many involved in the process and the List itself.

THE PANELLISTS

Her Honour Judge Sarah Hopkins – Judge Hopkins is one of four judges of the District Court of NSW presiding in the Walama List.

Prior to her appointment to the District Court, Judge Hopkins held various positions at the Aboriginal Legal Service NSW/ACT over a 25 year period, including the Principal Solicitor of Justice Projects, Policy and Practice, in which role she co-chaired the Closing the Gap Justice Targets Working Group, tasked with the design and implementation of the NSW program of work. An accredited specialist in criminal law, she lectured in the criminal process at the University of NSW.

Judge Hopkins was the founder and co-Chair of Just Reinvest NSW. In that role, she worked with the Bourke community on the Maranguka Justice Reinvestment Project, which was the recipient of the 2015 National Rural Law and Justice Award, with Just Reinvest NSW receiving the 2019 HESTA Community Organisation Award and 2019 Australian Human Rights Commission Community Organisation Award.

Throughout her career she served on numerous committees including the NSW Bar Association's Joint Working Party on the Over-representation of Indigenous People in the NSW Criminal Justice System, the Criminal Law Committee of the Law Society of NSW, the Steering Committee for the Red Cross Vulnerability Report, and as Vice President of the

NSW Council for Civil Liberties. In 2017 she was named the Community Lawyer of the Year by the Women Lawyers' Association of NSW.

Edwina Crawford – Director, Aboriginal Services Unit, NSW Department of Communities and Justice.

Working in the NSW public service isn't just a job to Edwina Crawford, Director of Aboriginal Services Unit, it is a calling.

For the past 23 years, Edwina has been making her mark on the sector in Aboriginal affairs in the justice policy area. A pivotal experience in her career was the three and a half years she spent as the former Deputy Premier, Andrew Refshauge's advisor on Aboriginal Affairs from 1999 to 2003.

Today Edwina is proud to lead a team of 58 dedicated staff, who mostly work in the Local Courts across the state.

"The mission of our unit is to build better pathways to justice for Aboriginal people through addressing the over-representation of our people in the criminal justice system,"

Vanessa Edwige – Vanessa is a Ngarabal woman from Emmaville, NSW. Vanessa is a registered psychologist and the Chair of the Australian Indigenous Psychologists Association. Vanessa is a Director on the Board of Gayaa Dhuwi (Proud Spirit) Australia. Vanessa has worked in Redfern, NSW for most of her career working predominantly with Aboriginal children, young people, families and community providing culturally responsive psychological support for adverse childhood experiences, intergenerational trauma and supporting cultural resilience. Vanessa currently works privately writing psychological reports for people involved in the judicial system, reports for the NSW and Victorian Coroners Court, and medicolegal reports. Vanessa has been writing these reports for over 15 years.

Vanessa is a member of the independent advisory panel for the NSW Public Defenders Bugmy Bar Book project and is a co-author on the Significance of Culture to Wellbeing, Healing and Rehabilitation which was commissioned for the Bugmy Bar Book Project. Vanessa also sits on the First Nations Advisory Group for the Office of the Director of Public Prosecutions NSW.

Elder Aunty Marcia Ella-Duncan OAM – Marcia was born and raised at La Perouse, and is an active member of the local Aboriginal community. She is a descendant of the Walbunja of the far south coast of NSW, and the Kamaegal of Botany Bay. Marcia maintains strong connections to her country and kinship networks. Marcia was the first Indigenous woman to hold a scholarship at the Australian Institute of Sport, and the first Indigenous woman to represent Australia in Netball.

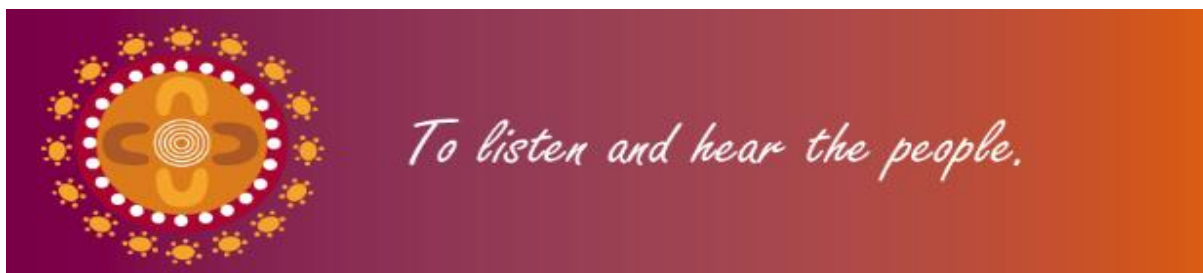
Marcia has many years' experience in Aboriginal Affairs across numerous portfolios including criminal justice, family and child wellbeing, land management, housing, cultural heritage and community development. She has held senior positions in State Government and ASTIC and participated in various high level review and consultative committees such as NSW Child Sexual Assault Taskforce 2006 (Chairperson), the Northern Territory Emergency Review Board which reported to the Australian Government in 2008, and the National Indigenous Voice Co-Design Senior Advisory Group. More recently, Marcia has worked as a private consultant specialising in strategic facilitation and Aboriginal community engagement. She currently Acting Regional Manager, Greater Sydney, Aboriginal Affairs NSW.

Emma Hudson-Buhagiar – Emma Hudson-Buhagiar is a proud Wiradjuri woman. She grew up on Bundjalung country before moving to study Law/Indigenous Studies at UNSW. After completing her studies, she worked as a paralegal at the Public Defenders. In 2017, she was accepted into the graduate program at Legal Aid NSW and worked in both criminal and civil law.

She then moved to the Aboriginal Legal Service where her passion for culturally appropriate advocacy and access to justice were put into practice. At the Aboriginal Legal Service, Emma has worked predominately in her current role as the Aboriginal Legal Service Senior Solicitor on the Walama List.

Anthony Brookman – Senior Solicitor, Walama List | Sydney, Office of the Director of Public Prosecutions NSW. Anthony Brookman has practised Criminal Law in NSW for some 19 years. He began as a volunteer at the Aboriginal Legal Service in 2005 and worked on and off for that organisation, between various stints with Legal Aid, for a total of approximately 3 years. At the ALS he practised extensively in Crime, as well as 6 months in the Care and Protection jurisdiction. He worked as a circuit solicitor for the ALS based out of Griffith for a year in 2007-08 and appeared regularly in the Local and District Courts across Southwestern NSW during that time. Anthony worked at Legal Aid for a total of approximately 9 years. For much of that time, he practised as a Local Court Duty Solicitor out of the Penrith, Burwood, Sydney and Newcastle offices. In 2014 he commenced in what was then the “Indictables” section at Legal Aid in Sydney, where he instructed Counsel in numerous District Court trials and various Crown applications in the Supreme Court.

In 2017 Anthony sought a change, and in November of that year he commenced as a committals solicitor with the Office of the Director of Public Prosecutions of NSW in Sydney. After some 5 years appearing for the prosecution in the Children’s, Local, District and Supreme Courts, he leapt at the chance to be a part of the Walama List Court pilot programme in 2022. Anthony began in Walama a few months after the pilot commenced. As the number of participants grew quickly, so did his Walama practice, and it is now his sole focus. The therapeutic and culturally focused approach of the Court is something he enjoys discussing with his colleagues at the DPP and with those in the wider legal community.



FURTHER READING REGARDING THE WALAMA LIST

Media Release and Walama List fact sheet [Pilot of specialist approach for sentencing Aboriginal offenders](#)

[The Bugmy Bar Book](#) including [Articles and Resources](#)

[District Court Criminal Practice Note 26 - Walama List Sentencing Procedure](#)

PRIOR NGARA YURA COMMITTEE / FRANCIS FORBES SOCIETY JOINT PRESENTATIONS:

The initial premise was an annual lecture on Australian history insofar as it concerns the relationship between Aboriginal and Torres Strait Islander Peoples and non-Indigenous Peoples. The history of Australia, including its legal history, has this relationship at its foundation: the history, in all its aspects, whether comfortable or not, whether intractable or not, should be recognised and discussed, not just as part of a national process of Reconciliation, but also as part of understanding the human foundations of our legal system, so that its future development and growth come from a shared and understood reality.

The initial lecture was given on 5 November 2020 – ‘Making the Past Visible: The Colonial Frontier Massacre Map Project and the Legacies of Frontier massacres’ delivered by Professor Lyndall Ryan AM FAHA, the University of Newcastle, chaired by Chief Justice James Allsop, President of the Forbes Society & the Hon Justice Lucy McCallum, NSW Court of Appeal and Chair of the Ngara Yura Committee.

4 November 2021 – ‘Making the Past Visible: The Legacies of the Protectionist Legislation’ delivered by Mr Richard Weston, inaugural Deputy Children’s Guardian for Aboriginal Children and Young People in NSW together with members of Kinchela Boys Home Aboriginal Corporation; chaired by Chief Justice Allsop.

10 November 2022 – ‘The fallacy of protectionism’, The Hon Lucy McCallum, Chief Justice of the ACT, chaired by the Hon Justice Rachel Pepper. The paper addressed the historical background to the so-called “protectionist” policies of the last century, their abject failure in achieving their stated goals of protecting First Nations peoples and the reckoning to be done to avoid such mistakes in the future.

FORBES SOCIETY LECTURES AND PRESENTATIONS

Lectures and Legal History Tutorials convened by the Forbes Society are generally open to the public, without charge. The Forbes Society’s annual programme of legal history tutorials has, since its inception in 2013, included presentations by senior judges, academics, members of the Bar and Court staff.

If you have any queries about attending or presenting, please advise the Treasurer (Carol Webster SC) or the Secretary of the Society (Simon Chapple SC) at secretariat@forbessociety.org.au.

THE 2024 FORBES LECTURE: The Forbes Society, and the annual Forbes Lecture sponsored by the Society, are named for Francis Forbes (1784-1841), the first Chief Justice of the Supreme Court of NSW, 1824-1837. He was knighted in 1837.

On 31 July 2024, Daniel Yazdani, barrister of 13th Floor St James Hall, delivered the Annual Forbes Lecture titled ‘Francis Forbes and the Parable of the Gown and Wig: A History of Legal Dress in NSW’. The lecture was chaired by Dr Simon Chapple SC, Secretary of the Forbes Society.

JH PLUNKETT LECTURES: The Annual JH Plunkett Lecture honours the memory of one of the State's pivotal Attorneys General. John Hubert Plunkett (1802-1869) arrived in NSW, from Ireland, in 1832. For more than 30 years thereafter he made a major contribution to colonial law and society, serving, inter alia, as Solicitor General and Attorney General. In 1835 he published *The Australian Magistrate*, the first Australian legal practice book. He was the first Australian lawyer to be granted a commission as Queen's Counsel. He led Roger Therry, another Irish-born barrister, in the conduct of the Myall Creek Murder trials.

The Hon. Andrew Bell, Chief Justice of NSW delivered the Twelfth JH Plunkett Lecture on 13 February 2024 titled 'Unheralded nation-builder: another dimension of John Hubert Plunkett'. The Lecture was chaired by the Hon. James Allsop AC, President of the Forbes Society, and combined with a formal presentation to 2023 Essayists.

The Thirteenth Annual Plunkett Lecture 'Liberty not Licence: The law's response to the challenges of ethno-religious sectarianism in nineteenth and early twentieth century Australia' was delivered on 10 September 2024 by Dr Jeff Kildea, and chaired by The Hon. Michael Daley MP, Attorney General of NSW.

THE FORBES FUND: One of the Society's objects is to encourage and promote research into Australian legal history and it maintains for that purpose the Francis Forbes Fund, to which donations may be made. Donations to the Forbes Fund (in the sum of \$2.00 or more) are tax deductible. As well as specific projects each year, the Society supports an annual Essay prize for the best paper presented at the ANZLHS Conference, judged by a panel appointed by the Editor of law & history. Grants have included:

(2024 grants): *University of Sydney Law School* Inma Conde, 'A historical interpretation of Article 7(1) of the United Nations Convention on Contracts for the International Sale of Goods'; *University of Sydney Law School* Dr Jeffrey Gordon, 'Free speech moments in Australian legal history'; *UNSW Law & Justice* Dr Henry Kha, 'Ne Temere and the Marriage Law of New South Wales: Religious Sectarianism in the 1920s'.

(2023 grants): *University of Technology Sydney* Dr Alecia Simmonds 'Race, Legal Status and Subjecthood in Defamation Actions Across the Nineteenth and Twentieth Centuries'; *Australian National University* Dr Susan Bartie 'Contribution of Solicitors-General to the field of Australian law and environmental politics'; *Macquarie University* Dr Henry Kha 'Wife sales and legal responses in Colonial Australia' and *Deakin University* Associate Professor Gabrielle Wolf 'European Medical Émigrés in Tasmania and the Law, 1933-1946.'

We welcome all further donations to enable us to support such worthy projects – provision for donations is made on the membership form.

MEMBERSHIP OF THE FORBES SOCIETY: Membership of the Forbes Society is open to everybody. Membership application forms can be downloaded from the Society's website <http://www.forbessociety.org.au>. Benefits of membership include timely notification of legal history events via updates emailed to members from time to time.

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FRANCIS FORBES
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