Tucked away at the base of the Blue Mountains on the outskirts of metropolitan Sydney is the Muru Mittigar Aboriginal Cultural and Education Centre. A special place for the Darug Aboriginal people who occupied the land around Castlereagh for thousands of years, Muru Mittigar’s establishment in 1998 was a natural fit. For the Darug, Castlereagh was a “special meeting place”, a “pathway to friends” (of the Darug) and other Aboriginal tribal groups.

The Muru Mittigar team warmly welcomed our group of 23 visitors. Uncle Karl, Aboriginal Ranger and Cultural Tour Guide, immediately caught the attention of the three children in the group with an offer of face and rock painting while the adults headed off to the yarning circle. Muru Mittigar Chief Executive Peter Chia then provided an overview of the establishment and history of the centre.

A leading Indigenous-owned social enterprise, the organisation has three main areas of focus — youth, offenders and job seekers. Their mantra is simple — country, community and culture. Some of the many activities that illustrate this philosophy include:

- Turning Point — a project to assist incarcerated Aboriginal women inmates with specialist microfinance counselling and support when approaching release.
- Caring for Country — restoration of the bushlands at Western Sydney Parklands Trust (the Plough and Harrow sites).
- Memorandum of understanding with the proposed Sydney Zoo (a major new zoological park being developed at Blacktown in Western Sydney) — working together to train Aboriginal people in roles as rangers to deliver Aboriginal cultural tours, bush regeneration and animal care.
- Muru Mittigar Provenance Nursery — a wholesale and retail nursery specialising in growing indigenous native provenance stock in forestry tubes. This is the only accredited Aboriginal-run nursery in NSW and endeavours to employ and train local Indigenous people.

We learned that the local primary and some high schools have high Aboriginal representation (27%). Due to cutbacks, many schools can no longer employ Aboriginal Project Officers resulting in students becoming disengaged with their culture and heritage. As part of Muru Mittigar’s schools engagement program, Erin Wilkins in her diverse role of Event Coordinator, Cultural and Community Liaison, visits local schools setting up gardens. Children learn how to plant and maintain the gardens and also to record the data they collect about germination and growth of the seeds. This all feeds into the larger project, that of production of a native seed bank.
Of particular interest to judicial officers was an employment pathway program for incarcerated Aboriginal women designed to help prepare C classification offenders for future employment. To date, 11 Aboriginal women have successfully completed the program.

Muru Mittigar also undertakes significant work in cultural site management as, sadly, many are not managed or maintained. Work undertaken in this area provides badly needed work experience, and improves job readiness.

As an independently managed registered company and Public Benevolent Institution, Muru Mittigar is entirely self-financing, utilising mainstream contracting revenue to deliver its services. Mike Quarg, Strategy and Funding Coordinator, Community Finance Hub, outlined the financial support services on offer to both the Indigenous and non-Indigenous community.

Muru Mittigar’s microfinancing project provides access to affordable finance for basic household items — white goods, furniture, as well more significant investments such as home insurance and cars. Since 2010, Muru Mittigar has partnered with Good Shepherd Microfinance and offers a savings as well as a loan program. With 192 loans currently active, the loan repayment rate is 98.2%, significantly more successful than the big banks. For those unable to repay, poor health appears to be the major contributor rather than any other factor.
Financial workshops are also offered, together with financial counselling. To date, 468 clients have been provided with financial services. Practical assistance is also available; for example those who have fines or debts with the State Debt Recovery Office can benefit from a $50 credit against their debt if they attend a Muru Mittigar financial counselling workshop.

After a delicious morning tea of homemade damper and jams, Uncle Karl shared the history of the boomerang and explained the nine different types, encouraging each of us to have a go at throwing the “returning” type. Under his expert guidance, the results for all were pleasantly surprising!

As we wrapped up the morning, Uncle Karl shared with us some of his experiences. As a young man, he had been before the courts and served time, struggling with addiction and its unhappy consequences. Now, some years later, he is a skilled Aboriginal Ranger and Cultural Tour Guide at Muru Mittigar, happy to share his story with members of the judiciary.

Judicial officers are advised of the following Aboriginal services, programs and Ngara Yura seminars:

Driving and Licence Offences Project, NSW
The Aboriginal Services Unit within the Department of Justice has developed the Driving and Licence Offences Project (DLOP). The DLOP has been available since May 2013 for Aboriginal people charged with driving and licence offences or community members who require support with driving and licence matters. The DLOP is available in Armidale, Bateman’s Bay, Bourke, Broken Hill, Campbelltown, Downing Centre, Coffs Harbour, Condobolin, Griffith, Kempsey, Liverpool, Maclean, Mt Druitt, Moree, Nowra, Orange, Porrinh, Taree, Toronto, Wagga Wagga, Walgett, Wellington, Wentworth and Willcannia.

In 2013, the NSW Auditor-General found that State Government responses to improve legal and safe driving among Aboriginal people have had limited success in reducing Aboriginal people’s over-representation in road accidents and traffic-related offending. The report found that Aboriginal people lost their licence for fine default at around three times the rate of non-Aboriginal people and face barriers to regaining a licence that has been suspended. Aboriginal people found guilty of a driver licence offence are also more likely to be imprisoned. In 2011, 12 per cent of Aboriginal people found guilty of a “driver licence” offence were imprisoned, compared to five per cent for non-Aboriginal people. Challenges facing Aboriginal people in regaining their driver licences include knowing the options available for paying fines, managing debt, the ability to attend court if required and understanding court processes. Barriers to gaining a licence include poor literacy and numeracy and lack of proof of identity.

The Auditor-General recommended that the State Government develop a coordinated approach to assist Aboriginal people to overcome these barriers. The DLOP provides a coordinated assessment, referral, information and support service aiming to reduce the disproportionately high numbers of Aboriginal people with driving, vehicle registration and licence offences.

An Aboriginal Client and Community Support Officer (ACCSO) will ideally make contact with a client at their first court appearance to assess the client’s needs and determine the level of support required. The client is then linked to relevant driver licensing programs or other specialised programs to address their offence or needs. In some instances, matters have been adjourned in order for clients to complete a TAFE course or driving program that assists to gain a licence. ACCSOs liaise with the State Debt Recovery Office and advocate on behalf of clients regarding fines debt. Staff arrange “time to pay” plans or work and development orders for unpaid fines, also advocating for licence sanctions to be lifted so that clients can drive without restrictions or undertake other business with Roads and Maritime Services.

Since the program was rolled out, ACCSOs have had around 1400 contacts with Aboriginal people charged with offences and made referrals to driver knowledge and safety programs, traffic offenders programs, licencing programs or TAFE courses to assist those people to obtain a licence.

Case study:
An Aboriginal client attended court charged with a first offence of driving without being licenced. The ACCSO ascertained that he had literacy and numeracy issues as well as outstanding fines of about $7000. The ACCSO called the State Debt Recovery Advocacy Hotline and arranged a “Time to Pay Plan” for $35 per fortnight (some clients have licence restrictions and these may also be lifted once a TTP is arranged). The client was also provided an RMS resource booklet “Listen and Learn”, specifically designed for Aboriginal clients with poor literacy.

The client’s matter was adjourned for four months to allow him time to gain his learner’s permit. An appointment was made on his behalf for the RMS test, however when the client presented, his birth certificate and other identify documents were in different surnames. The client appeared before the court and the matter was further adjourned for two months. Due to the $174 fee for a change of name application, which the client could not afford, several local NGOs were approached for support without success. The ACCSO wrote a letter to Births, Deaths and Marriages (BDM) on behalf of the client requesting a fee waiver, completed the application, and advised the client to attend BDM. The client did not follow up and the ACCSO contacted BDM directly on his behalf. After supplying further information and verification on behalf of the client, a correct birth certificate was issued and the fee was waived. The court adjourned the matter several times before it was eventually finalised. The client was fined for the offence.

2 ibid p 4.
Pilot Aboriginal Court Diversion and Bail Support Program, Western Sydney

A pilot Aboriginal Court Diversion and Bail Support Program (ACD&BSP) began accepting referrals in March 2016. The program, located within the Campbelltown Local Court, provides case management and referral support for Aboriginal adult offenders and their families. The pilot has received funding until 30 June 2017 and is sponsored by Justice Health and Forensic Mental Health Network.

The program aims to provide diversionary treatment and bail support options to enhance the likelihood of an offender being granted bail and successfully completing a culturally sensitive and tailored treatment and support program. To be eligible for the program, an Aboriginal offender residing within Campbelltown or Macquarie Fields must be at liberty.

Clean Slate Without Prejudice and Never Going Back programs, Redfern

The Clean Slate Without Prejudice and the Never Going Back crime prevention initiatives are coordinated by the Redfern Local Area Command and the Tribal Warrior Association. The Tribal Warrior Program has been recommended (in MW v R [2010] NSWCCA 324 at [67]) as an effective way of dealing with bail, bond and parole conditions for young Aboriginal offenders. The programs offer fitness training (police and Aboriginal youth training together), certified commercial maritime training, and social and behavioural management skills training. The Tribal Warrior program has a separate mentoring arm.

Superintendent Luke Freudenstein APM, Redfern Local Area Command and Aboriginal leader Shane Phillips, CEO, Tribal Warrior Association and Australia’s Local Hero 2013, outlined the programs to judicial officers at a Ngara Yura seminar held at the Commission in October 2016.

Joint seminar on Foetal Alcohol Spectrum Disorder for judicial officers and the legal profession

June Oscar AO (pictured centre with barrister Chris Ronalds SC, left, and her Honour Judge Dina Yehia) is the CEO of Marninwarntikura Fitzroy Women’s Resource Centre. She described the “small and immensely important revolution” that has occurred since 2007 when the women of the Fitzroy Valley worked with the local Police Commissioner to impose liquor restrictions on the community. These have now been in place for 9 years. Ms Oscar outlined the prevalence study of foetal alcohol spectrum disorder (FASD) conducted in partnership with Royal Far West since 2009. The study has shown that 1 in 5 children in the community has FASD, one of the highest in the world. FASD causes serious attention and learning deficits, and behavioural and mental health issues, including self-harm. The overwhelming problem for teachers and carers of children with FASD is the difficult behaviours that will predispose these children to school failure, contact with juvenile justice and the risk of incarceration.

Participation can be a condition of bail, or a condition of a bond pursuant to ss 10, 11 or 12 of the Crimes (Sentencing Procedure) Act 1999. For offenders referred to the 14-week program, bail and sentencing conditions may be imposed which reflect and support rehabilitation prospects.

Once referred, an offender has a case manager who is responsible for ensuring a care plan is developed and the participant complies with bail and/or sentencing conditions, supervised by Community Corrections.

Once the participant has successfully completed the program, ongoing support will be provided from a local support service. Since March 2016, there have been 43 referrals to the ACD&BSP. There have been no recorded breaches of bail for those undergoing the program or recidivism for those who have successfully completed the program.