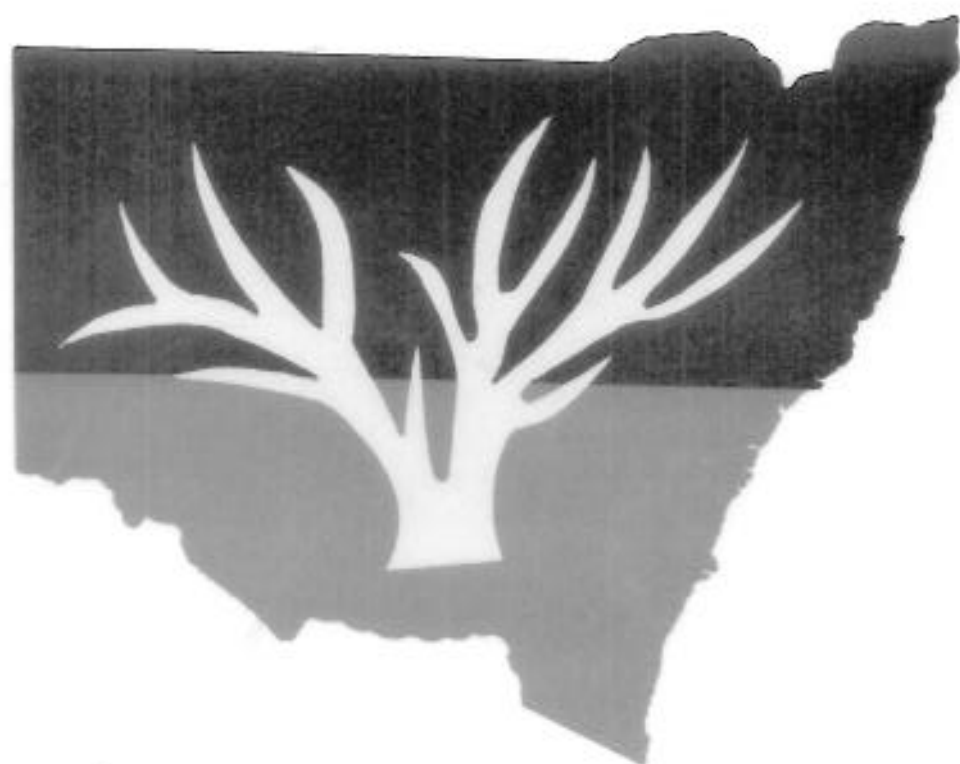


THE NEW SOUTH WALES
ABORIGINAL LAND COUNCIL



ANNUAL REPORT
1985-86

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AN EXPLANATION OF THE NEW SOUTH WALES ABORIGINAL LAND RIGHTS ACT, 1983

The New South Wales Government, in implementing the Aboriginal Land Rights Act, 1983 recognised that:—

1. Land in the State of New South Wales was traditionally owned and occupied by Aborigines.
2. Land is of spiritual, social, cultural and economic importance to Aborigines.
3. It is fitting to acknowledge the importance which land has for Aborigines, and the need of Aborigines for land.
4. It is accepted that as a result of past Government decisions, the amount of land set aside for Aborigines has been progressively reduced without compensation.

Therefore, the Act is an attempt by Government to redress the imbalance. This has been partially achieved by:—

The Establishment of Land Councils

- a) LALC — Local Aboriginal Land Councils; made up of all adult Aborigines in a local area wanting to be members. There are currently 115 Local Aboriginal Land Councils in New South Wales.
- b) RALC — Regional Aboriginal Land Councils; made up of two delegates from each Local Aboriginal Land Council in the Region. There are currently 13 Regional Aboriginal Land Councils in New South Wales.
- c) NSWALC — New South Wales Aboriginal Land Council; made up of one delegate from each Regional Council.

Funding of Aboriginal Land Councils

The New South Wales Government provides NSWALC with 7.5% of revenue gained from Land Tax. This funding will cease in 1998.

Of the funds received by NSWALC, 50% are required to be placed in "approved" investments, and are not able to be utilised. The remaining 50% of funds are distributed to the RALCs, who, in turn, fund LALCs in their respective regions. These funds are primarily for the acquisition and management of land, housing and development of enterprise.

In implementing this Act, it was hoped that the Federal Government would provide funding for administrative functions of Land Councils. This has not happened, and, in fact, Federal funding through agencies such as the Department of Aboriginal Affairs, and the Aboriginal Development Corporation, positively discriminates against Land Councils in New South Wales. The result of these Federal policies is that many Land Councils have had to use some of their limited financial resources for administration, rather than for land acquisition and enterprises, as required under the Act.

Functions of a Local Aboriginal Land Council

The functions of a Local Aboriginal Land Council, as prescribed in the Act are:—

- a) The holding of lands vested in the Council.
- b) Applying to RALCs for the purchase of lands;
 - i) Applying to RALCs for administration costs and expenses.
- c) Management of its lands and establishment and operation of its enterprises.
- d) Consider applications to prospect or mine for minerals on its lands.
- e) Lease or change the use of its lands.
- f) The making of claims to Crown Lands.
- g) Upgrade and extend housing for Aborigines.
- h) Protection of Aboriginal interests in management of its lands.
- i) Negotiate access or use to any part of its lands.
- j) Conciliation of disputes between Aborigines in its areas.
- k) Other functions under the Aboriginal Land Right Act and other Acts.

The functions of a Local Aboriginal Land Council centre around the acquisition and management of land, management of money and developing enterprise.

Functions of a Regional Aboriginal Land Council

- a) Putting together and keeping a register of all the local Aboriginal Land Councils in its area, with details of each LALC's membership and area.
- b) Making recommendations to NSWALC in relation to funding land claims and purchasing land for itself or its LALCs.
- c) Purchase of lands for itself or its LALCs.
- d) Claiming Crown land.
- e) Making recommendations for granting funds for administration costs for itself and its LALC.
- f) Providing financial and other assistance to Local Aboriginal Land Councils in its area for the management, use and control of land, and for the setting up and running of business.
- g) Assisting Local Aboriginal Land Councils in its area to prepare claims to Crown Land, or to negotiate buying private land (where the LALC asks for help).
- h) Ascertaining the wishes of all Local Aboriginal Land Councils regarding the acquisition of land, and where it is able so to do, putting those wishes into effect in accordance with the best interests of the Local Aboriginal Land Councils in the Region.
- i) Providing further assistance as is needed, from time to time, to the Local Aboriginal Land Councils.
- j) Settling disputes by agreement between Local Aboriginal Land Councils in its area, or between Local Aboriginal Land Councils and individuals, or between individual members of the LALCs in regard to the claiming or purchasing of land.
- k) The holding of land.
- l) Looking at, and deciding proposals by Local Aboriginal Land Councils in its area, to lease out, or change the use of land.
- m) Any other matter under this or any other Act of Parliament.

Functions of the New South Wales Aboriginal Land Council

The functions of the New South Wales Aboriginal Land Council, as prescribed under the Act, are:—

- a) Administering the New South Wales Aboriginal Land Council Account, and the Mining Royalties Account.
- b) Providing help from its own funds to Regional Aboriginal Land Councils to undertake projects involving "extraordinary expenditure".
- c) Deciding to approve or disapprove the terms and conditions of agreements proposed by Local Aboriginal Land Councils, or allow mining or exploration on LALC land.
- d) Making claims to Crown Land on its own behalf, or on behalf of a Local Aboriginal Land Council, if asked to do so by the LALC.
- e) Managing former Aboriginal Lands Trust housing in a Local Aboriginal Land Council area, if asked to do so by the LALC.
- f) Making grants to, lending money, or investing money on behalf of Aboriginal people.
- g) The holding of land.
- h) Any other matter under this or any other Act.

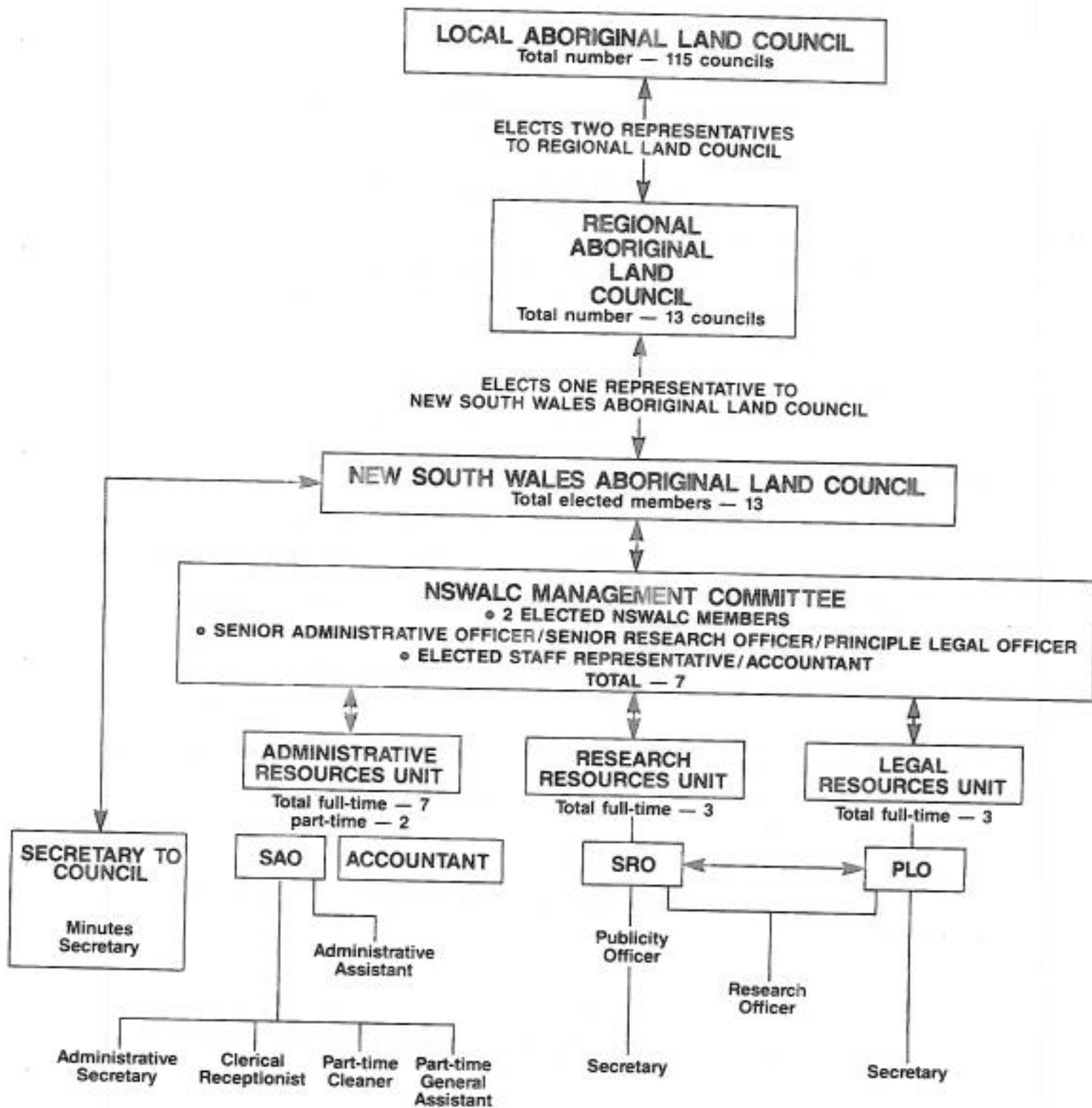
The functions of the New South Wales Aboriginal Land Council are primarily administrative and aimed at assisting Local, and the Regional Aboriginal Land Councils perform their respective functions.

Land Claims

All ALCs are entitled to claim land.

"Claimable Crown Lands" means lands "owned" by the Crown, which at the time a claim is made:—

- a) Are able to be lawfully sold or leased, or are reserved or dedicated for any purpose, under the Crown Lands Consolidation Act, 1913, or the Western Lands Act, 1901.
- b) Are not lawfully used or occupied, or
- c) Are not needed, nor likely to be needed, for an essential public purpose.
- d) Are not deemed to be needed or likely to be needed for residential purposes.



THE NEW SOUTH WALES ABORIGINAL LAND COUNCIL

The Office of the New South Wales Aboriginal Land Council is situated at 184 Cope Street, Waterloo. The members of the Council are as follows:

Chairperson:	Tom Winters	North Western Region
Secretary:	Delia Lowe	South Coast Region
Treasurer:	Gavin Andrews	Western Metropolitan Region
	William Bates	Western Region
	Ray Craigie	Northern Tablelands
	Darrel Sampson	Northern Region
	Agnes Coe	Wiradjuri Region
	Manuel Flores	Central Coast (Mid North Coast)
		Central Region
	Claude Roberts	North Coast
	Danny Chapman	Far South Coast
	Elizabeth Hoffmann	Murray River Region
	Tom Williams	Sydney/Newcastle Region

STAFF OF N.S.W.A.L.C.

Senior Administrative Officer
Principle Legal Officer
Senior Research Officer
Accountant
Publicity Officer
Research Officer
Administrative Assistant
Secretarial

Garry Green
Tony Simpson
Shahida Sweeney
Mohammad Ishaq
Karen Flick
Aaron Briscoe
Kevin Mundine
Carmel Childs
Judy Munro
Vicky Haroa
Dulcie Simpson

All enquiries: NSWALC (02) 699 1088
9am-5pm
P.O. Box 155,
Redfern, 2016

Claims will not be granted over privately owned land.

All land acquired by a Land Council is held by that Council under "inalienable" title. This means that Land Council lands cannot be sold or mortgaged or disposed of in any way, although Land Councils may grant leases over their lands.

Land that is granted pursuant to claim is generally by way of freehold title. A great disappointment is that amendments to the Act in 1986 provide that land granted in the Western Land Division (more than 1/3 of the state) will be only leasehold.

STRUCTURE OF NSWALC

The New South Wales Aboriginal Land Council is made up of 13 state representatives voted in by the 13 regional land councils.

These representatives in turn elect a NSWALC Chairperson, Secretary, and Treasurer.

The term of office for the representatives is normally 12 months. They are elected at the Annual General Meeting of the region. The Act, however, has been amended to allow regulations to be made that give land councils the power to remove office bearers before their full term. This will apply to the state, regions and local councils.

Other elected officers, for example, regional or state representatives will also be able to be removed in this manner. Office bearers can be re-elected on completing their full term.

Meetings

The State Land Council held 10 meetings for the 1985-86 financial year. Each meeting ran for one week, and both policy issues and administrative matters were part of the agenda. The meetings also provided an important forum for state representatives to meet politicians, government officials and others interested in land council issues.

Sitting Fees

The state representatives are paid sitting fees for all meetings attended, and honorarium for any business undertaken on behalf of NSWALC at the prescribed Public Service Board rates.

NSWALC MEETINGS — FINANCIAL YEAR 1985-86

Twelfth	1-5 July 1985
Deniliquin Workshop	31 July — 2 August 1985
Thirteenth	19-23 August 1985
Fourteenth	30 September — 4 October 1985
Fifteenth — Part A	16-20 December 1985
Fifteenth — Part B	6-10 January 1986
Sixteenth	3-7 March 1986
Seventeenth	3-7 March 1986
Eighteenth	7-11 April 1986
Nineteenth	5-9 May 1986
Twentieth	2-6 June 1986
Extraordinary General	26-27 June 1986

OVERVIEW
THE ACT & AMENDMENTS

OVERVIEW

THE ACT AND AMENDMENTS:

In the early part of 1985 the Government decided that some aspects of the Land Rights Act needed amending to increase the accountability provisions. Attempts at consultation before the amendments were totally inadequate and ineffective.

The primary motivation, according to government sources, for the proposed amendments was the adverse publicity created by allegations of misspending. In September 1985 sensationalised accounts of land councils' mismanagement and misspending led to a series of proposals for amendments.

The State Land Council considered the proposals totally unacceptable and a counter-attack was launched. This led to negotiations. The amendments are now part of the Act. The State Council by no means supports the entirety of these amendments. Council opposed some of these changes as it felt these would undermine and weaken land council structures. There were also community fears that the changes would enhance bureaucratic control and shift power away from local communities.

Land councils were thrown out of kilter with the proposed changes and the general view was that there had not been sufficient community consultation. There was also concern about the long-term effects of the changes on the delicate relationship between local councils, regions and the State Land Council.

The community felt the government had over-reacted when negative media stories about land councils surfaced in 1985.

Like any other law, the Land Rights Act should accommodate the community it is meant to benefit. There are many flaws and loopholes in the Act which State Council will continue to point out to the government.

The amendments were put through ostensibly to increase the accountability provisions of the Act. The main thrust in this was to:

- Strengthen accountability provisions for councils through stricter reporting requirements, and the introduction of a uniform accounting system.

However other amendments, including those vigorously opposed by the ALC network, included:

- Denying claims to land which the Minister could declare as being needed for residential purposes;
- The change of land title in the Western Division from inalienable freehold to perpetual leasehold;
- Increases to the Minister's power to appoint administrators over councils;
- Removing power of local land councils to enter into purchase agreements with money provided by regional land councils;
- Granting of certain land claims with restrictions on use so as to accommodate the "essential public purpose" proviso of the Act;
- Placement of responsibility on NSWALC for payments of land council rates which were in arrears for 1985/86.

When the Land Rights Act was introduced in 1983, there has been considerable confusion about the way funds were to be handled by councils. Little or no groundwork had been done on how the funds were to be distributed, what the accountability provisions would be, and who would have control over the funds.

This was acknowledged by the Auditor-General in his financial report to Parliament in September which said:

"With the benefit of hindsight it is hoped that all Councils will overcome problems of the past. I believe that success will be assisted by a continuing intensive training program as recently demonstrated by workshops organised by the NSW Aboriginal Land Council.

The Auditor-General saw the difficulties encountered by councils in 1983-84 and 1984-85 as "teething problems". He further said: "It has been stated to my officers by some council officials that they were unable to satisfy fully all aspects of accountability due to members having little knowledge of the processes involved in accounting for moneys received and expended. These officials also lacked guidance as to what was legitimate expenditure under the Act."

There was confusion within land councils, exacerbated by conflicting advice, on use of funds. Council believes that many instances of 'mispending' in fact resulted from misunderstandings. There had been no training programs in 1983-84 on accounting and business practices. Many councils also lacked the expertise and financial knowledge needed to operate smoothly.

The State Land Council was also concerned about the way government handled its information gathering on the proposed changes. Although State Council was consulted, it was done in a climate adverse to informed and responsible decision-making. This climate was partly generated by the press commentary based, unfortunately, on selective leaking of confidential documents by unknown government sources.

In a sense, some of the amendments were a *fait accompli*, particularly the change of land title in the Western Division from freehold to leasehold. There was also the administrative burden placed on NSWALC for the payment of local land council rates, and the inability of local councils to purchase land on their own.

The amended Act essentially covers changes to land acquisition, budgeting, accounting, the appointment of administrators and investigators, and the payment of local government rates left in arrears.

From September 1985 to January 1986, funds from the State Treasury were frozen to NSWALC. This amounted to approximately \$4.5 million and was held by Treasury during negotiations over amendments to the Act.

The funds were subsequently released but only after repeated requests to the government. Funds due in February were not released until June. Government reasoning was that these funds could not be released until the NSWALC budget had been approved. But the Act did not require NSWALC to submit a budget at the time, although this was part of the proposed amendments then under negotiations. The February allocation was released in June but without interest. This interest was given after council representation to the Treasury.

This meant that there were no additional funds for regional and local councils. It also forced NSWALC to go into overdraft to continue its operations.

The State Council has so far only released funds to regional councils with satisfactory audits for 1984-85. Where the region has an uncleared audit for 1984-85, council has released money direct to local councils (with clear audits) with consent of the region.

The consequence of all this is that many councils — both regional and local — have experienced considerable financial difficulties, particularly with Shire Council rate payments, electricity bills, telephones, office rent and wages to council staff.

LAND CLAIMS

The amendments with potential for most damage include those that narrow claimable land even further through the exclusion of areas needed for residential purposes and the attempt to strengthen provisions relating to issue certificates which prevent a judicial review of an essential public purpose (section 36(8)).

"Essential public purpose" for instance, is very broadly interpreted and worded in legal jargon to cover a wide range of definitions when rejecting land claims.

If this provision is narrowly interpreted, the effect will be the same as if councils did not have the right to appeal against decisions that claimed land is "essential", for instance, for roads, town expansion, housing, public recreation, state forests, flora reserves, or national parks. The list, in other words, is endless.

Those worst affected by the changes are councils in the Western Division. Section 36 (9a) and (9b) gives the Western Land Act (1901) precedence over the Land Rights Act because of change in land title from inalienable freehold to perpetual lease.

The western region includes some of the most isolated and underprivileged communities at Bourke, Brewarrina, Wilcannia, Balranald. So while land councils in the eastern and central divisions can have inalienable freehold title to their lands, 18 per cent of councils will only have perpetual leases. This disparity has caused considerable anger and also left the future of Aboriginal land holdings uncertain.

Freehold title is the only real and true recognition of the community's need to repossess its land. The perpetual lease under section 36 (9a) is not inalienable. Moreover, western leases have an attached schedule which gives the Minister powers to cancel a lease should any conditions be breached. For instance, if rent is in arrears for more than three months, or a landholder does not furnish "such returns or statements as the Commissioner may from time to time require ... (on) any matter relative to the holding" then the Minister can cancel the lease.

The Western Division covers part of the North Western Regional Land Council and the Western Regional Land Council. The two regions together represent 22 local land councils, about one third of the area of New South Wales.

ACCOUNTING:

Many people in the community believe that the money received by land councils should have no strings attached, and should be spent according to the unrestricted wishes of the community. The Government asserts that because all monies paid out by the government must be accounted for, politically, it would be impossible for land councils to be an exception. This means that the audited accounts of land councils are required by law to be tabled in parliament.

Opponents of Land Rights can scrutinise the accounts and attack the government and the land councils for any deficiencies. If opponents have sufficient ammunition then the government will be placed in a political corner where it may have to take action against the land councils. If the political pressure builds up sufficiently, then the government may perhaps be forced to take greater control.

For this reason the State Council considers it necessary to prevent these political attacks on land councils.

ADMINISTRATORS:

The original Act contained provisions for the appointment of administrators. Basically government will only appoint an administrator when a land council has ceased to operate in conformity with the Act and is failing to represent the interests of the community.

The Minister has exercised his powers once. That was in respect to the Central Region.

The appointment of administrators raises very important questions about the ultimate community control of land councils.

The State Council is encouraging the Minister to ensure that when an administrator is appointed that he/she is from the Aboriginal community. It is also suggested that the administrator should, as soon as possible after the appointment, convene an advisory body to ensure that community views are reflected in the actions of the administrator. Obviously it is in the best interests of the community to control the councils. However while the power to appoint an administrator is there, it is obviously necessary to maximise the community input.

INVESTIGATORS:

The main function of an investigator is to examine the financial affairs of a land council and to report to the Minister on whether or not the land council can be funded.

The investigator can be appointed at the request of a land council that has failed to obtain a satisfactory audit.

As a matter of policy, any investigator should be a registered public accountant. Experience indicates that the auditor of the local land council may be appointed. The cost for hiring the investigator is met primarily by the council requesting the appointment. If funds are not available for this they will be made available through State Land Council.

If the investigator's report is particularly unfavourable and the problems of the local, or for that matter the regional, land council are unable to be sorted out, then the report of an investigator may supply the basis for appointing an administrator. Again, administrators are only appointed as a last resort.



An early Woomera, Warburton Ranges, decorated to one side with zig-zag snake patterns.

TREASURER'S REPORT

TREASURER'S REPORT

The New South Wales Aboriginal Land Council is entrusted annually with 7.5% of state land tax received by the New South Wales government. This allocation will apply for 15 years from 1983. For 1985-86 the allocation to NSWALC amounted to \$17 million.

Fifty per cent of the money is required to be invested in "authorised investments" under State Treasury guidelines. The remaining half is administered by NSWALC which allocates funds to regional and local councils for purposes specified under the Act (Administration, housing, land and enterprise).

INVESTMENT

The money invested and the interest earned must remain invested until 1998 (i.e. for 15 years from the introduction of the Act). After 1998 the **interest only** earned from the total amount in the investment fund may be used for distribution to land councils in the normal manner.

FUND MANAGEMENT

The general policy of NSWALC in managing the investment funds is to provide a balanced spread of investments as a buffer against dramatic interest rate changes. This means if interest rates fall there will be sufficient medium and long term investments to maintain a good overall interest on monies. Also if interest rates rise sharply there will be enough short term investments to capitalise on high rates and thus improve interest returns. Maturity dates of investment accounts are staggered throughout the year, and timed so as to capitalise on seasonal peak interest periods thus increasing interest returns.

The general investment spread is as follows:

- 15%-25% — short term — on call to 3 months
- 45%-55% — medium term — 6 months to 18 months
- 25%-35% — long term — 18 months to 3 years.

At the time of investment or reinvestment of funds NSWALC seeks the advice of several financial institutions regarding current market conditions and future trends in the money market. Based on this advice and NSWALC's own interpretation, decisions are made.

Negotiations with the banks, etc. over the best interest rates they can offer are based on competitive market prices. As a general rule Council achieves interest rates up to 2% better than those offered to regular bank customers. This is because of the large sums involved which makes NSWALC sought after by banks.

The day to day administration of the investment funds is the responsibility of the Accountant and Treasurer of NSWALC who refer all recommendations to the office bearers of Council before implementation. A report of the current status of the fund is tabled at every meeting of NSWALC.

YRIMBIRRA

During 1984 NSWALC sought advice from numerous sources regarding investment possibilities. In considering these, NSWALC established its own trustee Company, Yrimbirra, for investing part of the investment funds of Council in long-term high-interest investments.

Yrimbirra

- Yrimbirra is a trustee company under the control of the NSWALC.
- The trustees (board of directors) are the members of the NSWALC.
- The NSWALC appointed the firm of Goddard and Dean, Solicitors, as managers of Yrimbirra. The managers give detailed reports at each meeting of NSWALC.
- Yrimbirra lends first mortgage finance secured against properties in NSW. By law only 66% of the value of the property put up as security can be loaned to any borrower. Loans are generally in the range of \$50,000 to \$250,000. The managers do a complete financial investigation of the borrower and get an independent property valuation before any funds are committed for loan. The costs of those investigations and valuations are met by the borrower and not NSWALC.
- Loans are made for a maximum of 3 years. Borrowers repay the interest due every month and at the end of the term (3 years) repay the total amount borrowed in a lump sum. There are severe penalties for late payments. Because the loans are secured against property investments, this makes it extremely secure if any borrower was to default.
- In September 1985 the then Minister (Paciullo) in response to negative publicity about land councils introduced an amendment to the Regulations of the Act which requires the Minister to "approve" all loans made by Yrimbirra. This amendment breaches the confidentiality between Yrimbirra and borrowers, creates significant administrative difficulties, and is discriminatory because no other lending institutions in NSW need ministerial approval of loans.
- Yrimbirra currently enjoys an excellent reputation in financial circles — banks often refer customers to it.

Future Prospects

- At present land councils can't borrow from Yirimbirra because they can't mortgage their land as security against a loan. NSWALC is seeking legal advice on whether a regional council and NSWALC could provide guarantees to loans. If successful land councils could then borrow from Yirimbirra or any other lending body (e.g. banks, credit unions) provided that both the region and NSWALC guarantee the loan.
- Some regional and local councils are accumulating funds in bank IBD investments so that in future funds are there for significant land purchases. Following requests from several councils NSWALC is seeking legal advice to enable councils to invest their funds in Yirimbirra if they want to.

FUNDING DISTRIBUTION

The State Council provides funds to regional councils who in turn give funds to local councils. The provision of funds to any council is subject to the accountability provisions of the Act.

Generally NSWALC decides early each year how it will divide funds for each regional council. This decision is complex because the following factors need to be taken into account:—

1. **Number of LALCs per REGION** — a simple check of the Gazette notices gives this information. Concern has been expressed at the growing number of LALCs. In February 1985 there were 104 constituted LALCs while in February 1986 there were 115 constituted LALCs. This has meant that funds need to be spread further.

The number of LALCs per region varies from 3 to 15. On a regional basis a region with a large number of LALCs receives considerably more funds than a region with few LALCs. This can make it very difficult for some regions to accumulate funds to implement worthwhile community development proposals.
2. **Population** — some people advocate funding on a population or per capita basis. Some communities have only 30-50 people in the local land council area while other communities have up to 10,000-12,000. The smaller communities (mainly in the country) would be seriously disadvantaged by funding on a population basis.
3. **Access to Services** — some urban and larger country town communities have ready access to both Aboriginal and non-Aboriginal services such as health, welfare, legal, jobs, shops, education, transport and housing. Communities in more remote area do not have ready access to such services.
4. **Availability of Land** — some land councils when they were formed inherited ownership of former Lands Trust lands — Other communities have acquired or will acquire land through land claims. However, other communities have no land and are unable to claim Crown lands because there is no claimable land in the council's area. These communities therefore have to buy land.
5. **Cost of Land** — this varies considerably: — for example, housing blocks can cost between \$10,000 in small country towns to \$80,000 in coastal towns and major cities. Acres for farm projects also vary considerably.
6. **Community Needs** — different communities have differing needs and the cost of providing for these also varies considerably.
7. **Budgets/Submissions** — the Act now requires land councils to make submissions for funding. A land council should not be penalised because it doesn't have the expertise to put together a sophisticated submission.

BUDGETS & SUBMISSIONS

The Act now requires all land councils to prepare budgets and submissions before receiving funds.

In keeping with this requirement, NSWALC submitted its 1986-87 budget to the Minister and it was subsequently approved.

Local land councils are required to submit their budgets to the region, and the region must in turn submit its budget to NSWALC.

Land council expenditure and activities are limited to:—

- Administration
- Land acquisition, development and management
- Housing acquisition, development and management
- Enterprise acquisition, development and management

LAND CLAIMS

LAND CLAIMS

LAND RIGHTS: MYTH OR REALITY?

The right to claim land under the Land Rights Act is based on one of the most fundamental rights of the Aboriginal community. Land claims form the very basis of the Act: it is the reason the New South Wales Aboriginal Land Council exists and it is only through successful claims that the Act can justifiably exist in its present form.

The farce is that, three years after the Act, even the simplest land claim 'disappears' into the maze of bureaucracy. A claim can take months, often years. This stalling and negligence has raised community fears. Many believe that the 'land claim component' of the Act is a myth. That the checks and balances built in only dissipate energy and deplete funds used to battle the bureaucrats.

The 'novelty' aspects of claims are highlighted. Mainstream community fears are continually fed by scare-mongering: "... Aboriginal activists take over Central Business District." This tactic has been used to blur the central issue of claims. It focuses on the negative and undermines the success.

And still the paperwork mounts: computers 'storing' the claims groan under the pressure. But the number of claims granted remains abysmal.

CLAIMS RECEIVED AND GRANTED

As of 22 October 1986, 2,788 claims were received by the Land Claims Unit. Of these 2,645 were under S36 and 143 under S37.

So far only 260 claims have been granted. The total area granted is 1,403 hectares (i.e. area surveyed). To date 176 claims areas have been surveyed.

HOW CLAIMS ARE PROCESSED

Firstly, the land claimed must be identified as:

- (1) **VACANT CROWN LAND** that is not needed or likely to be needed for an essential public purpose; and
- (2) **TRAVELLING STOCK ROUTES.**

The Act establishes primarily a bureaucratic process for the claiming of lands. Initially the claim is received by the Registrar, the Aboriginal Land Rights Act. It is then sent to the Department of Lands which, through the Aboriginal Land Claims Unit, advises the Minister for Lands about the claimability of the land in question. The decision is, however, that of the Minister.

The delay in considering claims is a result of a number of complicated factors. Firstly the Claims Unit is required by the Minister to seek the advice of Government Departments and instrumentalities to see whether or not (i) the land is claimable, i.e. whether it is actually Vacant Crown Land; and (ii) whether the land is needed or likely to be needed for an essential public purpose.

The first range of enquiries are rather procedural. The records are checked to see if the land is still Crown Land and further searches are made to establish if the land is being leased or occupied lawfully in any way.

The second series of enquiries are less definitive. State Council believes that the land claims are being unduly delayed. Also because the bulk were lodged by locals (as they should have been) State Council has found it difficult to fully appreciate the nature of the delays because of lack of information.

The Lands Claims Unit has conceded that due to cut-backs in funding for the Department of Land, land claims have been given low priority by local lands offices. But NSWALC is concerned about the way land councils have been made to withdraw claims by the Unit.

Once a claim is sent by the Registrar to the Land Claims Unit it is forwarded to the relevant regional office. The office then does its own investigations on whether it is claimable or not, and their report is returned to Head Office for consideration. This process can take 3-6 months.

There are instances where the Land Claims Unit, for its own administrative convenience, has sought withdrawal of claims at land council meetings without prior written notice to the claimant concerned. In other words, councils are often sprung with suggestions to withdraw claims based on Land Claims Unit 'reports' which are not available to councils.

The Unit says that this is done because, if the LALC refused to withdraw the claim, and the claim was rejected and appealed, the written advice to the LALC would weaken the defence of the Department of Lands.

This has meant that people have often been asked to withdraw claims without a full understanding of the issues involved, or the opportunity to carefully consider the issues outside a public meeting.

There is also the concern about unclear boundaries. The Act states that if a council makes a claim outside its boundaries — even marginally so — then it will be considered a non-claim if the Registrar has not approved. A classic example of confusion over boundaries occurred when a LALC put in a claim for land which accommodated some of Sydney's prime properties. It took nearly a year for the claim to be processed and it emerged — only after the Local Government Council affected had contacted the press — that the claim was null and void because it was outside the boundaries of the council concerned.

The claim attracted wide media coverage, 12 months had been spent 'processing' it, and yet it was essentially a non-claim.

There is disillusionment within the Aboriginal community that years of struggle and hard work will come to nothing if the success rate of land claims remains static. This anger must be addressed now and addressed seriously if the land rights cause is to find its focus and reason for survival.

The community cannot continue to leave unanswered the accusations directed at councils while the power brokers go back on their side of the bargain: that is to grant land and grant it now.

It is obvious that a co-ordinated approach should be made to the Minister for Lands to speed up the process. The Research and Legal Staff of NSWALC have stepped up research to get an accurate indication from land councils of the claims made and what has happened to them, i.e., whether they have been granted, rejected, or not dealt with.

Because the picture is incomplete, NSWALC has found it hard, so far, to accurately identify the snags in the system.

NSWALC hopes that an accurate analysis will help to co-ordinate actions on behalf of individual, local and regional councils to make sure that the maximum area of land available for claims is successfully claimed.

CLAIMS UNDER APPEAL BEING HANDLED BY GODDARD & DEAN*

These four claims illustrate the cynicism the government has shown towards land councils.

- **WANAARING LALC at TREDEGA, 3673 hectares (1984-86)**
Currently with NSW Supreme Court of Appeal. Appeal mounted by Minister for Crown Lands re transfer of land to Wanaaring LALC. The land is in the Western Division.
- **WINBAR, approx. 25,516 hectares (1984-86)**
Claim lodged in April 1984. Rejected under S36(8) as for an essential public purpose. Has been offered as leasehold subsequently but rejected by Land Council and now under appeal: part with the NSW Court of Appeal and part with Land and Environment Court.
Winbar illustrates quite clearly that the government is not acting according to the spirit of the Land Rights Act. It has consistently undermined efforts to get court orders finalised so that land can be handed over.
- **DARKINJUNG LALC (1985-86), Central Coast**
This was a holiday resort until December 1984. Lease expired and it became Crown Land. Claim put in January 1985. In court in July 1985 although a decision was made that the land was otherwise claimable. Minister for Natural Resources issued certificate saying it was needed as an essential public purpose. Three essential public purpose certificates have been issued since April 1986. Currently with Land and Environment Court.
- **TIBOOBURRA LALC**
State Council brought in action on behalf of local council. Series of claims here. In the Western Division. Claims made 1985. Claim was rejected, subsequent application appealing against decision. Council has sought subpoena of records. It was heard but no decision has been made re access to records.

* See Annexure A for full details of litigations

TRAINING

STATEWIDE TRAINING WORKSHOPS

In the early days of the Land Rights Act, no consideration was given to the fact that adequate training would have to be given to Aboriginal communities to allow them to manage their own affairs and comply with the rules and regulations imposed on them.

At every workshop that has been held, strong feelings have been expressed about the urgency for training programs.

NSWALC recognises that for land councils to succeed there must be training in financial management, budgeting, and in making and evaluating submissions.

The Land Rights Act must also be effectively communicated if its requirements are to be fully understood by councils.

From May to June 1986, the State Council and Tranby Aboriginal College conducted statewide workshops under its regional program covering the 13 regional land councils. Around 400 regional and local council participants attended. The workshops were held to explain the uniform accounting system and the Act and amendments.

These workshops are one of the success stories of the year: Participants displayed enthusiasm and initiative in their attendance. There was a collective view that such programs should have started much earlier.

Additional workshops have been held to cover local councils in the Northern Tablelands and the Murray River. Plans are underway to cover local councils in other regions in 1987.

State funding was obtained by Tranby College from the Department of Technical and Further Education and the Ministry of Aboriginal Affairs for co-ordination of the training programs and teaching. The Commonwealth Department funding was provided through the Department of Education (Aboriginal Study Branch) for running the 14 regional workshops.

Because of overwhelming community support four additional regional workshops were planned in November for Dubbo, Griffith, Nowra, and at Valla Park. Training covered budgeting, program planning and Aboriginal heritage.

One of the problems faced by workshop co-ordinators has been the high turn-over of local council office holders. Under the Act, the term of office is 12 months, although many have left before finishing their terms.

This has meant that people being trained now will not necessarily be the same people running a local council in the future. Therefore, the knowledge gained may not necessarily be passed on to the incoming office bearers. But NSWALC and Tranby College recognise that the need for training extends well beyond the current year. Tranby, Commonwealth Dept. of Education, TAFE, the Ministry of Aboriginal Affairs and DEIR have expressed a commitment to continue this essential work.

For example, when the regions decide that they wish to take over the operations of the uniform accounting system, assistance will be given for training the required people.

Similarly, the local and regional workshops will continue, particularly with the expansion of localised programs that utilise local TAFE College assistance, for instance.

POLICY CONFERENCE

In November 1986, the State Council organised a three-day statewide policy conference to look into future policy directions for NSWALC.

The show of strength at the conference demonstrated once again that the community is serious about making the Land Rights Act work. Over 240 delegates representing 115 local land councils attended. Discussions were held on the Act, business and finance, environmental issues, land claims, government departments, and lobbying and public relations.

The level of debate at the gathering also demonstrated that the community is willing to come together on issues affecting it.

Conference organisers were acutely conscious of the time constraints placed on discussing the topics. But despite this limitation, delegates were able to examine the six nominated conference topics through structured workshops and open discussion.

Considerable time was also given to discussing the draft regulations to amendments to the Land Rights Act.

NSWALC appreciated the time and trouble people took to attend the conference.

Many had to travel great distances, some by bus, to get to Valla Park. Others had to forego wages for the time they took off to attend.

RESOLUTIONS *

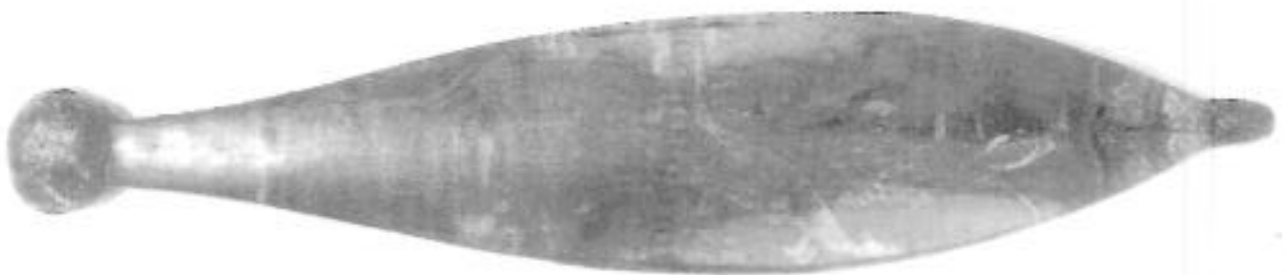
The resolutions adopted by participants included:—

- The community be fully consulted before any future amendments to the Act.
- Regulations be amended to allow a council to remove an office bearer convicted of an offence relating to property or affairs of a council.
- That cemeteries be handed over from Shire Councils to local councils for maintenance and care.
- That the Uniform Accounting System be regionalised and training programs be locally based.
- That Councils have a say in appointment of administrators.
- That Reports provided by investigators appointed under the Act be sent to the relevant RALC, LALC and NSWALC.
- Aboriginal pre-existing rights to territory, culture and economy be recognised as the fundamental basis for all policies directed towards Aboriginal Society.
- That the Aboriginal Land Claims Unit be:—
 - (a) expanded
 - (b) separated from the Department of Lands
 - (c) be staffed by Aboriginal people
- That provisions of the Act in relation to Travelling Stock Routes and Commons be amended so that land under these titles can be successfully claimed.
- Ministry of Aboriginal Affairs be made up of Aboriginal people at all levels.

There was particular emphasis on lobbying and public relations. Delegates recognised that public awareness and community education programs had to be stepped up.

The Bicentennial celebrations were totally rejected. Instead, it was resolved that media campaigns be carried out to focus international and national attention on the condition of Aborigines.

* Detailed Conference resolutions are available on request.



A rare Warburton Ranges youth's Woomera, painted with naturalistic animal and bird motifs.

LAND PURCHASE & BUSINESS

LAND PURCHASE AND BUSINESS

BREWARRINA SHEEP STATION

Along the Barwon River, in the northwest of NSW, the Brewarrina Local Land Council runs a 640 acres sheep station. The station was part of 4,900 acres Lands Trust mission which housed Brewarrina's largest Aboriginal community of 600-700. In 1984, the land was divided into three blocks — two parcels were sold to local farmers, and the remaining 640 acres went to the Brewarrina Local Land Council.

The Brewarrina Mission was one of the oldest in the state — it began in 1936 and closed down in 1965. Some people still lived on the mission, although most had dispersed by the sixties. The mission had drawn communities from 150 to 200 miles in its early days. Many were brought by truck — a transport also used to take people 9 miles into town for provisions.

At its peak, the station held 50-60 cattle. When the title was handed over to the Brewarrina Council for the 640 acres, the community sought ownership of the full mission, mainly because of its historical attachment. The good river frontage and potential for farming makes the station an attractive proposition for future enterprises.

In 1984, the local land council bought 480 sheep, five pigs and 14 piglets to get the station up and running. The community has spent \$10,000 on setting up the station. This has included costs for laying pipes, setting up pumps to bring water from the Barwon River, and purchase of tractors. Machinery costs ranged from between \$50-\$60,000. Sheep shearing began in 1984, and the first sheared wool sold the following year for around \$3,600. During a recent drought 100 sheep were lost.

Some of the land was ploughed and there is a market garden. But council needs additional funds to buy lucerne seeds which yields a hay variety that can be stored for use in droughts.

Originally council planned to build a central depot shed (under the CEP program) to cater for shearers at a discount. It was hoped they could, in turn, train Aboriginal youth.

But building materials alone for a good shed will cost \$90,000. The project was submitted under a CEP program but knocked back. The council will renew its submission as it feels that if 800 sheep were sheared a day at \$3.50 per head, the returns would keep the station viable. It would also compete well against operations in surrounding areas which charge up to \$6.00 per shorn sheep.

The sheep station also has an alcohol rehabilitation centre (for up to eight). The people stay for 3 months and then return to their communities. The centre is on 4-5 acres and is funded by the Aboriginal Hostels Ltd.

A car garage is currently used as a shearing shed, although the community hopes additional funds will turn the station into a full-time business enterprise.

Land Purchase

- The Coonamble Local Land Council, under the Northwest Regional Land Council, plans to buy a \$60,000 hire purchase business at Coonamble. The business specialises in earth-moving equipment.
- The Goodooga Local Land Council has begun negotiations to buy a \$210,000 general store at Goodooga. The local council will put in \$50,000. The Northwest region has approved \$100,000 and an additional \$60,000 grant was sought from ADC.

The general store has catered for three years for the 400 strong Goodooga Aboriginal community. Purchase will go ahead if the \$60,000 grant is approved from ADC.

The general store is the only one in the area serving surrounding properties. By taking ownership, the Goodooga council hopes to manage the store for its people.

BIRPAI FISHING PROJECT

The Birpai Local Aboriginal Land Council recently put in a submission for the purchase of a 45ft \$130,000 fishing boat for a fishing enterprise at Port Macquarie.

A feasibility study conducted on the project shows that it has a good chance of success. The minimum cash required to get the project off the ground is \$183,000.

The study says council members who put in the proposal (to the State Land Council) have shown a high degree of motivation and have a clear understanding of how they would establish the venture.

The project was in the pipeline for a while. Two of the men who would form the nucleus of the fishing enterprise have extensive experience in the fishing industry. They also have a strong knowledge of local fishing conditions.

The council plans to operate the fishing vessel using the line and trap fishing method. The emphasis will be on higher priced catches, in particular deep-sea cod and crayfish.

The catch will be sold wholesale to local businesses, although direct distribution to the Sydney and Brisbane markets is also anticipated. This depends on the size of the catch and market prices.

The project clearly has been well thought out. The financial objective is to achieve a cash surplus of \$4,700 in the first year and \$31,700 by the second year.

It is heartening to see that the determination of the Birpai community has propelled the project along to a stage where future prospects are good.

WIRADJURI REGIONAL LAND COUNCIL

Local land councils under Wiradjuri Regional Land Council have the added bonus of business advice from a qualified accountant hired recently. Wiradjuri, which has had satisfactory financial audits for three consecutive years, is conscious of the financial mistakes made by some local councils in various regions. Its motto now is "don't grab what comes first. Look at planning five years ahead".

In the early days, many councils lacking in business acumen, purchased properties with flaws; others unknowingly went into deals that were dubious at best. There were sales people climbing out of the woodwork in 1983-84. Councils are that much wiser now, and Wiradjuri more so. Some enterprises in the pipeline include plans to:—

- **Peak Hill Local Land Council**

Buy a \$50,000 shop, which includes stock worth \$100,000 from Central West Rural Supplies at Peak Hill. It is expected that HFA home projects in the surrounding areas will purchase building materials from the business. The Department of Housing has been approached about this.

- **Griffith Local Land Council**

A 650 acres land claim, 18 kilometres outside Griffith, will be used for grazing cattle and raising sheep. Fencing for the area starts with CEP funds of \$81,000. It is good farming land, and area is also being set aside for an Aboriginal arts and craft centre.

A \$11,000 building, currently under construction, will be used for workshops and storing farm machinery. TAFE may provide 1 supervisor for 12 students. CES may provide subsidiaries for the 18-26 week special course. The course covers training in the manufacture and marketing of artefacts.

- **Wagga Wagga Local Land Council**

Plans to buy a \$558,000 motel after proposals to buy a caravan park were shelved following an Aboriginal Development Commission feasibility study.

Funding has been sought from ADC which has so far agreed to a 50-50 cost-sharing arrangement with the council. However, council has resubmitted the proposal in order to obtain a higher level of funding.

- **Leeton Local Land Council**

(a) Plans to develop 15 acres (obtained through a land claim) as a park. ADC funds were sought under the Community Employment and Enterprise Development Scheme (CEEDS). The development will cost \$2.2 million and its commercial viability is being looked into by Wiradjuri Regional Land Council and ADC.

(b) Marungle Hill land claim; approximately 14 acres. There are plans for a \$11-20,000 community hall. The surrounding land can be used for grazing and citrus orchards. Negotiations are underway with the Department of Agriculture.

- **Murrin Bridge Local Land Council**

Major project involving plans to develop 20,000 acres at Booberoi Station, approximately 24 kilometres from Lake Cargelligo. It is a dry area, mainly for raising cattle and sheep, although wheat farming is also a possibility. The Wiradjuri Regional Council will put in \$80,000 working capital which it hopes to recoup by 3-5 years. Booberoi Station originally covered 200,000 acres in its heyday and employed approximately 200 people.

The council hopes to establish a viable farm and also provide an apprenticeship course in farm management. (TAFE has been approached for an on-site supervisor and DEIR for 8-12 apprentices). They will be trained in horticulture and farming management.

- **Narrandera Local Land Council**

Recently won claims over two large industrial blocks in town at Narrandera. As part of the Narrandera Enterprise Project, the council will develop the blocks to accommodate machinery sheds and also use it for manufacturing Aboriginal artefacts.

The council has already marketed artefacts in Sydney and Melbourne. Funds needed for development amount to \$150,000. The project is a high priority for Wiradjuri.

WEINTERIGA STATION

One of land councils' continuing projects is Weinteriga Sheep Station, a 35, 145 hectares property which was bought by the Western Regional Aboriginal Land Council. It has 48 kilometres of frontage on the Darling River and is the single largest purchase of land so far. When bought, the project received considerable publicity.

Plans included the restoration of a historic homestead for tourism, the development of a children's service and training and employment programs.

THARAWAL CULTURAL EDUCATION AND ENTERPRISE PROJECT

Tharawal Local Aboriginal Land Council was constituted as a statutory body on 2nd February 1985. Its constituted boundaries embrace the Campbelltown, Camden, and Wollondilly Local Government areas. The total population is estimated at 200,000 persons of which approximately 7,000 are Aboriginal.

The main purpose of the Act in establishing Land Councils is to provide Aboriginal communities with the opportunity to acquire land under inalienable freehold title and to develop housing and enterprise projects. In realising the purpose of the Act, Tharawal LALC has also assumed the role of creating understanding and goodwill between Aboriginal and non-Aboriginal communities. It was realised that the tool of education is the most obvious vehicle to fulfill this role.

Aboriginal studies will become a mandatory part of school curriculum in 1987, and because of this, there is a need to develop a Centre to facilitate appropriate programmes to exhibit and explain Aboriginal culture to the general community. Aboriginal studies cannot be effectively communicated in the classroom. Aboriginal culture, history and traditions, developed over thousands of years in an environment close to nature. It is only in a similar environment that contemporary Aboriginal Studies can be taught and learned.

With the increasing urbanisation of Aboriginal communities, it is evident that many aspects of Aboriginal culture and values are being displaced and sometimes lost. The development of a Centre to preserve and pass on our culture to our communities is of prime importance to our cultural survival. To this end, Tharawal LALC has developed an active role by researching the history of the traditional Tharawal Nation and through a CEP programme, researching and recording the traditional sites and places of significance to the Tharawal Nation.

THE CENTRE

The concept of the centre is to develop a facility within a natural, non-urban setting, from which both the Aboriginal and non-Aboriginal communities can learn and directly experience aspects of Aboriginal culture. This would be achieved through the delivery of cultural programmes and experiences. Such programmes would be for varying periods from one day and up to one or two weeks duration. Activities would include traditional and contemporary facets of Aboriginal life, such as song, dance, language, arts, crafts, history, foods, and bush survival.

Facilities at the Centre include accommodation for up to 150, a multi-purpose education centre and outdoor recreational facilities.

The Centre is planned for completion at the end of 1988. To date progress includes:

- In May, 1986, Tharawal LALC purchased on the open market an 11 acre site in Barbour Road, Couridjah. The site backs on to the Thirlmere Lakes National Park and is approximately 1km from the NSW Steam Transport Museum at Thirlmere.
- The purchase of 20 railway carriages has been negotiated with the State Rail Authority. The first ten carriages are programmed for delivery to the site early December, 1986. The carriages will be used as the basic building unit for the guest accommodation.
- Negotiations have been successfully concluded between the Land Council, Department of Technical and Further Education, Department of Employment and Industrial Relations, Public Works Department, and Department of Housing, which provide for an Aboriginal Apprenticeship Programme to undertake the construction of the Centre. This programme will commence in February, 1987.
- Negotiations have been successfully concluded with the Department of Housing and the NSWALC Housing Advisory Committee for the provision of two HFA homes on the site.
- Tharawal LALC has to date committed \$140,000 to the project and is currently seeking further enterprise funding from the Western Metropolitan Regional Aboriginal Land Council and subsequently, the NSW Aboriginal Land Council. Those applications relate to both the 1986 and 1987 Land Council funding years.

FAR SOUTH COAST

One of the success stories in the state occurs in the Far South Coast Region, which in the last 18 months has transformed its operations from one of disarray to a good level of efficiency.

This is in large part due to the dedication of individuals who have united the region and its local land councils into a strong collective force.

The Far South Coast may not have created a financial record by establishing enterprises, but instead, it has emerged from the maze of bureaucratic red tape to find its rightful place within the land council network.

In terms of internal achievement — one that cannot be defined in monetary terms — the region has moved ahead in leaps and bounds. Training of its own staff and other Aboriginal people began in earnest with programs in accounting, business and property management, office administration and secretarial work.

This training fills an urgent gap for the community in the Far South Coast.

The past few months have also been a time for analysing the direction the councils should take in the region. Judging by its current consolidation of resources, the future looks decidedly bright.

The region has taken advantage of alternative funding sources to obtain much needed finance, for instance, in employment. It has also explored and utilised resources from the Department of Decentralization and the Office of Small Business.

Workshops have been held to help develop business skills for both local and regional members.

The Regional Land Council also has an efficient office administration which illustrates what can be achieved under difficult conditions. It should also provide the inspiration for the 9 local land councils.

Business Enterprises

The Bateman's Bay Local Aboriginal Land Council established two viable enterprises to service the general community and benefit the Aboriginal community.

A kerb and guttering machine was purchased in July 1985. It has various functions, including kerb and guttering, making footpaths and concreting. The council now employs five Aboriginal people on a part-time basis and they have completed eight jobs in the Bateman's Bay area. In the first year, the eight jobs in fact made enough money to pay for the kerb and guttering machine.

Along with the support of Department of Employment and Industrial Relations training schemes, the local land council retrieved its initial investment and the money earned in the future will be "profit".

There is also a craft shop which was purchased by the Bateman's Bay LALC, about the same time as the kerb and guttering machine. The craft shop is essentially a tourist venture and therefore affected by seasonal trade. The shop, situated in Bateman's Bay, employs one person at this stage, although Council has plans for upgrading it into a complete Aboriginal artefacts store.

The strawberry farm down at Eden, which the Local Land Council shares with another Aboriginal organisation, is progressing relatively well. The farm is situated on several acres. It provides work for a number of Aboriginal people on a seasonal basis. Although a small venture at the moment, it has good business potential.

SOUTH COAST FISHING CO-OP

In the South Coast of New South Wales, along Jervis Bay, the South Coast Regional Land Council came to a consensus last year to fund the Jerringa Local Land Council with an allocation of \$150,000 to purchase a fishing co-op, the first of its kind in the region.

The South Coast Regional Land Council provided the funds from its \$300,000 allocation given by the State Land Council. An additional \$75,000 bank loan was also obtained to set up the co-op in the busy industrial town of Huskisson.

Plans for the co-op had been several years in the making: the push came mainly from the Jerringa community, which has special ties with Beecroft Peninsula and the waters surrounding Jervis Bay.

The community's association with the area goes back 40,000 years. The region's abundant natural resources were the mainstay for the community. Fish and shellfish abound in the clear waters surrounding Jervis Bay. Beach fishing has been a traditional method of food gathering.

In the early years of the Land Rights struggle, the community felt the invaluable fishing experience handed down through the centuries would be lost if fishermen were not encouraged to continue with their tradition.

The co-op is a positive expression of the community's need to have its own enterprise.

Its current market value is estimated at \$300,000. It has provided an invaluable avenue of work experience, particularly for young Kooris.

The co-op sells wholesale to Sydney's Pyrmont fishing markets, as well as retail — both for local people and tourists who come down during summer.

It has managed to break even, although the co-op manager maintains that additional business advice would allow it to compete equitably on the open market.

A consultant from the Aboriginal Development Commission has visited the co-op in recent months.

Kooris in the area were traditionally beach fishermen. This unfortunately meant their knowledge was being overshadowed by "larger" ventures trawling out at sea and therefore bringing in bigger catches.

The fishermen also lacked sufficient capital to become shareholders in other enterprises. This meant they were in danger of being eased out of the market.

The co-op has provided a focus for Kooris who wish to retain their traditional expertise and also make a living out of it. Twenty fishermen service the co-op, bringing in mainly mullet, black fish, bream and whiting.

Business is conducted with five fishing boats, a utility and a three-ton truck. Although a modest venture, the workers hope one day to buy their own shopfront outlet.



19th century boomerangs with carvings and inscriptions. These are part of the collection purchased by NSWALC and is currently in safe-keeping with the Australian Museum.

HERITAGE ISSUES

PROTECTING ABORIGINAL HERITAGE

The 1980 Select Committee on Aborigines recommended that the NSW government establish an Aboriginal Heritage Commission. It was to be a statutory body made up of Aboriginal persons elected and appointed by the Aborigines of NSW.

The responsibility of the Commission, among other matters, would be to record and maintain a register of sacred sites and sites of significance, advise on and provide funding for protection and maintenance of sites under community control, investigate proposals relating to significant sites and relics, and liaise with the National Parks and Wildlife Service during the initial period of transfer of functions to the Commission. The Select Committee recognised that to fulfill these obligations, the Aboriginal community needed access to necessary equipment, buildings, training and technical assistance. The Keane Committee recommendations were made six years ago.

The Aboriginal Land Rights Act (1983) does not include any provisions for Aboriginal control over the protection of their heritage. When the Act was put through Parliament, the government promised to consult land councils before setting up such a Commission. This has not happened.

The National Parks and Wildlife Service (NPWS) retains direct responsibility for protecting sites. There are only currently 25 staff directly involved in managing sites in NSW. There are 15,000 recorded sites which include shell middens, rock shelter engravings, shelter sites, art sites, scarred trees and carved trees relating to burial or ceremonial grounds.

Recorded sites are only those that have been reported to NPWS. These are just the tip of the iceberg: Aboriginal sites in the state would run into tens of thousands.

Delegates at NSWALC's statewide policy conference reaffirmed the community's resolve to set up the Heritage Commission, with a strong new separate Act, and independent of land council funding.

THE ABORIGINAL HERITAGE WORKING PARTY

As a result of pressure by site curators and land councils, an Aboriginal Heritage Working Party was set up last year to draw the blueprint for the Aboriginal Heritage Commission (or council) as proposed under the Keane Report.

Its proposed terms of reference included:—

- An assessment of the effectiveness of present and proposed measures to protect Aboriginal heritage.
- Ways of implementing the Working Party's reports and previous relevant report.
- Developing appropriate structures to implement an Aboriginal heritage legislation in NSW.

The Working Party is made up of 6 representatives (from Aboriginal land councils), 4 government representatives (3 National Parks and Wildlife, 1 Ministry of Aboriginal Affairs), and an archaeologist from the Australian Museum.

There is a general view that the legal status of the Working Party should be clarified, including its influence on the government. Despite repeated representations to ministers, none has so far attended any of the Working Party meetings. Deliberations may be stalled unless firmer commitment is displayed by the government towards realising the goal of a Heritage Commission.

SITE CURATORS COURSE

An initiative that illustrates the community's commitment to protecting its heritage is the Site Curators Course — a joint venture of land councils and Tranby Aboriginal College.

The community had been repeatedly refused control over its own heritage on the grounds that it lacked sufficient trained people.

In April, 1984, Tranby Aboriginal College applied for funds under the DEIR Training for Aboriginal Programme for 23 positions for trainees in the recording of sacred and significant sites. The training program had two components: block tuitions and field work.

Of the 23 who enrolled, 14 have successfully completed the course. Funding for 1984-85 came from DEIR. Stage II of the program consists of a 50-50 cost sharing arrangement between DEIR and the State Land Council.

The council allocated \$205,565 in its 1985-86 budget for wages and curators costs. It is expected that graduates from the course will be absorbed into jobs by the Regional Land Councils. So far 4 are working full-time and, 3 on an interim basis.

Although councils have struck difficulty in absorbing the graduates as originally planned, the program is a pioneering one for Aboriginal land and heritage management.

THE THOMSON COLLECTION

In a show of strength, the New South Wales Aboriginal Land Council recently prevented the sale of secret and sacred items put on the market at a Sydney auction held by auctioneers, P.L. Pickles and Co.

The 11 items, which included bull-roarers, shields, and kangaroo boomerangs, were withdrawn from the auctioneer's collection of 600 nautical Aboriginal and Pacific relics.

The artefacts, which formed part of the Thomson Collection, had been collected by Captain William Thomson, a Queenslander, who died in 1934. The full collection was put on the market by his granddaughter and it was expected to bring in between \$250,000 to \$500,000.

The sacred and other Aboriginal artefacts became the centre of negotiations between NSWALC and the auctioneers following NSWALC objections that the sacred items be withdrawn from the market.

The State Council had earlier voiced strong objections to the Minister for Aboriginal Affairs, Clyde Holding, requesting him to use his power under the interim Heritage Protection Act. Council was concerned that such items should not have been allowed to go on display given their religious significance. Council also wanted to buy the other items in the collection. It wrote to other Aboriginal land councils around Australia advising them of the auction and seeking permission to buy items on their behalf. The response was both positive and encouraging.

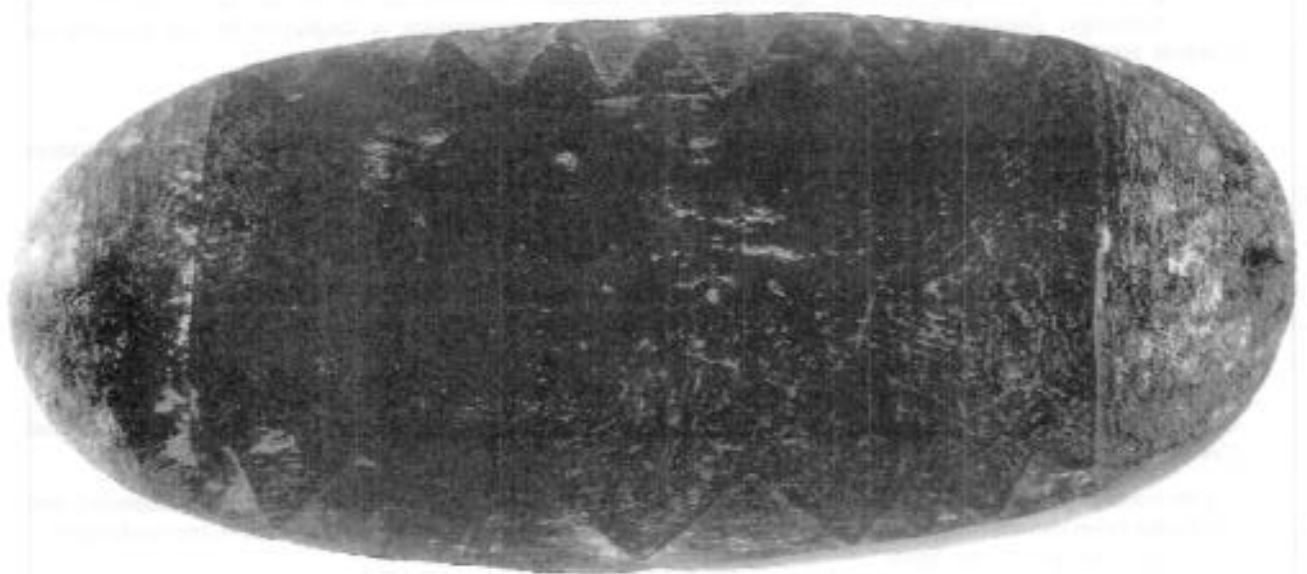
In an earlier sale, held by Sotheby's, Council was able to have an injunction placed on 75 of the 198 items. It also subsequently purchased items worth \$34,672 on behalf of the community.

Although funds have been set aside by Council to buy items when they come on the market, it finds it degrading that the community should have to buy back its own cultural heritage. There is also a feeling that collections in private hands should progressively be returned to the Aboriginal community.

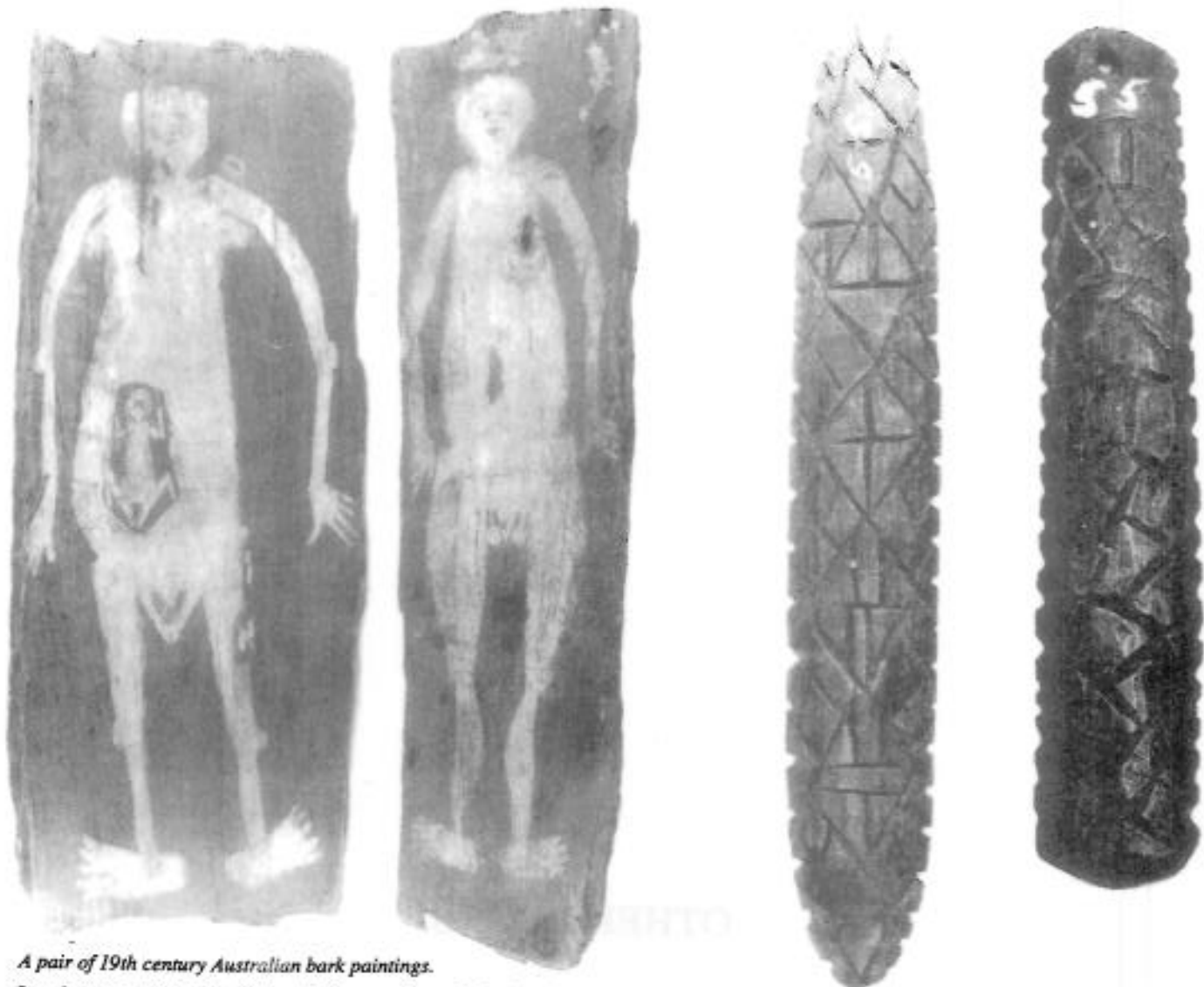
Before the Pickles auction, Council sought advice on the collection and subsequently bid and bought artefacts worth \$12,000. The collection is now in safe-keeping with the Australian Museum. It includes boomerangs, shields, paintings, death sticks and woomeras.

Council has also written to the auctioneers regarding the secret-sacred items. It requested that an independent evaluation be done so that the artefacts could be returned into Aboriginal custody.

The items include a pair of 19th century hand-painted bull-roarers unique to Queensland. There is also a sacred board from the Warburton Ranges and a stone initiation knife from Tennant Creek.



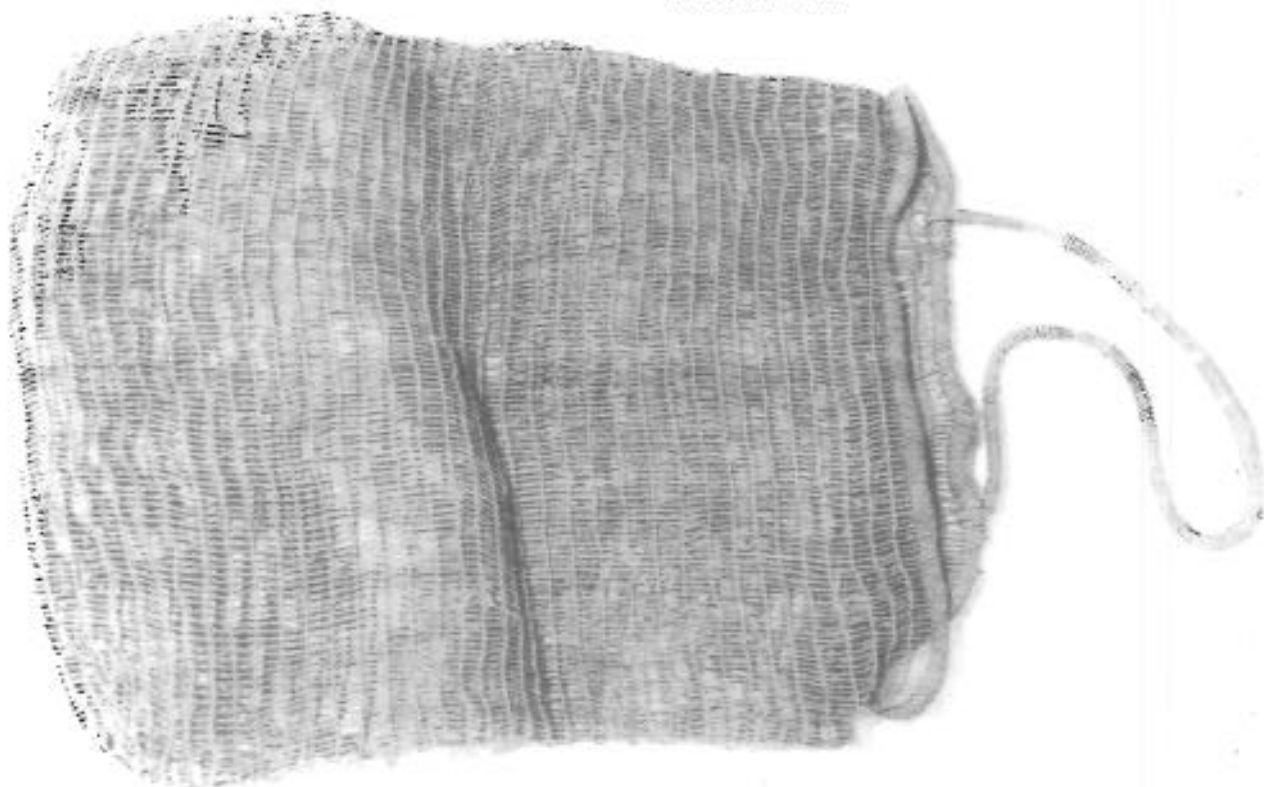
Handpainted shield, carved with geometric design to front and traces of red ochre at back.



A pair of 19th century Australian bark paintings.

One depicts a white stencilled male figure with red ochre highlighting arms and legs. The other depicts a pregnant female figure with x-rayed embryo visible through the body.

A rare pair of 19th century message sticks/bull-roarers which NSWALC was unable to purchase at the last Thomson collection auction.



Dilly bag, North Queensland, made of natural plant fibre.

OTHER ISSUES

ILO CONFERENCE — GENEVA

In the preamble of the Aboriginal Land Rights Act it is recognised that:—

1. Land in the state of New South Wales was traditionally owned and occupied by Aborigines.
2. Land is of spiritual, social, cultural and economic importance to Aborigines.

Aboriginal peoples, unlike many Westerners, do not view land as simply a commodity to be bought, sold and exploited.

Aboriginal Land Councils believe that their relationship to their communities, as a result of the custodianship of the land reoccupied, must be based on Aboriginal perspectives in relation to land.

This means, amongst other things, that Aboriginal Land Councils have a responsibility to ensure that land obtained on behalf of Aboriginal people is protected and retained by Aboriginal interests.

The Council is guided in its activities by the recognition in the preamble that land in New South Wales was traditionally owned and occupied by Aboriginal peoples. The State Council believes that concerted efforts must be made to apply, develop and expand the consequences of the underlying premises of the NSW Aboriginal Land Rights Act.

As a consequence of the identification by NSWALC of its responsibilities in this regard, efforts are being made on a state, national and international level to protect and enhance the nature and extent of land rights and the consequential rights which, in the Aboriginal perspective, relate to the community through ownership and occupation of land.

The spirit of Aboriginal ownership of land, to the extent that it is recognised in the Aboriginal Land Rights Act, will be further damaged if:

1. The land was taken back by repeal or amendment of the Aboriginal Land Rights Act.
2. Aboriginal social, cultural and spiritual rejuvenation was not aimed for as a consequence of even limited land ownership.

Accordingly, NSWALC strongly supports and encourages the initiatives at the international level to develop principles of international law and practice which could guide or bind states in their dealings and relationships with indigenous peoples. The evolution and articulation of principles of international law and practice are seen by the United Nations, many member countries, including Australia, and indigenous peoples world-wide as the only secure path to ensure that the destruction of Aboriginal society does not occur.

With this in mind, NSWALC has participated in the UN processes which have been established to identify the appropriate international standards relating to indigenous peoples.

In addition to the important developments in the United Nations, other international agencies such as the ILO have recognised the importance of developing effective modern standards applicable to indigenous peoples. Recently the ILO decided to convene a committee of experts to consider whether to revise ILO convention 107 (adopted in 1957) on indigenous peoples.

The 1957 convention ILO 107 was based on the principle of integration. The provisions on land rights in Article 11 are weakened considerably by inclusion in Article 13 of wide powers to remove peoples from their lands. The nature and tone was patronising and unacceptable to Aboriginal peoples, progressively-minded scholars and governments.

The State Council determined that the outcome of the ILO process would have a direct bearing on policies, present and future, directed towards Aboriginal peoples' rights to and connected with land, in New South Wales, Australia and worldwide.

The State Council decided that as an indigenous land-owning body it would be acting irresponsibly if it did not act to ensure that the ILO convention was revised in such a manner as to reflect to Aboriginal land-owning perspectives.

The revised ILO convention could, to the extent that it accurately reflects indigenous perspectives, provide an effective yardstick against which State policies on indigenous rights can be measured.

Similarly, if the Working Group on Indigenous Populations is successful in its aim to develop a Declaration on Indigenous Rights and have it adopted by the General Assembly of the United Nations, indigenous peoples worldwide will have an authoritative basis on which to negotiate with the governments which presently assert control over their territory.

RELOCATION TO JERVIS BAY

The Department of Defence proposals to relocate its naval installations from Sydney's Garden Island, and the Submarine Base from Neutral Bay to Jervis Bay has met strong opposition from the South Coast Aboriginal community.

At a meeting with the Department of Defence, the South Coast Regional Land Council representative and NSWALC, expressed deep reservations about such a move and its effects on the areas surrounding the bay which are classified as needing conservation by the National Trust of NSW.

The bay already has three naval facilities: the HMAS Albatross, a naval air station, HMAS Creswell, used to train navy personnel, and the bombardment range at Beecroft Peninsula.

So far, the studies done by the department have been both evasive and abstract. The Jerringa Local Land Council had earlier put in a claim on land which the navy proposes to use as a munitions base. This claim is held up pending the outcome of an Environmental Impact Statement (EIS). Results of the EIS are still not available.

Concerns expressed to the department include:—

- The effects from the bombardment range at Beecroft Peninsula on Aboriginal art especially at Gumnetter Inlet. These include both rock art sites and other ground surface sites.
- The effects on the surrounding environment at Jervis Bay from the proposed naval relocation.
- The delay in land claim by the Jerringa people over the area of land proposed for use by the department as a munitions base.
- The joint proposal by the state and federal government to move the armament depot from Newington to Jervis Bay.

Moreover, at Beecroft Peninsula, the Drum and Drumstick rock formations have been used as target practice range. This has resulted in severe damage to the rock formations, and although bombing practice was recently suspended, the damage is irreparable.

From an environmental perspective, the vegetation and fauna at Jervis Bay is unique: very strong concerns have been voiced by the Jerringa people who use the waters for food gathering (seafood, fishing, etc).

The significant sites at Beecroft Peninsula include shell middens, burial grounds, caves, rock art, camp sites and sites of significance.

The South Coast Community and NSWALC, therefore will continue to strongly oppose any development that endangers the natural environment, and its effects on the community.

ABORIGINAL HOUSING ADVISORY COMMITTEE (AHAC)

Prior to the AHAC the Aboriginal Housing Advisory Committee was made up of Aboriginal people chosen by the Minister for Housing, Mr. Walker. The reason for the abandonment of the previous Advisory Committee and the appointment of New South Wales Aboriginal Land Council members as a Housing Advisory Committee was its wide community-based representation. It was felt that the members of NSWALC knew the needs and wants of the community.

NSWALC represents the Koori community structure, and one of main functions under the 1983 legislation is the provision for housing. Therefore it was considered that NSWALC would be the most appropriate organization to provide advice to the Minister for Housing.

The Housing Advisory Committee meets every NSWALC meeting at which time the housing problems of NSW Kooris are discussed.

In the 1985/86 financial year a target was proposed of 390 houses for the Aboriginal communities of NSW. However, only 218 houses had been commenced or been exchanged (spot purchased) by the Department of Housing and Construction. By June 1986, 59 were on the point of commencement but most of these houses had been spot purchased.

The current stock of "Housing for Aboriginals" (HFA) is about 2,650. There are presently about 1700 people waiting for placement throughout NSW.

Funding to the Department of Housing and Construction has decreased in real terms. Approximately \$12.8 million for 85/86 financial year, as opposed to \$12.3 million in 86/87. This means a rapid decrease in the amount of housing and administration facilities within the Department. With this decrease, the Aboriginal Housing problem will continue to increase.

A commitment by Commonwealth Department of Community Services for a \$2.2 million housing construction plan for four different areas of NSW will increase potential housing availability. This project is mainly directed towards the aged and disabled from the Aboriginal community.

The increased quota by Department of Housing and Construction to build homes on land council land is a good sign as it gives local land councils control of Koori housing throughout NSW. This will help self-determination, but not necessarily the housing problem.

RATES PAYMENTS IN THE NORTHWEST

Local Aboriginal Land Councils in New South Wales face many problems. One in particular concerns the payment of electricity bills. The NSWALC staff undertook several field trips to help identify and solve these problems.

A number of problem areas were identified. The most serious was the way Aboriginal communities in the Northwest were being served with electricity by the Namoi Valley County Council (NVCC).

The administering of electricity to several Aboriginal communities including Collarenebri, Walgett, Brewarrina, Bourke, Engonia and Weilmoringle has been inadequate.

Until February 1986 the NVCC had a firm policy of central metering to all rural areas. The most affected of the so-called rural communities were the Kooris.

This policy was changed at a subsequent NVCC meeting. The NVCC will, from that point on, apply the domestic tariff to permanent domestic dwellings and other facilities on Aboriginal Reserves.

The County Council decided that, "the (Aboriginal Communities) now have the option of installing private metering to sub-meter individual sites, and charge residents for electricity... the proprietor may (then) arrange for each unit to be permanently carried". (Letter, 4th December 1985).

This policy means that the Aboriginal communities are now able to obtain individual metering. There have been minor difficulties in installation of individual meters, but these are expected to be overcome in the near future. Administratively, individual metering will allow the users of the service to accept responsibility for payments. This should ensure that land council funds are able to be directed towards capital expenditure such as land purchase, enterprise development and housing.

The Northwest is the last area of NSW to get individual metering. The benefits are two-fold: for the community and also for NCVV.

Individual metering will allow communities in the Northwest to pay off electricity arrears that built up because of difficulties of central metering. There are substantial arrears at the moment, although most communities have undertaken a commitment to repay NVCC.

FEDERAL GOVERNMENT DEPARTMENT FUNDING

The New South Wales Aboriginal Land Council has approximately \$10 million annually to distribute between the 130 land councils in the state, including the regions.

Administration has unfortunately absorbed a high component of allocations to councils. This has meant that funds for land purchase, enterprise of housing are spread thin. In many instances, land councils are unable to get projects off the ground because of serious financial constraints.

NSWALC has continued to canvass federal government department such as Aboriginal Development Commission (ADC) and the Department of Aboriginal Affairs (DAA) to obtain funding for land councils. In a number of meetings, it was emphatically pointed out that federal funding policies vis a vis land councils are discriminatory.

Both departments argue that land councils have "land rights money" and it is unrealistic to expect additional funds from federal departments. Moreover, land councils are a "state responsibility" and therefore outside the ambit of federal departments.

In a submission to the policy of the Aboriginal Development Commission, NSWALC pointed out that:—

- **Housing Grants:** the priority to Aboriginal Corporations over land councils with housing grants was unnecessarily rigid.
- The requirement that a housing grant to a land council would only be considered if the council leased the land for thirty years on which it planned to build to an Aboriginal Corporation was restrictive.
- Providing grants to one body in each community exacerbated community tensions.

- **Land Acquisition:** that money for land councils satisfy all its community needs was simply not true. In some instances, land councils have only a third or half of the money needed to acquire land.
- **Enterprise:** the 50-50 cost sharing proposal of ADC was unacceptable.

Despite the restrictions of the ADC policy, NSWALC nevertheless appreciated the fact that ADC planned to fund a number of land council enterprises.

The DAA policy, however, excludes councils for administrative funding. The Federal Minister has argued that such a policy is necessary because of belief of widespread mismanagement in local councils. This alleged 'mismanagement' is limited and land councils are being penalised for the actions of a few.

The Federal Minister for Aboriginal Affairs has consistently turned down invitations to talk to land councils in NSW.

NSWALC does not seek preferential treatment over other Aboriginal organizations. It also does not seek to reduce the funding to existing Aboriginal organizations.

NSWALC seeks to have the equal opportunity to apply for funding from DAA and have its applications treated equitably and fairly. So far, DAA has denied this basic right to councils in NSW.

ADMINISTRATION OF NSWALC

The administration of NSWALC was streamlined and a management committee formed which would report directly on administrative matters to Council.

This committee is made up of the three senior staff from the administration, legal and research units. Additionally, the committee has two State Council representative and a staff-nominated representative.

The committee has been entrusted with the responsibility of ensuring that the day-to-day administration of NSWALC is carried out in the most effective and efficient manner.

Job vacancies within NSWALC were also advertised and recruitments undertaken in consultation with Public Service Board guidelines.

A new telephone system was installed to cope with the high volume of enquiries — both from councils around the state and the general public.

NSWALC bought two new word processors to handle the additional demands of preparing reports, submissions and other correspondence. Reporting of monthly State Council meetings was also tightened so that records, minutes of meetings, etc could be available on short notice.

The new computer systems installed at NSWALC will eventually be able to be hooked up to all land councils. So far three Regional Land Councils will link up with the NSWALC system; these are the Wiradjuri, Far South Coast and Western regions.

This link-up will cut down on the time-consuming job of updating addresses (which change constantly) and disseminating information to councils.

Unlike other organizations, NSWALC has the added responsibility of ensuring that all councils have access to information from Sydney. Many councils are based in remote areas and often information may not filter down because of postal delays, or because office bearers may have changed.

NSWALC also needs quick access to documents and other correspondence from councils — both for legal and administrative reasons. Often legal staff have needed legal documents urgently for court matters.

A streamlined distribution system would meet all these needs.

Trips

Because of the requirements of the Act for NSWALC to assess and evaluate submissions and other administrative matters for councils, State Council staff undertook numerous field trips.

These included invitations to attend meetings, arbitrate on disputes and liaise with local government on behalf of councils.

These trips have stretched NSWALC's travelling budget to its limits. The State Council has approached federal government departments to obtain funding for its administrative costs. This has been knocked back, although council will continue its efforts to obtain federal funding.

Management Review

Council engaged a management consultant to undertake a review of its operations. The review will cover financial management, investment, staff matters and administration.

The review should take at least six weeks and is expected to be finalised next year. Discussions will be held with staff prior to the next monthly State Council meeting and after it. This is to get the best evaluation of NSWALC's strengths and weaknesses.



AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS

FINANCIAL STATEMENT

FINANCIAL STATEMENT



BOX 12, G.P.O.
SYDNEY, N.S.W. 2001

NEW SOUTH WALES ABORIGINAL LAND COUNCIL

AUDITOR-GENERAL'S CERTIFICATE

The accounts of the New South Wales Aboriginal Land Council for the year ended 30 June 1986 have been audited in accordance with Section 34 of the Public Finance and Audit Act 1983.

In my opinion, the accompanying balance sheet, income and expenditure and funds statements, read in conjunction with the notes thereto, comply with Section 41B of the Act and exhibit a true and fair view of the financial position of the Council at 30 June 1986 and transactions for the year then ended.

A handwritten signature in dark ink, appearing to read "K.J. Robson", is written over the typed name.

K.J. ROBSON, FASA CPA
AUDITOR-GENERAL OF NEW SOUTH WALES

SYDNEY,
27 August 1987

NEW SOUTH WALES ABORIGINAL LAND COUNCIL

YEAR ENDED 30 JUNE 1986

STATEMENT BY MEMBERS OF THE COUNCIL

Pursuant to Section 41B(1)(f) of the Public Finance and Audit Act, 1983, and in accordance with a resolution of the members of the New South Wales Aboriginal Land Council, we declare on behalf of the Council that in our opinion:

1. The accompanying financial statements exhibit a true and fair view of the financial position of the New South Wales Aboriginal Land Council as at 30 June 1986 and transactions for the year then ended.
2. The statements have been prepared in accordance with the provisions of the Public Finance and Audit Act, 1983, the Public Finance and Audit (Statutory Bodies) Regulation, 1985, and the Treasurer's Directions.

Further, we are not aware of any circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.

J. Williams W. Day

DATE: 2ND JULY 1987.

NEW SOUTH WALES ABORIGINAL LAND COUNCIL
BALANCE SHEET as at 30 June 1986

1985 \$		Note	1986 \$
	RETAINED EARNINGS		
13,460,091	Statutory Investment Fund	2	23,660,475
---	Allocations Fund	3	6,175,597
(643,702)	Accumulated Funds	4	1,138,105
<u>12,816,389</u>			<u>30,974,177</u>
	REPRESENTED BY		
	Fixed Assets (At Cost or Valuation):		
127,219	Motor Vehicles	5	204,511
34,672	Artifacts	6	24,970
14,411	Plant, Equipment and Furniture	7	27,644
<u>176,302</u>			<u>257,125</u>
	Investments (At Cost):	2	
2	Shares - Yrimbirra Pty Ltd		2
	Settlement - N.S.W. Aboriginal Land Council		
10	Investment Fund		10
	Advances to N.S.W. Aboriginal Land Council		
2,175,503	Investment Fund		5,108,369
10,219,123	Short Term Investments		25,007,850
<u>12,394,638</u>			<u>30,116,231</u>
	Current Assets:		
287,350	Cash at Bank and on Hand		---
40,000	Cash Advances	8	33,200
56,750	Debtors	9	179,683
13,883	Accrued Interest on Investments		638,289
<u>397,983</u>			<u>851,172</u>
<u>12,968,923</u>			<u>31,224,528</u>
	Less - Current Liabilities:		
---	Bank Overdraft		155
131,173	Sundry Creditors		222,924
21,361	Provision for Annual Leave	10	27,272
<u>152,534</u>			<u>250,351</u>
<u>12,816,389</u>			<u>30,974,177</u>

NEW SOUTH WALES ABORIGINAL LAND COUNCIL

INCOME AND EXPENDITURE STATEMENT for the year ended 30 June 1986

1985 \$		Note	1986 \$
INCOME			
15,891,343	Allocations - N.S.W. Government	11	17,028,654
7,945,671	Less - Statutory Investment Fund	2	8,514,327
<u>7,945,672</u>			<u>8,514,327</u>
806,089	Interest		2,415,002
753,367	Less - Statutory Investment Fund	2	1,686,057
<u>52,722</u>			<u>728,945</u>
46,260	Grant - N.S.W. Government	12	26,540
588,290	- Commonwealth Government	13	453,709
13,000	Insurance Recovery		---
---	Surplus on Sale of Fixed Assets		20,426
---	Surplus on Sale of Fixed Assets Acquired Free of Liability from Aboriginal Lands		
---	Trust		1,615
---	Sundry		3,908
<u>8,645,944</u>	Income Available for Council Activities		<u>9,749,470</u>
EXPENDITURE			
9,755,132	Allocations to Regional and Local Land Councils	14	183,765
14,532	Expenses Paid on Behalf of Councils	14	51,701
598,241	Salaries and Wages		585,092
155,182	Members Travel, Accommodation, etc		96,305
60,720	Members Sitting Fees		97,340
56,605	Legal Expenses	15	138,788
64,390	Depreciation		78,420
---	Uniform Accounting System	20	112,330
35,288	Workshop Expenses		33,058
45,278	Site Curators Course Expenses		28,147
3,229	Yrimbirra Pty Ltd - Expenses		18,628
6,000	Audit Fee	17	7,000
21,361	Provision for Annual Leave		5,911
34,000	Grants	16	3,200
198,895	Other Expenses	18	352,381
<u>11,048,853</u>			<u>1,792,066</u>
---	Transfer to Allocations Fund	3	6,175,597
---			<u>7,967,663</u>
(2,402,909)	SURPLUS (DEFICIENCY)		<u>1,781,807</u>
<u>8,645,944</u>			<u>9,749,470</u>

NEW SOUTH WALES ABORIGINAL LAND COUNCIL

**Notes to and Forming Part of the Financial Statements
for the year ended 30 June 1986**

1. Accounting Policies

- 1.1 The Council's financial statements have been prepared in accordance with current Australian Accounting Standards and in compliance with Section 41B(1) of the Public Finance and Audit Act 1983.
- 1.2 They are prepared on the basis of historical cost, using the concept of accrual accounting and do not take into account changing money values.
- 1.3 Fixed assets are shown at cost or valuation. Fixed assets previously owned by the Aboriginal Lands Trust and being used by the Council are shown at nil valuation.
- 1.4 Depreciation has been calculated on a straight line basis over the anticipated life of each asset.
- 1.5 The Treasurer's exemption has been received in relation to Section 41B(3) of the Public Finance and Audit Act as to preparation of consolidated statements.

Consolidated statements for New South Wales Aboriginal Land Council and Yrimbirra Pty Ltd were not prepared as the latter did not have any external operations.

- 1.6 A change in format in the presentation of Retained Earnings details as shown in the Balance Sheet occurred for the year ended 30 June 1986. The change was made to clearly show those funds which are not available for operations of the Council. Refer to Note 2 for further details. Previous years figures have been adjusted to reflect the revised format.

2. Statutory Investment Fund

The provisions of the Aboriginal Land Rights Act require 50% of all allocations received from the New South Wales Government based on Land Tax collections to be invested. The interest earned on the investment must also remain invested. Interest earned on the total investment after 31 December 1989 may be disbursed. Details of amounts required to be invested were:

Year Ended 30 June	Accumulated Land Tax Money received which is required to remain invested \$	Accumulated Interest Earned which is required to remain invested \$	Accumulated Total Required to be Invested \$	Actual Invested Amount for Statutory Investment Purposes \$
1985	12,690,614	769,477	13,460,091*	12,394,626*
1986	21,204,941	2,455,534	23,660,475	23,749,853

* The shortfall in the actual amount invested with the amount required to be invested at 30 June 1985 was corrected in February 1986. Interest foregone due to the shortfall was made up by having invested \$89,378 more than the statutory requirement as at 30 June 1986.

Actual investments were:

1985 \$		1986 \$
2	Shares - Yrimbirra Pty Ltd	2
10	Settlement - N.S.W. Aboriginal Land Council Investment Fund	10
6,327,490	Cash at Call	14,045
3,891,633	Interest Bearing Deposits	16,253,164
---	Commercial Bills	8,740,641
2,175,503	M.S.W. Aboriginal Land Council Investment Fund	5,108,369
<u>12,394,638</u>		<u>*30,116,231</u>

which consisted of:

2	Shares - Yrimbirra Pty Ltd	2
10	Settlement - M.S.W. Aboriginal Land Council Investment Fund	10
12,394,625	Statutory Investment Fund	23,749,853
---	Allocations Fund	6,175,597
---	Administration Investment Fund	190,769
<u>12,394,638</u>		<u>30,116,231</u>

Yrimbirra Pty Ltd is the trustee of the New South Wales Aboriginal Land Council Investment Fund and is a wholly owned subsidiary of the New South Wales Aboriginal Land Council. Under the trust arrangement funds are invested by the lending of those funds to third parties. The loans are secured by short term first mortgages.

3. Allocations Fund

As at 30 June 1986 \$6,175,597 was held by the Council for possible future allocations to some Regional and Local Aboriginal Land Councils. Allocations to these Councils are dependent on those Councils complying with the funding requirements of the Act.

4. **Accumulated Funds**

Movements in accumulated funds were:

1985 \$		1986 \$
1,759,207	Balance at 1 July 1985 (Deficiency)	(643,702)
(2,402,909)	Add - Surplus for Year (Deficiency)	<u>1,781,807</u>
<u>(643,702)</u>	Balance at 30 June 1986 (Deficiency)	<u>1,138,105</u>

5. **Motor Vehicles**

Movements in these assets during the year were:

1985 \$		1986 \$
166,679	Cost at 1 July 1985	197,592
---	Disposals 1985-86	<u>170,857</u>
166,679		26,735
<u>30,913</u>	Purchase 1985-86	<u>214,034</u>
197,592		240,769
<u>70,373</u>	Less Depreciation	<u>36,258</u>
<u>127,219</u>	Book Value at 30 June 1986	<u>204,511</u>

Market value of the motor vehicles at that time has been assessed by Council Officers at \$205,000 (1985 \$130,000).

6. **Artifacts**

At the close of year these assets had -

1985 \$		1986 \$
34,672	Cost at 1 July 1985	34,672
---	Disposals 1985-86	<u>9,702</u>
<u>34,672</u>	Book Value at 30 June 1986	<u>24,970</u>

No Depreciation is charged on these assets as they are considered to be appreciating in value. During the year the Council disposed of some of the collection at cost to the Australian Museum and Museum of Victoria-Victorian Aboriginal Cultural Heritage Trust. The balance of the collection is on loan to the Australian Museum.

7. **Plant, Equipment and Furniture**

Movements in the assets during the year:

1985 \$		1986 \$
17,367	Cost at 1 July 1985	17,367
---	Disposals 1985-86	466
<u>17,367</u>		<u>16,901</u>
---	Purchases 1985-86	21,676
<u>17,367</u>		<u>38,577</u>
2,956	Less Depreciation	10,933
<u>14,411</u>	Book Value at 30 June 1986	<u>27,644</u>

Market value of the assets at that time has been assessed by Council officers at \$28,000 (1985 \$15,000)

8. **Expense Floats**

Each of the State members had a \$3,000 cash float to cover their official expenses. The amount of the advance is being reduced in the current year. In addition the Legal Officer had a small advance.

9. **Debtors**

Debtors comprised:

1985 \$		1986 \$
52,750	Amounts Owing Under Commonwealth Government Employment Schemes	178,966
---	Ex-Council Members Floats Owing	28,000
4,000	Other Debtors	717
<u>56,750</u>		<u>207,683</u>
---	Less Provision for Doubtful Debts	28,000
<u>56,750</u>		<u>179,683</u>

10. **Annual Leave Provision**

An amount of \$27,272 (1985 \$21,361) was provided for untaken annual leave at 30 June 1986.

11. **State Government Funding**

The Aboriginal Land Rights Act 1983 provides for annual State funding up to and including 1998. The amount payable for each year is 7.5% of those land tax collections (received in that year and the previous year) which relate to the previous year. During 1985-86 \$17,028,654 (1984-85 \$15,891,343) was received.

12. **State Government Grant**

An amount of \$26,540 (1984-85 \$46,260) was provided by the State Government for the purposes of holding courses for Regional and Local Council delegates.

13. Commonwealth Government Grant

The Commonwealth subsidised the Council to provide training to Aboriginal job seekers through various employment programs. Amounts totalling \$453,709 (1984-85 \$588,290) were received during the year.

14. Funding of Regional and Local Aboriginal Land Councils

During 1985-86 funds totalling \$183,765 were allocated by a direct payment to some Regional and Local Aboriginal Land Councils. Allocations were \$116,434 to Regional Councils and \$67,331 to Local Councils. In addition expenses of \$51,701 were paid on behalf of some Regional Councils. Details were:

Regional Aboriginal Land Councils

	Direct Allocations to Councils \$	Expenses Paid on behalf of Councils \$	Total \$
Central	3,000	8,014	11,014
Central Coast	3,000	560	3,560
Far South Coast		43,127	43,127
Northern Tablelands	37,212		37,212
South Coast	18,606		18,606
Western	54,616		54,616
	<u>116,434</u>	<u>51,701</u>	<u>168,135</u>

Local Aboriginal Land Councils

	Direct Allocations Councils \$	
<u>Central Coast Region</u>		
Birpai	6,202	
Bunyah	<u>6,202</u>	
		12,404
<u>Far South Coast Region</u>		
Batemans Bay	<u>6,000</u>	
		6,000
<u>Northern Region</u>		
Nungaroo	5,513	
Walhallow	<u>6,202</u>	
		11,715
<u>Sydney and Newcastle Region</u>		
Awabakal	6,202	
Bahtahbah	6,202	
La Perouse	6,202	
Metropolitan	6,202	
Mindaribba	6,202	
Worimi	<u>6,202</u>	
		<u>37,212</u>
		<u>67,331</u>

15. Legal Expenses

Legal expenses of \$138,788 (\$56,605 in 1985) included \$51,200 for legal representation at the United Nations (see note 19), and \$46,022 for contesting of legal actions. The legal actions were instigated or defended by various Councils including the New South Wales, Regional and Local Land Councils. As the outcome of these actions was of interest to all Land Councils the New South Wales Land Council met the costs of their own actions as well as the costs of the Regional and Local Land Councils' actions. A number of actions were resolved in favour of the Councils with costs being awarded to those Councils. The costs awarded will be paid to the New South Wales Land Council. As yet details of costs awarded are not known and have therefore not been provided for in these financial statements.

16. Grants

To assist in expenses associated with delegations and organisations representing Aboriginal people grants were made during 1985-86 totalling \$3,200 (1984-85 \$34,000).

17. Audit Fee

The amount of \$7,000 (1984-85 \$6,000) represents the total Auditor's remuneration. No other benefits were received by the Auditors in respect of their services to the Council.

18. Other Expenses

Other expenses comprises:-

1985		Note	1986
\$			\$
15,275	Accounting		13,900
3,239	Advertising		2,504
418	Bank Charges		1,481
823	Bank Interest		10,992
5,017	Consulting Fees		12,174
3,766	Government Charges		4,367
12,268	Motor Vehicle Expenses		26,007
23,341	Office and Admin. Expenses		13,376
31,532	Payroll Tax		29,154
21,043	Postage, Printing, Stationery etc		22,093
17,878	Rent and Outgoings		19,321
17,361	Secretarial Services		26,513
18,750	Telephone		21,370
28,184	Travel Expenses	19	121,129
---	Provisions for Doubtful Debts	9	28,000
<u>198,895</u>			<u>352,381</u>

19. Commission on Human Rights, United Nations

During the year a delegation representing Aboriginal people attended the Commission on Human Rights at Geneva, Switzerland. The delegation participated in the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, and Working Group on Indigenous Populations.

Total costs incurred were \$119,736 comprising travel expenses of \$68,536 and legal expenses of \$51,200.

20. Uniform Accounting System

To assist all Aboriginal Land Councils with their recording of financial transactions a computerised processing system was developed. The system, developed and maintained by an accounting firm, was implemented and made available to all Councils from the 1 July 1986. Initial costs of developing and implementing the system were borne by the N.S.W. Aboriginal Land Council. Costs during the year were \$112,330.

NEW SOUTH WALES ABORIGINAL LAND COUNCIL
STATEMENT OF SOURCES AND APPLICATIONS OF FUNDS
for the year ended 30 June 1986

	1986 \$
SOURCES OF FUNDS	
Funds from Operations - Note 1	
Inflows of funds from operations	9,729,044
Less Outflows of funds from operations	1,679,735
	<hr/> 8,049,309
Reduction in Assets	
Current Assets	
Cash at Bank	287,505
Cash Advances	6,800
Proceeds from Sale of Non-current Assets	96,893
Statutory Investment Proceeds	10,200,384
Increase in Liabilities	
Current Liabilities	
Creditors	91,751
	<hr/> 18,732,642
APPLICATIONS OF FUNDS	
Increase in Assets	
Current Assets	
Debtors	775,339
Non-current Assets	
Investments	17,721,593
Motor Vehicles, Plant, Equipment	235,710
	<hr/> 18,732,642

NOTES:

1. Reconciliations of funds from operations with operating surplus is as follows:

	1986 \$
Funds from Operations	8,049,309
Add: Profit on sale of non-current assets	20,426
	<hr/> 8,069,735
Less: Transfer to Allocations Fund	6,175,597
Depreciation	78,420
Provision for doubtful debts	28,000
Provision for annual leave	5,911
	<hr/> 1,781,807
Operating Surplus	

LITIGATED LAND CLAIMS

Annexure A

LITIGATED LAND CLAIMS Report by Goddard Dean & Co

Brief Particulars Darkinjung Local Aboriginal Land Council Property Bateau Bay, Central Coast Approximate Area 4,844 square metres

On the 17 January, 1985, the Darkinjung Local Aboriginal Land Council ("the D.L.A.L.C.") lodged a claim pursuant to the provisions of S.36(3) of the Aboriginal Land Rights Act, 1983 ("The Act") for certain Crown Lands situated at Bateau Bay.

Erected on the land at the time the claim was made were certain buildings comprising a number of residential or holiday units with the usual amenities and collectively known as the "Bateau Bay Lodge".

The land had been occupied up until 31 December, 1984, under a permissive occupancy by the previous occupants. That permissive occupancy expired on the 31 December, 1984. Prior to, or at the time of expiry of the permissive occupancy, the Minister directed the previous occupants to remove the buildings.

On the 13 February, 1985, the D.L.A.L.C. sought orders, in the Supreme Court of New South Wales, restraining the Minister and the previous occupants of the land from demolishing, removing or dealing with, in any way adverse to the interest of the D.L.A.L.C., the improvements upon the land.

On the 21 February, 1985, the Supreme Court refused to grant the orders sought and dismissed the summons. On the 7 March, 1985, the D.L.A.L.C. sought leave to appeal to the Court of Appeal against that decision.

On 24 April, 1985, the Minister issued a certificate pursuant to S.36(8) of the Act claiming the land was needed/likely to be needed for an essential public purpose.

The Appeal was heard by the Court of Appeal on 7 and 8 May, 1985.

On 8 May, 1985, the D.L.A.L.C. filed its appeal against that decision pursuant to S.36(6) of that Act, in the Land and Environment Court ("the Court").

On 8 May, 1985, the Minister issued a second certificate pursuant to S.36(8) of the Act claiming the land was needed at the date of the claim, and likely to be needed for essential public purpose.

On 8 May, 1985 the Court of Appeal, without having determined any of the issues in the Appeal and, by consent, made the orders sought by the D.L.A.L.C. against the Minister. The orders to stand until final determination of the appeal.

The matter came back before the Court and His Honour Bignold J. on 22 July, 1985, and on that occasion the Minister by consent amended its Notice of Motion seeking to have additional matters determined as a preliminary issue, including the question of the jurisdiction of the Court to review the Minister's decision, power and function in the issue of the Certificate under S.36(8) of the Act.

These preliminary issues were argued before Bignold J. on 22 and 23 July, 1985 with further written submissions in reply. His Honour reserved his decision.

On 27 November, 1985 Bignold J. handed down his decision and set aside the Minister's Certificate.

On 3 February, 1986, the Minister sought leave to Appeal against Bignold J.'s judgment; that application was dismissed.

On 4 February, 1986, the Minister issued a Third Certificate under the provisions of S.36(8) of the Act, claiming the land is needed for an essential public purpose.

On 12 February, 1986 the matter was listed for mention before the Court for expedited hearing date. Leave was given to the parties to approach the Court to obtain directions.

On 24 February, 1986 a letter requesting particulars pursuant to S.36(14) of the Act was forwarded to the Minister. A reply was received on 2 May, 1986, stating that "... the terms of Section 36(14) do not enable me to provide the information requested..."

On 11 April, 1986 the Minister filed an application seeking declarations that the Certificate issued by the Minister on 4 February, 1986 was valid and it was final and conclusive evidence that the land was needed for an essential public purpose and not liable to appeal or review. This application did not proceed as the Minister issued a Fourth Certificate.

On 22 April, 1986, the Minister issued a Fourth Certificate under the provisions of Section 36(8) of the Act stating the land was, on the date when such claim was made, needed for an essential public purpose.

On 12 May, 1986, a letter requesting particulars pursuant to section 36(14) of the Act was forwarded to the Minister in relation to the certificate issued on 22 April, 1986. A reply was received on 19 July, 1986 indicating the general nature of the essential public purpose.

On 18 May, 1986, a letter was received from the Minister's Solicitor advising that on instructions an application would be made to the Court of Appeal to vary the interim orders of 8 May, 1985 to allow the demolition of all the dangerous buildings from the site".

On 16 June, 1986, a reply was forwarded to the Minister's solicitor consenting to the demolition of all dangerous buildings upon certain conditions to preserve the rights of the D.L.A.L.C. The Minister made no reply.

On 11 November, 1986 the Minister replied to the S.36(14) request relating to the fourth certificate dated 22 April, 1986 advising "...It is my opinion that the provision of Section 36 Sub-section 14 only oblige me to answer question five of schedule one of your letter"... "at 15th January, 1985 the land referred to in schedule two of your letter was not, as far as I am aware, being used for any specific purpose.

From 17 November to 19 November, 1986 an application relating to the certificate issued by the Minister on 22 April, 1986 was heard before His Honour Mr Justice Stein who reserved his judgment. The application in brief was to obtain the Court's decision on numerous issues agreed upon between the parties. To date judgment has not been handed down.

In October, 1986 the Minister filed a Notice of Motion in the Supreme Court of New South Wales, Court of Appeal seeking a variation of the orders made on 8 May, 1986.

On 24 November, 1986 in the Court of Appeal, orders by consent for the demolition of the derelict building erected on the subject land with the rights of the D.L.A.L.C. preserved were granted.

Although this matter has been in a number of Courts since January of 1985 the appeal against the decision of the Minister to reject the claim has not yet been heard.

Tibooburra Claim, North Western New South Wales
Approximate Area 100,000 hectares

On 31 July, 1984 a claim was made by the New South Wales Aboriginal Land Council ("the N.S.W.A.L.C.") on behalf of the Tibooburra Local Aboriginal Land Council for numerous portions of land in the Western Area of New South Wales.

The claimed lands comprised of some 22 separate parcels including two parcels which form travelling stock reserves. Section 37 of the Act specifically deals with claims of land which comprise or form part of travelling stock reserves within the meaning of the Pastures Protection Act.

The Lands Department upon request provided information to the N.S.W.A.L.C. However, because of the number of portions claimed the information was not sufficiently detailed to enable a decision to be made as to what portions were available to claim pursuant to the Act. The Minister refused the claims on the basis that the lands are the subject of current leases or are freehold lands or in the case of two claims are needed for an essential public purpose and are the subject of certificates issued to that effect pursuant to S.36(8) of the Act.

On 12 September, 1985 the Western Region Aboriginal Land Council requested the Minister to make a commitment not to review or extend W.L.L. No. 10,955 which was due to expire on 6 December, 1988. A reply was received on 28 November, 1985.

On 5 December, 1985 a Notice under section 43(3) of the Mining Act, 1973 amended, was advertised in The Land newspaper that an application for a prospecting licence has been lodged with the mining Registrar in Broken Hill over land the subject of the claim being Portion W.L. 843. It is not known whether the licence was granted.

On 15 December, 1985 an appeal was filed by the N.S.W.A.L.C. incorporating all the land the subject of the claim on behalf of the Local Aboriginal Land Council against the Minister's rejection of the claim.

On 18 February, 1986, a request was made to the Minister to provide information in respect to the lands claimed. On 14 May, 1986 at the direction of the Registrar of the Court the Department of Lands responded.

On 24 April, 1986 by notification in the New South Wales Government Gazette No. 66 P. 1850 the Minister advertised an extension of W.L.L. No. 10,955 to 6th December, 2008. On the information available the subject land had not been tenanted by the lessee for a number of years.

Although the claim was lodged 31 July, 1984, on 31 January, 1986 in the New South Wales Government Gazette No. 18, the Governor of the State of New South Wales pursuant to National Parks and Wildlife Act, 1974 proclaimed land, the subject of the claim, being designated lot 4437 having an area of 6,354 hectares and reserved the lands as part of the Sturt National Park.

On 2 April 1986, the court issued on the application of the N.S.W.A.L.C. a subpoena requiring the production by the Minister of documents. The subpoena was issued only after numerous requests by the N.S.W.A.L.C. to the Minister for information to enable the application to be amended.

On 14 May, 1986 after numerous mentions before the Registrar of the Court he directed the Department of Lands to provide the information requested which was not considered sufficient to amend the appeals.

On 1 August, 1986 to avoid further litigation a draft proposed subpoena was forwarded to the Solicitor for the Minister for his approval. No reply was received.

On 18 August, 1986 a Notice of Motion to set aside the subpoena filed by the Minister was heard before His Honour Mr Justice Bignold who reserved his decision and on 29 October, 1986 ordered that the subpoena be set aside.

Because of the Minister's reluctance to produce documents the application is to be amended on the basis of the information presently held.

Tredega Claim
Approximately 145km north west of Bourke
Approximate Area 3,673 Hectares

On 26 April, 1984 a claim was lodged on behalf of the Wanaaring Local Aboriginal Land Council (in formation) by the N.S.W.A.L.C. By letter dated 8 November, 1984, the claim was refused.

On 21 December, 1984 an appeal was lodged by the N.S.W.A.L.C. in the Court at Sydney.

Prior to the claim, the land was held by a family named Mooring under a lease which expired in June, 1981. Following the expiration of the lease the grazier continued to keep sheep on the land although no further lease was granted. In July, 1982 the Minister purported to grant a permissive occupancy over the land which was back-dated to the date of expiry of the lease.

On 6 January, 1984 notification by New South Wales Government Gazette No. 4 setting aside the land for disposal by way of lease. It was at this time the N.S.W.A.L.C. lodged its claim on behalf of the Local Aboriginal Land Council.

No mention of the permissive occupation of the land was made by the Minister during the course of the proceedings until 2 April, 1986.

On 26 February, 1986 a written request for information pursuant to S.36(14) of the Act was forwarded to the Minister.

From 21 to 23 April, 1986 the appeal was heard by His Honour Mr Justice Stein assisted by Assessors Green and Cook. The court heard evidence in the Applicant's case by a Dr. Carter, a consultant in environmental biology and pastoral management. Dr. Carter's inspection was limited to what could be seen of the land from the main roads because, as he said in evidence, he had been refused access to the property by the Western Lands Commission. His Honour found that the refusal by the Commission was entirely inexcusable and a matter of some concern that such a serious obstruction should have been placed in the way of the Applicant. He opined that it might also be seen as an attempt to prevent the Court from receiving relevant evidence.

On 9 May, 1986 judgment was handed down, His Honour finding that the Minister had failed to convince the Court that the subject lands are not claimable crown lands and he ordered, pursuant to Section 36(7) **Aboriginal Land Rights Act, 1983**, that it be transferred to the New South Wales Aboriginal Land Council to hold on behalf of and for subsequent transfer to the nominated Local Aboriginal Land Council if and when formed.

On 5 June, 1986 the Minister filed a Notice of Appeal in the Supreme Court of New South Wales, Court of Appeal from the Decision of Mr. Justice Stein, that the land be transferred to the N.S.W.A.L.C.

On 18 July, 1986 by consent the orders of His Honour Mr. Justice Stein were Stayed by Consent subject to the Minister prosecuting his appeal with all due expedition, until the Minister's appeal to the Supreme Court of New South Wales, Court of Appeal, is heard.

On 2 May, 1986 the Aboriginal Land Rights (Amendment) Act, 1986 No. 18 was assented to. His Honour Mr Justice Stein handed down his judgment on 9 May, 1986. As a result the matter was before the Court again on 18 September, 1986 requesting His Honour to determine the effect, if any, of amendments to the Act on the order handed down on 9 May, 1986. His Honour concluded that it was unnecessary for him to amend the order in any way as he was not required to specify the estate to be transferred but merely to order that the land be transferred.

On 18 September, 1986 the Court ordered that the Minister pay the N.S.W.A.L.C.'s costs on the appeal.

On 28 November, 1986 the Court of Appeal Registry advised that the matter will be listed in February of 1987 to appoint a hearing date for the Minister's Appeal.

**New South Wales Aboriginal Land Council vs Minister for Natural Resources, Part Winbar
North East of Wilcannia
Approximate Area 24,516 hectares**

On 26 April, 1984 pursuant to S.36(2) of the Act a claim was made by the N.S.W.A.L.C. on behalf of the Winbar Local Aboriginal Land Council.

On 8 November, 1984 the Minister indicated that she was not satisfied that the land claim was claimable Crown Lands and she refused the claim under the provisions of S.36(5)(b) of the Act.

On 21 December, 1984 an appeal against the decision of the Minister was lodged by the N.S.W.A.L.C.

On 8 January, 1985 the solicitor for the N.S.W.A.L.C. was advised that the Western Lands Commission had given permission for temporary grazing on Winbar to people who had their property burnt out in bush fires. On 21 January, 1985 by Notice of Motion the N.S.W.A.L.C. sought orders, among others that the Minister and any other person authorized by her be restrained from granting permission to any person to enter, use or enjoy any parts of the land known and described as Part Winbar. On 19 March, 1985 undertakings were given by the Minister to the Court and orders granted restricting grazing on the property.

The matter was unable to be heard by the Court until the appointment of assessors in August of 1985. The matter was mentioned in Court on a number of times after August, 1985. Hearing dates were allocated for 11, 12 and possible 13 December, 1985.

On 24 September, 1985 the Minister advised the Court that its case 3 (three) weeks. The Court was advised that the N.S.W.A.L.C.'s case would take approximately 2 days. The dates were then vacated by the Court.

On 26 February, 1986 a conference was requested by the Minister and agreed to by N.S.W.A.L.C. whereby an offer of a Perpetual lease was discussed by the parties. The offer was rejected by the N.S.W.A.L.C. on instructions from the Winbar Local Aboriginal Land Council.

The hearing was set down in conjunction with the Tredega hearing to commence 21 April, 1986 for one week.

On 22 April, 1986 during the course of the Tredega hearing the Minister issued and served a certificate pursuant to S.36(8) of the Act claiming the land was needed or likely to be needed for an essential public purpose.

On 23 April, 1986 a request for information pursuant to S.36(14) of the Act was served upon the Minister.

On 24 April, 1986 the Minister replied by letter stating that the terms of S.36(14) of the Act did not require him to answer the questions.

The matter was heard before His Honour Mr Justice Stein commencing on 24 April, 1986 as to the admissibility of the Certificate.

On 28 April, 1986 the N.S.W.A.L.C. sought orders that the Minister provide answers to the request. His Honour Mr Justice Stein in his judgment made the following remarks "... It appears extraordinary that the Minister should issue not one but two certificates, claimed to be final and conclusive evidence of the matters therein set out and not liable to appeal or review, some **two years** after the land claim and **sixteen months** after the appeal was instituted to the Court. Indeed, the second certificate, now sought to be tended, was not given by the Minister until **the day after** the hearing was scheduled to commence. I do not make this remarks lightly since it is no pleasure to be critical of a Minister of the Crown. However, I find such conduct to be contrary to the spirit and intent of the **Land Rights Act** and particularly the recitals to the Act ...".

On 9 May, 1986 His Honour handed down Judgment ruling on the admissibility of the Certificate on 22 April, 1986 and Judgment on the Motion regarding the S.36(14) request. His Honour ordered that the Minister so far as is reasonable provide replies to the questions set out in the letter dated 23 April, 1986 and that the Certificate was admissible.

On 5 June, 1986 the minister appealed to the Supreme Court of New South Wales, Court of Appeal, in respect of the decision of His Honour relating to the S.36(14) request.

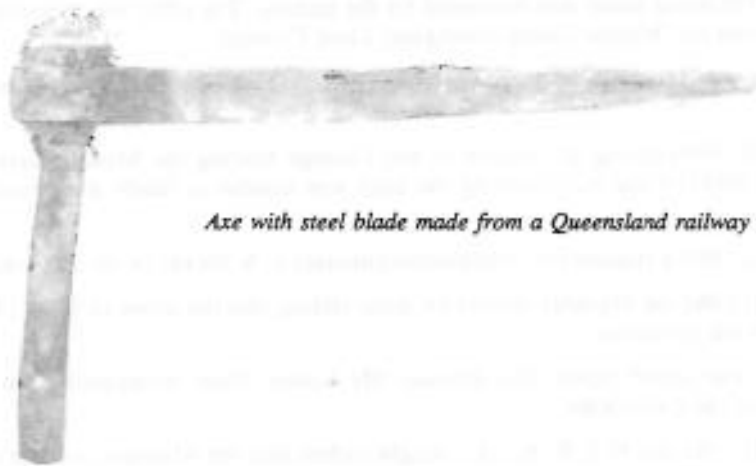
On 18 and 19 September, 1986 the Minister's Notice of Motion was heard before His Honour Mr Justice Stein seeking a stay of order of His Honour of 9 May, 1986 relating to the Section 36(14) request. Judgment was handed down on 25 September, 1986. The Motion was dismissed and costs reserved.

On 3 December, 1986 the Minister filed a Notice of Motion, in the Supreme Court of Appeal, returnable on 15 December, 1986 seeking an order that the order of His Honour Mr Justice Stein handed down on 9 May, 1986 in respect to the S.36(14) request be stayed.

It is necessary for the Minister to have the Order of 9 May, 1986 stayed as until such time as the Order is stayed the Minister is in breach of the Order by not supplying the information and N.S.W.A.L.C. could seek to enforce the order.

The Court of Appeal Registry has advised that a date will be appointed to settle the index in the Minister's Appeal in February of 1987.

The Appeal against the refusal of the Minister to transfer the land has not been heard. Prior to that hearing the question of S.36(8) Certificate dated 22 April, 1986 will be argued.



Axe with steel blade made from a Queensland railway spike.



