



# Victorian Aboriginal Legal Service Co-operative Ltd.

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## **VALS submission to the Department of Justice in response to the Indictable Offences Triable Summarily Discussion Paper - sent 24 October 2005**

Thank you for the opportunity to comment on the Indictable Offences Triable Summarily Discussion Paper. Please see Victorian Aboriginal Legal Service Co-operative Limited (VALS) comments below:

### **Question 1**

VALS wishes to add another option to the suggestions (1a-e) mentioned in the Indictable Offences Triable Summarily Discussion Paper (Discussion Paper) in relations to who should decide whether to hear an IOTS summarily. Ideally, the Defendant should be the only one who decides whether to hear Indictable Offence Triable Summary (IOTS) summarily. The absence of option such as this, and the general tone of the Discussion Paper, has left VALS with the impression that the perspective of the Defendant has not been fully addressed.

In the event that the above suggestion is not accepted, VALS subscribes to option a, which is the status quo (ie: the Court, with the consent of the Defendant).

### **Question 2**

Indictable property offences involving small amounts of money should be treated differently from other IOTS.

### **Question 4**

VALS wishes to add another option to the suggestions (4a-f) mentioned in the Discussion Paper. The model VALS favour is for the matter to be dealt with summarily unless the Defendant otherwise elects.

### **Question 5**

It is only to include a list of factors in the legislation if the list includes a catch all clause.

### **Question 6**

VALS agrees that the list should contain the following factors:

- catch all clause (ie: 6n)

VALS does not agree that the list should contain the following factors:

- factors relating to general deterrence (ie: 6k). This is because literature shows that in reality the deterrent effect of the legal system is inefficient (ie: Arie Frieberg).

VALS also takes issue with option 6g.

### **Question 9**

The DPP should not be able to direct present matters that the Magistrates' Court has decided to determine summarily.

Thank you for the opportunity to comment on the Indictable Offences Triable Summarily Discussion Paper. If you have any queries, please contact Greta Jubb (Research Officer).