



Getting into the Act

2012 Review of the Aboriginal Land Rights Act (NSW)

**NETWORK ROUNDTABLE
OUTCOMES REPORT**

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INTRODUCTION

In December 2011, the NSW Minister for Aboriginal Affairs announced the five-yearly periodic review of the *Aboriginal Land Rights Act 1983* (“**ALRA**”). The review, required by section 252A of the ALRA, is to determine whether the policy objectives of the ALRA remain valid and whether the terms of the ALRA remain appropriate for securing those objectives.

The Minister announced the following Terms of Reference for the Review:

1. Inquire into and make general recommendations as to whether the aims and objectives of the *Aboriginal Land Rights Act* require expansion or change of the Act in light of developments since 1983,
2. Inquire into and make recommendations as to whether the administrative and operational provisions within the Act require any change to facilitate and improve the efficacy of the Act, and
3. Report all findings and recommendations by 1 November 2012 incorporating public responses following a period of consultation.

The Minister established a working group of the following members to undertake the review:

Mr. Stephen Wright, Registrar of the ALRA (Chairperson)

Mr. Geoff Scott, Chief Executive Officer of the NSW Aboriginal Land Council.

Mr. Sean Gordon, Chief Executive Officer of Darkinjung Local Aboriginal Land Council.

Ms. Stacey Meredith, an Aboriginal Owner from Central Western NSW registered under the ALRA and a member of the Griffith Local Aboriginal Land Council.

Dr. Richard Sheldrake, Director General of the Department of Primary Industries.

Ms. Kristy Masella, Group Manager Social Justice, Office of Aboriginal Affairs.

Network Consultation Process

In February 2012, the NSW Aboriginal Land Council (“**NSWALC**”) commenced consultations within the Land Rights Network (“the **Network**”) to ensure that the views of the Network inform the reform process at the earliest stages.

Representatives from Local Aboriginal Land Councils (“**LALCs**”) were invited to participate in regional forums specifically conducted in each of the nine (9) ALRA regions to consider and constructively discuss the ALRA. Discussions at the regional forums were facilitated and recorded by NSWALC staff.

Network Roundtable

In May 2012, a Network Roundtable consisting of a male and female delegate selected by each regional forum met in Sydney to review and considered the outcomes from the regional forums. In two days of in-depth discussions, the Network Roundtable applied the collective knowledge and experience of delegates to the issues most commonly raised across the Network, as well as to possible options for addressing those issues. Discussions were again facilitated and recorded by NSWALC staff.

NSWALC wishes to thank the Network delegates who participated in the Roundtable for sharing their time, experience and knowledge.

Network Roundtable Delegates

Delegate	LALC and Office	Region
Paul Carr	Dubbo LALC Chairperson	Central
Veronica Smith	Gilgandra LALC Chairperson	Central
Chris Spencer	Coffs Harbour LALC Chief Executive Officer	Mid North Coast
Ann Edwards	Bowraville LALC Chairperson	Mid North Coast
Brett Tibett	Grafton-Ngerrie LALC Chairperson	North Coast
Tracey King	Ngulingah LALC Member & Employee	North Coast
Greg Griffiths	Red Chief LALC Chairperson	Northern
Dolly Jerome	Moombahlene LALC Deputy Chairperson	Northern
Brendan Harris	Coonamble LALC Chief Executive Officer	North Western
Lynne Trindall	Narrabri LALC Chief Executive Officer	North Western
Shane carriage	Ulladulla LALC Chief Executive Officer	South Coast
Karen Tronier	Ulladulla LALC Deputy Chairperson	South Coast
Andrew Smith	Worimi LALC Chief Executive Officer	Sydney Newcastle
Yvonne Weldon	Metropolitan LALC Board Member	Sydney Newcastle
Rena Clements	Cobar LALC Chief Executive Officer	Western
Denise Williams	Brungle Tumut LALC Chief Executive Officer	Wiradjuri
Leeanne Hampton	West Wyalong LALC Chief Executive Officer	Wiradjuri

This report presents recommendations made by the Network Roundtable, as well as key considerations discussed in reaching those recommendations. It is important to note that this report does not purport to be a complete record of all discussions had at the Network Roundtable.

The NSW Aboriginal Land Council wishes to thank all Network Roundtable Delegates for sharing their time, knowledge and experience.

SUMMARY OF RECOMMENDATIONS

The Network Roundtable made the following recommendations:

1. The following purpose for the ALRA should be added to section 3 of the ALRA:
“to provide for Aboriginal Land Councils to take action to protect, and to promote awareness of, the culture and heritage of Aboriginal persons in New South Wales”.
2. Further discussions are needed with the Aboriginal communities of NSW, on approaches to protecting Aboriginal culture and heritage, as well as possible roles, functions and authorities within the ALRA for giving effect to the above recommended purpose of the ALRA.
3. The Government should determine land claims prioritised by the Network in a collaborative approach to overcoming some of the issues arising from the number of unresolved land claims.
4. The content requirements for Community Land and Business Plans, in section 83(1) of the ALRA, should be at the discretion of LALCs.
5. Minor amendments to the Community Land and Business Plans, specifically in respect to timeframes for the completion of strategies or proposals, should be amendable by resolution of the Board (with such amendments possibly still requiring NSWALC approval and members to receipt the amended Community Land and Business Plan).
6. The timeframes stipulated in section 84 of the ALRA in respect to the approval process for Community Land and Business Plans should all be halved.
7. The triggers for the appointment of an administrator to a LALC, relating specifically to Community Land and Business Plans, in section 86 of the ALRA, should be removed in favour of a funding policy response to such circumstances.
8. The land dealings provisions should be limited in their application to allow for land management decisions to be reasonably made outside of the requirements of sections 42E(1) of the ALRA. Specifically certain Development Applications should be exempted from the land dealings provisions based upon the nature of the development for which approval is being sought (e.g. activities related to single block residential land) and/or on the value (positive or negative) of the improvements to the property resulting from the proposed development.
9. The supervisory role of NSWALC in respect to Community Benefit Schemes needs to be clearly defined.
10. The provision of housing schemes by LALCs should remain within the ALRA, and that an extension to the December 2012 deadline for approval of ALRA Social Housing Schemes is required.
11. All former reserves and missions owned by LALCs should be rates exempted through listing in schedule 1 of the *Aboriginal Land Rights Regulations 2002*.
12. NSWALC should retain its current regulatory functions under the ALRA.
13. The cessation of funding by NSWALC, pursuant to section 163 of the ALRA, should be at the discretion of NSWALC.

14. Section 225(d) of the ALRA should be removed from the legislation, to allow for the appointment of NSWALC staff as administrators of LALCs.
15. All operational rules for LALCs should be represented in a logical order within the Model Rules for LALCs, in schedule 2 of the ALR Regulations. However, noting that the provisions of the ALRA and the *Aboriginal Land Rights Regulations 2002* prevail over inconsistencies with the Model Rules, the operational rules for LALCs currently located elsewhere in the legislation should continue to retain their principal locations as well.
16. The quorum requirement for LALC meetings should be amended in favour of the following:
- For LALCs with a membership of less than 100 voting members the quorum for a meeting should be 10% of the total number of voting members.
 - For LALCs with a membership of a 100 voting members or greater, the quorum for a meeting should be eleven voting members.
17. The 2 year, 4 year and staggered term options for electoral terms of LALC Boards, should be considered by the Review Working Group.
18. The 'two meeting rule', that a member must have attended two meetings of their LALC in the last twelve months to be eligible to vote in LALC Board elections, should be extended to apply to a member's eligibility for nominating and being nominated for LALC Board elections.
19. The obligation, in section 110 of the ALRA, for NSWALC to use its best endeavours to increase the total number of voting members in the state by no less than 3% per annum, should be removed from the legislation.
20. The "less than 50 voting members", trigger for Ministerial dissolution of a LALC, section 91(1)(a) of the ALRA, should be removed from the legislation.
21. LALC CEOs should have the authority to alter a voting member's voting status to 'non-voting' where the CEO is satisfied, after making reasonable inquiries, that the residential address of the member is unknown.
22. The Registrar should have a discretion to allow for the employment of individuals who would otherwise be disqualified for employment by LALCs, pursuant to section 79 of the ALRA, were regard is had to:
- I. The time that has elapsed since the offence was committed.
 - II. The nature of the acts or omissions that gave rise to the offence.
 - III. The nature and circumstances of the proposed position of employment.
23. A specific and non-time limited disqualification for employment should exist for individuals who have been convicted of child sexual offences.
24. A possible exemption to section 66 of the ALRA, that would allow Board members to be employed by their LALCs only for the purpose of undertaking culturally associated works – i.e. site works, should be considered by the Review Working Group.

25. The current provisions and process for suspending Board members should be amended to incorporate the following:

- I. Clear definitions.
- II. Clear and transparent steps to the process, including specific timeframes and communication requirements for the provision of outcomes to both the LALC and Board member.
- III. A role for NSWALC.
- IV. Support/advocacy for Board members.

26. There should be a code of conduct that applies to LALC members as there currently is applying to Board members and staff.

27. Members wishing to vote on proposed member suspensions should be required to have attended two meetings of their LALC within the last twelve months.

DISCUSSIONS AND OUTCOMES

Objectives of the ALRA; Aboriginal culture and heritage

As with the strong opinion from the Regional Forums there was unanimous agreement among Roundtable delegates that the protection of Aboriginal culture and heritage should be an express objective of the ALRA. There was broad discussion on the failure of the current legislative regime for protecting Aboriginal culture and heritage, and how significant this is for Aboriginal people, as well on the cultural elements of and intentions behind the ALRA.

The roundtable supported the proposal that the following statement, derived from the current functions of Aboriginal Land Councils, sections 54(4) and 106(7) of the ALRA, be included as a purpose of the ALRA in section 3 of the ALRA:

“to provide for Aboriginal Land Councils to take action to protect, and to promote awareness of, the culture and heritage of Aboriginal persons in New South Wales”.

The Roundtable also considered the need for functions and authorities to give effect to such a new purpose to the ALRA. However, in recognition of the complexity and scale of the issues and noting that there is a current reform process looking specifically at Aboriginal culture and heritage laws in NSW, the Roundtable chose to leave further exploration of possible functions and authorities within the ALRA for another forum.

It was also acknowledged in discussions that Aboriginal culture and heritage is a sensitive area, and that the ALRA and Native Title laws should work together for Aboriginal peoples rather than cause divisions in communities. There was also a general view that there is a need for greater awareness within the Network around the Aboriginal Owners Register.

The Network Roundtable recommended that:

1. The following purpose for the ALRA should be added to section 3 of the ALRA:

“to provide for Aboriginal Land Councils to take action to protect, and to promote awareness of, the culture and heritage of Aboriginal persons in New South Wales”.

2. Further discussions are needed with the Aboriginal communities of NSW, on approaches to protecting Aboriginal culture and heritage, as well as possible roles, functions and authorities within the ALRA for giving effect to the above recommended purpose of the ALRA.

Land claims

All representatives agreed that the accumulation of unresolved land claims is effectively undermining the compensatory purpose of the ALRA. It was also again acknowledged that the delay in resolving land claims often has economic costs associated with changes made to land uses zoning for claimed lands in the lengthy periods it takes to resolve land claims.

However, after extensive discussion of the issue and particularly potential implications of advocating for statutory timeframes for determining claims, the Roundtable diverged from the view expressed commonly within the Network's Regional Forums that timeframes should be advocated for, and opted to advocate for a prioritised approach to dealing with unresolved claims.

The Network Roundtable recommended:

3. The Government should determine land claims prioritised by the Network in a collaborative approach to overcoming some of the issues arising from the number of unresolved land claims.

Community Land and Business Plans

As with the Regional Forums, there was again general in principle support for the planning provided by Community Land and Business Plans (CLBPs). However, concerns were raised in regards to the mandatory content requirements for CLBPs, in section 83(1) of the ALRA and the current approvals process of section 84 of the ALRA, both generally and specifically in respect to minor amendments.

In regards to the content requirements for CLBPs, it was recognised that NSWALC has a discretion in section 82(2)(c)(5) to exempt a LALC wholly or partly from the requirement to prepare a CLBP where regard is had to the limited operation of the LALC. The use of this provision to bring about the desired discretion in the content requirements for CLBPs was discussed. However, setting aside any possible issues with the appropriateness of a systematic approach to the use of this provision, the discretion would reside with NSWALC, whereas the Roundtable was of the view that in accordance with the principle of self-determination, LALCs should have the authority to determine the scope of their operations through their-own planning process.

On the issue of the approval process, the Roundtable had concerns about both the timeframes stipulated by section 84 of the ALRA and the application of the entire approval process to even 'minor' amendments of CLBPs, as specifically provided by section 82(5).

In regards to the timeframes stipulated in section 84 of the ALRA, the Roundtable consensus was as follows:

- the 14 days notice currently required by section 84(1), should be 7 days;
- the 28 days for the provision of proposed CLBPs to NSWALC in section 84(2), should be 14 days; and
- the 14 days exhibition period for proposed CLBPs should be 7 days

In regards to the approval of 'minor' amendments to CLBPs, the Roundtable had concerns that the current process for approving amendments is too onerous for genuinely minor amendments to CLBPs, such as extensions to timeframes for the achievement of strategies and proposals. It was agreed that an alternative approach for such amendments involving principally just Board approval was preferred.

However, there were some concerns about the possible abuse of such an alternate approval process. These concerns were largely centered on the possible scope of application of such an

alternate approval process and how ‘minor amendments’ may be defined for such purposes. There was also some recognition that should such authority be provided to Boards, there would need to be a mechanism to ensure that LALC members, at the least, are provided notice and visibility of such amendments.

A clear and limiting definition of ‘minor amendments’ (i.e. just extensions of timeframes for the achievement of strategies or proposals) and/or the continued application of the NSWALC approval requirement, were seen as a possible way of addressing some of these concerns. A requirement that CLBPs that have undergone minor amendment by the Boards, be receipted by a members resolution, similarly to the requirements for annual reports and budgets, may address the remaining concerns.

The Network Roundtable recommended that:

4. The content requirements for CLBPs in section 83(1) of the ALRA should be at the discretion of LALCs.
5. Minor amendments to the CLBP, specifically in respect to timeframes for the completion of strategies or proposals, should be amendable by resolution of the Board (with such amendments possibly still requiring NSWALC approval and members to receipt the amended CLBP).
6. The timeframes stipulated in section 84 of the ALRA in respect to the approval process for CLBPs should all be halved.
7. The triggers for the appointment of an administrator to a LALC, relating specifically to CLBPs, in section 86 of the ALRA, should be removed in favour of a funding policy response to such circumstances.

Land dealings

The Roundtable confirmed the view from the Regional Forums that the current scope of application of the land dealings provisions, as defined in section 40 of the ALRA, places too great a regulatory burden on many minor land management decisions. As with the Regional Forums much of the discussion centered on the application of the land dealings provisions to Development Applications (DAs). In this regard, it was noted that the differing requirements of the different local government regulatory regimes has the effect of varying the application of the land dealings provisions to certain land use activities, across the state and potentially even within a LALC’s boundaries.

While there was a consensus view that some form of limitation to the provisions is needed, it was also agreed that not all DAs should be excluded. Discussions on the scope of such a limitation focused on the exclusion of certain DAs based on the activity or on the value of improvements to the property. Ultimately however the Roundtable was unable to settle upon a clear definition for what DAs should be exempted from the land dealings requirements.

While that was the case, a strong preference emerged for defining the limitation or exemption by activity and specifically in respect to DAs lodged over single residential blocks.

The Network Roundtable recommended that:

8. The land dealings provisions should be limited in their application to allow for land management decisions to be reasonably made outside of the requirements of sections 42E(1) of the ALRA. Specifically certain Development Applications should be exempted from the land dealings provisions based upon the nature of the development for which approval is being sought (e.g. activities related to single block residential land) and/or on the value (positive or negative) of the improvements to the property resulting from the proposed development.

Community Benefit Schemes

All agreed that the requirement that Community Benefit Schemes be fair and equitable, and administered reasonably and transparently should continue. However, some participants had concerns about the currently required NSWALC approval and there was broader discussion of NSWALC's supervisory function in respect to LALC Community Benefit Schemes; section 108(1)(b) of the ALRA.

In regards to the 'supervision' of schemes, the Roundtable wished to see some form of oversight continued. However, the general view was that there exists sufficient mechanisms for such oversight, and that a separate compliance reporting regime specifically for the supervision of benefit schemes should not be established.

It was suggested that in combination the current reporting requirements for LALCs financial statements and annual reports provides sufficient transparency for the supervision of Community Benefit Schemes by NSWALC. Additionally, it was suggested that NSWALC could provide time limited approvals for LALC Community Benefit Schemes to provide another mechanism for ensuring that Community Benefit Schemes continue to be fair, equitable, reasonable and transparent in their administration.

The possible need for more intensive supervisory mechanisms for Community Benefit Schemes of significant monetary value was also discussed. It was suggested that in such cases additional supervisory requirements could be imposed through a condition of NSWALC's approval, pursuant to section 119 of the ALRA.

The Network Roundtable recommended that:

9. The supervisory role of NSWALC in respect to Community Benefit Schemes needs to be clearly defined.

Social Housing Schemes

The Roundtable confirmed the significance of social housing as an issue within the Network and reaffirmed the desire, expressed at the Regional Forums, to keep housing management within the ALRA. The housing needs of Aboriginal communities as well as the administrative and resource burden of managing housing were discussed. The sustainability of social housing management was

debated; with some of the view that such services cannot be self sustaining, whilst others held that it can and must be.

There was also discussion on 'social housing' as a term and concept, with some preferring that 'housing' be used in preference to the existing terminology to allow a different mindset and focus on approaching housing within the Network.

The Network Roundtable recommended that:

10. The provision of housing schemes by LALCs should remain within the ALRA, and an extension to the December 2012 deadline for approval of ALRA Social Housing Schemes is required.

Rates

The Roundtable confirmed the view from the Regional Forums that the excessive amount being expended by NSWALC on the payment of unpaid rates for LALC lands, resulting from NSWALC's obligations under section 44A of the ALRA, is unacceptable. Discussion centered on the level of equity of the current situation, as well as on the burden experienced by those LALCs with ownership of former reserves and missions.

However, having also discussed the interests local governments have in retaining the provision, it was agreed that there is unlikely to be the political will to see it removed. It was agreed that another approach for dealing with the disincentive for LALCs to pay their rates needs to be sought.

The Network Roundtable recommended that:

11. All former reserves and missions owned by LALCs should be rates exempted through listing in schedule 1 of the *Aboriginal Land Rights Regulations 2002*.

Regulatory role of NSWALC

By general agreement the Roundtable confirmed the view expressed at the Regional Forums, that NSWALC should retain its current regulatory functions. The principle of self-determination was the key consideration raised in discussions that led to this view-point.

Even so, all agreed that some flexibility is needed in the currently strict compliance requirements of section 163 of the ALRA. The non-discretionary cessation of funding for late provision of budgets or audited financial statements was seen as not being suitable for the realities of community sector operations and was at times punishing LALCs for delays caused by third parties; principally auditors. While it was accepted that some form of sanction for non-compliance was certainly needed, discretion in respect to applying such measures was thought preferable to the current mechanism.

In addition, concerns were raised about the approach at times taken by NSWALC, to its regulatory role in the Network. It was specifically suggested that NSWALC could be more helpful in its approach to such critical matters such as land dealings.

The Network Roundtable recommended that:

12. The NSWALC should retain its current regulatory functions under the ALRA.

13. The cessation of funding by NSWALC, pursuant to section 163 of the ALRA, should be at the discretion of NSWALC.

Interventions: administrators, investigators and advisors.

As was identified in the Regional Forums, there was broad agreement that the current legislative mechanisms for the appointment and oversight of administrators, investigators and advisors to LALCs are not best serving the Network's needs. The Roundtable again agreed with the view from the Regional Forums that there needs to be a form of intervention that sits somewhere before administration. However, after much discussion and consideration of possible options, no clear recommendation for a new approach emerged.

Having considered that NSWALC staff were not prevented from being appointed as administrators to LALCs, by section 225 of the ALRA, prior to 2001, the Roundtable considered that a reversion to such arrangements may allow for an approach to administrators that is at the least less of a resource burden upon the Network.

The Network Roundtable recommended that:

14. Section 225(d) of the ALRA should be removed from the legislation, to allow for the appointment of NSWALC staff as administrators of LALCs.

LALC rules

There was strong support for the notion raised across the Regional Forums that the current operational rules for LALCs, found dispersed throughout the ALRA and Regulations, should be located in one logical location within the legislation. The Roundtable considered the merits and risks associated with the various locations of LALC rules across the ALRA and Regulations; specifically in respect to the ease with which such rules may be amended. It was agreed that the current controls around possible amendments to the operational rules should be retained in general. However, the current confusion for those involved in LALC operations was still seen as significant enough to warrant attention.

The Network Roundtable recommended that:

15. All operational rules for LALCs should be represented in a logical order within the Model Rules for LALCs, in schedule 2 of the ALR Regulations. However, noting that the provisions of the ALRA and the *Aboriginal Land Rights Regulation 2002* prevail over any inconsistencies with the Model Rules, the operational rules for LALCs currently located elsewhere in the legislation should continue to retain their principal locations as well.

Quorums for members' meetings

The Roundtable confirmed that LALCs across the Network are encountering difficulties with the current quorum requirements for members meetings. There was much discussion about the previous quorum requirements, the policy thinking behind the 2006 changes to those requirements, as well as about membership participation generally and about the specific notice requirements for significant decisions such as land dealings. It was agreed that the current requirements must be changed and after much deliberation the formula identified in the below recommendation was settled upon by the Roundtable.

The Roundtable recommended that:

16. The quorum requirement for LALC meetings should be amended to the following:

- For LALCs with a membership of less than 100 voting members the quorum for a meeting should be 10% of the total number of voting members.
- For LALCs with a membership of a 100 voting members or greater, the quorum for a meeting should be eleven voting members.

Electoral terms of LALC Boards

As with the Regional Forums before it, the Roundtable discussion on the electoral terms for LALC Boards was again divided. Those in favour of 4 year terms for LALC Board cited the issue of board continuity for their position. While those in favour of the existing 2 year terms had concerns about undermining the democratic mechanism for dealing with ineffective Boards or Board members. Possibility of having staggered electoral terms for LALC boards was also considered as an option that may address the concerns of both perspectives.

Ultimately the Roundtable was not able to come to a consensus view on the issue other than that put forward in the recommendation below.

The Roundtable recommended that:

17. The 2 year, 4 year and staggered term options for electoral terms of LALC Boards, should be considered by the Review Working Group.

Membership and participation

Membership and participation was again a significant and broad discussion for the Roundtable as it was for the Regional Forums. It was recognized that some of the issues identified in regards to participation go beyond the ALRA and are being impacted upon by amongst other things societal trends within and across communities. With the exception of discussion on the interactions between community benefits and participation and the impact participation has on quorums and effective operations, most discussion was on influences and strategies beyond the operation of the ALRA.

There was however agreement with the views from the Regional Forums, that the 'two meeting rule', with its direct relevance and implications in respect to participation should be extended in its

operation, and that overall numbers of voting members are not relevant for the legitimacy of the Network. In regards to the latter and section 91(1)(b) of the ALRA specifically, it was generally agreed that a LALCs membership relative to the size of the community it serves remained a significant consideration in respect to the legitimacy of a LALC .

The Roundtable recommended that:

18. The 'two meeting rule', requiring a member to have attended two meetings of their LALC in the last twelve months to be eligible to vote in LALC Board elections, should be extended to apply to a member's eligibility for nominating and being nominated for LALC Board elections.
19. The obligation, in section 110 of the ALRA, for NSWALC to use its best endeavours to increase the total number of voting members in the state by no less than 3% per annum, should be removed from the legislation.
20. The "less than 50 voting members", trigger for Ministerial dissolution of a LALC, section 91(1)(a) of the ALRA, should be removed from the legislation.

In regards to membership and specifically the authorities of a LALC CEO in respect to maintaining their LALC's members roll, the Roundtable considered and endorsed the proposal coming from some Regional Forums, represented in the recommendation below. The view of the Roundtable was that the proposal presents a less severe sanction for members and still addresses issues arising from the number of voting members of a LALC; i.e. quorum for members meetings.

The Roundtable recommended that:

21. LALC CEOs should have the authority to alter a voting member's voting status to 'non-voting' where the CEO is satisfied, after making reasonable inquiries, that the residential address of the member is unknown.

Employment disqualifications

The Roundtable confirmed the view expressed in the Regional Forums, that the current disqualification provisions for employment generally with LALCs, in section 79 of the ALRA are problematic. The key consideration of discussions was the high rate of Aboriginal community interactions with the criminal justice system, particularly with young Aboriginal people, as well as Aboriginal community expectations of LALCs in regards to employment opportunities.

The broad and inflexible nature of the disqualification provisions were also seen as being too onerous for the intended purpose, where employment is proposed for positions that may be seen as being 'less risk' for the LALC, given the nature of the job alone or where the job is considered in conjunction with the nature of the offence.

In a somewhat different direction, given the community and family oriented nature of LALC operations, consideration and ultimately unanimous agreement was given to the need for specific disqualification provisions relevant to the working with children nature of employment at LALCs.

The Roundtable recommended that:

22. The Registrar should have a discretion to allow for the employment of individuals who would otherwise be disqualified for employment by LALCs, pursuant to section 79 of the ALRA, were regard is had to:

- IV. The time that has elapsed since the offence was committed.
- V. The nature of the acts or omissions that gave rise to the offence.
- VI. The nature and circumstances of the proposed position of employment.

23. A specific and non-time limited disqualification for employment should exist for individuals who have been convicted of child sexual offences.

Board member employment

While all could agree that any consideration of an exemption to the ban on board member's employment, section 66(1)(j), should only be considered in regards to employment for cultural works specifically, the Roundtable could not reach a consensus on whether to recommend such an exemption. Discussions centered on the inherent conflict associated with Board member employment, as well as on the impact the current prohibition is having in terms of board members not being able to fulfill cultural obligations and those choosing to undertake paid work for their LALC rather than participate in its governance.

The Network Roundtable recommended that:

24. A possible exemption to section 66(1)(j) of the ALRA, that would allow Board members to be employed by their LALCs only for the purpose of undertaking culturally associated works – i.e. site works, should be considered by the Review Working Group.

Board member sanctions

The Roundtable discussion on Board member's sanctions was both in-depth and impassioned. Views ranged from: the current process is too open to abuse, i.e. it is too easy for actions to be taken against the undeserving, to the current process is too difficult to deal with individuals whose behaviour is deserving of sanction. With such a spectrum of views and given the complexity of the issue and the current provisions, a consensus view upon proposed amendments eluded the Roundtable. Even so, agreement was reached that amendments were needed and that certain elements should be incorporated into the new provisions and process.

The Network Roundtable recommended that:

25. The current provisions and process for suspending Board members should be amended to incorporate the following:

- I. Clear definitions.
- II. Clear and transparent steps to the process, including specific timeframes and communication requirements for the provision of outcomes to both the LALC and Board member.
- III. A role for NSWALC.
- IV. Support/advocacy for Board members.

Suspension of members

As with its discussion of Board member sanctions, the Roundtable discussion on member's suspension was impassioned, in-depth and divided. There was however, agreement about the need for a code of conduct for members to provide clear guidance on what conduct may be detrimental to the best interests of a LALC, and for an amendment to voter eligibility requirements to ensure that only active members are making decisions about suspensions.

The Network Roundtable recommended that:

26. There should be a code of conduct that applies to LALC members as there currently is applying to Board members and staff.

27. Members wishing to vote on a motion to suspend a member should be required to have attended two meetings of their LALC within the last twelve months.