

THE HONORARY JUSTICES' ASSOCIATION OF TASMANIA INC

JOURNAL SUMMER EDITION 2024

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EDITOR'S NOTE

Seasons compliments to all who are reading this Journal.

As you are aware 2023 saw a changing of the guard, within the Government portfolios, with resignation from Parliament of Elise Archer, and the appointment of the Honorable Guy Barnett as Attorney General.

Mr Barnett has a very sound experience base for the administration of the Department of Justice.

The report by our President, David Plumridge JP, provides an insight into the potential challenges that may affect the way in which we operate as justices of the peace.

The Tasmanian Justices' Journal is published in October December, March, and June. Contributors are requested to forward matter to the Editor by the last Monday of August, November, February, and May.

Disclaimer

Opinions expressed in this Journal, whether editorially or by contributors, do not necessarily represent the views of The Honorary Justices' Association of Tasmania (Inc). On occasions articles are extracted or modified from other sources and the source of the article listed in the article.

Contributions on matters affecting Justices and their Associations are particularly welcome, but all contributions are subject to the discretion of the Editors.

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THE HONORARYJUSTICES' ASSOCIATION OF TASMANIA INC.

(Founded 1925)

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Important information and dates

Department of Justice resources for JPs



FROM THE PRESIDENT

Welcome to the Summer 2023-24 edition of the HJAT Journal and a Happy New Year to all members. I hope you've had a wonderful festive season with family and friends.

As I reported in my Annual Report in the Spring 2023 Journal, the year just past was a "back to normal" one for the Association. Although Covid still stubbornly persists in Tasmania, my hope for 2024 is that justices of the peace can continue to enjoy the privilege and satisfaction we have of serving our communities.

However, 2024 is likely to see changes affecting all justices of the peace in this state. There are several matters under active consideration or development by government, both nationally and state, such as:

- Further development nationally of a scheme for the optional electronic witnessing of documents, such as statutory declarations.
- Consideration by the Dept. of Justice of a new policy governing the re-appointment of JPs at age 75 and beyond, to better align the process with the legislative intentions of the *Justices of the Peace Act 2018* (the Association has made a submission strongly opposing the proposals).
- A review underway of the JP Handbook.
- Further refinement to the JP database on the Dept. of Justice website.

A record year at the Document Signing Centre:

2023 proved to be a busy time at the DSC in the C H Smith Centre, with a record number of documents processed. Here are the numbers:

• • •	Statutory Declarations: Other document witnessing: Search Warrants: Certifying documents: Other enquiries:	5,370 2,318 296 20,493 479
	Total:	30,286

This is the highest volume of documents since the office was first opened in Henty House in 2004. It is graphic evidence of just how important this service to the community has become, not only to the general public, but legal firms, Tasmania Police and in assisting Service Tas, who rely on the Association's office to take the load of witnessing documents during our opening times of 10am to 3pm each week day. Once again, I want to thank all the JP roster volunteers for their continuing commitment to this essential community service.

Professional Development:

Overall, the Association's training mornings in 2023 were not well attended by members, and new JPs doing their Level One training were also down, directly as a result of fewer appointments by the Department of Justice. Nevertheless, the Committee has decided to continue offering this important service to members in 2024, again with three sessions spread through the year. However, the winter session – tentatively 25 July – will only proceed if there is sufficient interest. As usual, they will be held at the C. H. Smith Centre in Launceston, commencing at 9.30am.

The training dates for 2024 are:

Thursday, 4 April Thursday, 25 July (to be confirmed) Thursday, 31 October

For members of the HJAT, there is no fee for attending one of the refresher sessions.

Please contact the Registrar, Sonia Wood, for more information or to reserve a place.

Amalgamation of the three Tasmanian JP associations:

Discussions continue between the HJAT, HJAT-NW and the TSJPI on the possibility of amalgamating to create a new statewide body representing justices of the peace. Not surprisingly, it is a complex process, and is taking longer than initially expected. Issues such as a new constitution, organisational structure, regional representation and finance all need careful consideration to ensure the best outcomes for a new organisation. The working group formed by the three associations is therefore not yet in a position to make any public recommendations to members. As a member of the working group (together with Bill Morgan) I undertake to keep you informed as work continues.

Financial assistance from the Department of Justice:

The HJAT has been fortunate to once again receive financial assistance from the Department of Justice for the current financial year 2023-2024. I want to gratefully acknowledge on behalf of the Hon. Justices' Association of Tasmania, a grant of \$2,680 given to assist in running expenses (including, for example, public liability insurance that we now must hold for those on the office roster. We are also confident that a submission to be made shortly for 2024-2025 will be favourably received.

Finally, a reminder that we welcome direct contributions from *all* members, so if you have something of interest, or a particular topic affecting JPs, please send it in. Of course, editorial right regarding publication or editing is always reserved.

David Plumridge, JP President

How to register for HJAT website access

Editorial note: we are once again repeating this article to assist our members with signing up to our Association's website.

The website address is http://jptasmania.com.au which is the same address as the old one.

There are two main areas, the Public and the Private. Anyone can access the Public area but to use the Private area you must first be a member of the Honorary Justices' Association of Tasmania and be registered to do so. Even if you were able to access the old website (using your JP Number and Name), you **MUST** re-register to use the new site. This is a one-time registration.

To register, click on the <u>Register link</u> which is below the Logon button on the right side of the site as shown in the image to the top right. Fill in your details and Click "Register" at the bottom.

Registration for Membership		Login for members access
Please fill out the below form in order to gain access to the Members area of the JP		or Email
Tasmania Website.		Password
Please allow 48 hours for receive an email confirm	r verification. Once your credentials have been approved, you will ing your access.	C Remember Me
Usemane *		Register
First Name		
Last Name		
E-mail *		
Password *		
	Hiniman Length of A characters. The password must have a minimum strength of Weak.	
	Strength indicator	
Repeat Password *		
Biographical Info		
Register		

This sends your details to the Site Administrator who will confirm your membership and allow you access to the site. In a few days you will receive a reply email notifying you of your activation.

From then on you will use your chosen username and password to use the site, as shown in the bottom image.

Having logged in you reach the Home Page (1st image on the left) which will allow you to browse the several drop-down menus and check out the content of site.

Login for members access Username or Email
Password
C Remember Me
Log In
Register



From the Department of Justice

Recent Department of Justice Mail Out

The Department recently sent information about the updated Department of Justice website to all Justices of the Peace appointed in Tasmania. If you did not receive this mail out it means that we do not have your correct email address. If this applies to you, please follow the instructions below to update your details via the online form.

As part of the new Department of Justice website, there is an easy way to navigate to the resources available to Justices of the Peace.

You can find the new updated website at - www.justice.tas.gov.au

From here you can easily find information about and for Justices of the Peace by going to the

- Justice System drop down tab at the top of the page
- Clicking the link to Justices of the Peace and Commissioners for Declarations
- On the right side under Top Tasks is **Resources for JPs**

In the resources section you will find information to assist you in your role as a Justice of the Peace. On this page you can use the online form to update your details, apply for reappointment and submit a resignation.

The Department of Justice also has information available for you on the process for witnessing Statutory Declarations, certifying documents and easy access to the Handbook. The Department encourages all Justices to familiarise themselves with the available resources, including the Handbook regularly to ensure that they are proficient at performing the duties of the office of Justices of the Peace.

JPs who have questions or feedback relating to the website should contact the Manager, Justices of the Peace by email at JP@justice.tas.gov.au.

It is a requirement of the Justices of the Peace Act 2018, that a Justice notifies the Department within 21 days when there is a change to their contact details.



From the Department of Justice

Updating your Details

The Department of Justice has recently received a significant increase in complaints from members of the public in relation to Justices of the Peace being uncontactable. Whilst we understand that there are a number of reasons for this that are outside the control of individual Justices, it does indicate a concerning trend when a member of the public calls several Justices in their area and none answer the phone.

Anecdotal evidence would suggest that many of these issues are related to out of date phone numbers and addresses.

Section 17 of the *Justice of the Peace Act 2018* makes it clear that Justices in Tasmania must notify the Department whenever there is a change in a Justices name, address or contact details, such as email or phone number.

As the Department is progressing a number of projects, it is imperative that all appointed Justices in Tasmania have provided the Department with their most up to date email. Moving forward the Department will be communicating predominantly with Justices via email.

Requirement to notify of change in circumstances

An appointed Justices must no later than 21 days after a change notify the Secretary Department of Justice. This can be done via email <u>jp@justice.tas.qov.au</u> or the online <u>form</u>.

There is an expectation that if Justices can no longer be available to the public, that they discuss this with the Department of Justice so that consideration can be given to the temporary removal of the Justices name from the public database. In certain circumstances it may be necessary for Justices to consider resigning from the office.

We encourage you to discuss your personal circumstances directly with the Manager, Justices of the Peace on 6166 1429 or jp@justice.tas.gov.au

Justices have an obligation to notify the Secretary of the Department within 21 days of a change in circumstances, including address and contact details.

Justices can do this via the Department's <u>website</u>, or by emailing <u>JP@justice.tas.gov.au</u>

What would you do?

Q. The person before you requires their signature to be witnessed. The document is from a lawyer based in Sydney. On ascertaining the document to be an affidavit, you take an oath from the person and notice the instructions from the lawyer require the same pen to be used for the signature of the person before you and for your signature. What would you do?

A. The requirement 'to use the same pen' is usually reserved for wills in Tasmania. However, if the lawyer in Sydney required the same pen to be used on the document before you, so be it. Using the same *coloured* pens might not suffice! There are at least five different sizes of tips available these days (extra-fine to Anfänger).

Q. The person before you is required to take an oath or affirmation before signing their affidavit. They ask if they can take an oath on their holy book (Bible, Koran or other religious book) by using the App on their phone, which they then show you. Is this acceptable?

A. <u>No</u>. There is no legal basis in Tasmania which allows you to accept such a document when shown to you on an electronic device. Suggest they take an affirmation.

Q. A police officer asks you to take an affirmation rather than a sworn oath prior to signing their Application for a Search Warrant. What would you do?

A. As the form currently stands, an Application for Search Warrant only provides for the document to be <u>sworn</u>. Recent advice from the Dept. of Justice is that an application for a search warrant <u>may be sworn or affirmed</u>. The form may be amended in the future to correct this anomaly (presently under review).

Bow Street Magistrates Court and Scotland Yard

Bow Street Magistrates Court, London, was founded by Thomas De Veil (1684-1746); later the Fielding brothers created the eponymous 'Runners'. De Veil only had to look out of the windows of his Bow Street house to witness robberies and violence on a daily basis. His house was set on the borders of Covent Garden. Here taverns, theatres, coffee houses, and brothels were in abundance. Nearly every other house was a 'gin shop' of some description. Within a short walk was the Indigo Jones piazza beyond which were the stinking tenements and thieves' kitchens of Seven Dials.

Sir Thomas De Veil was a retired army officer who joined the ranks of the magistrates in 1739, opening his own magistrates' court in Bow Street in 1740. Prior to setting up his court he dispensed legal advice from an obscure corner of Whitehall known as Scotland Yard. He was something of a swashbuckling character who survived at least one murder attempt following his efforts to break up a criminal gang, and faced up to a mob that tried to torch Bow Street during the so called 'gin riots' of 1743. He was seen as an enemy by the London mob since he was involved in the legislation aimed at curbing the consumption of gin through the imposition of a massive 5% surcharge in duty. Londoners were notorious for drinking gin. It was estimated that this drink was sold at 15,000 pubs - 'drunk for one penny and dead drunk for tuppence' was a common catch phrase of the day.

De veil was himself a drinker and a womanizer. Alas the 'good' magistrate would too often ensure all charges were dropped against girls who fell to his amorous advances!!

On his death in 1746, a magistrate by the name of John Poulson moved into the court. On his death two years later the 'attractive and gregarious' magistrate Henry Fielding dispensed justice from Bow Street in partnership with his half-brother John Fielding, who was blinded at the age of 19 years while serving in the navy.

Prior to the Bow Street Runners, such law enforcement as there was in London consisted of parish constables and 'Charlies'. The latter were a corps of night watchmen introduced by Charles 11. The Charlies, who were mostly elderly or even infirmed, were given little sentry boxes by the roads-side. Charlies attracted much ridicule especially from the Mohocks (upper-class hooligans), who delighted in tipping over the boxes with their helpless humans encased therein.

Some parishes actually paid their constables but all too often the local criminals were able to pay them more and as a result the anarchy of Hanoverian London was barely suppressed. Those arrested by the constables were brought before Justices of the Peace who would either pass sentence or remand the accused to appear for trial at the Old Bailey. Unfortunately, those Justices of the Peace serving in London were often as venal as the offenders themselves, unlike many of the country Justices who were squires and earned considerable respect. Although Justices were not paid, they were entitled to certain fees. Many of those working in London were able to live on the expenses they claimed and, more often than not, were referred to scathingly as 'trading justices'.

Unlike the Justices of the Peace, Magistrates in 18th Century London earned about £1000 p.a. but staff salaries had to be paid out of this sum of money. The Fielding brothers of Bow Street Magistrates Court spent much of their money in ensuring criminals were brought to justice. The brothers established amongst other measures an intelligence organisation aimed at catching highwaymen. This net-work was operated by country gentlemen who lived within 20 miles of London. These gentlemen paid two guineas to the Fieldings and the money was used to pay messengers whose job it was to keep the Fieldings informed of crimes committed in their respective areas and where possible give descriptions of the horses used by the thieves, clothes worn by them and names of victims. The fees paid to the Fieldings also enabled them to establish a mounted patrol which was remarkably successful in bringing highwaymen to justice. But after a period of 18 months the cash was spent and the mounted patrol no longer existed until John's successor at Bow Street Court, one Richard Ford, formed 'The Bow Street Mounted Patrol' in 1805 (sometime known as the 'Robin Redbreasts' because of the bright red waistcoat worn by Ford). This patrol was funded with government money.

In addition to the country detective force, the Fieldings were able to employ six ex-constables in their Bow Street Court whose job it was to serve writs and arrest warrants issued by the two magistrates. The latter became known as Bow Street Runners. After Henry Fielding retired in 1754, John refined this corps into an effective but very small nucleus of a police force. The Bow Street Runners were one of two police forces in London until Sir Robert Peel introduced reforms to parliament creating Metropolitan Police patrols in 1829.

In 1789, another magistrate by the name of Patrick Colquhoun argued for the need to establish a police force in and around the London docks where crime was rampant. He was backed by a group of merchants. Together they formed the Thames Valley Police which had its headquarters at Wapping (the first police station in the world and now is the HQ of the Thames Valley Water Police).

By now it should be obvious that the founding of institutions aimed at law enforcement in London as well as elsewhere in Britain did not spring fully formed into being. Indeed, there was considerable resistance by parliamentarians to any government bills aimed at law enforcement through policing. Rather public hangings and later deportations to far off colonies were seen as the best cure for controlling the criminal classes. However, successive governments in Britain were rocked by civil unrest leading to riots during the 18th Century. These events coupled with a soaring crime rate eventually resulted in serious attempts by government to control crime through policing. These riots were the Gin Riots of 1736, the Spitalfields Riots of 1765, and Gordon Riots of 1780.

In 1715, Parliament passed the Riot Act which gave magistrates the power to order riotous assemblies of more than 12 people to disperse or be charged with capital felony. Dispersing the crowd became the duty of the army. However, if a soldier over-reacted and killed a person, both he and the magistrate, who had ordered in the army, faced court martial. Hence there was a very real reluctance to invoke the Riot Act by the authorities.

During the Gordon Riots over 300 people were killed, the Bank of England attacked, and 150 houses and shops destroyed causing £70,000 of damage and £30,000 worth of personal injury (close to £9 million at to-day's prices). Before the riot ended, Newgate prison was stormed, set on fire and the prisoners released. The initial gathering was called together by Lord George Gordon to protest against the 1778 Catholic Relief Bill but its ranks soon swelled to 20,000 plus as groups of ruffians joined in. Three of Gordon's men were arrested and taken to Bow Street Magistrates' Court and brought before the aging John Fielding. Soon a mob set about breaking the windows and doors of the court. The situation was not helped by the owner of a neighbouring public house serving gin to the rioters in an attempt to calm them down. Although all the furnishings of the Bow Street court were burnt, the building itself somehow survived. The analogy between the storming of Newgate prison and the Bastille of France was not lost on the rioters or the upper-classes of London. Nevertheless, the magistrates did nothing to ensure the gaol was protected by troops. However, when two other prisons were attacked the Lord Mayor read the Riot Act and

10,000 troops were sent in. Gordon was arrested on a charge of treason and because he was an aristocrat, was sent to the Tower of London. He was acquitted. This appalling chain of events led to the realisation that the ancient parochial system of peace keeping was ineffectual in dealing with riotous behaviour and if the army was powerless and the constables as good as useless, then a professional police force was the only answer.

The delay to such reforms was partially due to events in France for it was easy for opponents of a police force in Britain to point to the mass arrests taking place on the other side of the Channel following the establishment of a secret police force by the French revolutionaries during the so-called *Terror*.

No history of Bow Street and Scotland Yard is complete without including two dastardly crimes. The first of these occurred near Wapping. Timothy Marr was a draper who lived behind his shop with his wife and baby. An apprentice and servant girl also lodged here. On the night of 7th of December 1811, the servant girl was sent to buy oysters and on her return she found the shop in darkness and the girl's knocks to be let in remained unanswered. A neighbour volunteered to try the back entrance which he found open. On entering through the door, he was greeted with a scene of horror. All the occupants of the house, including the baby, lay brutally murdered. The Wapping police were soon at the scene. As was the custom of the time the bodies of those murdered went on display in order to entice the public to come forward with evidence. In addition, a reward of 500 guineas was also offered to anyone giving information which might lead to the arrest of the murderer(s). A certain Robert Vermillion, a man of dubious character, came forward and identified the owner of one of the murder weapons. Vermillion had served time for debt and no doubt he welcomed the chance of the reward money.

Before any arrests were made in relation to the Marr murders, residents of Wapping were shaken once more by a mass murder. This time the victims were a publican, his wife, and a servant. After several suspects were rounded up, a sailor by the name of John Williams was eventually charged with all seven murders. Once again Vermillion was the informant. He was able to convince the authorities of a link between the two crimes but all the evidence against Williams was entirely circumstantial. However, before his trial could begin John Williams was found hanged in his cell. Regardless, the court decided to hear the evidence against the dead man and although this evidence suggested others were involved in the crime the magistrate informed the Home Secretary that Williams acted alone and had cheated the hangman! Undoubtedly Williams served as a convenient scapegoat.

Williams' body was paraded through the streets to ensure the people of Wapping that the law had caught their man, after which a wooden stake was driven through his heart with the murder weapon used to kill the Marrs. The corpse was then thrown into a narrow grave. Several crime historians have suggested that Williams was murdered to ensure his silence but he may well have been one player in the ghastly events. The horror and outrage resulting from these killings certainly contributed to the demand for a city-wide police but further riots (Spa Field Riots of 1817, and St Peter's Field of 1819, which resulted in the Peterloo Massacre) plus a plot to over throw the government following the death of King George 111 and further riots which followed the death of Queen Caroline proved pivotal in removing opposition to a London Metropolitan police force.

On the death of George 111 in January 1820, several radical elements in Britain saw the opportunity to seize power. Amongst these revolutionaries was a group who drew up a plot to murder the then Prime Minister, Lord Liverpool and his Cabinet. This gang was led by a man by the name of Arthur Thistlewood who had been present at the massacres at Spa Fields and Peterloo. On 23rd February 1820, Thistlewood and 23 other men assembled in a hayloft in Cato

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Street off Edgware Road, London. All were heavily armed. However, the gang had been betrayed by a police informant and as they prepared for their act of treason the building was surrounded by 12 Bow Street Runners, while a detachment of Coldstream Guards was on its way. The Runners did not wait for the soldiers and assaulted the hayloft. One Runner was killed and the conspirators were making their escape when the troops arrived. Thistlewood along with several other gangsters were arrested. Some were sent to Australia but five were sentenced to death for treason. The death penalty for treason stated *'your heads shall be severed from your bodies and your bodies divided into four quarters to be disposed of as His Majesty shall see fit.'* After hanging the five were duly beheaded but the scene was too much for all present and the quartering did not take place!

Queen Caroline was the estranged wife of the Prince Regent. The British public loathed the Prince and merely tolerated his wife Caroline. However, when the Queen-to-be was refused entry to Westminster at the Prince's coronation she became very popular indeed! In 1821, Queen Caroline developed appendicitis and died. The authorities decided the funeral might degenerate into a riot so they attempted to send the body back to Germany via Harwich ensuring the cortege by-passed the city. The crowd had other ideas and blocked the road. As usual the troops were sent in to quell the resulting turmoil and a magistrate sanctioned armed force. Two people were killed but the cortege was forced through the city.

After this debacle the authorities of London pressed the Government to pass bills which enabled the establishment of an organised professional police force in London. The headquarters of this force was in the very same Whitehall back-water where Sir Robert De Viel had set up an office back in Bow Street in the 1730's, namely Scotland Yard.

HJAT-NW Report

The signing centre continues to increase in activity. Overall stats thus far are as follows:

Stat Decs & Affidavits - 420; Warrants - 15; Certification of Documents - 344, totalling 779 varieties of documents dealt with by the centre. Persons served - 702. Once again, sincere thanks to Mr Ian Day for his organisation of this service, and thanks to Greg Douglas, Wendy Richards, Lyn Jackson and Theresa Kendall for being the available JPs. It is a great pleasure to announce that Willing & Assoc's have donated a total of \$130 to the ABC Giving Tree which is the money collected from donations at the signing centre for photocopies etc. A wonderful gesture and we thank Maryanne and her staff very much for allowing the Association to use the office facilities for the signing centre.

The main event for this period was a talk by Federal Circuit Judge Marcus Turnbull. He spoke about the basic points of law and how this related back to some very high-profile cases such as Brittany Higgins, Lindy Chamberlain and William Tyrrell. His talk was extremely interesting with many very positive feedback comments (some even quoting this was the best guest speaker that we have had).





A L1 course was recently conducted with one new JP. It was very well attended and the interaction between the JPs present was very positive. I would like to thank Jake Weeda and Garth Johnston for their assistance in this course. The JPs who were accepted to become Bench Justices have now completed their mentoring time and have joined the Bench roster. Congratulations to Sharon King, Corey McGrath, Georgette Chilcott and Natalie Luttrell.

I have had a few enquiries recently regarding what to do to continue as a JP after the age of 75. Once the online form is completed and submitted you will receive notification from the DoJ as to your reinstatement.

Here is an excerpt from the JP Handbook:

You are appointed as a JP until you reach the age of 75, or for as long as you reside in Tasmania, do not breach the Code of Conduct and are not declared bankrupt.

The Act provides for a retirement age for JPs of 75 years. The Act makes provisions for JPs who are 75 years or older to seek re-appointment for a period of two-years. Section 7 of the Act provides that a JP must seek reappointment either six months before he or she attains the age of 75 or within six months after his or her appointment was terminated, if the termination occurred because he or she attained the age of 75 years. If a JP does not seek re-appointment within these periods, his or her appointment expires and they are no longer able to seek re-appointment. A JP may continue to seek re-appointment every two years until they reach age 85 if an application for re-appointment is received within six months after his or her appointment expired. A JP is responsible for ensuring they seek re-appointment when required if they wish to

continue their appointment. You may seek reappointment by completing the <u>on-line form¹</u>.

A recent meeting of the 3 Association presidents and members of the DoJ was held and the ongoing issues remain as professional development and the recruitment and appointment of JPs who are available and younger. It is also a request for all JPs to have an email address as this will be the only means of communication from the DoJ. The JP Handbook is also to be reviewed so any comments please email Megan Heyer at DoJ. Her contact address:

megan.heyer@justice.tas.gov.au

The Amalgamation Working Group is still very active in compiling enough information to distribute to members for feedback. This will hopefully happen by March 2024. It is anticipated to have a draft constitution early in 2024 which is to be reviewed by a lawyer before being distributed for comment.

The Christmas Dinner this year was held at the Ulverstone Branch of the RSL. Good numbers and a wonderful night was had by all. It was very pleasing to see the night attended by two of the local magistrates and two retired long-term JPs.



On behalf of the Committee, I would like to extend wishes to all members & families for a very Merry Christmas and all the best for 2024. We look forward to another successful year for the HJAT-NW.

Calendar of events:

Friday Feb 2 Years of Service certificate presentation. Devonport Courts 5.30pm Thursday Mar 21 Guest speaker from VAD Chelsea Room, Furners Hotel Reibey St 6pm





Lyn Jackson







Karen Linegar



Jake Weeda

Lorraine Smith



John Burton



Sharon King



Corey McGrath

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