



NETWORKING THE NATIONS

THE OFFICIAL RECORD OF THE NEW SOUTH WALES
ABORIGINAL LAND COUNCIL STATE CONFERENCE 2009

CROWNE PLAZA, HUNTER VALLEY
3 - 5 March 2009



www.alc.org.au

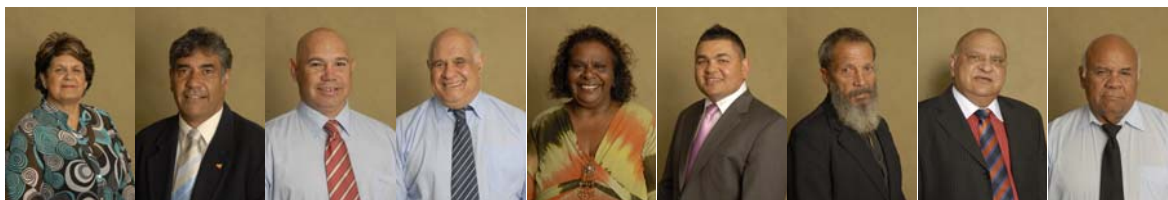


The Report is dedicated to Birrigan Gargle LALC delegate **Christine Ferguson** who passed away in the days after the Statewide Conference.

Christine was a popular and much-loved figure throughout the North Coast Region. She fought to help her people all her life and played a prominent role in securing positive amendments to the *Aboriginal Land Rights Act*.

Christine held several senior administrative positions in a number of organisations before becoming the CEO of the Birrigan Gargle Local Aboriginal Land Council.

She was a passionate and dynamic individual who played a key role in the struggle for Aboriginal Rights in NSW over the last three decades.



INTRODUCTION

It gives us enormous pleasure to present this document.

The New South Wales Aboriginal Land Council proudly convened a State Conference of Local Aboriginal Land Councils in the Hunter Valley from March 3-5, 2009.

The Conference broke new ground.

It attracted more than 230 delegates from the network of 121 Local Aboriginal Land Councils from across the State. They represented a majority of the Aboriginal Nations of NSW.

The delegates discussed and debated a wide range of key policy, planning, operational and advocacy issues. Forums for our Elders and our Youth were held at a NSWALC State Conference for the first time.

Plenary sessions included discussion and debate on the sustainability of the land rights network, culture and heritage, NSWALC's Corporate and Business Plans, Future Directions and Initiatives, proposed Land Dealings legislation and Constitutional Reform, including a Bill of Rights and a Charter of Aboriginal Rights.

Concurrent workshops were convened on Social Housing, Future Amendments to the Aboriginal Land Rights Act, the Two Ways Together program and a range of Economic Development Issues.

Aboriginal Peak organisations, State and Federal Government Departments and other Agencies that provide targeted programs and services to Aboriginal communities also exhibited their products and programs for the first time at a NSWALC State Conference.

NSWALC also provided an information stall on its products, services and programs, including Land Claims, the Education Endowment Scholarship Fund and the joint Water and Sewerage Initiative with the NSW Government. It also took the opportunity the Conference provided to "take the temperature," of the network on a range of major issues through a written survey of all delegates. The results of the survey are incorporated into this record of proceedings.

Above all the State Conference provided a rare opportunity for the elected representatives of First Nations from across the State to come together and network over three days on the wide range of issues which face Aboriginal people and their elected organisations as we work to improve the social, political, economic and cultural well being of our constituents.

The official proceedings of the State Conference show much has been achieved. Much still has to be done.

We commend this document to you.

CR BEV MANTON, NSWALC CHAIRPERSON
CENTRAL COAST REGION

CR TOM BRIGGS, NSWALC DEPUTY CHAIRPERSON
NORTHERN REGION

CR STEVE GORDON
NORTH WESTERN REGION

CR STEPHEN RYAN
CENTRAL REGION

CR ROY AH SEE
SYDNEY/NEWCASTLE REGION

CR PATRICIA LAURIE
NORTH COAST REGION

CR WILLIAM MURRAY
WESTERN REGION

CR CRAIG CROMELIN
WIRADJURI REGION

CR JACK HAMPTON
SOUTH COAST REGION

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The Chairperson of the New South Wales Aboriginal Land Council, Bev Manton, proudly opens the Conference proceedings.

OPENING SESSION - MARCH 3, 2009

The Chairperson of the New South Wales Aboriginal Land Council, Bev Manton, opened proceedings by inviting the Councillor for the Sydney-Newcastle region, Councillor Roy Ah See, to extend an initial Welcome to Country on behalf of the Wanaruah people and the Mindaribba Land Council on whose land the State Conference was being held.

Chairperson Manton explained that an official Welcome to Country would be given later in the morning by Uncle Tommy Miller, a Wanaruah Elder and Deputy Chair of Mindaribba LALC.

Councillor Ah See extended a welcome to all delegates, acknowledged Country and paid his respects to Elders, past and present, and the Wanaruah custodians of the land.

Chairperson Manton then delivered a short opening speech in which she noted it had been "seven long years since we last assembled at a State Conference."

"We have come a long way since then," she added.

"Many of us are that little bit older....and hopefully a whole lot wiser.

"Sadly many who have worked to secure our rights are no longer with us and I'd now ask everyone to join me in a minute's silence and reflection in memory of them."

Following the observation of the minute's silence, Chairperson Manton acknowledged and welcomed the presence "of so many LALC Board members and staff here today along with a number of former Councillors."

"I'd also like to acknowledge and welcome the representatives from other peak bodies and Government department and agencies," she added.

"I know that many of you have travelled far and wide to be here.

"I thank you for taking the time, and making the effort, to do so.

"Your attendance here today confirms my view that the land rights network is undergoing a renaissance.

"I mentioned earlier that we had come a long, long way since the last State Conference in 2002. I will have a fair bit to say about that progress in the plenary session to follow.

"For the moment let me simply say I feel both honoured and privileged to be officially welcoming all of you here today as Chairperson of the New South Wales Aboriginal Land Council.

"As I have moved around talking to delegates ahead of today's opening I have sensed a feeling of great anticipation, and expectation, among many of you about the next few days.

"Rarely do we have an opportunity to bring so many of our Brothers and Sisters together.

"We have done so with one goal in mind.

"To ensure all of us can freely discuss and debate the opportunities and challenges we have before us now....and those which lie ahead.

"All of us come to this Conference with our own views on what land rights have delivered, what they still can deliver, and what they should deliver.

"I can assure you my fellow Councillors and I — together with NSWALC staff under the leadership of Geoff Scott — have worked extremely hard to ensure all delegates have the opportunity to freely share those views over the next few days.

"We are looking for full, frank and informed debate.

"Deputy Chairperson, Councillor Tom Briggs, will shortly provide you with an overview of the Conference and the desired outcomes.

"Before he does so I'd ask all delegates to note the Conference theme:

"Be Informed. Be Involved .Be Inspired...and work together for change.

"In setting the agenda it was the earnest hope of all Councillors that this Conference will better inform you about what NSWALC is doing...and what we will be doing.

"Just as importantly.....it will better inform us, NSWALC staff and your fellow LALC delegates, as to what you are doing.

"All of us come to this Conference with our own views on what land rights have delivered, what they still can deliver, and what they should deliver."

BEV MANTON, CHAIRPERSON OF
THE NEW SOUTH WALES
ABORIGINAL LAND COUNCIL.

"We would hope that all delegates will feel free to involve themselves in all of the proceedings.

"It is our hope we will all find much over these next few days, both individually, and collectively, to inspire us.

"It is our hope that all delegates will head home with a better sense of where we are collectively, and,

"More importantly,

"How we can all work better together in our ongoing struggle for the recognition of our inherent rights as the first peoples of this State.

"In closing, let me make this clear.

"This Council has never made a secret of the inherent tensions which can be, and are created, between NSWALC's advocacy role and its compliance role under the Land Rights Act.

"We need to continue to all work together to manage these tensions.

"It is our hope the proceedings over the next few days will help ease existing tensions and reduce the potential for new ones.

"It is my firm belief, and that of my fellow Councillors, that the election of the current Council, particularly after such a long period of administration, has brought a new sense of purpose and direction to NSWALC and the land rights network.

"I'm sure you will hear a lot over the next few days about examples of NSWALC's power.

"I hope you will also hear a lot about the power of our example, especially about our core business, particularly land rights.

"As a Worimi woman I have had an active life long commitment to improving the economic, social and cultural well being of our people.

"I draw on that knowledge and experience every day in my present position.

"I learned a long time ago that you should never forget where you come from.

"With that in mind, I am acutely conscious, each and every day, of all of those who have come before us, some of whom I see sitting before me today.

"In closing I want to take this opportunity to formally and sincerely acknowledge the building blocks put in place by all former NSWALC

Councillors and LALC representatives who have worked over the past 26 years to build land rights in NSW as we know it today.

"It is our collective duty to work together for change and continue to build on their hard won gains.....to create a brighter and better future for all of those who will follow.

"I will have some more to say on that in the upcoming plenary session.

"For now, I commend the Conference agenda to you.....and take much pleasure in asking Councillor Briggs to provide you an overview of the Conference and desired outcomes."



From left to right: Denniliqin LALC's Chairperson Debbie Flower and CEO Rose Dunn during a Conference break .



NSWALC Deputy Chairperson Tom Briggs outlines the Conference overview and desired outcomes.

OVERVIEW OF CONFERENCE AND DESIRED OUTCOMES

NSWALC Deputy Chairperson Tom Briggs, a member of the Gumbainggir nation and Councillor for Northern Region acknowledged Country, all LALC representatives and delegates from the Elders and Youth forums.

He noted this was the first State Conference to include both Elders and Youth forums.

“I think the attendance of so many at this Conference, from both within and outside the land rights network, is a vote of confidence in the strength of the network here in New South Wales,” he added.

“I’m pleased to report we have representation from almost every LALC in the network.

“In preparing for Conference it occurred to me that I would be in a unique position.

“I was a member of NSWALC’s Governing Council at the last State Conference in Coffs Harbour in 2002. It is my privilege to serve the Northern Region on the current Council.

“Those of you who attended the Coffs Harbour Conference would recall it was convened not long after the 9/11 terrorist attack on the World Trade Centre in New York.

“The world’s financial markets were in a spin. It was then that the seeds were sown for the current global financial crisis.

“Many people in this room would recall NSWALC’s Statutory Investment Fund took a big hit back then. It is taking a big hit now.

“Council, to its credit, held its nerve back then and maintained its core investment strategy. It is doing so now.

“But, I can assure you, we have not been sitting on our hands.

“We have taken positive steps to ensure we minimise any future losses and maximise our returns.

“You will be hearing much about those steps in the next session, the Future for NSWALC and the Network.

"No doubt you will have many questions so we will come back to that in some detail shortly.

"It will also surprise no-one to learn, or to recall, that the Coffs' Conference heard much about the proposed proclamation of the latest round of amendments to the Act.

"I think it fair to say the Act has been under review ever since it was proclaimed. 26 years along, things remain the same.

"Following the plenary session this morning Conference will turn its attention to the long awaited exposure draft of the latest amendments to the Act—the land dealing provisions.

"It will be facilitated by Central Region Councillor, Stephen Ryan.

"I'm pleased to report the Government has finally signed off on the release of their consultation draft of the Bill.

"We have been informed the Government will publicly announce next week the release of the draft and provide all interested parties a 28 day response period.

"This means LALC Conference delegates will effectively have more than a week's grace on the 28 day consultation period.

"I'm sure you will agree the draft has been a long time coming and I look forward to the debate and discussion the proposed new land dealings regime will generate.

"We anticipate much debate and discussions on the LALC funding policy session, to be facilitated by Wiradjuri Region Councillor Craig Cromelin, which will follow.

"Today's proceedings will end with a panel discussion on a Bill of Rights to be facilitated by the Councillor for the Sydney/Newcastle region Roy Ah See.

"As many delegates would be aware there has been debate in Australia over the need for constitutional or statutory protection of human rights since the 1890s.

"That was when Tasmanian Attorney-General, Andrew Inglis Clark, suggested entrenching some basic human rights in the Constitution.

"Debate has been stimulated in recent years by the 2001 Bill of Rights inquiry in New South

NSWALC's Governing Council has spent much time seeking to ensure that the agenda reflects all of the key issues facing us now and into the future.

It has been carefully framed to shine a clear light on all of the major challenges, and opportunities, ahead of us.

TOM BRIGGS
DEPUTY CHAIRPERSON NSWALC.

Wales and the 2002 Bill of Rights inquiry in the Australian Capital Territory.

"As you would be aware the Commonwealth Government has now joined that debate.

"Today's session with Michael Mansell, Larissa Behrendt and George Williams is timely.

"The National Human Rights Consultation Committee recently appointed by the Rudd Government, and chaired by Father Frank Brennan, begins its community consultations in NSW in Dubbo today.

"Those consultations will conclude in Newcastle and Tweeds Heads in April and May.

"I'm taking bets on how long into that session it will take to hear the word...intervention!

"We have also convened separate forums for our Elders and our Youth which will run concurrently today.

"There will be a report back from North Coast Region Councillor Patricia Laurie from those forums tomorrow morning.

"I have provided this snapshot of today's proceedings to illustrate the depth and breadth of issues which will be covered in the next few days.

"NSWALC's Governing Council has spent much time seeking to ensure that the agenda reflects all of the key issues facing us now and into the future.

“It has been carefully framed to shine a clear light on all of the major challenges, and opportunities, ahead of us.

“All Councillors will be actively involved throughout the Conference.

“We have many NSWALC staff on hand.

“I would ask all of you to take the opportunity to raise any operational issues particular to your LALC, or your region, directly with the Councillors and NSWALC staff over the next few days during the normal breaks.

“This will enable discussions on the Conference floor to remain tightly focused on the key state-wide and national issues reflected in the agenda which are of mutual collective interest to all attendees.

“We have much business to attend to and we would appreciate your assistance in this regard.

“Our hope is that the many plenary sessions and workshops on NSW and Federal government programs and services, social housing, the sustainability of the network, LALC elections and rolls, to name a few, will trigger robust and constructive debate.

“I should note that the Minister for Aboriginal Affairs, Paul Lynch, had hoped to be with us but unfortunately his parliamentary commitments have prevented him from doing so.

“We will, however, have the Director General of DAA, Ms Jody Broun, and a number of departmental officials with us, as well as the Registrar of the ALRA, Steve Wright.

“A clearer vision of the complex issues, and pressures, we need to address, and to overcome, to sustain our self funded land rights network.”

TOM BRIGGS
DEPUTY CHAIRPERSON NSWALC.

“We will also hear from Mr Lynch’s Federal counterpart, Jenny Macklin and his ministerial colleague Linda Burney, who has recently taken up her position as Federal President of the Australian Labor Party.

“In closing, let me turn to the desired outcomes.

“NSWALC will be providing all LALCs with a published record of Conference deliberations.

“We would hope that record will reflect that all delegates will have come out of the Conference with:

- An increased sense of unity and common purpose.
- A clear roadmap for the next 25 years of land rights, and land management, to ensure we take full advantage of the *Land Rights Act*—the sole compensatory regime which is now available to all of us.
- A clearer vision of the complex issues, and pressures, we need to address, and to overcome, to sustain our self funded land rights network in our ongoing struggle to improve the economic, social, and cultural health and well being of our people and in the ongoing struggle for recognition and rights.
- A clearer vision of the complex issues, and pressures, bearing down upon the management of the investment fund which assists in supporting and sustaining all of us.
- A clearer vision of the direction of NSWALC and the policies and procedures which have been developed, and are being developed, which seek to instill and sustain a culture of clear and fair compliance across the network
- A clearer vision of the ever increasing economic, administrative and social pressures on the LALC network.
- A greater appreciation and understanding of the political, social and economic environment in which we all operate.

"I'm sure delegates will agree we have much business in front of us.

"I'm sure you will also agree that time is often our chief enemy as we seek to work through a full agenda.

"For this reason it was decided to draft a survey questionnaire which has been distributed to all delegates at registration.

"This Conference provides a perfect opportunity to canvass the considered written views of all delegates on a range of important issues.

"It will allow us to take the temperature of the network, if you like.

"We would like a 100 per cent response rate to the survey, if possible.

"I would ask everyone to take the time to read and complete the questionnaire during the morning and afternoon teas and lunch and dinner breaks today and tonight.

"We plan to collect the completed questionnaires during morning tea tomorrow morning and will report back on the result on Thursday.

"A full report on the survey will be incorporated in the published record of proceedings.

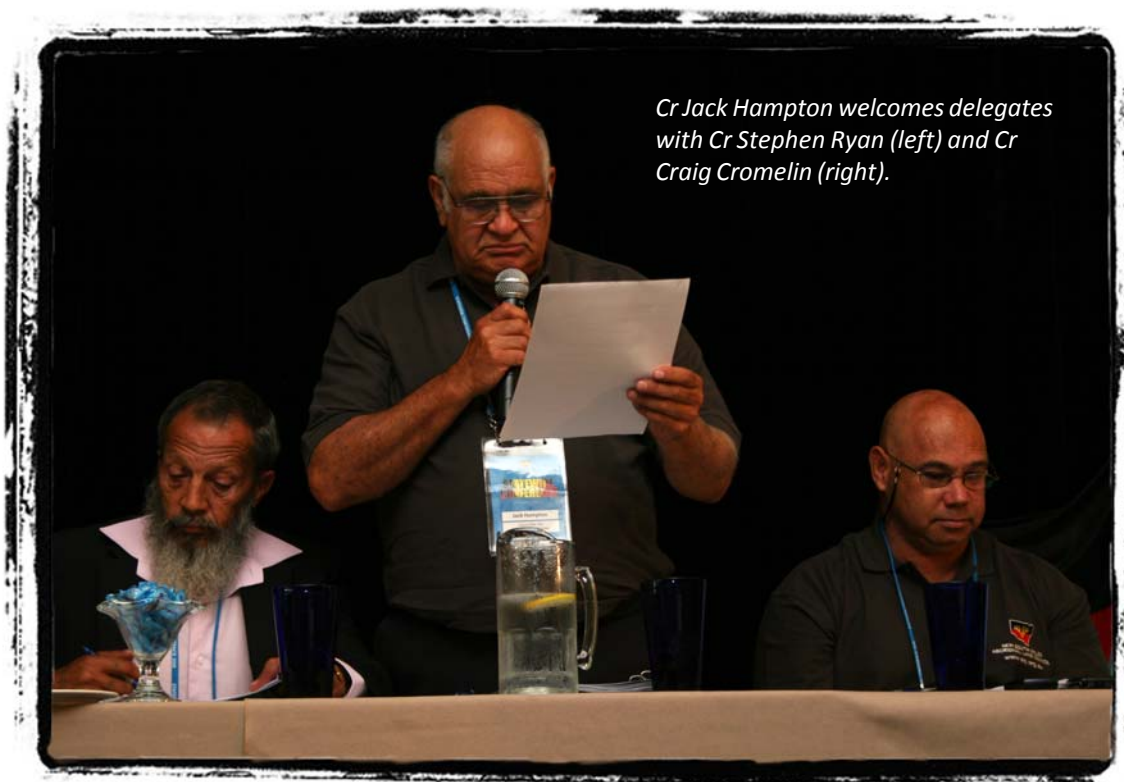
"We have staff on hand to discuss any aspect of the survey should you have any questions about the content.

"I thank you for your time."

DAY ONE



From left to right: Judy Johnson, Chairperson of Griffith LALC and Margaret McGregor, CEO of Griffith LALC with Joseph Day, Chairperson of Moama LALC.



Cr Jack Hampton welcomes delegates with Cr Stephen Ryan (left) and Cr Craig Cromelin (right).

INTRODUCTION OF COUNCILLORS

Chairperson Manton then introduced the Chief Executive Officer of NSWALC, **Mr Geoff Scott**, who acknowledged Wanaruah Country.

All NSWALC Councillors were then asked to introduce themselves.

Councillor for the Central Region, **Stephen Ryan**, introduced himself, acknowledged country and welcomed the large delegation from the Central Region.

Councillor for the South Coast Region, **Jack Hampton**, followed with an acknowledgment of country and a welcome to those delegates from the South Coast Region.

The Councillor for the Wiradjuri Region, **Craig Cromelin**, acknowledged country and welcomed delegates from his region.

Councillor **Steve Gordon** from the North West Region acknowledged Wanaruah traditional owners and elders, wished everyone a good Conference and said he was looking forward to meeting old and new friends.

Councillor Manton welcomed all delegates from her Central Coast Region and said she wished she could visit the LALCs in the Region more often.

Councillor Briggs followed “impressing upon everyone,” the need for positive change in the network, families and clans.

Councillor **Patricia Laurie** from the North Coast Region acknowledged Wanaruah Country and advised she was the first female to be elected from the North Coast Region.

She was happy to see “a lot of old familiar faces and hoped the next few days would be very constructive.”

Councillor **Roy Ah See** acknowledged all LALCs from the Sydney/Newcastle Region particularly Mindaribba LALC, given the Conference was being held on their Country.

He acknowledged the participants of the Elders Forum and Youth Forum said it was timely that all delegates had come together with a united front to move in a positive direction.

OFFICIAL WELCOME TO COUNTRY.

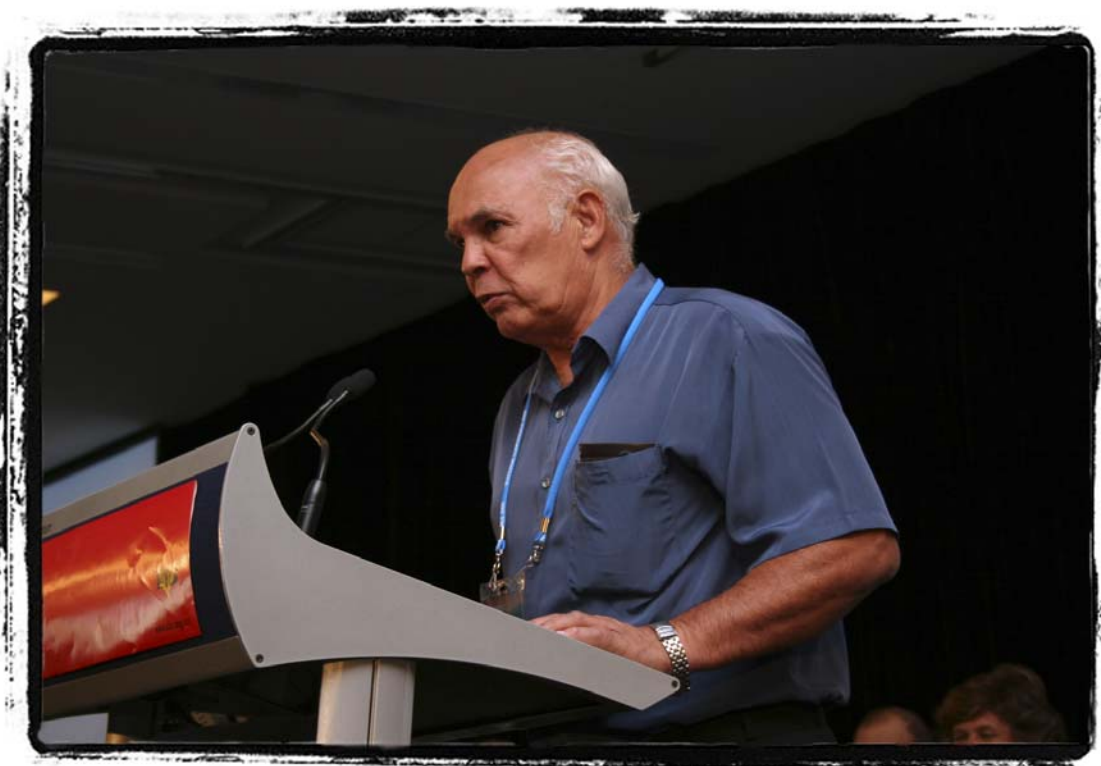
Uncle Tom Miller, on behalf of Wanaruah Elders and Mindaribba LALC, then gave the Welcome to Country.

He said he recognised a lot of faces that he had not seen for a long time and hoped everyone would work well together during the Conference.

Cr Bev Manton thanked Mr Miller on behalf of all delegates and introduced the Deputy Chief Executive Officer of NSWALC, Mr Norman Laing, who would facilitate the first plenary session.

Councillor Briggs addressed a number of housekeeping matters and noted questions would be taken at the end of each session.

He informed delegates the proceedings were being minuted and recorded and asked that they clearly identify themselves when asking questions.



Uncle Tom Miller gives the Welcome to Country on behalf of Wanaruah Elders and Mindaribba LALC.



NSWALC Deputy CEO Norman Laing facilitates the Plenary Session on the future of NSWALC and the LALC Network.

PLENARY SESSION

THE FUTURE FOR NSWALC AND THE LAND COUNCIL NETWORK

The facilitator Mr Laing addressed a number of housekeeping matters.

He said it was important all LALC delegates ensured they had picked up their information packs from NSWALC which contained copies of the draft NSWALC Business Plan and a comprehensive survey on key issues.

The Office of the Registrar of the ALRA had also made a folder available to each LALC which contained a copy of the consultation draft of the proposed Land Dealings legislation.

He also advised delegates a number of key government departments and agencies had established exhibition stalls at the venue.

Mr Laing then introduced Chairperson Manton to begin the plenary session.

Chairperson Manton told Conference her job in the session was to talk about the NSWALC Corporate Plan and draft Business Plan. Copies of both were contained in the LALC information packs.

She informed delegates that before she turned to the main body of her speech she wanted to “pick up on some points I raised in my official welcome.”

“I think it is important to do so to set the context for the rest of Conference.

“As I mentioned earlier it has been almost seven years since the network last came together as a State Conference.

“I’m sure everyone feels this should have happened earlier - this was not possible.

“A brief look at the seven years between now and then gives you an understanding as to why.

“As you all know the State Council that convened the Coffs Harbour Conference was sacked by the then NSW government and replaced with an all-functions administrator.

“I know there are some in this room that supported that decision then....and probably still do so.

"I know there were problems back then. No-one can deny them.

"I was only too aware of them as I watched from Karuah Local Aboriginal Land Council.

"But I do believe, on the weight of all of the evidence, their sacking was totally unwarranted and unjustified.

"When the definitive history of that period is written—and it will be—I would challenge anyone looking at it objectively to disagree with me.

"This network can count its blessings that the government appointed a proud and committed Yuwaaliyaay man from Goodooga, Murray Chapman, to the job of Administrator.

"It's so tragic we lost him so young.

"He may be gone but he will never be forgotten....such was his legacy to us.

"When Murray was appointed he made it clear to the then Council-appointed Chief Executive Officer, William (Smiley) Johnstone, that he regarded his role as two-fold.

"First, he was a caretaker pending the return of a duly elected council.

"Secondly, he was a change manager for the organisation.

"Murray publicly, and at some political cost to himself, acknowledged a debt of gratitude to the former Council Chairperson Les Trindall, and others, for recognising the need for change and improvement at NSWALC.

"He publicly acknowledged all the work done by Les and his key advisers in taking the necessary steps to implement that change.

"He and Smiley made a conscious decision to retain that Council's conservative investment strategy to ensure slow but steady growth in the NSWALC Account.

"They made a conscious decision to retain the new suite of governance policies and procedures adopted by the outgoing Council to put a broom through the place.

"They made a conscious decision to implement a major administrative restructure endorsed by that Council just before its dismissal.

"They made it known these were the essential building blocks that were used during the Chapman administration to rebuild and consolidate NSWALC's operations.

"Tragically, Murray did not live to see the fruits of his labour.

"He died a few months short of the end of the administration. He was replaced by Smiley who carried on his work between March 2007 and the election of this Council in May of that year.

"Smiley's final job was to provide the Minister for Aboriginal Affairs with a residual Plan of Management for the short period of his administration.

"It essentially documented NSWALC's transition from an all functions administration to the election of this Council.

"Importantly, Smiley went on step further.

"He informed the Minister it was his belief that Murray, and the former Council, would have expected him to provide the government with a frank assessment of the state of NSWALC and land rights.

"In his letter of transmittal Smiley informed the Minister it was his considered view, and one shared by Murray, that NSWALC would be a far stronger organisation had an all functions administrator not been appointed.

"It would have been far more constructive, he submitted, to have appointed a part functions administrator with specific financial powers as recommended by the then Council.

"This would have allowed Council, led by Mr Trindall, to fully implement the governance policies and procedures it had adopted late in its term.

"Having made the decision to appoint an administrator it would have been far more constructive to have allowed Council to work through a period of part functions administration to ensure full Aboriginal ownership of any changes in that time.

"Smiley reminded the Minister the Investigator's Report into Council, flawed as it was, did not find any evidence of corruption or misappropriation.

"He made it clear he raised the matter, not to

make a political point, but to urge the government to carefully consider such matters should a similar situation ever arise.

"I think it important to both acknowledge the work done by both Murray and Smiley during this period and never to forget the lesson we can all learn from this sorry period in the history of NSWALC.

"We owe them a debt of our gratitude.

"It is no accident that this Council has been at pains to point out that the appointment of full functions Administrators to any Aboriginal organisation should always be the very last resort.

"They should only ever be considered where hard evidence can be found of fraud, misappropriation or corruption.

"It is no accident that I have been at pains to point out, ever since this Council has been elected, that we learn the lessons from the past.

"Division is death in politics.

"We are a political movement!

"We can be one of the most potent political organisations for change in this country....

Or we can be a sad reflection of ourselves.

"We are a potent force....and Councillor Briggs and I will demonstrate why in a moment.

"But let me be clear about this.

"We need to build on the issues that unite us and work through those that divide us.

"That is why I have stressed the need for unity from day one in my present position.

"As all of you know I will be up for re-election soon.

"That is.....as it should be.

"I'll stand or fall on my record.....and my leadership.

"But I can guarantee you this.

"I will continue to stress unity.

"I will continue to stress the need for compliance with our legal obligations.

"I will do so as long as I remain in my current position....and beyond.

"Delegates might also recall that I said on the day of my election that I was determined that this Council would hit the ground running.

"In my view, we have.....in spite of those lost years of administration.

"This is no better reflected than in the NSWALC Corporate Plan.

"When we developed the document and released it I made the point that many organisations thought producing one was the end of the matter.....that most were simply filed away to gather dust on a shelf.

"My fellow councillors, and I, were determined to ensure this did not happen.

"I'm happy to report it has not.

"Our Corporate Plan is a living document.

"Community Land and Business Plans should be living documents.

"The NSWALC Capacity Development Plan should be a living document.

"I believe the new sense of purpose and direction that we have talked about is best evidenced by the NSWALC Corporate Plan 2008-2012.

"Council's overarching aim is to work to its key strategies, core values, and commitment to outcomes. We seek to do so to for the following reasons.

"To provide leadership, guidance and support to the Aboriginal people of New South Wales in our united pursuit of sustainable cultural, political, social and economic rights.

"In essence, the Plan provides a road map for our organisation.

"Importantly, it re-emphasises that our principal clients are the Local Aboriginal Land Councils throughout the State.

"It sets out our key corporate priorities, such as:

- advocacy and rights,
- strong leadership and governance,
- community health and well being,

- community development and planning,
- learning and development, and
- wealth generation and commerce.

“The Plan ends with a commitment that Council will work with all relevant stakeholders to ensure the safety, health and well being of Aboriginal people.

“Now those could be simply words on paper.

“In that regard I’m pleased to report we have invoked key elements of the Plan, particularly in relation to community benefits.

“As many of you will be aware Council has launched a \$30 million Education Endowment Fund which aims to assist with funding for up to two hundred scholarships a year.

“This scholarship, achievement and leadership scheme—our own education revolution—is already providing opportunities for study at primary and secondary schools, higher learning institutions, colleges and universities

“Councillor Briggs will shortly provide some updated figures on those assisted through the fund.

“I’m sure you will agree it is one of the most exciting and innovative programs to be announced in the 26 year history of land rights in New South Wales.

“It falls squarely within our key strategies on innovation, learning and continuous improvement.

“Council and the State Government also reached an historic agreement to improve the health and well being of Aboriginal men, women and children.

“We will do so by fixing up the appalling water and sewerage conditions in affected communities.

“Both parties have committed more than \$100 million each for at least the next 25 years for the operation, monitoring and maintenance of water and sewerage services in more than 60 communities across the state

“Many are former reserves and missions.

“Both initiatives were taken in the face of the negative growth in the Statutory Investment Fund due to the ongoing global financial crisis.

“Council, rightly, took the unanimous view both were sustainable and necessary.

“We did so conscious that we were invoking our commitments in the Corporate Plan to:

- both pursue strong, productive and meaningful partnerships to improve the health and well being of our constituents and to maintain and
- to strengthen our advocacy in seeking to close the opportunity gaps between our people and their fellow Australians.

“The agreement was announced in the State Budget in June, a week before the 25th anniversary of the proclamation of the ALRA on June 10 last year.

“On the water and sewerage initiative we could easily have said no and maintained that this is a State government responsibility.

“There was really no decision to make.

“The government made it clear the proposal would not proceed without a firm partnership commitment from NSWALC.

“We could not turn our backs on our people. If I could just cut to the chase and speak plainly, it was time to cut the claptrap, and help close the gap.

“There will no doubt be further discussion on these issues during tomorrow’s plenary session on NSW government programs and services.

“In closing, let me turn to the NSWALC Business Plan.

“NSWALC has developed a draft business plan designed specifically to identify initial thinking and seek input from LALCs.

“The draft plan is in your packs.

“This is the document by which the Board will direct and monitor the implementation of the priorities identified in the Corporate Plan.

“The Business Plan is therefore organised around our corporate priorities.

"We must ensure whatever is in the Business Plan is able to be implemented, resourced and reported upon.

"We will be held accountable through our reporting to the network.

"NSWALC would appreciate input from LALCs before finalising the Business Plan.

"You will find a form to assist in providing that advice on the final page of the draft document.

"Unfortunately time is short..... some two weeks.

"This is required to enable NSWALC to meet its legislative requirements.

"NSWALC originally planned to scan the LALC CLBP's but given the timeframes, we are unable to wait for the majority of plans to be submitted.

"The Business Plan is not a static document.

"It will be regularly reviewed and adjusted, if required, to ensure we are focused and targeting the many areas of responsibility and emerging challenges.

"We need your advice.

"Please take the time to assist us.

"In closing let me just say this.

"There are many good, honest and decent folk in our network.

"There always have been.

"There always will be.

"But there are those who constantly seek to bend the rules.

"They talk about the big C word.

"They are not talking about cancer.

"They are talking about compliance.

"But those who think they can operate outside the rules are a cancer on the system.

"They drag the rest of us down.

"They are the ones singled out by the government and its agencies, the opposition, and the media, when they want to bolster claims that the land rights network is dysfunctional.

"They provide the ammunition for those who would seek external intervention into our affairs.

"We have to be honest with ourselves and acknowledge there are those within the system who do not want to play by the rules.



From left to right: Weliwan LALC's Chief Executive Officer Ros Darcy and Weliwan LALC's Chairperson Muriel Milgate.

“This Council is always willing to help any LALCs willing to help themselves.

“We cannot continue to keep propping up those who are not willing to accept their compliance responsibilities, as all others do.

“We have to clean up our own compliance act.

“If we don’t then someone else will do it for us.

“Mindful of that, let me say there is no question that much has also been achieved over the past 26 years.

“I’m determined to ensure much continues to be achieved.

“The one key outcome I hope this Conference will deliver is a clear road map to take the land rights movement into the next 20 years.

“It is my hope that whoever is standing in this place in 2029 will be reporting on the activities of a healthy, robust and relevant NSWALC, and network, which is delivering outcomes never achieved in the previous 240 years.

“Thank you.”

Mr Laing then invited questions from the floor and requested delegates identify themselves to assist in ensuring an accurate record of input from the Conference floor.

The Chairperson’s address prompted a large number of questions across a wide range of issues.

Tamworth LALC delegate **Donald Craigie** got the ball rolling with a question about the implications of the downturn in global financial markets and the effect on NSWALC’s investments. He asked if delegates could be told “where we stand in the big picture, what were our gains and what were our losses?”

Mr Scott acknowledged the importance of the question and the need to keep the network informed.

In this regard he advised he would be doing a presentation on NSWALC’s investments immediately after Councillor Briggs presentation.

Cowra LALC delegate **Lavinus Ingram** then asked a series of questions about the timing of NSWALC Board elections, eligibility to stand, the approval

processes for the draft NSWALC Business Plan, and the timetable for the rollout of the Water and Sewerage initiative.

Chairperson Manton responded to each of the nine questions during which she pointed out NSWALC Board elections were held every four years with the Chairperson and Deputy Chairperson elected every two years. She informed Conference the draft NSWALC Business Plan had to be approved by March 16.

She also outlined the roll out schedule for the Water and Sewerage initiative and the identification of 40 priority communities.

“It is my hope that whoever is standing in this place in 2029 will be reporting on the activities of a healthy, robust and relevant NSWALC, and network, which is delivering outcomes never achieved in the previous 240 years.”

BEV MANTON,
CHAIRPERSON NSWALC.

Mr Scott noted that delegates were being asked to take the draft NSWALC Business Plans back to their LALCs with feedback requested within the next two weeks. No-one was being asked to vote on the issue now.

The number of questions asked by Ms Ingram prompted a request that delegates restrict their questions, if possible to one apiece given time constraints.

Wanaruah LALC delegate **Noel Downs** asked if there would be an opportunity to obtain further information in regard to LALC Community Land and Business Plans during the Conference.

Mr Scott advised there would be a session on CLBP’s later in the Conference.

Narrabri LALC delegate **Lyn Trindall** asked if there would be funding available for LALCs who managed their housing if they could not obtain it from other sources such as the Aboriginal Housing Office.

Mr Scott said NSWALC would not do so but a session on Social Housing would be held on the second day of Conference to address this and related issues.

Ms Trindall, the Chief Executive Officer of Narrabri LALC pointed out that LALC staff were paid to come to Conference. LALC Board members were not. Some had taken holidays from their jobs to attend Conference as (unpaid) Board members. She said there was no balance. Board members needed to receive an allowance or sitting fee to cover such contingencies.

Mr Scott said he took the question as a general one related to compensation for Board members. He said NSWALC had calculated if each Board members was paid \$1,000 each per annum then this would add about \$1.1million to the overall operating costs of the land rights network.

He said NSWALC considered the question, in the first instance, to be one for the LALCS and their members.

This was a question which would be looked at in the Budget session but it was a question which had been asked by many LALCs. It was essentially an issue about allowances rather than remuneration.

Wagonga LALC delegate **Vivian Mason** said she had been involved in the land rights system voluntarily for 25 years. She had recently sat in a Wagonga LALC Board meeting for seven hours and "all we got was lunch."

She requested details of the remuneration and allowances paid to members of the NSWALC Governing Council.

Ms Mason also said she felt intimidated by the request to keep to a solitary question as she "had a page full," and felt she could not express what she "came here to talk about."

She said she had attended a State Conference in 1986 or 1987 and the issue of Sea Rights was addressed. State representatives had often been approached to take up the issue but nothing had been done about it. People were still being prosecuted and put in jail for exercising their traditional rights and something should be done about the situation.



From left to right: Christine Lee, General Manager of SEARMS speaks with Stella Bolt, a Board Member of Bodalla LALC.



From Right to Left: Bob Sampson, Chairperson Koompahtoo LALC with Cr Steve Gordon North Western Region.

Mr Scott said the remuneration and allowances of NSWALC Councillors were published in the organisation's Annual Report. Remuneration and allowances were not set by NSWALC.

The remuneration was determined by a State Government tribunal and allowances by the Minister for Aboriginal Affairs.

Mindaribba LALC delegate (CEO) **Rick Griffiths** asked how many s40D applications had been submitted and approved by NSWALC and if there was a backlog, why was this the case and, if so why NSWALC had not been more pro-active.

Mr Griffiths also asked when LALC's would be more fully funded to carry out core business. He said LALC Boards faced increasing demands—"the creep"—of compliance and demands from communities to deliver more services. He said there needed to be an increase from NSWALC to each LALC for an annual administrative allocation of up to \$200,000 to ensure they are "able to meet fees like bail to enable LALCs to negotiate with police to get people out of jail."

Mr Griffiths congratulated NSWALC on its Water and Sewerage initiative and said this is what "we are going to have to do to close the gap in life expectancy."

In response Mr Scott said NSWALC was dealing with twenty to fifty land dealings applications at any one time. He said they were processed as soon as possible.

In relation to "the creep," Mr Scott said he agreed that LALCs were shouldering more and more responsibility and the NSWALC budget would be looked at in more detail later during Conference.

Mr Scott said a series of complex discussions and deliberations needed to be held to look at future trends and to explore all possibilities in relation to the future resourcing of the land rights network.

NSWALC needed to carefully assess all LALC Community Land and Business Plans to see future trends. He said compliance costs were also an issue. The Government did not trust the land rights network as some did not do the right thing and this reflected on the rest. He agreed the scope of responsibilities were increasing as areas such as legal services and medical services were being cut increasing the onus on LALCs.

Mr Griffiths said LALC Board members were doing a lot of work at their own expense "far above and beyond what their responsibilities were."

He said legislative compliance was weighing them down and they were getting new work on social housing with no funding to assist. The Aboriginal Housing Office was interfering and there was no financial assistance from the Commonwealth Government “who are running around with an illegitimate CDEP proposal to create employment opportunities for people.” He said LALCs could “not continue to cadge on the good community members when there was nothing there for them.”

Mr Scott acknowledged that he understood the situation. He said governments were relieved to see LALCs pick up these responsibilities as it meant it could shift the cost onto the land rights network.

Bathurst LALC delegate **Shirley Scott** returned to the question of fees for Board members. Ms Scott, the LALC Chairperson, said people had taken time off their jobs and it would be “nice to be able to get sitting fees.” She said there needed to be money available for this. Some LALCs had money available for this and if they paid their representatives they would be in breach of the ALRA.

Chairperson Manton said the ALRA stipulated that no sitting fees could be paid to LALC Board members. NSWALC had to ensure compliance with the legislation.

Mr Scott pointed out that LALCs could pay emoluments, in good faith, to Board members for out of pocket expenses. He reiterated that this was a matter, in the first instance, for LALCs.

Dorrigo Plateau LALC delegate **Robyn Heath** asked why the Land Dealings draft had been released after some LALC’s had completed their Community Land and Business Plans. He also suggested the need for the formation of a union from an Aboriginal perspective to look at rights from an onshore and offshore perspective. He asked what had happened to the question of pushing for a Treaty.

Mr Scott said NSWALC was active offshore through the United Nations.

The Commonwealth Government tried to paint a rosy picture on Aboriginal Affairs in such forums but were abrogating their responsibilities on

rights and there were a number of complaints now before the UN in relation to the policies and legislation which underpinned the so called Northern Territory Emergency Intervention.

In relation to the timing of the Land Dealings Exposure Draft, Mr Scott said NSWALC had no role in the timing of its release.

This was a matter for Government. The passage of the legislation was clearly governed by the timetable set by the State Government, not NSWALC.

Mr Scott said the issue of Treaty would be discussed during a later session on a proposed Bill of Rights.

Mr Heath said there needed to be more time set aside by NSWALC and the State Government for genuine community consultation on such matters.

Mr Scott said his comments would be noted in the proceedings of Conference.

Uludulla LALC delegate **Shane Carriage** asked if there was any possibility that the current NSWALC administrative allocation to LALCs of \$130,000 a year would drop if the value of the NSWALC Account kept falling because of the global financial crisis.

Mr Scott said the value of the fund and its flow on effect to the NSWALC budget would have to drop a lot further before any consideration was ever given to cutting the current annual allocation. He said issues around the future funding of the network would require lengthy debate.

Balranald LALC delegate **Edward Murray** asked if NSWALC was aware of a land claim lodged in the LALCs area. The LALC had no knowledge of the claim and wondered if NSWALC had lodged a blanket claim over NSW.

Mr Scott said there was no blanket claim and said NSWALC had sought to ensure that any claim it lodged on behalf of a particular LALC was communicated to the LALC. NSWALC had employed four staff who had lodged more than eight thousand claims in recent years.



FUTURE DIRECTIONS AND INITIATIVES

Following the question and answer session Mr Laing then introduced Deputy Chairperson, Councillor Briggs, to discuss NSWALC's future directions and initiatives.

Councillor Briggs thanked Chairperson Manton for providing an "excellent recent history of NSWALC," in her speech given the events which had transpired since the last State Conference.

"And let me say," he continued, "I concur one hundred per cent with what she has said about the decision to put the organisation into administration.

"She has also provided an excellent overview of where we are at....and where we are going...through the prism of the Corporate Plan and our developing Business Plan.

"I see my job in this session to sketch in some of the details.

"Land is our core business so I think it appropriate to start there. Since the land rights legislation was passed 26 years ago a total of more than 18,000 land claims have been lodged.

"A little over 2,300 have been granted.

"More than double that number have been refused....a little over five thousand.

"But everyone should keep in mind that most of the refused land claims have been lodged over freehold land.

"The reason for this is the ongoing refusal of the State government to grant NSWALC and LALCs access to its electronic Crown Lands database.

"Developers can get access. We cannot.

"Our land claim effort still requires us to pore over antiquated, inefficient and inaccurate Parish maps.

"As you know these are held in various regional lands department offices around the state.

"The planet's climate is changing faster than we can get our land claims determined. Sometimes I think we'd be quicker moving mountains.

"There are currently more than ten thousand claims awaiting a determination by the Minister for Lands.

"Almost 350 were lodged more than ten years ago.

“Since the land rights legislation was passed 26 years ago a total of more than 18,000 land claims have been lodged.

A little over 2,300 have been granted.”

TOM BRIGGS,
DEPUTY CHAIRPERSON NSWALC.

“In the final quarter of 2008—October to December—only two lands claims were granted.

“I need remind no-one in this room that land claim grants are the sole form of compensation for dispossession still legally available to us.

“I’m sure you will all agree if there was any valid reason for a Government intervention in Aboriginal Affairs in this state, then this is it.

“And while determinations are moving at snail’s pace we are being forced further down the path of costly legal action to test the government’s honesty.

“And, all the way to the High Court in the recent case of Wagga.

“I think it worth reminding everyone, at this point, it was not all that long ago this government was campaigning on a promise to accelerate the rate of land claim determinations.

“Since the beginning of this financial year NSWALC has filed eight new appeals against the Minister’s refusal of land claims.

“We have done so to ensure the claims are properly investigated.

“Five of these appeals have since been withdrawn after the Minister provided fresh evidence for his decisions, or raised new grounds for refusal.

“NSWALC has won two of the appeals and was successful in the High Court in Wagga - with costs.

“The Auditor General has raised concerns about the land claim logjam.

“The Ombudsman is investigating the situation.

“Precious little has changed.

“The Minister for Aboriginal Affairs is now seeking to engage the Minister of Lands in a process of negotiated outcomes.

“We will be asking the Premier to intervene should those negotiations end in deadlock.

“Meanwhile...we are getting on with our core business.

“In the past few weeks we have prepared and lodged, in consultation with LALCs, just over 500 claims.

“They cover more than 1200 parcels of land.

“We will continue to press the government to grant us access to its databases and keep the network informed on developments.

“The challenge facing all of us is to maintain our efforts to use the gains from our land rights to continue to create intergenerational wealth.

“We need to continue to create sustainable benefits which contribute to the financial and cultural needs of our people.

“That is why the next session on the proposed new land dealings regime is a crucial part of this agenda.

“We need to get it right,

“I would ask all delegates to ensure we do not get bogged down in an argument about NSWALC’s involvement in the drafting process.

“In my view.....it’s a minor issue.

“The wider issues are far too important for that.

“NSWALC has been given unprecedented access to the development of the draft bill.

“That process has demonstrated NSWALC can work with government at the highest levels on land rights matters.

“That comes at a price.

“We, as a Council and an organisation, must maintain Cabinet confidentiality until such time as the government decides we can publicly discuss such matters.

“We cannot ask to be part of the government’s processes without accepting their ground rules.



From left to right; John Magna, CEO of Baryulgil LALC, talks with NSWALC's Information Officer Philip Mundine.

"I see no point in sitting outside the tent while a bunch of faceless bureaucrats determine our future!

"We were promised a consultation draft....now we have one.

"The decision to go public was taken last week.

"The consultation draft could not have gotten to anyone any earlier.

"Let's now work over the next month to ensure the land dealings regime is what we want....and workable.

"The wider issues for me are the whole question of our relationship with government.

"I believe the glacial speed for determining land claims is a symptom of a deep seated resistance to the recognition of our rights in certain sections of the New South Wales government.

"This is best evidenced by its refusal so far to strike a new overarching partnership agreement with NSWALC and other peak Aboriginal bodies.

"Delegates may recall such a partnership was struck by the former Council, ATSIC and the Federal and State governments.

"The two governments are currently re-negotiating that partnership.

"This government has told the NSW Parliament it sees no place at the table for NSWALC or other peak bodies.

"They think our involvement in the Two Ways Together partnership is sufficient.

"We don't agree.

"We will continue to directly push the point.

"But at the same time we need demonstrate our preparedness to work within the confines of government.

"We need to do so in a spirit of genuine partnership to influence beneficial outcomes for our people.

"The Water and Sewerage initiative and the Land Dealings Bill just two examples.

"Frankly, we'd be stupid not too.

"We need to develop a greater level of trust between NSWALC and government, at both the State and Commonwealth levels.

"We also need to develop a greater level of trust between LALCs and NSWALC about our dealings

with each other and in our separate or mutual dealings with the government and all other parties.

“We cannot deny there have been tensions within the network.

“I believe these tensions have eased since the election of this Governing Council.

“It should never be forgotten that only a few short years ago this Council could have been a much reduced body in both its size and representative structure.

“It is not. This is because NSWALC and LALC representatives joined forces to ensure it was not.

“They skillfully lobbied the Coalition and the minor parties in the State Parliament to determine the shape and structure of Council as it is today.

“They did so to successfully negotiate other key amendments to the legislation.

“We need to do more of this.

“But it must be understood NSWALC is not always free to determine the timing of the flow of information to the network.

“Occasionally we have to play by others rules.

“I did not plan to spend so much time as I have on this but I do think it is crucial.

“As you all know there is a proposal to continue beyond the current land dealings process.

“A second bill of consequential amendments—those not picked up in the last round—is in prospect.

“We must seize every opportunity to keep building and sustaining our land bank—through claims and development—to ensure the ongoing creation of inter-generational wealth.”

TOM BRIGGS,
DEPUTY CHAIRPERSON NSWALC.

“Future amendments to the ALRA will be the subject of a workshop after lunch tomorrow.

“I think it is fair to say this.

“The continuing success of the relationship between NSWALC, as an advocate for land rights— and the government—on the Land Dealings Bill will help define the success or failure of any subsequent bill and what is in it.

“And I’d suggest—given the lead time for such matters—we should be heading into a State election year when the Parliament finally sees the colour of that draft Bill.

“I’m sure no-one in this room has any doubt we face the real prospect of a Liberal/National coalition forming the next State government.

“We must factor all of those considerations into any real discussions about future directions and initiatives.

“We must also factor in our relationships at both the regional and local levels into any discussion on future directions and initiatives.

“The fourteen LALC Chairpersons in the Northern Region recently agreed to the formal signing of an Aboriginal Regional Partnership Agreement.

“It is based on the belief that we must shake hands together before we shake hands with government.

“The agreement will cover areas such as planning, development and advocacy.

“We are negotiating a Regional Partnership Agreement with the Commonwealth government.

“The LALC representatives met with Jenny Macklin late last year to outline our regional initiatives and directions.

“She has agreed that her department should work with us to progress its development.

“The fourteen LALCs have sought funding for the development of a regional strategic plan.

“Indigenous Business Australia has agreed to fund the cost of a consultant to work with us to develop this.

“We are about to finalise, and formally sign, a regional coalition of peak Aboriginal community based organisations.



"We have negotiated a regional memorandum of understanding with the New England Institute of TAFE to be signed off by all LALC Chairs.

"We are just waiting on a few to sign off.

"The MOU will allow structured relevant training for our LALCs.

"It will cover areas such as site identification, management and restoration, property management and planning, leadership skills and regional Aboriginal building projects.

"This is the work that shapes and forms the views that I take to the table at NSWALC Council meetings.

"They dovetail into the capacity building we are rolling out through Council at the state level, our advocacy work and the development of community benefit schemes.

"We have major opportunities and challenges ahead. I'll close by citing just two of them.

"We have the opportunity to keep building our state, regional and local political bases and alliances to a point at which all arms of government naturally turn to us as a primary and trusted partner and advisor.

"We must seize every opportunity to keep building and sustaining our land bank—through claims and development—to ensure the ongoing creation of inter-generational wealth.

"We face many challenges in doing so.

"The constant management of misunderstanding and mistrust within our own network should not be one of them.

"We are getting there.

"It is my hope this Conference, and those that will inevitably follow, will take us all a lot further along that particular road. Thank you."

NSWALC INVESTMENTS AND FINANCE

NSWALC Chief Executive Officer Geoff Scott then gave a presentation to delegates on the history and performance of the finances and investments through the NSWALC Account.

Mr Scott told the Conference the purpose of the presentation was to set the context on where the NSWALC Account was and how prudent management, past and present, had and would continue to provide for inter-generational growth.

He began by demonstrating the growth in the fund from the 1983-84 financial year to the end of the 2007-08 financial year when the balance of the Account stood at \$614,461,000.

Mr Scott then provided a comparison of how the NSWALC Account had performed against comparable funds since land tax payments stopped in 1998 and explained the governance structure surrounding the Account flowing down from NSWALC's Governing Council to its Investment, Finance, Audit and Governance Committees, its Investment Charter, Risk Management Plan and Regulatory parameters.

He then outlined the major elements of the spending policy. These were designed to ensure:

- The maintenance of an Inter-generational Trust.
- Provide confidence that the fund was well governed and prudent.
- That the spending policy maintained a balance between the interest of the current and future beneficiaries.
- Smooth expenditure.
- To provide a clear signal when reductions in expenditure are required.

He explained NSWALC proposed a new spending rule to replace the current arbitrary statutory limit on the fund. The underlying investment objective was to achieve a return net of investment expense of at least 5 per cent per annum over a rolling 5 year period.

In order to gain this we must practically achieve a return of around 8-9% a year.

“This meant the value of the investment fund was now more than double the original allocation provided by government.”

GEOFF SCOTT
NSWALC CHIEF EXECUTIVE OFFICER

Mr Scott said delegates were entitled to ask why.

The reasons were clear.

NSWALC was a long term investor and needed to ensure it managed a sustainable and perpetual investment portfolio. This would ensure sufficient growth and income to meet the needs of the network and to provide for the next generation of beneficiaries.

Mr Scott then outlined the growth in the NSWALC Account from the 1983-84 financial year through to the 2007-08 financial year. Mr Scott pointed out that 7.5 per cent of NSW Government land tax flowed into the fund over a 15 year period until December 31, 1998.

The total allocation from Land Tax revenue into the fund over that 15 year period was \$537,010,000.

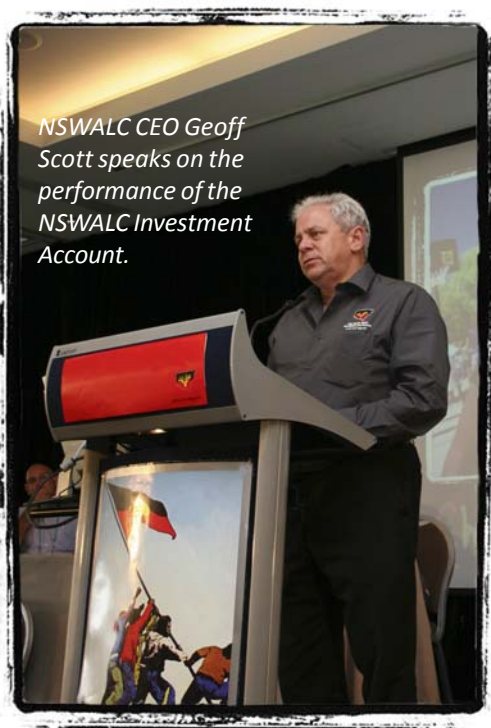
A total of \$268,505,000 had flowed into the NSWALC Account as investment during this period. (Investment Fund)

A total of \$268,505,000 had flowed into the Account for administrative purposes during this period. (Administrative Fund)

Land Tax payments into the Investment Fund of \$268,505,000 had generated interest and income of approximately \$345,956,000 to end of the 2007-08 financial year to the value at that time of \$641,461,000.

This represented growth of 129% over the original government allocation.

This meant the value of the investment fund was now more than double the original allocation provided by government.



Mr Scott explained that the income stream from the fund which had been drawn down between 1998 and 2008 had been \$238,502,000. These monies had been used to meet the administrative costs of NSWALC, the network of Local Aboriginal Land Councils and Regional Aboriginal Land Councils before their abolition in 2007.

He then showed the comparative allocations between these three elements of the network between 1983 and 2008 which showed almost 60 per cent of the monies had gone to LALCs and RALCs. Mr Scott then presented the NSWALC Budget for the 2008-09 financial year which itemised the major expenditure areas, including those for Governing Council, LALCs and Community Benefit schemes.

He then discussed the future scenario.

Mr Scott said the prospect for the immediate future was not as bright as the outcomes from previous years because of the global financial crisis.

A reduction in income was expected over the next few years which meant NSWALC's Governing Council was seeking to limit expenditure to 5% of the fund balance. There was a need to significantly trim the NSWALC budget.

He explained the practical philosophy driving stewardship of the fund was the need to provide for the future as well as the present with NSWALC required to adopt a trustee, fiduciary and custodianship role which emphasised sustainability to ensure funds are there "for our children and their children's children."

This presentation again triggered a number of questions and debate from the Conference floor.

Balranald LALC delegate **Edward Murray** asked if the funding which had been available to Regional Aboriginal Land Councils was now being made available to LALCs. Mr Scott explained that RALCs had been abolished in the last round of amendments to the Act and all monies came from the same funding bucket, the NSWALC Account.

Wagonga LALC delegate **Vivian Mason** said she'd like to see a breakdown of how much funding a LALC received against the remuneration paid to a NSWALC Councillor. LALC Board members worked just as hard and were not paid. She asked how much a NSWALC Councillor was paid.

Mr Scott said each Councillor received a base salary of about \$104,000 a year which was much less than the remuneration set for mainstream elected officials by the Remuneration Tribunal. Travel and accommodation allowances were set by the Minister for Aboriginal Affairs, as pointed out earlier, in line with State Government travelling allowance schedules. Mr Scott said the average cost of running NSWALC's Governing Council amounted to about \$2.4 million a year.

"The appointment of Administrators to non performing LALCs was a last resort for NSWALC and NSWALC was trying to come up with a better solution to the issue."

BEV MANTON,
CHAIRPERSON NSWALC.

Guyra LALC delegate **Douglas Cutmore** pointed out that LALCs each received an allocation of \$130,000 a year from NSWALC and then each had to use a separate auditor at a cost of about \$10,000 a year. He asked when LALCs could use their own auditor.

Mr Scott explained that the 2002 amendments to the Act had stipulated that LALCs had to use an auditor from the panel compiled by NSWALC and DAA. NSWALC had lobbied to have this changed in the last round of amendments.

Balranald LALC delegate **Jason Smith** then asked about the cost of Administrators and proposed the need for a taskforce for LALCs under administration.

Chairperson Manton said this was an important issue. The appointment of Administrators to non performing LALCs was a last resort for NSWALC and NSWALC was trying to come up with a better solution to the issue. She said NSWALC was developing an exit strategy for each Administrator.

NSWALC took the view that part functions Administrators should be appointed, where

appropriate, to ensure elected LALC Boards had ownership of changes made during administration.

Mr Smith said his LALC had a part-functioning Board and it is “a continuing battle determining what the Board can and cannot do. The Administrator is not Aboriginal and does not understand the culture. Administrators need to allow part-functioning Boards to make decisions.”

La Perouse LALC delegate **Ron Timbery** also raised concerns about the cost of Administrators. He also raised the fact that a LALC may only have 25 members but still receive \$130,000. Those members could be voting or non-voting.

Mr Scott said there was an issue around memberships.

Before the last NSWALC election the number of members dropped to 16,000.

It had now increased to 23,000.

The Act now required 10 per cent of voting members to hold a members meeting. This had



From left to right: Birrigan Gargle LALC's Annette Laurie, Andrea Brown, and Shirley Pearce with Cr Patricia Laurie North Coast Region.

been difficult for some. The issue around voting and non voting members was a difficult one. Mr Scott reminded delegates that it was a LALC CEO's responsibility to maintain the LALCs membership roll. This was an ongoing issue.

Mr Timbery said it was heartening to hear the allocation of LALCs would be the last to be looked at in any attempt to trim budgets. He said the \$130,000 allocation was simply not enough. He asked if the spending rule would be looked at in any budget review given the current economic market.

He said the La Perouse community was not one for selling land. In these times LALCs had to look at the business side of things. He asked if NSWALC was looking at streamlining the s40D process and could anything be done to speed up the processing of land claims.

Mr Scott said the spending rule was a guide only. He considered the long term variation of 5 per cent was reasonable and NSWALC was constantly seeking to identify what it would and would not do in a budgetary sense. NSWALC was bound by the regulations it operated under and could be shut down if it did not comply with them. He said bio banking and carbon trading were some of the areas that needed to be looked at.

Mr Scott said s40D and s40B would be looked at in the afternoon session on land dealings.

He said NSWALC had written to the Minister for Lands to seek to improve land claim processing.

He said members of the land rights network who became aware of land becoming available for claim should pass this information onto NSWALC.

Conference then broke for lunch.

PLENARY SESSION

EXPOSURE DRAFT BILL ON LAND DEALINGS AMENDMENTS TO THE ALRA.

The first afternoon session began discussion and debate on the Draft Exposure Bill on amendments to the land dealings provisions of the *Aboriginal Land Rights Act*.

Central Region Councillor Stephen Ryan facilitated this session.

He began by acknowledging Country, the Wanaruah people, and all delegates.

He then introduced the presenters, ALRA Registrar, Stephen Wright, NSWALC Principal Legal Officer, Ms Lila D'Souza and the Manager of DAA's Compliance and Regulation Unit, Mr Ross Pearson.

Councillor Ryan provided an overview of the progress of the Land Dealings Exposure Draft Bill. It was noted copies of the Draft Bill were included in the information pack provided to each LALC delegation by the Registrar's office.

Delegates were urged to take the Draft Bill back to the next meeting of their LALCs for the attention of their members.

It was emphasised that all comments to the Government on the Draft Bill had to be received by April 8 which meant a short timeframe for consultation.

Ms D'Souza then spoke to a power point presentation on the key elements of the Draft Bill.

She told delegates the main focus of the amendments was on Division Four of the Act which covered all land dealings, including sale, lease, mortgage and change of use.

The proposed new provisions of the Act would apply to all LALC land, whether or not the LALC was the registered owner.

This included land subject to a claim where title had not yet been transferred and land bought or inherited by a LALC.

She said the proposed provisions would introduce a more transparent and reliable land dealings process for LALCs, NSWALC and third parties.

There would be a new application process for LALCs seeking consent from NSWALC for a land dealing.

The aim was to ensure a level playing field where LALCs and third parties "know what they need to do and what information they need to provide in order for NSWALC to make a decision on whether or not the land dealing should be approved.

The legislation, if enacted, would impose a new \$250 application fee. Other fees could also be charged for processing applications depending on the complexity but LALCs could apply for such fees to be waived by NSWALC.

There would be no more separate s40B and s40D applications. There would be one new section—s42G—for all approval applications to NSWALC.

Ms D'Souza said the new amendments referred to approval being required for "land dealings." These were broadly defined and included sale, lease, mortgage of land, easements and covenants over land, bio banking agreements, subdivision plans and making a development application.

Any LALC application must comply with s42F(2) and regulation 104 to make a valid application.

Under the proposed amendments NSWALC must approve a land dealing application if it was satisfied that certain criteria had been met.

It had to be satisfied that 80 per cent of voting members of the LALC present at a meeting to consider a land dealing application had passed a resolution approving the proposed land dealing.

NSWALC also had to be satisfied the proposed dealing was in accordance with the members' resolution and that those members had paid sufficient regard to the cultural and heritage significance of the land.

NSWALC also had to be satisfied that the LALC and its members had taken proper regard of the LALC's Community Land and Business Plan in regard to the application.

She told delegates NSWALC could refuse to approve a land dealing if it found the dealing was contrary to the interests of LALC members.

It could also impose conditions on any approval including a “land dealing approval agreement,” which may be registered on the title of the land and “runs with the land,” to bind future owners.

A “registration prohibition notice,” could also be imposed on title to the land which could stop any dealings with the land without NSWALC consent “even if the land is no longer owned by the LALC.”

Ms D’Souza said there would be a new system of registration for land dealings.

LALCs would obtain a Dealing Approval Certificate within 14 days of NSWALC approval.

This would enable them to enter into the land dealing through a contract for sale subject to specific conditions.

LALCs would then need to obtain a Registration Approval Certificate before a transfer or a lease is registered on the title.

It was noted 75% to 80% of LALCs will be eligible to apply for the new Community Fund as they have land assets valued under \$4m.

The aim of the Registration Approval Certificate was to ensure that no unauthorised dealings were registered at the Department of Lands.

NSWALC would have to be satisfied that all the conditions of the proposed land dealing had been satisfied and the new community development levy had been paid (if applicable) before it could provide the Registration Approval Certificate.

Ms D’Souza said NSWALC decisions would be open to review.

A LALC could ask for written reasons for NSWALC’s refusal to approve a land dealing or for any decision by NSWALC to impose conditions on a land dealing approval.

NSWALC would be required to provide those reasons within 28 days of receiving such a request.

LALCs could also commence proceedings for a judicial review of NSWALC decisions through the NSW Land and Environment Court.

Before such proceedings could commence a LALC must refer the dispute with NSWALC to the Registrar of the ALRA for mandatory conciliation and mediation. The aim of this provision was to seek to reduce the need for unnecessary and expensive litigation.

Ms D’Souza then turned to the new provisions relating to NSWALC’s dealings in land.

The proposed new regime would require NSWALC to give notice of any proposed dealing in land to any LALCs in that area and provide a 28 day period for those LALCs to comment on the proposed dealing.

NSWALC could only deal with land in accordance with a resolution from its Governing Council and after having considered such comments as well as its Community Land and Business Plan and policies and the cultural and heritage significance of the land.

She then turned to the proposed Community Development Levy which arose from the recommendations of the ALRA Review Taskforce which had been accepted by the NSW Government.

Ms D’Souza said the aim of the levy was to assist in the funding of LALCs within the network with less assets.

A levy could be charged on the transfer of land and premium leases. It would be based on the rates of stamp duty.

There would be no levy imposed on transfer and premium leases between LALCs. Levy rates on transfers and premium leases would vary with a number of examples given.

Ms D’Souza pointed out that no levy would be applied on such dealings under \$80,000.

Dealings between \$80,000 and one million dollars would attract a levy of 100 per cent of the equivalent stamp duty normally payable for such transfers and premium leases.

Dealings over one million dollars would attract a levy of 150 per cent of the equivalent amount of stamp duty payable.

She cited examples of a transfer of \$500,000 attracting a levy of \$18,000 (including the transfer instrument) and a levy of \$40,000 on a transfer of one million dollars.

NSWALC would create a new Community Fund into which all levies would be paid.

The organisation would match the value of each levy it received on a dollar for dollar basis and place these additional monies into the Fund.

The purpose of the new Community Fund would be to make loans and grants to LALCs for the management and acquisition of land and for Community Benefit Schemes.

LALCs eligible to apply to the new Community Fund must have total land assets of under \$4 million.

It was noted 75% to 80% of LALCs will be eligible to apply for the new Community Fund as they have land assets valued under \$4m.

Under the proposals NSWALC may constitute an Expert Panel to assess land dealing applications.

A LALC could also request that an Expert Panel be constituted. The role of an Expert Panel would be to assess the land dealing application, but not determine it.

NSWALC would be obliged under the proposed amendments to establish a Register of persons who may be appointed to such panels.

Ms D'Souza said the Register would be publicly available to LALCs and others and would contain contact details for the experts.

The costs of the Expert Panels would be passed directly to LALCs.

She then turned to the proposed transitional provisions. NSWALC was unsure when the new amendments would come into force.

This meant that if a land dealing instrument was already lodged for registration before the commencement of the amended Act the dealing was considered registered and no Community Development Levy would apply.

She then explained what would occur if a LALC has an existing NSWALC approval and/or an existing instrument that must be registered at the Department of Lands that has not been lodged for registration before the commencement of the amended Act.

In this case the LALC must obtain a Registration Approval Certificate from NSWALC before the instrument can be registered.

She said the Community Development Levy would be payable if the dealing is a transfer or premium lease and must be paid before NSWALC issues the Registration Approval Certificate to the LALC.

NSWALC must give a Registration Approval Certificate for existing NSWALC approvals and instruments if it is satisfied that any conditions of the approval of the dealing have been satisfied and any Community Development Levy, if applicable, has been paid.

If there is no existing NSWALC approval, a LALC must make a new application under the amended Act for NSWALC approval of the land dealing and the dealing could be subject to the Community Development Levy if the dealing involves a transfer or premium lease.

LALCs were encouraged to submit applications for NSWALC approval of a land dealing prior to the new Act being enacted if they wished to avoid paying the levy.

The session sparked spirited debate and discussion.

Dorrigo Plateau LALC delegate **Robyn Heath** asked a number of questions regarding the *Conveyancing Act* and the possibility of compensation for land which is not claimed. He also asked if Part 3A of the *Environment Act* would be included in development of land for communities.

Mr Wright responded by referring delegates to the folders he had provided to each LALC. He said the Acts listed at the back of the draft legislation in those folders would be integrated in the new land dealings regime.

He said there was no compensation for land claims not granted.

Darkinjung LALC delegate **Sean Gordon** said he was concerned about who would administer the fund levy. He asked if LALCs would have the opportunity to direct where those funds may go and how they were managed to ensure this was not the sole responsibility of NSWALC's Governing Council.

Councillor Ryan said that all comments from LALCs on such issues would be taken into account during the consultation phase on the proposed new legislation.

Mr Gordon also asked how LALCs would be supported to resource their responsibilities in their existing budgets.

Ms D'Souza said the proposed regime would make land dealings easier for LALCs as their would be less involvement for them. Fact sheets would be prepared for LALCs to provide more clarity. She said there was already a one-page snapshot flowchart for delegates in the folders provided by Mr Wright.

Mr Gordon said flow charts would be preferred once the process is developed.

Both Ms D'Souza and Mr Wright agreed.

Mr Wright said it was a very complex Act but attempts had been made to make the words clear and unambiguous to avoid lack of clarity and confusion. Simple flowcharts would be developed to clarify what was required.

Nambucca Heads LALC delegate **Louise Robinson** asked where a cash strapped LALC was expected to get the proposed \$40,000 from which had been used as an example in the power point presentation. Would there be a mechanism in place for LALCs to borrow this money from NSWALC?

Ms D'Souza said it was not envisaged that NSWALC would bear such costs. She said LALCs had a number of options. One option was to negotiate the levy cost from a proposed developer.

Mr Pearson suggested a LALC could also consider having the levy cost paid on the settlement of a land dealing.

Deerubin LALC delegate **Frank Vincent** asked why NSWALC needed to consult with Aboriginal persons outside the land rights network.



CEO of Hay LALC Ian Woods and Cherrie Keed, CEO of Peak Hill LALC



From left to right: Malcolm Talbort of Ashford LALC (left) with Cr Jack Hampton South Coast Region.

Mr Wright referred to page 210 of the draft regarding NSWALC approval of land dealings. He pointed out that section 42 stipulated that NSWALC may refuse to approve a proposed dealing if it was found to be contrary to LALC interests or those of other Aboriginal people.

Mindaribba LALC delegate **Rick Griffiths** asked if there would be a series of consultation meetings with the LALC network on the proposed amendments.

Mr Scott said the Exposure Draft had only been received by NSWALC the previous Friday and this had yet to be determined.

Broken Hill LALC delegate **Maureen O'Donnell** asked how much control a LALC has over traditional owners.

Mr Wright said if a person was a registered Aboriginal owner he or she must have a say in a LALC Community Land and Business Plan. If an Aboriginal owner had an interest they must be allowed to have their say. Land owned and leased back as national parks, such as Mutawintji, could not be sold and were excluded.

Tamworth LALC delegate **Donald Craigie** asked how the proposed amendments would affect land that now rested with the Indigenous Land Corporation. He asked what would happen if a LALC entered an agreement which would take three to five years down the track to complete. This would put the LALC in a difficult situation as the proposed land dealing could not be achieved in three years and the LALC was now looking at going into such a partnership.

Ms D'Souza advised the amendments would only affect sales or leases of land.

Illawarra LALC delegate **Sharralyn Robinson** said she was concerned that her LALC was asset rich and cash poor. Her concern was that the proposed levy must be paid prior to registration. She said she needed to know where the money to pay the levy would come from. There had to be support for the LALC if they could not raise the levy to ensure it did not prevent the LALC going forward.

Councillor Ryan said this was the sort of feedback that would be provided to the Minister.

PLENARY SESSION

LALC FUNDING POLICY

Wiradjuri Region Councillor Craig Cromelin facilitated the next plenary session on a proposed new LALC funding Policy.

Councillor Cromelin advised delegates copies of the policy were available at the back of the room.

A copy would also be sent to each LALC.

He then introduced NSWALC's Southern Zone Director, Mr Les Turner, who spoke to a power point presentation entitled "Review of the Policy on LALC Funding and Financial Obligations."

Mr Turner said it was important to set the context for this review of policy.

The years 2007 and 2008 had resulted in major changes for NSWALC.

The organisation had recently come out of administration and had facilitated the election of a new Governing Council.

There had been a series of administrative, financial, governance and structural reforms.

It was opportune and timely to review our policy and procedures for LALC funding.

The current policy had been developed in 2005.

The new draft policy had been developed to ensure it complied with all relevant sections of the *Aboriginal Land Rights Act*.

These were section 106 (8) (e), 113, 114, 153, 158, 159, 161, 162 and 163.

The ultimate aim of the new policy framework was to support LALCs to operate at a high standard while still maintaining high levels of accountability.

It was designed to streamline processes and reduce complexity.

It sought to enable Zone offices to operate with more discretion to respond to individual circumstances and to demonstrate good management across the network to stakeholders.

The policy was also designed to be consistent with general applicable principles of Administrative Law such as the requirement that

..it would be underpinned by the principles that NSWALC should work closely with LALCs in ensuring satisfactory performance and proper management and that the funding policy should focus on early identification of problem areas and on timely intervention and assistance where and when required.

powers be exercised reasonably and for proper purposes; and the requirement to act fairly in a procedural sense.

Mr Turner said a Working Party had been established to review the current policy.

It comprised Councillor Cromelin and Councillor Ryan from NSWALC's Governing Council.

Staff representatives comprised himself and Jenny Bedford, the Operations Manager from the Southern Zone, the Director of the Western Zone office, Tony Sutherland and the Operations Manager for the Western Zone office, Robert Barnes.

Other staff representatives comprised the Director of the Northern Zone office Andrew Riley and its Operations Manager Trent Lynwood, the Director of the Eastern Zone Steve Merritt and its Senior LALC Support Officer, Carole DiFranco and Neil Mandell from Network Services.

The Working Party's main recommendations included the need for a separate "stand alone" policy on Local Aboriginal Land Council Funding and Financial Obligations along with a revised procedures framework to implement the policy with a risk management approach relating to financial and performance issues.

It recommended the current six funding categories be reduced to two with the introduction of the concept of cessation of funding for non compliance and the introduction of a standard LALC Management Support System for all of NSWALC.

The two simplified funding arrangements would be a Funding Agreement or an Assistance Agreement.

Mr Turner explained that NSWALC currently had a policy titled *Local and Regional Aboriginal Land Council Funding and Financial Obligations*.

This included Policy and Procedures all in one document.

This presented a problem if NSWALC was to consider changes to policy.

The working group had proposed the new stand alone policy with a set of principles, a risk management approach, financial and operational performance and funding/assistance agreements. the new funding categories, new reporting requirements and cessation of funding requirements.

He said the new policy was designed to support NSWALC's principle objective to support LALCs to ensure sound and sustainable financial and operational management.

NSWALC would adopt a risk management approach to making funding decisions.

He said LALCs should not be unduly penalised for falling short of minimum operational performance standards.

He said it would be underpinned by the principles that NSWALC should work closely with LALCs in ensuring satisfactory performance and proper management and that the funding policy should focus on early identification of problem areas and on timely intervention and assistance where and when required.

He said risk management was an important component.

Risk management could be identified as consideration of events that could occur and what would be the impact if such events occurred. In other words, likelihood and consequence.



78 year old Nowra Land Council member, Ronald Stewart who came as an Elder's Delegate with his grand-daughter, 18 years old Jessica Stewart who participated in the Youth Forum.

These considerations enabled risk events to be identified and if there is a likelihood of them occurring then strategies can be developed that would either reduce the likelihood or mitigate the impact of these events.

This entailed sound management practices, the need for a decrease in the complexity for NSWALC and LALCs and the need to focus attention on overall good management.

Mr Turner said LALCs were required to meet minimum operational performance standards.

They were required to generate sufficient income to pay expenses; have enough cash at bank and investments to cover liabilities as well as any employee leave entitlements and collect rents when they fell due.

LALCs were also expected to pay rates and charges when they fell due, lodge Business Activity Statements when they fell due and ensure debts were paid, as and when they fell due (as referred to in s91(1)(e) and are in line with the budget.

LALCs were also expected to ensure employee related payments meet legislative requirements in relation to workers compensation and superannuation and have at least 50 voting members.

Mr Turner said the principle proposed change was the reduction in funding categories from six to two. The two categories would be Funded and Unfunded.

He noted that those LALCs under administration would be classified as funded.

All agreements would outline the terms and conditions under which NSWALC would provide financial and other support to LALCs.

The agreements would also outline the range and type of financial and performance reports required to be lodged under the ALRA or the terms of the agreement.

Without limiting the types of reports they may include details on the implementation, progress or status of Community Land and Business Plans, Community Benefit Schemes and Operational and Financial Reports.

A new database, the LALC Management Support System, would be used to monitor performance against five key operational areas: financial management; property management; systems management; human resources and governance.

Mr Turner pointed out that NSWALC could only fund LALCs that are not prohibited from receiving funds pursuant to s163 of the ALRA.

NSWALC would only offer Funding Agreements to LALCs who are in a funded category and may offer Assistance Agreements to LALCs in an unfunded category.

He said reporting requirements would be streamlined.

LALCs would be required to provide financial reports and also to report against their Community Land and Business Plan.

LALCs would be able to demonstrate up to a ten per cent variance in expenditure against budget line items.

A new database, the LALC Management Support System, would be used to monitor performance against five key operational areas: financial management; property management; systems management; human resources and governance.

This would provide the diagnostic tool to inform the risk category (which in turn informs the delegate in relation to how funds will be offered and what reporting regime the LALCs will be required to adhere to) and the LALC management plan.

Mr Turner explained that the ALRA required NSWALC to refer the draft policy to each LALC for comment.

It was required to consider any submissions received from LALCs within 30 days of the referral of the policy and obtain the approval of the Minister for Aboriginal Affairs to gazette the policy.

Mr Turner advised that any new policy took effect from the date of its gazettal or on a later date specified in the policy.

In summary, Mr Turner said the proposed procedures were designed to be less prescriptive and to allow greater flexibility.

The ultimate aim was to support LALCs to operate at a high standard while still maintaining high levels of accountability

He then compared the proposed policy with current policy.

Mr Turner then outlined a proposed timetable for the approval and introduction of the proposed policy with feedback required from LALCs by April 10 with possible approval of the policy by April 30.

Ministerial approval and gazettal could be obtained by May 30.

Implementation of LALC risk assessments would follow with recommendations made to the NSWALC Board and approvals of grants for costs and expenses with the issue of funding and assistance agreements for the 2009/10 financial year by July 1 this year.

Narrabri LALC delegate **Lyn Trindall** expressed concern about the proposed timing for approval of the policy. She said Narrabri LALC had just been assessed as UF1 and its auditor had recently resigned. LALC Chief Executive Officers were working up to 60 hours a week and “then they get this funding policy to be implemented by April.”

She said some regard had to be paid to the workers in LALCs and asked if those LALCs on UF funding would still be funded every six or three months.

Mr Scott said NSWALC was trying to provide a tool for LALCs to monitor their progress and reduce complexity. It was trying to find a balance between regulatory control and letting LALCs conduct their business.

In regard to the timing for policy approval he reminded delegates that a number of LALCs had lobbied the Government during the last round of amendments to the legislation to give the Minister the power to approve NSWALC policies.

Similar concerns were raised by a number of other delegates.

Wilcannia LALC delegate **David Clarke** said he believed “we are allowing both State and Federal governments to take the network back from us. Land rights was about compensation, not about compliance.”



From left to right: Panellists LALC delegate Michael Anderson, Professor Larissa Behrendt, Professor George Williams, Tasmanian lawyer and activist Michael Mansell.

PLENARY SESSION

CONSTITUTIONAL REFORM AND A BILL OF RIGHTS

Conference turned away from discussion on operational policies and procedures in the final session of the day to participate in a panel discussion on Constitutional Reform, including a Bill of Rights and a Charter of Aboriginal Rights.

This session was facilitated by Sydney/Newcastle Region Councillor Roy Ah See who began the session by introducing the panellists Professor Larissa Behrendt, Professor George Williams, Tasmanian lawyer and activist Michael Mansell and LALC delegate **Michael Anderson**.

Professor Behrendt had produced a background paper on the key issues for inclusion in delegate information packs to help stimulate discussion and debate during the session.

The Background Paper is reproduced below to place the discussion in context given the importance and complexity of the rights issues raised.

Background Paper

Constitutional and Human Rights Reform

This paper was prepared by Professor Larissa Behrendt from the Research Unit, Jumbunna Indigenous House of Learning, University of Technology, Sydney for the NSW Aboriginal Land Council.

I. A STORY OF A CONSTITUTION

The drafters of the *Australian Constitution* looked at the models in other countries, particularly France and the United States, but rejected the idea of entrenching rights into the Constitution. Instead, they preferred a model that entrusted the decision making about which rights to protect and how to protect them to the parliament.

A telling aspect of the constitutional debates was the argument that raged around a suggestion that had come through the Tasmanian Parliament that there should be included protection of a few rights. In part, this clause stated:

...nor shall a state deprive any person of life, liberty, or property without due process of law, or deny to any person within its jurisdiction the equal protection of its laws.

This clause was rejected for two reasons:

- It was believed that entrenched rights provisions were unnecessary; and
- It was considered desirable to ensure that the Australian states would have the power to continue to enact laws that discriminated against people on the basis of their race.

If one is aware of the intentions and the attitudes held by the drafters of the Constitution then it comes as no surprise that it is a document that offers no protection against racial discrimination and permits the violation of human rights today. The tolerance for discrimination on the basis of race and gender that was so prevalent in Australian society at the time the Constitution was drafted has left a legacy in which our contemporary prejudices can find some comfort.

The tone for the country's relationship with Indigenous people was set in the Constitution. Aboriginal people did not participate in its drafting – one of our major nation-building moments – and were treated with the prevalent ideologies of the day, namely, that they were racially inferior and were a dying race.

The 1997 High Court case of *Kruger v. The Commonwealth*¹ was the first case to be heard in

the High Court that considered the legality of the formal government assimilation-based policy of removing Indigenous children from their families. In *Kruger*, the plaintiffs had brought their case on the grounds of the violation of various rights by the effects of the Northern Territory Ordinance that allowed for the removal of Indigenous children from their families.

The plaintiffs had claimed a series of human rights violations including the implied rights to due process before the law, equality before the law, freedom of movement and the express right to freedom of religion contained in s.116 of the Constitution. They were unsuccessful on each count, a result that highlighted the general lack of rights protection in our system of governance and the ways in which, through policies like child removal, there was a disproportionately high impact on Indigenous people as a result of those silences.

What the *Kruger* case illustrates is the way that the issue of child removal – seen as a particularly Indigenous experience and a particularly Indigenous legal issue – can be expressed in language that explains what those harms are in terms of rights held by all other people – the right to due process before the law, equality before the law, freedom of movement and freedom of religion. *Kruger* also highlights how few of the rights that we would assume we inherently hold are actually protected by our legal system. It reminds us that there are silences in our Constitution about rights, that these silences were intended, and it gives us a practical example of the rights violations that can be the legacy of that silence.

The 1967 Referendum

The inequities perpetuated by the silences in the Constitution have given Australians cause to reflect upon our foundation document in the past. The feeling that this canonical document did not reflect the values of contemporary Australian society gave momentum to the 1967 referendum.

(Footnote)

1 *Kruger v. The Commonwealth* (1997) 190 CLR 1.

The result of that Constitutional change though is often misunderstood. It has been held out as the moment at which Indigenous people became citizens or Aboriginal people attained the right to vote. It did neither and what it did was two things:

- It allowed for Indigenous people to be included in the census; and
- It allowed the federal parliament the power to make laws in relation to Indigenous people.

It was thought by those who advocated for a “yes” vote that the changes to section 51(xxvi) (the “*races power*”) of the Constitution to allow the Federal Government to make laws for Indigenous people was going to herald in an era of non-discrimination for Indigenous people. They trusted that the federal parliament, if given extra power, would act in a way that would be beneficial to Aboriginal people.

Consideration as to whether the *races power* can be used only for the benefit of Aboriginal people, as the proponents of the “yes” vote had intended, was given some residual attention by the High Court in *Kartinyeri v Commonwealth (the Hindmarsh Island Bridge case)*.² The case was brought after federal heritage protection law was repealed specifically so it no longer applied to the contested area in the Hindmarsh Island region.

Only Justice Kirby argued that the “*races power*” did not extend to legislation that was detrimental to or discriminated against Aboriginal people. Justice Gaudron said that while there was much to recommend the idea that the “*races power*” could only be used beneficially, the proposition in those terms could not be sustained. Justices Gummow and Hayne held that the power could be used to withdraw a benefit previously granted to Aboriginal people and thus to impose a disadvantage.

(Footnote)

2 *Kartinyeri v. Commonwealth (the Hindmarsh Island Bridge case)* (1998) 195 CLR 337.

When analysing the failure of the “*races power*” to ensure benevolent and protective legislation as the proponents of the Constitutional change envisaged one is reminded of the original intent of the framers to leave decisions about the rights to the legislature.

History provides many examples of where the legislature has overridden recognised human rights or has passed legislation that protects rights only to override them when there is political motivation to do so. And the *Kruger case* illustrates how little protection there is for rights generally because of the choices made by the framers when they drafted our founding document. Chief Justice Gleeson has referred to these gaps in protection of human rights as constitutional silences.

A Bill of Rights is an important mechanism in seeking to remedy the harshest impacts of those omissions.

II. FILLING IN THE SILENCES: A BILL OF RIGHTS FOR AUSTRALIA

When looking at the debate about whether there should be a Bill of Rights, sometimes called a Charter of Rights, in Australia, it is important to remember that there are two different models: a constitutional Bill of Rights and a legislative Bill of Rights.

Two models...

A **constitutional Bill of Rights** is the model adopted by the United States and it entrenches the rights into the Constitution. It is interpreted by judges and the rights it protects cannot be overridden by the parliament.

A **legislative Bill of Rights** – the model adopted by the United Kingdom and New Zealand – is one where the Bill of Rights is in the form of legislation passed by Parliament. The advantage of this model is that it is the parliament, not judges,

who decide how to balance rights. It keeps the action of balancing right in the public domain with judges having more of a monitoring role. This allows for the general population to be much more involved with decision-making either through lobbying or at election time and it can energise the community to participate in debates about what kind of society we should have.

It is important to keep the differences in these two models in mind when looking at the arguments for and against a Bill of Rights in Australia.

Arguments against a Bill of Rights

Key arguments against a Bill of Rights include the following:

- Rights are already well protected in Australia, both through common law and through legislative activity.
- The framers got it right and decisions about rights protection should be made by politicians, not judges. Rights should not be decided by the non-elected arm of government. It would be undemocratic and it would be contrary to the principle of parliamentary sovereignty.
- A Bill of Rights would be too inflexible if enshrined in the constitution; rights might be interpreted in a way that we do not agree with. Rights that we think are important now, might be irrelevant for future generations.
- A Bill of Rights would create increased litigation; it would be a lawyer's picnic.
- Experiences with Bills of Rights in other jurisdictions have not resulted in increased rights protection. They haven't been successful in other countries so why should we have one here.

It is clear that some of the arguments against a Bill of Rights are directed towards the Constitutional model and do not apply to the legislative model.

Arguments for a Bill of Rights

Some of the arguments to support a Bill of Rights are as follows:

- The framers got it wrong – the Australian constitution does not protect fundamental freedoms and it should be amended to do so through a Bill of Rights.
- A Bill of Rights would give better protection to recognised international human rights standards. It would bring our legal system up to agreed international standards and would meet our obligations under international treaties.
- Other jurisdictions have one – all comparable jurisdictions – Canada, the United States, South Africa, New Zealand and the United Kingdom – have all modernised their legal systems with a Bill of Rights in some form. It is time that Australia provided the same level of rights protection.
- A Bill of Rights would protect the sectors of Australia's community who have been vulnerable to rights violations in the past – in particular, women, Indigenous people, refugees and people from non-English speaking backgrounds.
- If in the constitution, a Bill of Rights would put rights above the realm of politics and therefore not leave them vulnerable to political motivation and legislative whim.
- It would create a community more aware of the rights of its citizens, would create a culture of rights, and thus would be a more tolerant society.

Answering the critics...

Apart from the fact that many critics of a Bill of Rights target the faults of a constitutional model that do not exist in the legislative model, the other criticisms of a Bill of Rights are easily countered.

One of the key arguments against a Bill of Rights is that under our legal system, rights are already well protected in our country through both the common law and legislation such as the anti-discrimination and sex discrimination acts. From an Indigenous point of view, this argument overlooks the many examples where relying on government benevolence has not been enough.

There have only been three times that the Racial Discrimination Act has been suspended from applying since it was passed in 1975 – in relation to the Native Title Amendment Act in 1998, in relation to the Hindmarsh Island Bridge dispute and in relation to the Northern Territory intervention. Each time it has been repealed has been so that it cannot provide protection to the most vulnerable within the community.

From the continual extinguishment of native title rights to the abolition of a national representative structure, the experience of Aboriginal people often highlights how dependent we are on the benevolence of governments that too often do not have the best interests of Aboriginal people at heart.

There is an argument that says that it is more appropriate for the elected arm rather than the non-elected arm of government to make decisions about rights. But it is the Constitutional model, not the legislative model, at which this criticism is aimed. A legislative Bill of Rights keeps the action of balancing right in the public domain with judges having more of a monitoring role. This allows for the general population to be much more involved with decision-making either through lobbying or at election time.

The effect of this can be seen in Canada where the experience of a legislative Bill of Rights, that preceded the Constitutional enshrinement of certain rights, led to a more heightened awareness amongst Canadians that they held certain rights against their government.

However, the argument that judges are not capable of making decisions about human rights is a curious one. Every day the judiciary is involved with balancing rights – landlord against tenant, shareholder and Director, debtor and creditor, custodial and non-custodial parent – and there is no question of their capacity to make important decisions in those competing interests so it is curious as to why it is perceived that they would lack the capacity to do so in other contexts.

The argument against a Bill of Rights would be that it is too inflexible and that rights that might be relevant now may not be so in the future, like the right to bear arms that is entrenched into the American Constitution, is also an argument that targets a constitutional rather than legislative Bill of Rights.

The claim that a Bill of Rights should be rejected because it creates “a lawyer’s picnic” seems to value dislike of the legal profession above the rights of people and ignores the unfettering of the power of politicians.

The experience in the ACT with its’ *Human Rights Act* enacted in 2004 shows how shallow these claims of increased litigation are. Under that legislative Bill of Rights, there have been few cases where the rights under the Act have been referred to and the overwhelming impact has not been on the hip pocket of lawyers but on bureaucrats who are now required to think about the rights of the citizens of the ACT when they implement policies and programs. That is, the greatest impact has been to make government more accountable to the people in the way it does business.

Every time a public servant wants to propose legislation and every time the ACT parliament wants to pass it, bureaucrats and politicians have to go through a process of thinking about how the laws they are seeking to pass are going to impact on the rights of the people of the ACT. And, in the case of parliament, they have to explain that impact and, importantly, explain when a right might be overridden or breached. They have to be more transparent and more accountable in the way that they govern and this can only strengthen the position of the individual in the relationship they have with the people who govern them.

III. CONTENT OF A BILL OF RIGHTS

The other key question to be answered about a Bill of Rights relate to its content – what rights will it recognise and protect. It is usual that the rights identified are also protected under international law. For this reason, two key international human rights instruments – the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights – provide a reference point for rights to consider for inclusion.

Rights included in the International Covenant on Civil and Political Rights include:

- The right to self-determination
- The right to life
- The right to be free from torture
- The right to be free from slavery
- The right to liberty and security of person
- The right to freedom of movement
- The right to be equal before the law
- The right to due process before the law
- The right to privacy
- The rights to freedom of thought, conscience and religion
- The right to peaceful assembly
- The right to freedom of association.

Rights included in the International Covenant on Economic, Social and Cultural Rights include:

- The right to self determination
- The right to work
- The right to social security
- The right to an adequate standard of living
- The right to the highest attainable standard of physical and mental health
- The right to education
- The right to take part in cultural life

Australia has, at the time of writing, yet to endorse the Declaration on the Rights of Indigenous People but it may also be a reference point for rights that should be included in a Bill of Rights.

IV. THE AGENDA FOR CONSTITUTIONAL CHANGE

There are many advantages to a legislative Bill of Rights. They mean that debates about how to balance the rights protected against other priorities remains in the public domain. They mean that, when government's debate the balancing of rights or propose to over-ride aspects of a Bill of Rights, this discussion takes place in the public realm and allows citizens to become actively involved in the public debate about the way in which we balance and protect rights.

However, a legislative Bill of Rights can be easily overridden by the legislature. The experience Aboriginal people have had with the *Racial Discrimination Act 1975 (Cth)* being repealed three times and at times when the protection was needed the most, highlights a key weakness of the legislative model.

For this reason, any discussion about a legislative Bill of Rights should also discuss the entrenchment of rights into the constitution – for example, the right to be free from racial discrimination, due process before the law and equality before the law. Such an approach would ensure that the assumptions made by the founders of the Constitution that we needed a legal system that could discriminate on the basis of race could finally be countered and it would stop our modern day governments from reverting to the suspension of protections of racial discrimination so that they can enact policies that are detrimental to Aboriginal people.

The issue of constitutional change has been raised in a number of ways, including:

- **A New Preamble to the Constitution:** A preamble is important because it sets the tone for the rest of the document. In our Constitution, a new preamble will offer an opportunity to articulate our shared goals, principles and ideals as a nation. If recognition of prior sovereignty and prior ownership were contained in a constitution preamble, courts may be able to read the constitution as clearly promoting Indigenous rights protection.
- **A Non-Discrimination Clause:** Such a clause could enshrine the notion of non-discrimination in the Constitution. Such a clause must also adhere to the principle that affirmative action mechanisms aid in the achievement of non-discrimination, consistent with international human rights norms.
- **Specific Constitutional Protection:** An amendment could be made to include a specific provision. In Canada, a comparable jurisdiction with a comparable history and comparable relationship with its Indigenous communities, the *Constitutional Act 1982* added the following provision to the Constitution:

Section 35 (1): the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognised and affirmed.
- **Repeal Section 25:** Section 25 of the Constitution contains the clause:

... if by the law of any State all persons of any races are disqualified from voting at elections..

The racist implications of the section offend principles of racial equality and even though it may be unlikely that the States will pass such legislation, we need to move away from expressions of such overt racism in the text of the Constitution.

V. The other piece of the puzzle – a treaty

The strengthening of the legal framework does not resolve the issue of a treaty. Both a Bill of Rights and constitutional protection are ways of strengthening the existing legal system.

By contrast, the treaty deals with the relationship between Aboriginal people and all other Australians. Stronger constitutional and other legal protections does not annul any legal or moral responsibility for the failure to recognise Aboriginal sovereignty.

If Australia adopted a Bill of Rights or made changes to the Constitution that better protect the rights of Aboriginal people, the issue of whether a treaty should be signed with Aboriginal people would still remain to be answered.

There may be other ways of recognising Aboriginal rights in addition to a treaty, such as an Aboriginal Charter of Rights.

VI. KEY QUESTIONS

The above issues raise the following questions for discussion:

- How can the Australian legal system better protect the rights of Aboriginal people?
- Should Australia have a Bill of Rights? If so, should it be a legislative or a constitutional Bill of Rights? What rights should it protect?
- What changes should be made to the Australian constitution to better protect the rights of Aboriginal people?
- How should the rights recognised by the Declaration on the Rights of Indigenous People be protected by the Australian legal system?
- Do we need a treaty? If so, what form should it take? What rights should it protect? Who should sign it?
- Should there be an Aboriginal Charter of Rights?

APPENDIX 1

The Declaration on the Rights of Indigenous Peoples

Affirming that Indigenous peoples are equal in dignity and rights to all other peoples, while recognising the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilisations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin, racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming also that Indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that Indigenous peoples have been deprived of their human rights and fundamental freedoms, resulting, inter alia, in their colonisation and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognising the urgent need to respect and promote the inherent rights and characteristics of Indigenous peoples, especially their rights to their lands, territories and resources, which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies,

Welcoming the fact that Indigenous peoples are organising themselves for political, economic, social and cultural enhancement and in order to bring an end to all forms of discrimination and oppression wherever they occur,

Convinced that control by Indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognising also that respect for Indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasising the need for demilitarisation of the lands and territories of Indigenous peoples, which will contribute to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognising in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children,

Recognizing also that indigenous peoples have the right freely to determine their relationships with States in a spirit of coexistence, mutual benefit and full respect,

Considering that treaties, agreements and other arrangements between States and Indigenous peoples are properly matters of international concern and responsibility,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights affirm the fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right of self-determination,

Encouraging States to comply with and effectively implement all international instruments, in particular those related to human rights, as they apply to Indigenous peoples, in consultation and cooperation with the peoples concerned,

Emphasising that the United Nations has an important and continuing role to play in promoting and protecting the rights of Indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of Indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples:

PART I - Article 1

Indigenous peoples have the right to the full and effective enjoyment of all human rights and fundamental freedoms recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2

Indigenous individuals and peoples are free and equal to all other individuals and peoples in dignity and rights, and have the right to be free from any kind of adverse discrimination, in particular that based on their indigenous origin or identity.

Article 3

Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples have the right to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal systems, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 5

Every indigenous individual has the right to a nationality.

PART II - Article 6

Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and to full guarantees against genocide or any other act of violence, including the removal of indigenous children from their families and communities under any pretext. In addition, they have the individual rights to life, physical and mental integrity, liberty and security of person.

Article 7

Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide, including prevention of and redress for:

- (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- (c) Any form of population transfer which has the aim or effect of violating or undermining any of their rights;
- (d) Any form of assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures;
- (e) Any form of propaganda directed against them.

Article 8

Indigenous peoples have the collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognised as such.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No disadvantage of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free and informed consent of the Indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

Indigenous peoples have the right to special protection and security in periods of armed conflict.

States shall observe international standards, in particular the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not:

- (a) Recruit indigenous individuals against their will into the armed forces and, in particular, for use against other indigenous peoples;
- (b) Recruit indigenous children into the armed forces under any circumstances;
- (c) Force indigenous individuals to abandon their lands, territories or means of subsistence, or relocate them in special centres for military purposes;
- (d) Force indigenous individuals to work for military purposes under any discriminatory conditions.

PART III - Article 12

Indigenous peoples have the right to practise and revitalise their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature, as well as the right to the restitution of cultural, intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs.

Article 13

Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of ceremonial objects; and the right to the repatriation of human remains.

States shall take effective measures, in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected.

Article 14

Indigenous peoples have the right to revitalise, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

States shall take effective measures, whenever any right of Indigenous peoples may be threatened, to ensure this right is protected and also to ensure that they can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

PART IV - Article 15

Indigenous children have the right to all levels and forms of education of the State. All indigenous peoples also have this right and the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

Indigenous children living outside their communities have the right to be provided access to education in their own culture and language.

States shall take effective measures to provide appropriate resources for these purposes.

Article 16

Indigenous peoples have the right to have the dignity and diversity of their cultures, traditions, histories and aspirations appropriately reflected in all forms of education and public information.

States shall take effective measures, in consultation with the indigenous peoples concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all segments of society.

Article 17

Indigenous peoples have the right to establish their own media in their own languages. They also have the right to equal access to all forms of non-indigenous media.

States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity.

Article 18

Indigenous peoples have the right to enjoy fully all rights established under international labour law and national labour legislation.

Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour, employment or salary.

PART V - Article 19

Indigenous peoples have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 20

Indigenous peoples have the right to participate fully, if they so choose, through procedures determined by them, in devising legislative or administrative measures that may affect them.

States shall obtain the free and informed consent of the peoples concerned before adopting and implementing such measures.

Article 21

Indigenous peoples have the right to maintain and develop their political, economic and social systems, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. Indigenous peoples who have been deprived of their means of subsistence and development are entitled to just and fair compensation.

Article 22

Indigenous peoples have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security.

Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and disabled persons.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to determine and develop all health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

Indigenous peoples have the right to their traditional medicines and health practices, including the right to the protection of vital medicinal plants, animals and minerals.

They also have the right to access, without any discrimination, to all medical institutions, health services and medical care.

PART VI - Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with the lands, territories, waters and coastal seas and other resources which they have traditionally owned or otherwise occupied or used, and to uphold their responsibilities to future generations in this regard.

Article 26

Indigenous peoples have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal seas, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used. This includes the right to the full recognition of their laws, traditions and customs, land-tenure systems and institutions for the development and management of resources, and the right to effective measures by States to prevent any interference with, alienation of or encroachment upon these rights.

Article 27

Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have

been confiscated, occupied, used or damaged without their free and informed consent. Where this is not possible, they have the right to just and fair compensation. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status.

Article 28

Indigenous peoples have the right to the conservation, restoration and protection of the total environment and the productive capacity of their lands, territories and resources, as well as to assistance for this purpose from States and through international cooperation. Military activities shall not take place in the lands and territories of indigenous peoples, unless otherwise freely agreed upon by the peoples concerned.

States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands and territories of indigenous peoples.

States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 29

Indigenous peoples are entitled to the recognition of the full ownership, control and protection of their cultural and intellectual property.

They have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs and visual and performing arts.

Article 30

Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require

that States obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, utilisation or exploitation of mineral, water or other resources. Pursuant to agreement with the indigenous peoples concerned, just and fair compensation shall be provided for any such activities and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

PART VII - Article 31

Indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions.

Article 32

Indigenous peoples have the collective right to determine their own citizenship in accordance with their customs and traditions. Indigenous citizenship does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 33

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, traditions, procedures and practices, in accordance with internationally recognized human rights standards.

Article 34

Indigenous peoples have the collective right to determine the responsibilities of individuals to their communities.

Article 35

Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with other peoples across borders.

States shall take effective measures to ensure the exercise and implementation of this right.

Article 36

Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors, according to their original spirit and intent, and to have States honour and respect such treaties, agreements and other constructive arrangements. Conflicts and disputes which cannot otherwise be settled should be submitted to competent international bodies agreed to by all parties concerned.

PART VIII - Article 37

States shall take effective and appropriate measures, in consultation with the Indigenous peoples concerned, to give full effect to the provisions of this Declaration. The rights recognised herein shall be adopted and included in national legislation in such a manner that Indigenous peoples can avail themselves of such rights in practice.

Article 38

Indigenous peoples have the right to have access to adequate financial and technical assistance, from States and through international cooperation, to pursue freely their political, economic, social, cultural and spiritual development and for the enjoyment of the rights and freedoms recognised in this Declaration.

Article 39

Indigenous peoples have the right to have access to and prompt decision through mutually acceptable and fair procedures for the resolution of conflicts and disputes with States, as well as to effective remedies for all infringements of their individual and collective rights. Such a

decision shall take into consideration the customs, traditions, rules and legal systems of the indigenous peoples concerned.

Article 40

The organs and specialised agencies of the United Nations system and other intergovernmental organisations shall contribute to the full realisation of the provisions of this Declaration through the mobilisation, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of Indigenous peoples on issues affecting them shall be established.

Article 41

The United Nations shall take the necessary steps to ensure the implementation of this Declaration including the creation of a body at the highest level with special competence in this field and with the direct participation of indigenous peoples. All United Nations bodies shall promote respect for and full application of the provisions of this Declaration.

PART IX - Article 42

The rights recognised herein constitute the minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world.

Article 43

All the rights and freedoms recognised herein are equally guaranteed to male and female Indigenous individuals.

Article 44

Nothing in this Declaration may be construed as diminishing or extinguishing existing or future rights Indigenous peoples may have or acquire.

Article 45

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations.

APPENDIX 2.

A Charter of Aboriginal Rights

Self-Determination and Sovereignty

1. We have the right of self-determination. Control by Aboriginal peoples over developments affecting them and their lands, territories and resources will enable us to maintain and strengthen their institutions, cultures and traditions, and to promote our development in accordance with our aspirations and needs.
2. We have the right to maintain and strengthen our distinct political, legal, economic, social and cultural institutions, while retaining our rights to participate fully, if we so choose, in the political, economic, social and cultural life of the Australian state.
3. We have the right to participate in decision-making in matters that affect our rights, through representatives chosen by us in accordance with our own procedures. Australian governments must consult and cooperate with Aboriginal representative institutions in order to obtain our free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect us.

Identity

4. We have the right to determine our own identity or membership in accordance with our customs and traditions. We have the right to determine the structures and to select the membership of our institutions in accordance with our own procedures.

5. We have the right not to be subjected to forced assimilation or destruction of our culture. This means the right to be free from dispossession of land, actions seeking to deprive us of our cultural identities, forced assimilation or integration and from any forms of propaganda designed to promote or incite racial or ethnic discrimination directed against us.
6. We have the right to establish their own media and to have access to all forms of non-Indigenous media without discrimination. State owned media must reflect Aboriginal cultural diversity and encourage privately owned media to adequately reflect indigenous cultural diversity.

Freedom from discrimination

7. We have the right to be free from any kind of discrimination.

Land and Resources

8. We shall not be forcibly removed from our lands or territories. No right to land, culture or heritage can be taken away without the free, prior and informed consent of the Aboriginal peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.
9. We have the right to the lands, territories and resources that we have traditionally owned, occupied or otherwise used or acquired. We have the right to own, use, develop and control the lands, territories and resources that we possess by reason of our traditional ownership or other traditional occupation or use, as well as those which we have otherwise acquired.
10. We have the right to determine and develop priorities and strategies for the

development or use of our lands or territories and other resources. Our free and informed consent must be obtained prior to the approval of any project affecting our lands or territories and other resources, particularly in connection with the development, utilisation or exploitation of mineral, water or other resources. Australia must provide effective mechanisms for just and fair compensation for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

11. Australia must give legal recognition and protection to our lands, territories and resources. This recognition must be conducted with due respect to our customs, traditions and land tenure systems.
12. We have the right to redress, restitution or fair and equitable compensation for the lands, territories and resources that we traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without our free, prior and informed consent.
13. We have the right to the conservation and protection of the environment and the productive capacity of our lands or territories and resources. Australia shall take effective measures to ensure that there is no storage or disposal of hazardous materials on our lands without their free, prior and informed consent.

Laws, Customs and Culture

14. Australia must give recognition to our laws, traditions, customs and land tenure systems.
15. We have the right to practice and revitalise their cultural traditions and

customs. This includes the right to maintain, protect and develop the past, present and future manifestations of our cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

16. Australia shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with Aboriginal peoples, with respect to our cultural, intellectual, religious and spiritual property taken without our free, prior and informed consent or in violation of their laws, traditions and customs.
17. We have the right to practice, develop, control and teach our spiritual and religious traditions, customs and ceremonies. We have the right to the repatriation of their human remains and ceremonial and other cultural objects.
18. We have the right to the dignity and diversity of their cultures, traditions, histories and aspirations and these should be appropriately reflected in education and public information. We have the right to live in a society that promotes tolerance and understanding.

Life, Safety and Security

19. We have the right to be safe, the rights to life, physical and mental integrity, liberty and security of person. This includes being free from all forms of violence.

Education, Employment, Health and Housing

20. We have the right, without discrimination, to the improvement of our economic and social conditions, including, education, employment, vocational training and retraining, housing, sanitation, health and social security. Particular attention must be paid to the rights and special needs of our Elders, women, youth, children and persons with disabilities.
21. We have the right to all levels and forms of education of the State without discrimination. We have the right to establish and control our own educational systems and institutions providing education in our own languages, in a manner appropriate to our cultural methods of teaching and learning. This includes learning our own culture and language.
22. We have the right to meaningful employment and must not be subjected to any discriminatory conditions of labour, employment or salary.
23. We have a right to the enjoyment of the highest attainable standard of physical and mental health.
24. We have the right to the highest attainable standard of housing and the conditions to ensure the highest attainable standard of environmental health. This includes the provision of culturally appropriate shelter, community infrastructure including the provision of buildings for schools and health services, running water, electricity and sewerage systems in our communities.
25. We have the right to engage in the economy and to be secure in our enjoyment of their own means of subsistence and development, and to engage freely in all our traditional,

cultural and other economic activities. When we are deprived our means of subsistence and development, we are entitled to just and fair compensation.

26. We have the right to determine and develop priorities and strategies for exercising our rights to development. We have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting us and, as far as possible, to administer such programmes through their own institutions.
27. We have the right to our traditional medicines and to maintain our health practices, including the conservation of our vital medicinal plants, animals and minerals. We also have the right to access, without any discrimination, to all social and health services.

Traditional knowledges and intellectual property

28. We have the right to maintain, control, protect and develop our cultural heritage, traditional knowledge and traditional cultural expressions, as well as the use of our sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts.
29. We also have the right to maintain, control, protect and develop our intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

Legal and Criminal Justice System

30. We have the right to due process before the law and equality before the law when being dealt with by the Australian legal system.
31. We have the right to promote, develop and maintain our institutional structures and our distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Government's responsibility

32. The rights in this Charter are the minimum standards for our survival, dignity and well-being. Australia, in consultation and cooperation with us, shall take the appropriate measures, including legislative measures and access to financial and technical assistance, to achieve the rights in this Charter.



CONSTITUTIONAL REFORM PANEL (CONT'D)

BILL OF RIGHTS PANEL

Professor Behrendt told Conference her role was to give a background to the issues to be discussed by the other panellists as outlined in the Background Paper in delegates' folders.

She began by highlighting the key points in the background paper and spoke of the inability of concerned Aboriginal people to respond to the Northern Territory intervention.

Professor Behrendt cited the *Kruger Case* to illustrate that Australian Law did not provide protection of rights and the 1967 referendum which gave the Australian Parliament the power to make laws over Aboriginal people.

People had trusted the Federal Government to use those powers in a benevolent and beneficial way. This had not always been the case.

The Racial Discrimination Act had been suspended three times to diminish the rights of Aboriginal people, most recently in the case of the so-called emergency intervention in the Northern Territory.

Professor Behrendt pointed out that the concept of human rights developed after World War II.

All other Commonwealth Countries had since adopted a Bill of Rights. Australia was the only Commonwealth country not to do so.

However she pointed out that a legislated Bill of Rights did not end the need for a discussion on what needed to be enshrined in the Constitution to protect rights.

Any strengthening of the legal framework would not resolve the issue of a Treaty.

Both a Bill of Rights and Constitutional protection were ways of strengthening the existing legal system.

By contrast, the treaty dealt with the relationship between Aboriginal people and all other Australians. Stronger constitutional and other legal protections would not annul any legal or moral responsibility for the failure to recognise Aboriginal sovereignty.

If Australia adopted a Bill of Rights or made changes to the Constitution that better protected the rights of Aboriginal people, the issue of whether a treaty should be signed with Aboriginal people would still remain to be answered. There may be other ways of recognising Aboriginal rights in addition to a treaty, such as an Aboriginal Charter of Rights.

Councillor Ah See then introduced Mr Mansell who said a number of fundamental questions remained for consideration in the constitutional debate.

These included what should be in a Bill of Rights and how it could be used to protect rights.

He said non-Aboriginal Australians owned farms and industry and the capitalist system. Capitalist values underpinned white society.

The Police force and Courts were designed to protect all the gains they have made.

An enormous and powerful defence force was designed to protect what had been taken from Aboriginal People against others who may want to take it from them.

He said the system only needed slight realignment for white Australians.

It was different for Aboriginal people.

As a group, Aboriginal people did not have sufficient capacity and were oppressed.

All decisions had effectively “been taken away from us.”

He noted the apology provided to the stolen generations by Prime Minister Rudd in February 2008 had stopped short of addressing the fundamental issue of compensation. Fundamental rights were denied Aboriginal people despite their right to self determination. It was important to keep fighting for our rights.

Mr Mansell said it was important to remember that just because people such as Warren Mundine supported assimilation “it does not mean we have to support it.”

He said a Bill of Rights for Aboriginal people and further debate on constitutional reform would give Aboriginal people the opportunity to “raise issues that are important to us.”

“A Bill of Rights for Aboriginal people and further debate on constitutional reform would give Aboriginal people the opportunity to raise issues that are important to us.”

MICHAEL MANSELL
TASMANIA ABORIGINAL CENTRE.

These may not be agreeable but these were the demands.

Cr Ah See thanked Mr Mansell for his presentation and introduced Professor Williams who, like the other two panellists, acknowledged Wanaruah Elders, the traditional Owners of the land and their enduring sovereignty.

Professor Williams said a Bill of Rights would be a new law to be passed by Federal Parliament that may find its way into the Constitution.

The law should have a comprehensive recognition of everyone’s rights and should include specific provision on areas such as freedom of speech and the rights to housing health and education.

It should essentially set out the rights to allow everyone to live a life of dignity and freedom, be enforceable, and set out the rights of, and responsibilities to, Australia’s first inhabitants.

Professor Williams said while Australia did not have a Bill of Rights “most Australians think it does.”

He said most Australians believed their rights were protected by the law but Australia was the only democratic country that did not. Canada, for instance, recognised treaty rights.

A key question for everyone was whether Australia was okay with being “the odd nation out.” Other questions which needed to be addressed was why the Constitution contained racist powers and why the Federal government had the power through the intervention in the

Northern Territory to overlook the fundamental rights of Aboriginal people.

Professor Williams said he supported a Bill of Rights. The Australian legal system required an overhaul on how it dealt with basic human rights. A Bill of Rights could address the discrimination and injustice Aboriginal people had suffered for more than 200 years. He said he would like to see a Treaty and reparation for the Stolen Generations.

He told delegates the current Federal Government public consultation process on a Bill of Rights being conducted by a committee chaired by Father Frank Brennan was an opportunity to speak about what must be done to protect human rights.

He urged delegates to use the consultation process and to tell their stories "in a way that relates to your position in society and what are the rights you believe you are currently missing. These are the things the Committee needs to hear."

Cr Ah See thanked Professor Williams for his presentation and introduced Mr Michael Anderson who provided a personal perspective

on the struggle for the recognition of rights and the need for a Treaty. He expressed the view that Aboriginal people were further down the road, in this regard, than they were during the 1980's. To take control of "our own affairs" we needed to discuss the right to self determination.

Unless a foundation was laid down now it would consign future generations to welfare.

Armidale LALC delegate **Margaret June Walford** said she wanted to raise an issue she had spoken about during the Elders Forum regarding the use of the term 'Indigenous.' She said a lot of Aboriginal people did not like the use of this word. She said there needed to be a policy developed to take back to the Australian Government to get them to go back to talking about Aboriginal, rather than Indigenous people.

"We are Aboriginal and that is what we are."

Mr Mansell agreed.

Dorrigo LALC Plateau delegate **Robyn Heath** requested clarification on a multi-lateral treaty which had been introduced in 1954 and registered in the Phillipines and asked if Aboriginal people were included in that.



Michael Mansell of the Tasmanian Aboriginal Centre (TAC) addressed delegates during the Bill of Rights Session.



Councillor Roy Ah See, Sydney/Newcastle Region, facilitated the Bill of Rights Session.

Professor Williams said Australia often spoke with one voice internationally but had never practised this at home. It had signed a number of international agreements but had not implemented them and was in breach. International agreements did not form part of Australian law unless they were acted upon.

Professor Behrendt spoke of the need to have the principles enshrined in international law put into domestic laws.

Illawarra LALC delegate **Sharralyn Robinson** asked if the Bill of Rights could be seen as another initiative of the Federal Government to “keep us quiet” on signing off on the UN Declaration on the Rights of Indigenous Peoples.

She said it appeared hypocritical when the Federal government would not sign off on the UN Declaration.

She also questioned the cost of conducting the consultations and wondered how many Aboriginal people would be involved.

Professor Behrendt sympathised with her view and acknowledged the frustration of many Aboriginal people over the hypocrisy of the government in these matters.

Professor Williams said he understood the cost of the consultations was \$2.5 million.

Ms Robinson said it was frustrating that Aboriginal people were “suffering everyday and the government says let’s talk about human rights.”

Mr Mansell advised that Minister Macklin had been banned from Tasmania by Aboriginal people because of her support for the Northern Territory intervention.

Nowra LALC delegate **Adelle Hyslop** reminded delegates that NSWALC had taken the lead in the Treaty campaign in 2000. She had worked for NSWALC at the time and a budget of \$200,000 had been provided for Treaty consultations and on establishing a Treaty Think Tank. She asked how serious NSWALC was in this regard in 2009?

Professor Behrendt said she agreed with the need for far more Aboriginal representation on these issues.

Brewarrina LALC delegate **Grace Gordon** spoke of the need to come together to support the needs and priorities of Aboriginal people across the country and our leadership needed to look at the agreements they signed with governments and their advocacy campaigns.

Councillor Ah See said NSWALC’s commitment to advocacy and rights were spelled out in its Corporate Plan.

Birrigan Gargle LALC delegate **Christine Ferguson** suggested NSWALC set up an expert panel to prepare a history of the fight for rights for “the new kids on the block,” to educate them on what has happened and work to improve the situation in the future.

Professor Williams said he thought that a great idea.

Councillor Ah See drew the attention of delegates to the questions in NSWALC’s LALC survey document and pressed the need for those to be completed to enable NSWALC to take the issue forward as a voice for the land rights network.

“A Bill of Rights could address the discrimination and injustice Aboriginal people had suffered for more than 200 years.”

GEORGE WILLIAMS
PROFESSOR OF LAW
UNIVERSITY OF NSW.

Wanaruah LALC delegate **Noel Downs** said Governments were all for partnerships. He suggested if they wanted partnership “then let’s call it a Treaty.”

Bega LALC delegate **David Dixon** said he would like to see Aboriginal people in the Federal Parliament. Aboriginal people had been used as a wedge in the past but had no representation in the Federal Parliament. He asked how this could be changed.

Professor Behrendt said that that, as an Aboriginal person in New South Wales, she was proud that we had the largest elected representative body in the country.

It was important to remember this and “to remember what we do.”

How we used that influence and power to better advantage was in issue for all delegates.

She lamented the lack of Aboriginal representation in the Federal Parliament and suggested Aboriginal people had to look at the Independent members of Parliament to advance the struggle for rights.

NSWALC was a powerful force to use our influence in this way. It could take on the leadership role.

She said there were many issues that needed to be dealt with. One instance was the impact of fines to incapacitate good Aboriginal people through over policing, especially in regional areas.



Panellist George Williams is the Anthony Mason Professor of Law and Foundation Director of the Gilbert + Tobin Centre of Public Law at the Faculty of Law at the University of NSW.

She said she would like to see NSWALC take a leadership position on how the State Government imposed these fines and penalties and the consequences for Aboriginal people.

Professor Williams reminded delegates the Federal government consultations closed in June 2009.

He said NSWALC was a body that should be heard in those consultations and noted that State Governments would need to fall in line with a federal Bill of Rights.

Cr Ah See thanked the presenters and all delegates for a stimulating discussion and debate. He handed over to Chairperson Manton to close proceedings for the day. She expressed the hope that all delegates were enjoying their participation at the State Conference.



Delegates from the Elders Forum report back to the conference on the outcomes from their concurrent workshop.

DAY TWO - MARCH 4, 2009 OPENING SESSION

The second day of Conference began with a report back session from the Elders and Youth Forums which had been held concurrently with the plenary sessions on the opening day.

The session was facilitated by North Coast region Councillor Patricia Laurie.

She noted the Elders Forum had been facilitated by NSWALC staffers Joe Flick and Sol Belleair; the Youth Forum by NSWALC staffers Clare McHugh and Sylvie Ellsmore.

Councillor Laurie informed delegates that Mr Michael Anderson had been appointed spokesperson for the Elders Group and would report on a number of major issues arising out of the Forum.

OUR ELDERS.

Mr Anderson said the Elders felt that the history of Aboriginal people in New South Wales needed to be recorded.

He said the Elders had noted the Official Apology which had been made last year on behalf of the Australian Parliament by Prime Minister Kevin Rudd but they asked what had really been gained by Aboriginal people and felt this was a matter which needed to be raised with Aboriginal Affairs Minister Jenny Macklin when she attended the Conference.

The Elders also felt Minister Macklin needed to be asked if the Federal Government had any plans to extend what amounted to martial law—through the intervention in the Northern Territory—to New South Wales.

Concern had also been expressed about Pension and Child Endowment Funds which were held in a NSW Government Trust but were not being accessed by Aboriginal people.

Research teams needed to investigate access to these monies.

Mr Anderson said the Elders had also expressed concern about the preservation of Aboriginal languages. There was also concern expressed that Aboriginal people needed to go back and revisit the report of the Royal Commission into Aboriginal Deaths In Custody.

There was anecdotal evidence that more Aboriginal children were now in the care of non Aboriginal families than in the 1930's. It was time to take action "to ensure our children are not taken away."

There was a view "our children are being criminalised."

One example was cited from Moree where bikes "were purchased for children to take them off the streets and the Police confiscated the bikes and charged the children for not wearing helmets."

There was also a need to look at the amount of money which had been spent on prisons since that Report was brought down.

Mr Anderson said it was the view of the Elders forum that NSWALC State Conferences should be held twice a year.



Delegates during the Elders Forum which was facilitated by NSWALC staffers Joe Flick and Sol Belleair.



There also needed to be further examination of funding within the network and between the Federal and State governments.

The annual administrative allocation from NSWALC to LALCs was not sufficient to allow the Local Aboriginal Land Councils to provide benefits directly to their constituents.

There was a view that NSWALC needed to be more proactive in seeking to incorporate Federal funding into Aboriginal programs.

Concern had also been expressed during the Elders Forum about the use of the word Indigenous and how it was often applied to Aboriginal people. It was felt this needed to be addressed.

Councillor Laurie thanked Mr Anderson for his Presentation.

Mr Flick and Mr Belleair were thanked for facilitating the Elders Forum.

This session again sparked debate and discussion.

Darkinjung LALC delegate, **Doctor Bob Morgan**, recommended NSWALC exercise its power under the current provisions of the ALRA to establish

advisory committees. It should do so to establish permanent Elders and Youth forums. He pointed out the provision existed but had not been exercised. State Council should act because it had the funding and capacity to do so.

Chairperson Manton said that process was "starting here at Conference."

He thanked the Chairperson for her response and asked for clarification on the decision making out of Conference and how the State Council would determine consensus "on what is being said."

It was pointed out the Conference was being recorded and a copy of the official proceedings would be made available throughout the network.

Narromine LALC delegate **Neita Scott** pointed out that Local Aboriginal Land Councils represented "all the Aboriginal people in our area." This had been taken away through the formation of regional working groups. They did not recognise all Aboriginal people. She said another issue was the need for Aboriginal aged hostels. Aboriginal people had to look after our elderly people. They wanted to "be with us."

Coonabaraban LALC delegate **Maureen Sulter** said she had been involved in the re-invigoration of the Gamilaroi language. She had been teaching language for the past three years and felt Aboriginal culture had to be valued in primary schools from kindergarten through to Year 12.

Koompahtoo LALC delegate **Lois Towney** said it was good to see the Elders raise the issue in relation to the word Indigenous. It had been a sore point for a long time. Ms Towney said it was time something was done to stop the government using the term in reference to Aboriginal people. She said she would be an Aborigine until the day she died.

Wee Waa LALC delegate **Damien Aidon** rose to support Doctor Morgan's comments. He said he considered it too much to ask NSWALC take on all the responsibilities which had been suggested from the Conference floor. He said the Federal Government should be asked to accept some responsibility.

OUR YOUTH

The Youth Forum delegates were introduced to the stage by Councillor Laurie.

The Councillor asked delegates to complete a one page questionnaire which had been circulated out of the Youth Forum.

Youth delegate, **Chris Ingrey** from La Perouse, was introduced.

Mr Ingrey acknowledged Country and Elders, both past and present, and thanked NSWALC on behalf of all youth delegates for the opportunity to represent their regions and discuss issues in such a forum. He also thanked Ms McHugh and Ms Ellsmore on behalf of his fellow delegates for their work in facilitating the Youth Forum.

Mr Ingrey said it had produced a number of recommendations in answer to the question of how LALC's and NSWALC could encourage young people to be involved in land council business.

Key recommendations included the proposed formation of a Youth Advisory Forum or Committees at local, regional and state levels to provide a voice for Youth.

Young people had to be provided the ability to speak up at LALC meetings but infighting at LALCs and a hesitation on their part to speak up provided barriers to greater participation.

Isolation, the lack of a support network, and the inability to attain full LALC membership before the age of 18 and a lack of understanding about land rights and the ALRA were identified as barriers.

Youth leadership programs to support their involvement in LALCs could prove beneficial. It was suggested youth could partner with ALC Councillors. Positive role models could also prove to be beneficial in assisting young people become more involved in the land rights system.

Central Coast delegate **Kalinda Naden** said a range of education, employment and resources issues needed to be addressed.

Their needed to be more education directed at young people to make them more aware of the activities of LALCs to let them know what they were all about. And what they could offer their youth.



NSWALC staffer Clare McHugh facilitates discussions on several initiatives raised during the Youth Forum.

One barrier was constant negativity. Young people tended to hear a lot about negative aspects of the activities of LALCs rather than the positive.

Initiatives could include interactive road shows at schools to prepare young people to become involved.

Internships, traineeships and apprenticeships could be established.

Funding could also be provided to establish programs directed at young people, including the possible employment of youth officers, and the establishment of youth committees and forums.

Ms Naden said the Youth Forum did recognise LALCs difficulties in resourcing such programs.

Councillor Laurie thanked the youth delegates for their report and said young people needed to be encouraged and respected. She suggested young people should be encouraged to attend community forums. The report back stimulated considerable debate from the Conference floor.

Darkinjung Land Council delegate **Sean Gordon** raised the importance of technology in increasing engagement between young and older members of the land rights network. He asked how many of the Youth Forum delegates used social networking sites such as Facebook and received a 100 per cent response.

Mr Gordon said it was important that older members of the land rights movement educated themselves in this regard so they could engage with young people.

He suggested NSWALC's Education Endowment Fund could be used to target older people to encourage them to engage young people.

"We need to educate ourselves on these so we can engage with young people through the new technology," he added.

Ms Naden suggested a youth site could be established on NSWALC's website.

Tamworth LALC delegate **Robin Weatherall** suggested the establishment of LALC Youth sub committees to ensure greater involvement of young people.



Youth Delegates highlighted several new initiatives including the establishment of Internships, traineeships and apprenticeships with LALCs.

DAY TWO

Wilcannia LALC delegate **David Clarke** described the Youth Forum and its outcomes as a “breath of fresh air.”

He recommended NSWALC support the establishment of a permanent Youth Forum.

Darlingjug LALC delegate, **Dr. Bob Morgan** said he was very proud there was an emerging group of young people who “are educated and based firmly in their culture.”

Too many young people chose death over life. Cultural affirmation was needed.

He said young people needed to know “our traditions and the values that form our identity.”

Dr Morgan asked NSWALC to take up the s118 of the Act so young people do not feel neglected.

NSWALC should give direction at local level to establish and fund cultural affirmation for our youth.

SEARMS delegate **Melissa Ellis** said the Youth Forum was a “job well done.”

She urged young people to speak up. A young person challenging the views of an Elder did not represent disrespect. All should have an equal voice.

Grafton Ngerrie LALC delegate **Brett Tibbett** said a history of land rights needed to be written.

Councillor Roy Ah See said he was very proud of the youth. They were our “future leaders.”

Councillor Ah See said it took a lot of hard work to advance through the system and urged young people to talk and seek advice from their Elders.

PLENARY SESSION

DEPARTMENT OF ABORIGINAL AFFAIRS

Facilitator, Central Region Councillor Stephen Ryan, introduced the Director General of the Department of Aboriginal Affairs, Ms Jody Broun, who provided an update on the work of the Department.

Ms Broun began her speech by acknowledging the traditional owners of the land and “all of those who have gone before us.”

She said she was pleased to have the opportunity to discuss some of the valuable work being undertaken by the NSWALC in partnership with DAA and the NSW Government.

“I am also pleased to be able to bring you up to date with some of the key programs that the NSW Government is rolling out, to contribute to improvements in Aboriginal communities,” she added.

“In particular I will talk about: Two Ways Together Partnership Communities Program; maintenance and monitoring of water and sewage infrastructure in discrete Aboriginal communities; the program to combat child sexual assault; Aboriginal language revitalisation; co-management of land; economic development; and the future of the Aboriginal community development program.

“Before discussing these programs in more detail, I would like to take the chance to applaud some great results for Aboriginal people in NSW.

“Several significant events have helped us in the last 12 months.”

“Firstly, and most significantly, is the apology by the Prime Minister Kevin Rudd which has lifted the profile of Aboriginal issues on the national agenda. I am sure it helped the DAA to obtain significant funding for new programs this year...and I’ll get to those later.

“Secondly, we celebrated 25 years of the NSW Land Rights Act. The Act was instrumental in land councils now controlling more than 80,000 hectares of land in NSW with a value of more than \$2 billion.



“The Act has been updated in the last couple of years. We have responded to the suggestions of your members to improve Governance and give you the freedom to better support your members, with social benefits.

“Amendments that began in 2007 will make the Land Council system more efficient.

“The NSW Government has now released a draft Bill to amend the land dealings provisions of the Land Rights Act. This is the second and last phase of the amendments recommended by the Task Force that reviewed the Act.

“It is vitally important for future Aboriginal community economic development to get the land dealings provisions right.

“The draft legislation has been a collaborative effort where the NSWALC and the Registrar, Steve Wright, have provided input at every stage of the development of the legislation.

“The Minister for Aboriginal Affairs is inviting all LALCs to provide him with written feedback on the draft land dealings Bill by 31 March this year before he introduces the Bill into Parliament before June 2009.

“The draft Bill is on DAA’s website – daa.nsw.gov.au. Copies of the Bill and summaries of the amendments have been provided here at your Conference and DAA will be sending copies to all LALCs.”

Two Ways Together

Ms Broun said NSW Government agencies “are working with communities across many different programs.”

“The Two Ways Together Partnership Communities Program will help bring the planning and consultation of these programs together to be better informed by the community.

“The Program recognises that Government agencies need to work in partnership with Aboriginal communities to improve outcomes on the ground. The program recognises that Aboriginal people know best, the needs of their communities.

“Partnership Community Officers will be working initially across 40 Partnership Communities, building on the work we have already done through our network of regional offices since 2005.

“The program currently operates in 40 communities across NSW – around 45% of the Aboriginal population of NSW.”

“The aims of the Program are for Government agencies and Aboriginal communities to work together in partnership to improve service delivery and outcomes on the ground for Aboriginal people; and strengthen wellbeing in Aboriginal communities.”

Working with Community

Ms Broun said DAA “will support community governance bodies to identify priorities for service delivery and to strengthen community wellbeing in Partnership Communities.”

“DAA is working closely with the Department of Environment and Climate Change to develop tools to support communities to identify their priorities,” she added.

“Community governance bodies and government agencies will jointly develop a Community Action Plan. This will build on work and planning already going on in communities including the LALC Community Land and Business Plans.

“The ways to build on the work being done through the LALC Community Land and Business Plans and the community governance body work on Community Action Plans include: LALC Community Land and Business Plans; acquisition, management and development of land; provision and management of community benefits scheme; objectives and strategies for carrying out business enterprises and investments objectives and strategies for Aboriginal culture and heritage; Community Action Plans; improved service delivery and outcomes; strengthened community well being; find the common areas proposed for the two plans and work together on them; LALC and community governance body joining together to identify projects and initiatives that will benefit and strengthen their communities.”

She said a workshop would be held later in the day to get the input of delegates into “how we should do this in communities.

Ongoing Community Consultation - Learning As We Go

Ms Broun said the Framework and Guidelines would remain as working drafts through 2009 to enable community feedback. Consultation would take place before they were finalised.

“DAA will work very closely with LALCs as community governance bodies are recognised under the Draft Framework and Community Action Plans are developed,” she added.

Ms Broun then turned to the partnership between NSWALC and the State Government on the maintenance and monitoring of water and sewerage infrastructure in discrete Aboriginal communities.

She said the program commenced in July 2008 with the joint funding of service provision by NSWALC and the NSW State Government. The purpose of the program was to ensure that water and sewerage schemes in 63 discrete communities across NSW were adequately

monitored, operated and maintained. This was anticipated to equate to around \$200 million over 25 years.

The “high level agreement between NSWALC and the State Government detailing how the two parties would work together was signed on the 18th December 2008,” she added.

The program was being managed by the Department of Water and Energy, through a Steering Committee which was attended by Water and Energy, NSWALC, DAA, NSW Health, LGSA, Treasury, the Aboriginal Housing Office, Premiers and Cabinet. Twenty communities had been visited since July 2008.

During these visits the program was explained and the water and sewerage system discussed and assessed. Detailed notes were written up “describing what is there and what is required.”

These notes were then sent back to the community and the relevant Local Council for their confirmation. The notes needed agreement firstly from the community and then the Local Council before anything further was done.

“Once this has happened, an agreement will be developed outlining the necessary maintenance and monitoring and how frequently this will occur,” she explained.

“A management plan for the community will also be developed. This will explain what to do when certain things occur, who to contact and how,” she added.

Ms Broun said a number of good things had occurred already as a direct result of this program.

“At Toomelah, for example, Moree Plains Shire Council has completed repairs at the sewerage pumping station and is undertaking repairs to the water pump. Council is also installing a telemetry system to enable it to remotely monitor the system and hence respond more rapidly if there is an incident,” she said.

“At Bellbrook, the problem of the continuous overflow from the reservoir has been overcome and maintenance has occurred on the water pump to improve reliability.

“At Mallabugilmah, maintenance to protect the sewerage system from fire hazard has been undertaken.

“All parties, NSWALC and the NSW range of agencies involved, have re-affirmed how important they see this program and how they are committed to making sure it will work.

“This was clear once again at the Steering Committee meeting held on 25th February, 2009, where any issues raised which looked like they might slow or hinder the program were addressed methodically making sure that there was a clear workable solution that would ensure that water and sewerage systems were maintained and monitored to an equal level as that of the rest of NSW population.”

Ms Broun said a further 5 communities would be visited in the next month or so.

Child Sexual Assault

Ms Broun said the NSW Government launched the Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities in January 2007 after travelling around NSW and “talking to Aboriginal people about what was needed to stop sexual assault.”

“The Department of Aboriginal Affairs has overall responsibility for monitoring and reporting against this Plan,” she added.

“One of the actions identified was the need for intensive local work in partnership with Aboriginal communities. This is currently being implemented in nine communities across NSW.”

The Safe Families Program was about government agencies and the community working together in partnership to tackle child sexual assault.

“It brings together all agencies working in the area of child protection to ensure they develop one plan, instead of many, for children needing child protection,” she added.

“The program looks at child sexual assault from the point of view that it has been socio-economic disadvantage and cultural dispossession that has made Aboriginal children and young people especially vulnerable to child sexual assault.

"The Safe Families Program also includes funding for a team of Safe Families workers in each community. In these five Safe Families communities, each team will have a Community Engagement Officer, an Aboriginal Family Health Worker, two Child Protection Case Workers, an Aboriginal Early Intervention Worker and a part-time Administrative Support Officer.

"While these workers come from different government departments, in most places they will be housed in the same office, ensuring that case management plans will be developed by all members of the team sitting around one table.

"This is much better for families, as in the past they had to deal with multiple workers from multiple agencies getting multiple assessments.

"The Department of Aboriginal Affairs is providing the Community Engagement Officer in each location, to ensure government and communities work together and support community groups to develop their own child abuse prevention activities.

"While interagency work to tackle child sexual assault in Aboriginal communities is taking place all across the State, the Safe Families Program will be trialled in five communities over four years before being evaluated, to see if this new approach works.

"These communities were selected because they had made it clear that they wanted to work with government to deal with child sexual assault."

Aboriginal Languages

Ms Broun told delegates there were 50 schools currently teaching 11 languages, including Bundjalung, Wiradjuri, Dharawal, Gamilaraay and Gumbaynggirr according to the figures obtained from the relevant government department.

DAA had produced and distributed to all schools a CD-ROM, Aboriginal Languages of NSW: an Introduction for Schools and Communities, to promote and assist schools in teaching Aboriginal languages.

"The CD-ROM portrays the key features of NSW Aboriginal languages including sounds, spellings, grammar patterns, and the

pronunciation and meanings for almost 100 words for each of the 20 languages documented," she said.

"It has become a useful resource for teachers and schools, and not only for language education," she continued.

"Muurrbuy Aboriginal Language and Culture Cooperative has received funding from the DAA, under its Aboriginal Community Language Assistance Program, to cover three years for Aboriginal Language Summer Schools in Gamilaraay, Gumbaynggirr and now Wiradjuri at the University of Sydney.

"In 2009, the DAA will extend and build on its ongoing activities around the Aboriginal Community Language Assistance Program and the Aboriginal language promotion and coordination within NSW Government.

"The Aboriginal Community Language Grant Program continues to play a critical role in supporting Aboriginal community language work and it will continue through 2009 with the 2008-09 round of funding to be announced in April 2009.

"Priority will be given to stimulating activity in languages and regions where currently there is none or little activity.

"This year the DAA will review the Aboriginal Languages Policy Strategic Plan, which is due to end in 2010. The review will measure the Strategic Plan's achievements and also what work remains to be done."

Aboriginal Joint Management

Ms Broun said Aboriginal joint management was an important way that "the government recognises prior Aboriginal ownership of the public lands of NSW."

She said there were three main forms of Aboriginal joint management: Aboriginal ownership under the National Parks and Wildlife Act 1974 and Aboriginal Land Rights Act 1983; Indigenous Land Use Agreements under the Native Title Act 1993; and informal co-management by way of Memorandum of Understanding or similar agreement in national parks, State Forests and Crown Reserves.



Director General of the DAA Ms Jody Broun, discusses some of the valuable work being undertaken by NSWALC in partnership with DAA and the NSW Government.

The NSW Government would invest \$11 million in joint management arrangements across NSW over the next four years. At March 2009 five National Parks and Historic sites had been returned to Aboriginal people under Part 4A of the National Parks and Wildlife Act 1974.

They were Mutawintji National Park and Historic site near Broken Hill, Biamanga National Park at Narooma, Gulaga National Park at Narooma, Mount Grenfell Historic Site near Cobar, Worimi Conservation Lands at Stockton Bight.

Mount Yarrowyck Nature Reserve at Armidale, Jervis Bay National Park, Mungo National Park and Warrell Creek/Gumma Peninsula near Nambucca Heads would, in future, become Aboriginal owned conservation reserves.

By February 2009, there were eight Registered Indigenous Land Use Agreements, two positive determinations that native title existed within NSW, five Aboriginal owned conservation reserves (and three listed for future ownership), and eight Memorandums of Understanding for joint management of public lands.

This was in addition to the informal arrangements in place with Aboriginal communities for access to public lands.

Economic Development

Ms Broun said the unemployment rate of Aboriginal people has been increasing steadily since 2005, while the overall total unemployment rate has (until recently) been declining.

She said this was disturbing.

"One observation," she added, "is that the rate of unemployment has been increasing at a time when the number of CDEPs has been declining.

"At the time of the 2006 Census there were approximately 49,000 Aboriginal people of working age not in paid employment," she added.

"This figure includes people in the labour force unable to find work, discouraged jobseekers, people unable to work because of illness or disability, and people that decide not to work because of family or caring commitments," she continued. "High school retention, which is a major determinant of employment, is also an area of concern. Only 40% of Aboriginal students stay to Year 12 compared to nearly 80% of non-Aboriginal students.

"The NSWALC scholarships are an excellent initiative aimed at improving education outcomes.

"In the context where general employment opportunities in NSW are declining in the face of the global economic crisis, it is critical that we strengthen efforts to improve economic opportunities to prevent a further widening of the disadvantage gap.

"Land councils, as significant holders of assets, and now with strengthened arrangements to maximise these assets, have a central role to play in improving economic opportunities for all Aboriginal people in NSW.

"The areas of land council influence are very broad, from taking advantage of emerging green economy, supporting Aboriginal students to stay at school, to being a large employer."

Government priorities

Ms Broun said the NSW Government was committed through the Council of Australian Governments to halving the gap in employment outcomes between Aboriginal and non-Aboriginal people within a decade.

"It is estimated that this translates into 100,000 jobs for Aboriginal people across Australia, with roughly 30,000 jobs needing to come from NSW.

"Economic development is a priority under Two Ways Together and the State Plan.

"The NSW Government is currently developing an Aboriginal Economic Development Policy in recognition that some 160 initiatives are delivered across some 30 agencies but these are not always linked and are not communicated as a part of a coherent strategy. The policy is being drafted now and we are keen to work with NSWALC to develop this further.

"The NSW Government's commitment to achieve 2% employment of Aboriginal people in the NSW Public Sector was achieved for the first time in 2007 (approximately 6,800 staff).

"However there is still much work to be done. Aboriginal staff in the sector are disproportionately represented in the lower salary level and over-represented in entry level positions.

"COAG's recent commitment that all governments work to achieve Aboriginal public sector employment figures that reflect the proportion of

Aboriginal people of working age in each jurisdiction, which nationally is 2.6%, will mean we, as NSW departments, need to boost existing efforts.

"Making It Our Business (MIOB), the NSW Government's policy framework on improved public sector employment outcomes for Aboriginal people, provides a strategic framework for departments to recruit and retain Aboriginal employees.

"Increasing the number of Aboriginal people in the public sector builds agency capacity to deliver programs and services that are effective and appropriate for Aboriginal people.

"It also encourages support and respect for Aboriginal cultural values in the workplace and in the delivery of services.

"Some agencies with a large Aboriginal client base already have higher percentages of Aboriginal staff, for example, the Department of Community Services has 7% and the Department of Aboriginal Affairs has more than 50%.

Other agencies are setting higher targets to reflect their client base, for example NSW Police have set a target of 4% Aboriginal employment across the agency.

"Beyond setting targets we understand that there needs to be strong supports for new and existing Aboriginal employees.

In 2008, the NSW Public Sector held an inaugural mentor program for Aboriginal employees which was a success and is now recruiting for the second intake for 2009. This program will support Aboriginal staff in their career development aspirations goals.

Government Contracting

Ms Broun said roughly \$7 billion a year was spent on NSW Government construction. A further injection of infrastructure spending through the Federal Government's National Building Plan would create more opportunities.

The Aboriginal Participation in Construction Guidelines enabled NSW Government agencies to require Aboriginal employment on Government funded construction and related projects.

These Aboriginal employment requirements generated employment and training opportunities for individuals as well as contracting and sub-contracting opportunities for Aboriginal building companies.

She said six agencies were tendering 15 major construction projects requiring Aboriginal employment with a collective target of 100 people employed by June 2009.

She also spoke about the Job Compacts initiative. She explained it was aimed at developing “innovative and creative measures” to combat the higher level of unemployment experienced by Aboriginal people.

The Compacts were written agreements between employers, the NSW Government, Aboriginal groups, service providers and decision-making bodies, such as Chambers of Commerce, to work together to increase local employment opportunities for Aboriginal people in the private sector. Job Compacts operated at two levels.

“At a State wide level,” she said, “there is an overarching Job Compact Memorandum of Understanding (MOU) signed by the NSW Business Chamber, the Local Government Association of NSW, the Shires Association of NSW, NSW Aboriginal Land Council, Unions NSW and the Minister for Aboriginal Affairs.

“This overarching Job Compact MOU acts in an advisory capacity to DAA and is convened to support DAA by providing input into the overall Job Compact program management across the state.

“The other level of Job Compacts is the local level, which is where the actual jobs and employees are located.

“There, Job Compacts are flexible and relate to a particular location or industry specific circumstances. As a result there are a variety of Job Compact signatories.

“As a general rule, however, Job Compact agreements include a range of employers, service providers, local government, government agencies and Aboriginal community organisations that have made a broad commitment to the Job Compact objectives.

“Signatories have also made the commitment to undertake steps to develop and maintain

Aboriginal cultural understanding within their organisation. A number of Job Compact signatories have also committed to specific actions to support employment related strategies.

Aboriginal Community Development Program.

Ms Broun said the Aboriginal Community Development Program would soon enter its final year.

Despite this DAA was continuing to focus on infrastructure in Aboriginal communities across NSW.

Under Part F1 of the State Plan DAA was committed to improving Environmental Health outcomes for Aboriginal People in NSW. As part of this work, DAA would soon undertake a Community Infrastructure survey of about 60 communities across the State.

The survey would focus on infrastructure items such as kerbs and guttering, footpaths, storm water drainage, street and public space lighting, garbage removal and tips, community meeting facilities, community fire and hazard plans; and Internet access and public phones.

The Survey was scheduled to start in April 2009 and last approximately 14 weeks. The findings of the Survey would provide vital information about how best to improve Aboriginal discrete communities’ infrastructure which, in turn, should lead to improving environmental health outcomes in these communities.

The Roads and Traffic Authority was also undertaking an assessment of roads in and around communities. DAA had, and “will continue to, work closely with the RTA in order to minimise disruption to communities.”

A fact sheet containing further information about the survey was available from the DAA stall in the Conference exhibition centre.

Ms Broun said she trusted her talk “has given you an overview about some of the programs we have been working on.”

She suggested delegates interested in obtaining more information on the partnership communities program to attend the workshop later in the day.

For details of other programs delegates could have a look at the department website or contact their local DAA office.

Coonamble LALC delegate **Les Trindall** said he believed the Government should make a decision to transfer DAA's funding and programs to NSWALC which, in his opinion, would deliver better services.

Darkinjung LALC delegate **Sean Gordon** ask what DAA was doing in regard to State Government procurement opportunities to establish genuine businesses "so we can employ our own people to look after our own."

Mr Gordon also read from a copy of a letter to the State Government from Minister Macklin which stated the Commonwealth Government wanted access to and control of Aboriginal land for at least 40 years in return for housing funds.

Ms Broun said she was aware of that issue and said negotiations were currently being conducted with the Commonwealth Government on the proposal.

She said the procurement question was being looked at as part of the Aboriginal Economic Development policy.

Wilcannia LALC delegate **Dawn Evans** said different towns had been allocated air conditioners. Wilcannia was one but it had not been received. Ms Broun said she would investigate the issue.

Brewarinna LALC delegate **Grace Gordon** asked how Departments such as DAA could report back to government when "there are no proper consultation processes at grassroots level."

Where, she asked, are the healing programs for families suffering years of trauma and dispossession? A healing program for families was needed to ensure children could go to school free from sexual abuse.

Goodooga LALC delegate **Allan Lamb** asked if DAA officers could travel to his community to "talk to us."

He said the community was without a shop and had many problems. He also said language was being taught in schools in the wrong country and this had to stop. This should be the first thing to be addressed in any review of the program.



Registrar of the ALRA, Mr Stephen Wright, and Maurice Stewart during their presentation.

PLENARY SESSION - OFFICE OF THE REGISTRAR.

Ms Broun's session was followed by a presentation from the Registrar of the ALRA, Mr Stephen Wright, who was introduced by Councillor Ryan.

Mr Wright paid his family's respects to the Wanaruah People, as custodians of country, for allowing him to speak on their country.

He thanked Elders, both past and present, and the Mutawintji for allowing his office to use their artwork as a background to the electronic presentation he was about to deliver.

Mr Wright congratulated the participants in the Elders and Youth forums for their reports to Conference and informed delegates that lists of membership specific to each LALC were in their information packs.

Mr Wright outlined the major functions of the Office of the Registrar as he worked his way through the electronic presentation.

They were to register land claims made under the ALRA by NSWALC and LALCs and to maintain the Register of Aboriginal Land Claims.

As at March 2009 the number of land claims lodged totalled 17,137.

Of these a total of 8,655 claims had been determined, a total of 2,319 had been granted and 5,348 had been refused.

This left the total number of undetermined land claims at 9,087.

Mr Wright said one of the major enduring legacies from Murray Chapman's administration of NSWALC was his "blitz" on identifying and lodging land claims.

He also paid tribute to the former Parliamentary Secretary to the Minister for Aboriginal Affairs, Mr Col Markham, who had reduced the number of unprocessed land claims from 1200 to 500 during his time in office.

Mr Wright said a further function of the Registrar was to maintain the Register of Aboriginal Owners.

He cited the fact that the NSWALC Chairperson, Ms Manton, was a registered owner and member of the Board of the Worimi Conservation Lands.

The Registrar's Office was also responsible for maintaining the NSW Land Council consolidated membership roll ; to approve the rules of the New South Wales Aboriginal Land Council and LALCs and to carry out such other functions in relation to the constitution of Local Aboriginal Land Council (and their areas) and/or the alteration of LALC boundaries.

This could cover Model Rules, Code of Conduct, amalgamation and dissolution.

Mr Wright said the membership database was "very securely," held in his office. The names and addresses of individuals would not be released without their authority.

The issue of membership rolls was critical to a LALCs decision making and Board elections.

By December 2007 over 100 LALCs had held their Board elections. He thanked staff from his office, NSWALC and DAA who had acted as returning officers.

His only concern in relation to Model Rules and Codes of Conduct was that they "did not go beyond the power of the Act or the Regulations."

His office saw itself as an "advisory service," to LALCs.

He reminded delegates that LALC boundaries were not permanent and could change at the will of a LALC. Changes, however, could only be made with the approval of surrounding LALC's.

On the issue of possible amalgamations and/or dissolution Mr Wright reminded the delegates he was a member of the ALRA Review Taskforce which had recommended the number of LALCs be reduced to 60.

This was a vital issue which should, in his view, be the subject of "vigorous and open discussion and debate."

Mr Wright said his office was also charged with issuing compliance directions to Councillors and officers of Aboriginal Land Councils relating to administration and possible breaches of the ALRA and to conduct Land Council Board elections.

His office preferred to deal with such issues through dispute resolution.

Mr Wright said the membership database was "very securely," held in his office. The names and addresses of individuals would not be released without their authority.

Mr Wright reminded delegates that complaints could not be dealt with if they resulted from anonymous information. Relevant and sourced information was required to initiate an investigation.

He also reminded delegates that the Registrar could delegate the function of Returning Officer to officers of DAA or NSWALC.

Mr Wright said his office was also charged with the responsibility to investigate complaints including the non disclosure of pecuniary interests, misbehaviour by Councillors, Board members and members of staff and/or consultants to Land Councils.

He said pecuniary interest simply meant financial gain which, if not disclosed, is an offence under the ALRA. Such cases could be handled by the Pecuniary Interest and Disciplinary Tribunal.

Dispute resolution was another key responsibility.

The Registrar's Office was charged with mediating, conciliating or arbitrating disputes relating to the ALRA and the regulations.

He said there needed to be a lot of thought given on how "we should handle dispute resolution in the network."

A key question in this area was when a dispute should go to an independent mediator, conciliator or arbitrator.

Mr Wright closed his presentation by asking delegates for feedback on how the “Registrar could do it better.” Increased regional visits was one area under consideration.

He announced the launch of a new website for his office and informed delegates it could be found at www.oralra.nsw.gov.au.

This would allow another way for LALCs to communicate with the Registrar. He thanked Mr. Adam Black for building the website.

Ngulingah LALC delegate **Patricia King** asked the Registrar why there had been no investigation of a letter of complaint from LALC members. She raised a number of issues regarding the complaint and claimed a lack of communication from the Registrar’s office.

Mr Wright said he heard and accepted her criticism regarding a lack of action by his office. He said it was not appropriate to discuss the issues at a public forum and invited the delegate to discuss them directly with him.

Delegate **Michael Anderson** asked if the Registrar held any discretionary powers in regard to the payments of rates. Mr Wright said he held no such power.

Cowra LALC delegate **Lavinus Ingram** asked if the Registrar held powers over NSWALC.

Mr Wright said he worked under the powers conferred upon him by the ALRA and was answerable to the Minister for Aboriginal Affairs.



Conference Delegates seek further information from the Office of the Registrar’s information stall as part of the expo.

Registrar's Discussion Paper

Mr Wright provided a written Discussion Paper in his information packs to delegates.

The Paper set out his observations on events which had occurred since the last State Conference and his views on a number of the major challenges faced by the land rights network.

The content of the paper duplicates a number of the issues raised in the Registrar's plenary session and in subsequent workshops.

It is included in this report of Conference given the importance of the issues and questions it raised and the chronology it contained of key legislative changes.

The Paper said a lot had happened to Aboriginal Land Councils and the Aboriginal Land Rights Act 1983 in that time.

The ALRA had gone, in the Registrar's opinion, from "being a troubled teenager to a hardworking, adaptable mid-twenties adult."

Some of the significant events since 2000 included:

- Following the lengthy inquiry into Aboriginal Land Councils by the Independent Commission Against Corruption ("ICAC") in the mid 1990s, the NSW Government passed the 2002 amendments to the ALRA. These amendments included reforms to the governance of the New South Wales Aboriginal Land Council ("NSWALC") and changes to the role of the Registrar of the ALRA.
- Following an investigation in 2003 the NSWALC was sacked by the then Deputy Premier of NSW and the late Murray Chapman was appointed as the NSWALC administrator.
- In 2004 the then Deputy Premier announced a review of the ALRA that was to be conducted by Mr Chapman, Ms Jody Broun (Director-General, DAA) and the Registrar. The group was called the "Taskforce" and following countless meetings; a round of consultation with Local Aboriginal Land Councils; and the writing of two major reports, advice was provided to the government about possible amendments to the ALRA between 2005 and 2006.
- The NSW parliament enacted the Aboriginal Land Rights Amendment Act 2006 in November 2006; the amendments addressed changes to the structure and governance of Aboriginal Land Councils. Some amendments took effect in February 2007 to allow for an election of NSWALC members and the remainder did not take effect until July 2007. By the time the new laws commenced the former Deputy Premier had left the Parliament, his successor as Minister for Aboriginal Affairs had left the Parliament, the Hon. Reba Meagher, MP had been the Acting Minister for Aboriginal Affairs and the Hon. Paul Lynch MP had been appointed as the Minister for Aboriginal Affairs.
- Before the March 2007 NSW state election the NSW government committed itself to introducing further amendments to the ALRA to reform land dealings by Aboriginal Land Councils. Such reforms had been suggested by the Taskforce during its review of the ALRA.
- In May 2007 the first election for NSWALC members was held since the sacking of the Council. Nine councillors were elected to the nine amended Aboriginal Land Council regions (reduced from 13).
- This State-wide meeting of Aboriginal Land Councils was being asked by the NSW Government to consider a draft ALRA amendment Bill in relation to land dealings by Aboriginal Land Councils.

This chronology of events was “far from exhaustive” it said, “and did not touch on other important land rights issues such as land claims and the joint management of conservation lands in NSW between Aboriginal and non-Aboriginal people.

For example, since 2000 there had been many land claims lodged and some significant court decisions about land claims,” it continued

In October 2008 the Australian High Court considered land claims under the ALRA for the first time in relation to the former Wagga Wagga RTA site.

Four major areas of land had been handed back to Aboriginal Land Councils since 2000 to be jointly managed as conservation estate (Mt Grenfell Historic Site, Biamanga & Gulaga National Parks, and the Worimi Conservation Lands).

The chronology showed that the ALRA had been in a state of perpetual change since 2000; the laws had been changing beneath our feet and while trying to get on with the business of land rights “we have all had to accept a legislative framework (the ALRA) that is unsettled and unsettling. The ride is not yet over!”

Mr Wright’s paper said running Aboriginal Land Councils was a difficult job.

This was a point which could not be overstated.

It had been made even harder by the need to constantly adapt to the changes in the law “which mean changes in the operations of Aboriginal Land Councils.”

“For example, the sea-change from the officers of Local Aboriginal Land Councils (“LALCs”) being the Chairperson, Secretary and Treasurer to the creation and implementation of Boards and the change from “co-ordinators” of LALCs to Chief Executive Officers,” it continued

“It strikes me that the people who are involved with Aboriginal Land Councils and particularly LALCs must be particularly robust and committed individuals to not only survive such changes but to do their best to enhance the Aboriginal Land Council network.

“I am reminded that Nick Greiner who led the NSW Government that came to power in 1988 had a policy of repealing the ALRA.

“Two years later they made sweeping changes to the ALRA that included the gutting of Regional Aboriginal Land Councils and the creation of the power for Aboriginal Land Councils to dispose of their land.

“These were wrenching changes and spark fierce debate to this day; however the Greiner Government did not manage to repeal the ALRA.

“I still remember the news footage from 1990 of the late Uncle Tombo Winters pushing over the fence of the NSW Parliament during a protest by thousands of Aboriginal people about the proposal to repeal the ALRA!

“Twenty six years of land rights under the ALRA is a fine achievement.

“What are some of the issues confronting the ALRA in 2009?

“Many people will have many different issues that they believe are critical to the ALRA in 2009 and beyond.

“I accept the following issues are my suggestions alone.”

The paper then canvassed a number of issues in relation to the on-going process of amendment of the ALRA.

“This State-wide meeting is being asked to consider proposed amendments to the ALRA in relation to land dealings by Aboriginal Land Councils,” it said.

“The proposed amendments have been made public for consultation and are available for comment.

“The proposed amendments are intended to improve land dealings by Aboriginal Land Councils and improve the outcomes for Aboriginal Land Councils and those who engage in land deals with them.

“It is important that all Aboriginal Land Councils have their say about the proposed amendments in the time available.

"It is proposed to continue the amendment process beyond land dealings by Aboriginal Land Councils and see if further improvements can be made to the ALRA and the functioning of Aboriginal Land Councils.

"There is an opportunity at this meeting to have a say; there will be further opportunities during 2009."

The Paper then canvassed a number of issues in relation to Aboriginal Land Councils and Housing.

"Some; including me, have argued that the provision of housing has been a millstone around the necks of Aboriginal Land Councils since the commencement of the ALRA in 1983," it said.

"No matter what the need for housing and no matter how good the intentions and skills of LALCs, providing social housing to Aboriginal people has destabilised LALCs and cost Aboriginal Land Councils millions of wasted dollars in rates and missed opportunities.

"However this view must be tempered with the fact that many parcels of land that Aboriginal Land Councils own and that provide housing were vested in those Councils because it was recognised that they were Aboriginal land and should be Aboriginal owned.

"Periodic injections of Government money for capital works, repairs and maintenance have not fixed the problem.

"There is never enough money for what needs to be done and LALCs have struggled with how to manage social housing programs given that a LALC is its members and many of its members are often its tenants.

"Much of the housing stock transferred to Aboriginal Land Councils in 1983/84/85 was dilapidated and poor.

"The July 2007 amendments included changes to the law that mean LALCs must demonstrate by 1 July 2010 that they can manage social housing programs satisfactorily.

"The NSWALC has the duty to decide if LALCs can manage their social housing satisfactorily.

"It seems to me that it has been accepted by the Aboriginal Land Council network that if a LALC cannot manage its social housing, the management should be passed on to a more appropriate housing manager.

"The July 2007 amendments to the ALRA envisage reform of LALC social housing that respectfully and fairly re-organise the management of that housing.

"The critical issue is that if Aboriginal Land Councils, who are private land owners, are to invite third parties to manage their social housing, the party wishing to manage the housing must be able to demonstrate it can do so fairly and equitably for the LALC and tenants.

"For example a LALC cannot cede control of its housing stock to a third party without binding agreements about the resources the third party will bring to the management of the assets.

"In other words it cannot grant contractual rights to a third party or grant any interest in its land for the purpose of housing management unless it receives just terms.

"Remembering that the NSWALC must approve a LALC's social housing scheme by 1 July 2010; what happens if NSWALC decides that a LALC can't manage its social housing program and can't find a third party willing and/or able to manage the social housing scheme on the LALC's behalf?

"Social housing cannot be conducted without subsidy from somewhere other than rent collection!

"Who will provide the subsidy to LALCs?

"It must always be remembered that the ALRA is a unique NSW legislative scheme, providing land ownership to Aboriginal Land Councils like any other land owner.

"Aboriginal Land Councils have a very onerous duty to ensure they do not allow third parties to manage or control their land without careful consideration of their rights and duties.

"There is a grave responsibility on the NSW Government at this time to ensure that they respond fairly and justly to the reforms of Aboriginal Land Council housing that those Councils themselves are striving for."

The Registrar's paper then turned to the issue of land claims and noted 17,100 land claims had been lodged by Aboriginal Land Councils since the commencement of the ALRA.

This was "a major achievement by Aboriginal Land Councils in prosecuting their right to claim Crown land in NSW."

In the Registrar's view the three most pressing issues on land claims were:

- the high number of land claims that had been lodged and not yet determined.
- the unacceptable number of land claims that had been determined by the Minister administering the Crown Lands Act to be claimable Crown land, written notice has been given to the claimant Aboriginal Land Council, however the claimable land has not been transferred to the Council, and;
- the approach to land claim determinations and appeals by the Minister administering the Crown Lands Act.

More than 9 000 land claims had not been determined by the Minister administering the Crown Land Act.

"This is not a new issue," it continued.

"I recall that the Australian Labor Party sought election in NSW in 1995 with a platform that included a pledge to reduce the number of undetermined land claims.

"An Aboriginal Land Council's right is to lodge land claims. The Minister administering the Crown Lands Act's duty is to determine the claims.

"It is well known that the Department of Lands does not currently have sufficient resources to investigate land claims at a rate that will reduce the number of undetermined claims to an acceptable level.

"What is an acceptable level?

"In my view a rate of determination of 500 to 1000 land claims per year is required to adequately manage the land claims process.

"The NSW Ombudsman is currently investigating the delay in the determination of land claims. I will welcome any assistance the Ombudsman can give to improve the rate of land claim determinations.

"The Ombudsman's report in relation to their investigation (when it is made public) may be a useful tool to begin discussions about improving the rate of land claim determinations.

"Determined land claims that have not been transferred to Aboriginal Land Councils.

"As we know the process of land claim determination is that the Department of Lands conducts an investigation into the status of land the subject of a claim in relation to the tests set out in s36 of the ALRA.

"If the investigation concludes that the land is "claimable Crown land", the Department of Lands will advise their Minister of this fact and the Minister is required to grant the land claim if she/he accepts the advice.

"A letter will be sent from the Minister administering the Crown Lands Act to the claimant Aboriginal Land Council notifying them that the land is claimable Crown Land and may be transferred to the Council.

"The letter gives notice that the land is claimable Crown land; it confirms that the claimant Aboriginal Land Council has a right to have the land transferred to it, however in many cases a transfer cannot be affected until the land has been surveyed and brought into the scheme of the Real Property Act.

"It is common for letters of notice to include a paragraph inviting the claimant Aboriginal Land Council to commission their own survey for the purpose of transferring the land to them.

"Land survey for the purpose of registration of title under the Real Property Act is an expensive task.

"The Department of Lands does not have the resources to commission and complete the land surveys for lands claims that have been determined to be claimable Crown lands.

"Without the survey of claimable Crown lands being completed concurrently, or soon after determination, the land claims process stalls.

“Aboriginal Land Councils are unable to use land they have a right to own without cost, unless they decide to incur the cost of surveying the land.

“The granting of land claims includes their transfer to the claimant Aboriginal Land Council. It is beyond question that the duty to grant land claims rests with the Minister administering the Crown Lands Act.

“My estimate of the number of land claims that have been determined to be claimable Crown lands but have not been transferred to Aboriginal Land Councils is more than 300. This is unacceptable and this issue needs to be addressed.

“This problem is now being compounded by instances where third parties are seeking to enter upon or use land that is claimable Crown land but not transferred to its Aboriginal Land Council owner. Such events create unnecessary conflict and often require significant effort to manage and resolve.

“It is important that we identify all claimable Crown lands that have been determined but not transferred; consider the priorities for transferring such lands, and discuss this matter with the Department of Lands.”

The Registrar then turned to the question of land claim determinations and litigation.

A number of recent land claim appeal cases “have disclosed a disquieting approach to land claims litigation by the Minister administering the Crown Lands Act.”

A number of issues illustrated his disquiet. They were:

- The use of s. 36(8) conclusive certificates for land claim appeals involving land claims that are years old. The Jervis Bay land claims are a good example. Lodged approximately 20 years ago, conclusive certificates arose in the land claim appeal cases in 2006/07.
- The apparent reluctance to negotiate and settle land claim appeals.
- The reluctance to negotiate undetermined land claims as a way of resolving them.

The cost of land claim litigation to all parties “and the acrimony it creates between Aboriginal Land Councils and the NSW Government at a time when that relationship should be nurtured are unacceptable outcomes of the current tone of land claim litigation and the overall land claim process.”

“Land claims are ripe for negotiation and settlement either before or after determination.

“Creating a culture of negotiation in relation to land claims and land claims litigation is a critical issue at this time.

“I note my earlier reference to the Wagga Wagga RTA site case.

“This was the first time that the Australian High Court had directly addressed the question of the refusal of a land claim.

“The High Court decided that the Minister administering the Crown Lands Act cannot refuse a land claim for the reason that she/he is using it for the purpose of sale unless she/he can show this includes a reasonable amount of physical use of the subject land.

“It is not enough that land is not physically used and being prepared for sale.”

The Paper then turned to the question of Aboriginal Ownership of National Parks

It pointed out that the number of Aboriginal people in NSW who had sought to be registered as Aboriginal Owners of land in NSW was approaching 620.

“This has to be viewed in the context that priority is given to people who seek to be registered for lands that are already identified to be jointly managed between Aboriginal and non-Aboriginal people,” it continued.

“Joint management of National Parks is land rights.

“It is a right that returns land to the Aboriginal estate because of its Aboriginal cultural significance and commits Aboriginal Land Councils to participate in the conservation of land for its cultural and environmental values.

“It is a difficult, expensive and time consuming right.

"Most significant rights are difficult, expensive and time consuming.

"NSW has a legislative obligation to implement joint management.

"Done well, it is a world's best practise undertaking by Aboriginal and non-Aboriginal people for the conservation of country.

"It is incumbent on all of us to make it work.

"Like the land claims process, joint management is suffering for want of resources and I would have to say, in some quarters, a lack of will.

"All parties with an interest in land rights in NSW need to ask themselves; is joint management of National Parks important to us? If the answer is yes, what are we prepared to do about it?

"To date we have five areas of land jointly managed and a further three areas of land under consideration.

"It is possible to nominate other land in NSW to be jointly managed."

The Discussion Paper then turned to the issue of the structure and governance of Aboriginal Land Councils

The most striking outcome of the commencement of the Aboriginal Land Rights Amendment Act 2006 in July 2007, it said, had been the response by the NSWALC and Local Aboriginal Land Councils ("LALCs") to the requirement to elect Boards to govern LALCs.

"Over 100 LALCs conducted elections and elected Boards, this is a great achievement," it continued.

"What is now emerging is that the role of Boards is hard work and that many people have been struggling with the role.

"It is also emerging that many LALCs are having difficulties finding people to fill the role of Chief Executive Officer ("CEO").

"It is (in my view) questionable that the ALRA can sustain the current number of LALC Boards and CEOs.

"If the benefits to Aboriginal people under the ALRA are to be maximised; we don't want to eat up all the resources that may bring such benefits with inefficient, messy and potentially corrupt governance.

"I think we must turn our mind to the issue of the number of LALCs that exist under the ALRA and the relationships between LALCs.

"The most powerful benefits under the ALRA are economic. Economic benefits demand an assessment of economies of scale.

"This will lead us logically to a frank and open discussion about the dissolution and amalgamation of LALCs.

"I think the sooner this discussion begins in earnest, the better.

"I appreciate that this is a difficult and wrenching topic.

"However it is my strong view that Aboriginal Land Councils must be proactive and start addressing these issues themselves; it is a necessary part of self determination and self sufficiency. The cry of "amalgamation and dissolution are a good concept, just not my LALC" is no longer tenable.

"It must be remembered that the Task Force that reviewed the ALRA (I was part of that group) recommended that the ALRA could sustain no more than 60 LALCs."

The Paper turned to a short discussion on land development by Aboriginal Land Councils.

"There is much blood on the floor following a number of significant land developments by Aboriginal Land Councils in the last 10 or so years," the paper said.

"The relationship between LALCs and the NSWALC has been greatly strained by land development proposals," it added.

"Land development disputes have been public, acrimonious and involved institutions like the ICAC and the Courts.

"Land development by Aboriginal Land Councils is at the heart of the future success of land rights in NSW.

"The proceeds from land development will fuel the benefits that flow to Aboriginal people and will fuel the growing power and independence of Aboriginal Land Councils.

"In my view land rights needs some big, bold and successful land developments by Aboriginal Land

Councils to demonstrate the power of the ALRA and the importance of Aboriginal Land Councils to Aboriginal people and the wider NSW economy.

"I am not suggesting irrational behaviour; I am suggesting focused and determined effort.

"Land rights must not become mired in the bureaucracy and detail of governance at the cost of bold action.

"Land rights is not bureaucracy, it is a philosophy and movement of empowerment.

"I do not doubt the size of the governance task or the land development task.

"However, I strongly believe bold action is required to ensure the power of land rights is not further diminished."

The paper concluded by broaching the subject of dispute resolution by reminding delegates of the old joke that when you get more than one person in a room, you get a dispute!

"Aboriginal Land Councils will have disputes; it's part and parcel of being a group of people struggling with the same ideas," it continued.

"I think we should have a good hard look at the kinds of disputes that arise in, between and involving Aboriginal Land Councils and think about how we may better resolve them.

"I am strongly of the view that the management and resolution of disputes is a core activity for organisations such as Aboriginal Land Councils.

"The question for me is not should we consider how to resolve disputes; the question should be how should we ensure we resolve our disputes respectfully, effectively and fairly.

"Issues such as; how to approach disputes within the Aboriginal community, disputes between Aboriginal communities and between Aboriginal and non-Aboriginal people are critical. Also how should we resource dispute resolution and who should pay?"

The paper said the Conference was an important opportunity for all Aboriginal Land Councils to set their agenda for the ALRA.

This would require careful thought and clear headed decision making.

The Registrar looked forward to participating in the process.

PLENARY SESSION

ABORIGINAL HOUSING OFFICE

The Chief Executive Officer of the Aboriginal Housing Office, Mr. Russell Taylor, was introduced and informed delegates he had been invited to speak on the focus of new Federal and State Government bilateral arrangements for Aboriginal Housing.

He began by acknowledging Country, the Elders, and the AHO Chairperson, Mr Tom Slockee. Mr Taylor also thanked NSWALC for the invitation to attend the Conference.

He explained that the former Commonwealth State Housing Agreement had been streamlined and replaced by the new National Affordable Housing Agreement (NAHA) with public performance reporting to the COAG Reform Council.

The NAHA was underpinned by specific agreements called National Partnership Agreements.

These were time limited agreements designed to deliver specific outcomes with funding tied to specific benchmarks. Funding would flow directly from Commonwealth Treasury to the NSW Treasury.

National Partnership Agreements had been agreed in principle in November 2008 but implementation plans involving specific funding, policy and performance expectations were currently the subject of negotiations involving senior officials.

The implementation plans needed to be approved by the relevant Commonwealth Minister and Premier by the end of March 2009 and would include significant reform elements. He told delegates he was restrained in what he could say given the agreements were still subject to negotiation.

The new National Affordable Housing Agreement would be for ten years but National Partnership Agreements would be two years for social housing, five years for homelessness and 10 years for remote Indigenous housing.

Funding which would flow to New South Wales under each National Partnership agreement would be \$130m to social housing over two years, \$101 million to homelessness over four years and \$397 million to remote Indigenous housing over ten years.

He noted that all implementation plans were still under negotiation and some key issues remained to be settled.

Mr Taylor said there were a number of key reform elements to the purpose and focus of remote Indigenous housing under the proposed National Partnership Agreement.

These included measures to increase social inclusion and closing the gap, to address overcrowding, homelessness, poor housing and housing shortages, to address sustainability and viability and the protection of Commonwealth Government investments.

There would be significant funding for remote needs such as new construction and upgrades, repairs and maintenance and employment and training.

The new arrangements would see a shift in the roles and responsibilities of Government with the NSW Government assuming responsibility for Indigenous Housing, including the Indigenous Community Housing Organisational (ICHO) sector.

The arrangements, once agreed to, would incorporate specific stringent reporting and performance measures on areas such as the number of new houses provided, maintenance levels achieved, together with reductions in overcrowding and homelessness, reforms to tenancy arrangements and training levels.

They would provide for negotiation and agreement about ensuring the provision of robust and standardised tenancy management, including rental collections, asset protection, governance arrangements and support consistent with "public housing standards."

They would also allow for the development and implementation of land tenure agreements to facilitate effective asset management, essential services, home ownership and economic development opportunities.

They would also allow for agreement on improving Aboriginal employment opportunities through capital works programs and would “no doubt” involve a focus on individual tenancy management, including the capacity to replace a service provider if required, and the head leasing over land and assets sufficient to protect government investment.

He ended his presentation by informing delegates of his “key message.”

It was obvious from such bi-lateral agreement making that both the Australian and New South Wales governments were seeking to improve housing conditions in the Aboriginal housing sector.

They were proposing to do so by providing significant resources and were seeking to work with the sector to deliver the required improved conditions but expected to see “significant improvements and reform” during the term of such arrangements.

Narrbari LALC delegate **Lyn Trindall** said she had heard that the AHO was proposing not to continue with its Regional Aboriginal Housing Management Services (RAHMS).

Mr Taylor said this was not correct. The AHO was keen to advance RAHMS across the State. It was intending to submit the RAHMS model to the Government for consideration and maintain relations with existing RAHMs until the issue was finalised. Once the new bi-lateral arrangements were in place then AHO could proceed with RAHMS subject to Government approval.

Ms Trindall said LALCs could not transfer the deeds and titles to Aboriginal people wishing to buy homes because they were held by the AHO. She asked when they would be released.

Mr Taylor said AHO was conscious of the problem, apologised for it, and said the deeds and titles should be forwarded to appropriate parties over the next “six to eight months.”

Narromine LALC delegate **Neita Scott** asked where rural properties would lie in the new

arrangements and said she did not agree with the Commonwealth Government seeking control of Aboriginal land for 40 years in return for housing monies. She also asked if life of asset leases could be sought for longer periods and if leases could go to the AHO or another body.

Mr Taylor said the AHO had not agreed to that proposal.

He said he did not support 40 years leases and “99 years would be untenable.” He said it would be possible for AHO to put in alternative arrangements for the management of houses should a RAHMS not perform.

Pilliga LALC delegate **Coral Toomey** expressed concern about having to sign a new policy every two years and said it was her belief overcrowding would occur if people were forced out of their homes and have to share “if this applied every two years.”

She asked for an explanation of “public housing standards,” and what improvements were being sought.

Mr Taylor said he’d be happy to send her a booklet on those standards or she could access it on the AHO website.

She advised that people could not access the Internet “out west.”

Broken Hill LALC delegate **Maureen O’Donnell** said non LALC members living in their own houses were discriminated against because they did not get “help for housing.” She said many of these people were old but could not get help. She suggested Governments needed to look at this.

Illawarra LALC delegate **Sharralyn Robinson** ended the session with a declaration that it was “time the government upheld their own laws.” She said the government should not hold people to ransom. She suggested it might be time to “take to the streets again.”

CONFERENCE WORKSHOPS

Three concurrent workshops were held on the second day of the Conference. They were well attended and covered:

- ALRA Future Amendments and LALC Elections and LALC Rolls.
- Social Housing.
- Two Ways Together: Partnerships Communities and Economic Development.

ALRA Future Amendments: LALC Elections and LALC Rolls.

Councillor Ah See initiated and facilitated the Workshop. He introduced the presenters, the Registrar of the ALRA, Stephen Wright and NSWALC Principal Legal Officer, Ms Lila D'Souza.

Ms D'Souza summarised the Workshop objectives.

Mr Wright briefly outlined the history of the Act from its birth in 1983 to the substantial amendments in 1986 and subsequent changes in 1990 when LALCs received the rights to sell their lands.

He noted the Act was further amended in 1994 to accommodate the Native Title Act.

The ALRA was again amended in 1996 when NPWS amendments were made.

Minor amendments followed in 1998 and major amendments made in 2002. An Administrator had been appointed to NSWALC in November 2003 and the State Government initiated a review of the Aboriginal Land Rights Act.

Proposals to make changes commenced in July 2007 and led to the last round of amendments. What had not be dealt with was a new regime for land dealings.

The current Minister for Aboriginal Affairs, Paul Lynch, decided to pursue these amendments when he took over the portfolio.

He impressed upon the Registrar, DAA and NSWALC the need to formulate a set of amendments to put out for discussions by Local Land Councils.

NSWALC participated in the process and provided technical advice. DAA has also provided input.

The draft exposure bill had been publicly released to coincide with the State Conference.

The Minister had asked for deliberations on further amendments.

The workshop was aimed at initiating such discussion.

Some potential areas of discussion for clarification and amendment included delegations to CEO's and Boards, Model Rules, Codes of Conduct, Quorums and the two meeting rule, Register of Aboriginal Owners and disqualification provisions.

Other areas included Community Land and Business Plan requirements, payment of LALC Board travelling and other allowances, Administrator provisions, the requirement for NSWALC to increase LALC membership, the compliance direction regime.

Delegates were asked to provide NSWALC with any feedback on any amendments they considered worth pursuing.

Delegates were asked to detail what part of the ALRA they suggested should be amended, the nature of any suggested changes, why the proposed amendment was required and how the amendment would benefit LALCs.

Dorrigo Plateau LALC delegate **Robyn Heath** asked for clarification on the proposed Community Development Levy which would be established under the land dealings amendments and how this would fit with NSWALC's funding.

Mr Wright pointed out there was one common NSWALC Account and when the amendments were made there would be three sub-accounts, the NSWALC Account, the Mining Account (where money is deposited from any revenue derived from mining) and the Community Fund. When monies flowed into the Community Fund NSWALC would be required, under current proposals, to match those funds on a dollar for dollar basis. Those funds would flow from one of the other two sub-accounts. Mr Wright reminded delegates the Community Fund had yet to be established.

Mindaribba LALC delegate **Rick Griffiths** asked if LALCs would have to pay both the proposed

Community Development Levy and the s94 levy under the Local Government Act.

Mr Wright said this would be the case for owners and/or developers.

Condoblin LALC delegate **Isabelle Goolagong** asked if land rights could be used to secure a claim for underground water resources. She said she was concerned about the possibility of cyanide poisoning on a particular property. Mr Wright said such a claim could not be lodged.

Koompahtoo LALC delegate **Bob Sampson** asked if members could be expelled or their terms of suspension extended. Some thought had to be given to this in relation to events at his LALC.

Mr Wright said there could not be expulsions and noted the suggestion for extensions of suspensions.

Birrigan Gargle LALC delegate **Christine Ferguson** asked what consideration was being given to increasing NSWALC's powers to ensure other agencies did not seek to alienate land while claims were in progress.

Mr Wright said Ms Ferguson had raised a very good point. He said he was able to provide some observations only and could not provide a complete answer. In relation to land dealings, he said consequential amendments would be made to the Environmental Planning and Assessment Act to ensure NSWALC was notified of any proposals to change the status of land by local shires or planning agencies. However, this would not preclude the planning agencies from rezoning lands.

Ms D'Souza said this was a major issue. She said NSWALC needed to be alerted by LALCs as soon as they became aware of any such proposals.

If NSWALC received such complaints it could pursue the matter with the relevant authorities. The sooner NSWALC was informed the better.

Bateman's Bay LALC delegate **Mal McCallum** revisited the question of remuneration for LALC Board members.

Mr Wright said there was no restraint on a LALC providing remuneration in good faith to Board members. He cited the relevant section of the ALRA, s52D which covers the duty of an Aboriginal Land Council not to transfer land or

other assets to Council members, Board members, staff or consultants. Section 52D (1) states that a Local Aboriginal Land Council must ensure that no part of the income or property of the Council is transferred directly or indirectly by way of dividend or bonus or otherwise by way of profit to members of the Council, Board members or any member of staff of, or consultant to, the Council.

Section 52D (2) states that "nothing in this section prevents:

- (a) the provision of a benefit in good faith to a Council member, Board member, member of staff or consultant in accordance with this act, or
- (b) the payment in good faith of remuneration to any such member, Board member, member of staff or consultant."

Mr Wright said such a payment was not an allowance.

Payment to LALC Board members could not be considered as wages.

They could be treated as sitting fees.

He said allowances were explained in s63(4) which stated: A Board member is entitled to be paid such travelling and other allowances as the Minister may from time to time determine in respect of the Board member.

Mr Wright said no determinations had been made in relation to section 63(4)

In summary he said remuneration could be made subject to the availability of LALC funds.

Delegate McCallum said s52(D) was very ambiguous from his point of view and it needed clarification. Mr Wright noted the comment.

Red Chief LALC delegate **Greg Griffiths** raised concerns about cases of false identification of Aboriginality being used by some to gain LALC membership. He said there needed to be stricter criteria introduced.

Councillor Ah See said this was a good point which would be noted. He said one should need proper identification to become a LALC member. He was aware of ambiguous memberships in some LALCs in the Sydney-Newcastle region.

Delegate Griffiths also raised concerns that DECC had mapped areas of NSW as conservation areas. He said this information could be accessed by developers but not by LALCs. This was an area which should be rectified.

Mr Wright said his comments had been noted.

Tamworth LALC delegate **Robyn Weatherall** asked how non-Aboriginal people appointed as administrators to LALCs sign Aboriginality forms. This was causing in-fighting amongst Aboriginal members.

Mr Wright said this was a very valid point. He said if a LALC was subject to administration and an all functions administrator was appointed this would happen under the existing rules. He said the Act needed to change.

An unidentified delegate from Thungutti LALC asked why there was now a debate about the creation of super LALCs and amalgamation and dissolution.

Mr Wright said this arose because of the non performance of some LALCs. He said as long as a LALC was performing well the question of amalgamation or dissolution would not arise. Poorly performing LALCs ran the risk of dissolution. While there was no legislative provision for compulsory amalgamation there was provision for voluntary amalgamations.

Coffs Harbour and Districts LALC delegate **Yvette Percy** said the new quorum requirements for smaller LALCs was an issue. Membership attendance was low. There were probably several reasons for this, including the current economic climate. Low membership should not be a reason to consider dissolution.

Mr Wright said it did not matter whether LALCs were big or small. As long as a LALC was performing well it could not be dissolved.

Meinindee LALC delegate **Evelyn Bates** returned to the issue of Aboriginality and eligibility of membership.

Mr Wright said the situation was clear from his point of view. A LALC was not required to accept a person as a member unless it was satisfied with the identity of the applicant for membership.

Deerubin LALC delegate **Frank Vincent** said he supported the proposed Community Development Levy. He believed if a LALC was self sufficient "why can't it contribute to the community fund to help others."

Mr Wright said this was a good point and expressed the hope some LALCs "take this into account."

Narromine LALC delegate **Judy McMillan** expressed concern about the legislative requirement to increase membership by 3 per cent a year. She said many LALCs would be unable to meet the requirement and an amendment to the Act was required.

Mr Wright agreed membership could not be compelled and said her feedback was noted. The Act did require changes in this regard.

Birrigan Gargle LALC delegate **Christine Ferguson** and Worimi delegate **Andrew Smith** spoke in support of Ms McMillan's point.

Wee Waa LALC delegate **Damien Aidon** said he had experience of the amalgamation of small land councils into larger bodies in Queensland. During those amalgamations not all of the functions of the smaller Councils were transferred across to the new bodies. He said any processes to be used to create super LALCs in NSW should be clearly communicated to communities.

Mr Wright noted his remarks.

Cobowra LALC delegate **Danny Chapman** raised concerns about the ability of the Government to resume land under the Threatened Species Conservation Act.

Mr Wright said under the provision of that Act the land owner entered into an agreement with the Government that the level of conservation would be maintained on that land. Any breach would give the Government the right to take the land owner to the Land and Environment Court and terminate the agreement. In that event the land ownership would flow to the Minister administering that Act. NSWALC was currently pursuing amendments to cover bio-banking agreements requirements and that NSWALC approval be sought, prior to termination of an agreement, if there was a claimed breach.

Ms D'Souza said NSWALC had issued a detailed publication on bio-banking. She recommended LALCs obtain the document to increase their knowledge about bio-banking.

Mr Chapman said there should be legislation to protect the title and tenure of LALC land.

Ms D'Souza said DECC's point of view would be that this would not provide any protection as this was an act for environment protection.

Wagonga LALC delegate **Vanessa Mason** said she was concerned LALCs only had 28 days to examine and comment on the Land Dealings bill. She also expressed concern about administrators signing membership forms and asked if the Aboriginality of those new members were found to be false could those members subsequently be removed from the membership list. Mr Wright said this was a very important question. He said if there was a suspicion about the membership and the subsequent LALC Board had evidence to this effect a letter could be written to the person involved. Membership could be removed by resolution of the Board. He pointed out the affected party had a right to appeal to the Registrar. If it was found the affected party had a case the member had to be reinstated.

Worimi LALC delegate **Andrew Smith** said he was aware of instances where letters had been written in such circumstances but had not been acknowledged by the recipient. Mr Wright said if reasonable steps have been taken to make contact with the concerned member and no response had been received the LALC Board was entitled to remove that person's membership.

A number of delegates then asked about the current requirement for members to attend two out of four meetings but the absence of any eligibility criteria for standing for election as Board members. Mr Wright said this was illogical and an amendment was required to the legislation.

Koompahtoo LALC delegate **Bob Sampson** said he was concerned about a lack of communication on such issues from NSWALC to LALCs. Councillor Ah See said his comments had been noted.

Onerwal LALC delegate **Violet Sheridan** asked for clarification in regard to letters of notification to remove members. She asked if two registered letters were required to be sent.

Mr Wright said one registered letter was sufficient but suggested it would be useful to also seek other means of communication, such as phone calls, for complete satisfaction.

Ms Sheridan asked if any consideration was being given to extend the terms of LALC Board members from the current two years to three years. Mr Wright said he would note the comment for consideration.

An unidentified Leeton and Districts LALC delegate asked if there was a standard certification form to establish Aboriginality. Mr Wright said there was no set standard. If a LALC had set down certain stipulations in this regard they should be followed and could be incorporated in a form.

Worimi LALC delegate **Andrew Smith** informed delegates his LALC Board had a policy on payments to Board members. It was to make payments to Board members as, and when, money was received from projects. In other words, payments monies were paid at a later date for the services rendered by Board members. A number of delegates said this was an excellent idea.

This workshop ended with a question from Pilliga LALC delegate **Cheryl Barnes** who asked if any thought was being given to ALRA amendments to establish Funeral Funds.

Mr Wright said NSWALC had a funeral funds scheme and applications are to be made by LALCs to access funds from this scheme. There were no other provisions in the Act and he was not sure there would be any future amendments to the ALRA to include Funeral Funds.

Councillor Ah See thanked Mr Wright, Ms D'souza and all participants for their contributions

Social Housing.

South Coast Region Councillor Jack Hampton facilitated this workshop and gave a brief overview of the issues before introducing the main presenter, NSWALC's Chief Operating Officer, Malcolm Davis.

Mr Malcolm Davis spoke to an electronic presentation. NSWALC CEO Geoff Scott discussed the Australian Remote Indigenous Index and the "Client Remoteness Map Inset Index NSW" to illustrate how Aboriginal housing was classified by the Federal Government.

The presentations outlined the major changes arising from the last round of amendments to the Aboriginal Land Rights Act in 2006 which came into effect on July 2007.

They included the new governance and accountability requirement for LALCs, the introduction of formal community benefits schemes, including social housing schemes with the requirement that LALCs must make an application to gain NSWALC approval for the operation of existing social housing schemes by July 2010.

It was explained that the ALRA defined a Social Housing Scheme as:

"The acquisition and provision by, or on behalf of, a Local Aboriginal Land Council of residential accommodation for Aboriginal persons in its area and to the construction, upgrading and extension of any such accommodation (a social housing scheme)."

An existing social housing scheme was defined as residential accommodation provided by a LALC to Aboriginal persons before July 1, 2007.

All existing social housing schemes must be approved to continue to operate beyond June 30, 2010.

Delegates were informed that 2,616 houses were currently managed by LALCs across the State. More than 12,000 Aboriginal people occupied those houses. The number of Aboriginal people in LALC housing represented 8.5 per cent of the total Aboriginal population in NSW.

Local Aboriginal Land Councils represent over half of all the housing providers registered by the Aboriginal Housing Office.

The LALC housing stock accounted for one third of all Aboriginal housing stock in the state.

Delegates were informed there were two possible outcomes when a LALC makes an application to NSWALC for the approval of an existing social housing scheme.

A LALC was found to have met the requirements of the ALRA and was approved to continue to operate the existing scheme or it failed to satisfy those requirements and would be required to outsource the scheme to another body or agency.

The application process was then summarised.

NSWALC was bound to assess both the LALC's administrative and financial capacity within the statutory parameters of the ALRA, NSWALC policy and the policy positions of both the Commonwealth and State governments.

In assessing a LALC's administrative capacity NSWALC had to ensure the scheme complied with the ALRA, the regulations and the policy of NSWALC.

It also had to ensure the scheme was consistent with the community, land and business plan (if any) of the LALC and also ensure the scheme was fair and equitable and would be administered in a responsible and transparent way.

In looking at administrative capacity NSWALC would be ensuring a LALC had an elected Board in accordance with the ALRA, that those Board members had completed training in accordance with the ALRA and its history of compliance with the ALRA and NSWALC Funding Agreements.

In relation to tenancy management areas NSWALC would be seeking to establish if a LALC had clear policies and procedures on assessing and reviewing tenant applications, allocating housing, setting and collecting rents and complying with tenancy legislation.

On asset management it would be seeking to ensure a LALC had clear policies and procedures for identifying types of (a) repairs and maintenance, policies for authorising approval and payment, (b) repairs and maintenance plan for each property and up-to-date insurance that covered all assets.

In assessing a LALC's financial capacity NSWALC could not approve a scheme unless a LALC could demonstrate that the income, including any subsidies and grants, from the existing social housing scheme "is, or will be sufficient to meet all of the expenses of the scheme, including long term maintenance requirements."

NSWALC also had to ensure the scheme "is not likely to prevent the LALC from being able to meet its debts "as, and when, they fall due."

NSWALC also had to consider "the impact of the scheme on the overall financial position of the Local Aboriginal Land Council."

A LALC had two options when making an application: To operate its own social housing scheme (Schedule 4 Cl45) through internal management or a property manager or, to outsource the scheme by leasing through an alternative body (s40B).

Both options would require a determination by NSWALC of the administrative and financial capacity of the provider.

The presentation touched on the Commonwealth policy positions, particularly the National Affordable Housing Agreement, which is currently being negotiated with the States. (This was the subject of considerable discussion during the presentation by the Aboriginal Housing Office in relation to proposed funding for Remote Indigenous Housing.)

The major policy question to be determined centred on the Commonwealth's proposed requirement for life of asset leases on Aboriginal owned land before any monies would be provided to maintain existing housing stock or the provision of any new housing.

Pilliga LALC delegate **Coral Toomey** asked whether those people who wanted to remain in their community and buy a LALC-owned house could do so.

Mr Scott said they could. He said the Commonwealth was currently funding NSWALC to conduct a survey on reserves which would assist in establishing a proper record of land and housing assets. There was a real issue around where a house was located and its potential market value.

Ms Toomey then asked how buying a house on a reserve would be affected by land tenure if she wanted to sell it later on. Mr Scott said there were many issues around this question which needed resolution. In Canada they had lost two thirds of their land within one generation when it happened there.

Red Chief LALC delegate **Wayne Griffiths** asked a series of questions about rateable land, the monitoring of the scheme and NSWALC funding.

Mr Scott said land not used for commercial purposes or housing was not rateable. He pointed out that under the current provisions of the Act NSWALC was ultimately held liable for the non-payment of rates by LALCs.

Illawarra LALC delegate **Sharralyn Robinson** expressed concern about the pursuit of Commonwealth policies which disadvantaged Aboriginal people. She suggested we "should be standing up for our brothers and sisters and propping them up."

Guyra LALC delegate **Jeffrey Ho** asked for clarification re the Commonwealth leasing proposals. Mr Scott said it had been made clear the Commonwealth would not be providing new stock to any new provider or provide any back maintenance unless a LALC signed a leasing agreement.

Bahtabah LALC delegate **Michael Green** asked what land would be involved in the proposed 40 year leases. Mr Scott said it would only affect land on which Commonwealth funds would be invested.

Red Chief LALC delegate **Wayne Griffiths** asked what would happen to outsourced properties if a LALC was amalgamated or dissolved. Where would the titles of those properties go? Mr Scott said NSWALC had been trying to resolve how such a situation would work. Initially, all rights would transfer to NSWALC. All the land would be quarantined. He believed such land could only be assigned to another land council.

Coonamble LALC delegate **Les Trindall** said his LALC had 52 properties and asked "can we get rid of those. Can they be transferred to someone to manage them, say Murdi Paaki?"

He said if the houses were transferred, the LALC would not need a housing officer. There would be no need for the LALC CEO.

“Reading between the lines,” he said, “people who have big development issues on the coast will not be so affected, but out west there will not be enough business to support a CEO and you would have to be a fool to put a fool on if they have nothing to do.”

Mr Trindall said this had to be taken into consideration as he could foresee a situation where 30 or 40 towns could close down with nil audits being put in and no Aboriginal employment in the town.

Koompahtoo LALC delegate **Lois Towney** said she could relate to what was being said. She urged LALC delegates to look at their rental collections. She said people were starting to pay decent rent by getting Commonwealth rent assistance. She said everyone had to pay rent. Ms Towney said when previously the LALC made money from rental collection they put the money back into the houses in repairs and maintenance. LALC Boards “have to make the mob aware that unless we pay decent rents we will lose our housing stock.”

Mr Trindall said there may be only one LALC out west that would be able to pay their CEO if the Commonwealth proposals came to pass. He cautioned NSWALC to remember this when “arguing this issue with Government.”

Mr Scott said NSWALC was using the workshop to outline what the Government programs may be.

Bahtabah LALC delegate **Michael Green** said he was aware that the Aboriginal Housing Office were not doing repairs on some houses and Wanaruah LALC delegate **Noel Downs** said he was aware AHO were now outsourcing some of their housing stock.

Cowra LALC delegate **Lavinus Ingram** asked to see any documents in relation to the proposed Commonwealth leasing policies.

Mr Scott said the discussion was about proposed Commonwealth policies and proposed changes to the land dealing provisions of the Act. NSWALC was simply trying to put all issues on the table to alert LALCs to the possibility of changes.

Narrabri LALC delegate **Lyn Trindall** asked what would happen if a LALC did not register as a

housing provider with the AHO. “Can we stand alone and manage our own housing?” she asked.

“Why should we have them put on us if we can manage our own housing. If we don’t register with AHO will NSWALC say no they cannot run their housing program?”

Mr Scott said, initially, the answer would be yes. He said he could not see a Housing Minister and an Aboriginal Affairs Minister approving different policies.

Tumut Brungle LALC delegate **Denise Williams** said the social housing policy was being developed because it was a requirement of the Act. It was important to get on with developing the policy and getting it right.

Mr Scott reminded delegates NSWALC was obliged to put the policy to LALCs.

Brewarrina LALC delegate **Grace Gordon** then raised a number of issues in relation to her LALC and Murdi Paaki. Mr Scott said he was not aware of the details and could not respond.

Red Chief LALC delegate **Wayne Griffiths** asked if NSWALC had explored seeking to have the proposed social housing scheme removed from the legislation. Mr Scott said NSWALC and the network were not in a strong position given advice that we were about 18 months out from an election.

Tumut Brungle delegate **Denise Williams** noted that most of NSW was not classified as remote and so would be excluded from the Commonwealth’s proposed lease deals.

Mr Scott said NSWALC was trying to make all LALCs aware of all of the facts and if housing money came from the Commonwealth it would do so with strings attached.

Ms Trindall asked if NSWALC was still to consult with AHO over the proposals. Mr Scott replied in the affirmative.

Mr Davis introduced the CEO of Coffs Harbour LALC, Mr Chris Spencer who spoke to a brief power point presentation on the LALCs housing management program.

Delegates were informed Coffs Harbour and District LALC was located on the mid north coast of NSW and had a membership base of 300 voting and non voting members.



From left to right: Karen Davy, CEO of Leeton & District LALC, with Young LALC's Chairperson Enid Clarke, and CEO of Young LALC Norma Freeman.

Mr Spencer pointed out that the LALC managed 57 houses located in a variety of areas within the LALC boundaries, including small villages near Coffs Harbour, within the city limits, and at Wongala, a gazetted reserve.

Of the houses under management fifteen were owned by the Aboriginal Housing Office and head leased to the LALC with the remaining houses owned outright by the LALC.

The LALC had maintained registration with the Aboriginal Housing Office since its inception.

The 2009 registration process included an assessment by the Aboriginal Housing Office that the CHLALC had successfully met 10 out of 10 key performance indicators.

The LALC had received funding for repairs and maintenance from the AHO on a regular basis, primarily because of its ability to meet the KPI's.

The AHO had failed to transfer houses currently managed under the head lease by the LALC into the LALC's ownership despite its ability to meet all AHO indicators.

Mr Spencer said he believed the key components of the success of the LALC's housing management were attributed to a number of factors.

- Policy development and regular review.
- Close monitoring of rental payments and arrears.
- A strong repairs and maintenance program.
- Good communication with tenants.
- A good relationship with the AHO.
- A dedicated staff resource for housing management.
- Appropriate rent setting based on a "cost recovery" model with rents ranging from \$70 per week to \$150 per week.

Mr Spencer said the LALC believed major contributing factors to its success had been good member, tenant and Board engagement, particularly in relation to housing policy development and implementation.

The development of close relationships with tenants was a critical factor.

That relationship ensured high levels of rental collections and good arrears management.

The relationship also gave tenants confidence that the LALC would respond to repairs and maintenance issues in a timely manner.

Those relationships had resulted in very little “turnover,” of tenants.

Several other strategies were employed to assist in the management of housing. They were:

- Assisting eligible tenants to access Commonwealth Rental Assistance where possible.
- Encouraging tenants to pay by way of direct debit or Centrepay wherever possible.
- Being sympathetic to the financial pressures that impact on many low income families and tenants.

Mr Spencer said, at this stage, the LALC was thinking of subjecting itself to the AHO Accreditation process which was outlined at the AHO Housing Summit held in 2008.

He said the LALC had a desire to maintain its housing management but was “watching the changing political landscape in relation to Aboriginal social housing with great interest.”

Mr Spencer pointed out during his presentation, in answer to a question, that the 15 homes under head lease were meant to have had their titles transferred after 12 months.

These homes had been under management for 5 years.

The LALC was still waiting on the deeds.

He emphasised the critical importance of having good staff in the housing to keep up to date with rentals.

The LALC collected \$7,500 per week in rental from the properties. It transferred \$2,000 into an insurance account and \$1,500 into a long term maintenance account.

Peak Hill LALC delegate **Cherie Keed** asked what arrangements would be in place where LALCs outsourced their housing to real estate agents.

Mr Davis said it was a good question. LALCs who already had such arrangements in place would still have to pass the administrative and financial capacity tests. He said there needed to be checks and balances on such arrangements.

Narrabri LALC delegate **Lyn Trindall** pointed out that all of the LALCs tenants were entitled to rent assistance except one. She said the tenants were aware their rents would go up. Mr Davis said if LALCs did not relate to their tenants they would not get anywhere.

Wanaruah LALC delegate **Noel Downs** said he believed eviction should be a last resort. It should not be used as a scare tactic. He said the land rights network should make sure the AHO delivered the services it was tasked with.

An unidentified Cowra LALC delegate asked if LALCs would be judged on the outcome of an AHO review conducted last year. Mr Davis said this would not be the case. The review outcomes were too old and LALCs would not be judged on it.

The major policy question to be determined centred on the Commonwealth’s proposed requirement for life of asset leases on Aboriginal owned land before any monies would be provided to maintain existing housing stock or the provision of any new

Two Ways Together Workshop

Partnership Communities and Economic Development.

NSWALC Chairperson Bev Manton facilitated this session and introduced the presenter, Director General of Department of Aboriginal Affairs, Ms Jody Broun.

She advised the session would take up from the earlier plenary session and would look at the NSW Government's way of doing business with Aboriginal Partnership communities.

It would also explore economic opportunities which should start to flow to Aboriginal communities and how LALCs could get involved; to identify gaps, opportunities and barriers.

She explained the Draft Partnership Community Governance Framework was designed to guide the formation, development, and/ or recognition of an Aboriginal community's governance body in each of the Partnership Communities.

These would build on existing bodies.

No new community governance body would be developed where an existing body was able to demonstrate it had the confidence of the community.

Ms Broun said Aboriginal people across NSW had consistently called for a way to ensure government agencies were talking to the right people when working with communities. Similarly, people working in government agencies needed to be confident those working with them in the Partnership Communities enjoyed the confidence of the community. She said the policy would focus on linking initiatives as part of a sound strategy ensuring delivery across some 30 agencies.

The Partnership Community Program was a commitment of the Community Resilience Strategy outlined in the State Plan and also at the local level of *Two Ways Together*.

The community governance body would take responsibility for leading the development of a Partnership Community Action Plan with government agencies.

Unlike previous plans, government agencies would commit to specific actions to improve service delivery outcomes during its development. Once finalised, those commitments would be locked in. Implementation would be closely monitored.

Ms Broun advised the Aboriginal unemployment rate had increased, partly due to an increase in population. A survey in 2006 showed that there were circa 50,000 Aboriginal people of working age that were not in paid employment.

Further, only 0.5% of businesses in NSW were owned or operated by Aboriginal people. It was critical to improve economic opportunities, particularly in a global economic crisis.

Land councils had a central role to play in this regard.

Ms Broun again reminded delegates the NSW Government was committed, through COAG, to halving the gap in employment outcomes between Aboriginal and non-Aboriginal people within 10 years.

This translated into the creation of 100,000 jobs for Aboriginal people across Australia, with 30,000 in NSW.

The COAG agreement was the National Partnership on Indigenous Economic Participation which contained several strategies to increase employment through the public sector and government spending.

She said economic development was a high priority under *Two Ways Together* and the State Plan.

Through *Two Ways Together*, a collective target of 100 Aboriginal people were to be employed by various agencies.

The NSW Public Sector Employment had achieved the 2% employment target in 2007.

There were currently more than 6000 Aboriginal people in public sector employment.

This would assist the review of "Making It our Business - NSW Government Aboriginal Employment Strategy". It was noted that some agencies have much higher Aboriginal employment than others.

This would assist match agencies with potential Aboriginal staff.

Juvenile Justice, for example, were planning to employ 40% Aboriginal staff.

The Police Force had set its target at 4%, attracting new recruits in Goulburn.

Ms Broun advised that if the 30,000 job target for Aboriginal people was to be met, private sector employment needed to be pursued.

Further, eleven location-specific Job Compacts were being developed.

Ms Broun warned that the current global economic downturn may affect Aboriginal employment opportunities.

Broken Hill LALC delegate **Maureen O'Donnell** raised the issue that Aboriginal people were hired in short term jobs but had difficulty obtaining long term employment.

Ms Broun advised that the Draft Partnership Community Governance Framework was designed to lobby to ensure there was a monitoring or advisory body in place to ensure Aboriginal people were provided more long term employment opportunities.

Goodooga LALC delegate **Alan Lamb** said developing better facilities for the community, such as improved roads and shops should be a priority.

Mr Lamb said it would be beneficial to have the opportunity to sit down and develop more programs and possible job opportunities for the local community members.

He advised the local school received a grant to engage a language teacher but had yet to employ one.

He suggested land should be better utilised and said he would like to engage with government bodies who may be able to assist create jobs and possible long term employment.

He also advised he had prepared a submission outlining his proposals and would welcome the opportunity to present this to DAA.

Mr Lamb said DAA may be able to assist negotiation of a grant from the government on behalf of his community that would assist create

opportunities for employment in areas such as tourism.

Goodooga LALC delegate **Michael Anderson** said there was a need to review the rules that govern the funding arrangements for those LALCs involved with Murdi Paaki. He worried that current arrangements were impeding the development of the Goodooga community.

Ms Broun advised that not all funding requests were required to be approved by a community funding body.

Mr Anderson asked Ms Broun if she could outline the process for involvement in the community partnerships.

Ms Broun advised that there would be a DAA officer on the ground for each of the partnership communities to work on the community plan to complement a LALC Community Land and Business Plan. They would ascertain the local priorities and ensure locals had input into the process. They would look at the short and long term priorities and ensure the necessary steps were implemented to achieve desired outcomes.

She said DAA could connect the community with relevant government agencies to make this happen and to lobby on behalf of communities.

Mr Anderson said government funding did not always necessarily align with the priorities of local communities.

Ms Broun said she was aware that there had been instances where priority plans were different but some plans amounted to little more than a wish list. She emphasised the need for community involvement to ensure the community actions plans were delivered with a high level of accountability.

A discussion on the structure of the Murdi Paaki Regional Assembly followed with a number of delegates expressing concern about aspects of its operation.

Ms Broun suggested DAA could organise a regional forum to address these issues.

Nambucca Heads LALC delegate **Louise Robinson** said the LALC was developing a \$25million shopping complex on their land but could not enforce a provision for the employment of Aboriginal people and asked if there was any

way such a provision could be enforced. Ms Robinson said employers may agree to commit to Aboriginal employment but such a commitment could not be legally enforced.

Ms Broun suggested that a clause could be written into the lease agreement for the complex to highlight that it was in the interests of all parties to employ local Aboriginal people.

La Perouse LALC delegate **Ron Timberly** said most LALCs had a lot of assets lying dormant and highlighted the need to strengthen ties with other LALCs to develop tourism opportunities. Most LALCs were asset rich and cash poor. Aboriginal people should work together to develop short and long term opportunities.

A number of delegates raised specific and general concerns that the proposed Framework would not work.

Ms Broun emphasised the Framework would remain in draft form to allow further feedback from communities to be taken into account.

The issue of the strengths and competitive advantage that Land Councils have in relation to economic development in Local, Regional and State levels was raised. Further discussion on Community Action Plans and LALC Community Land and Business Plans ensued, particularly on how those could be linked.

Ms Broun emphasised the need to bring everyone together, to put differences aside, and to move forward to achieve common goals

Darkinjung LALC delegate **Sean Gordon** spoke about the advantages of being in a LALC and said he believed Aboriginal people should start to put an emphasis on making money for themselves. Financial independence for local communities should be the goal. He highlighted the need for better planning.

There was a need for LALCs in Sydney, the Central Coast and Newcastle to form a regional alliance.

There was a need to attract the involvement of private companies and deal with them as 11 LALCs instead of individuals.

Ms Broun said the Draft Partnership Community Governance Framework was about getting people to the table to work together to map out appropriate action.

She pointed to the 11 consultations DAA had recently conducted with 60 communities represented. It gave DAA a good sense of the thinking in local communities.

She pointed out it was still a work in progress.

Councillor Manton said the Draft Framework had been promoted to all LALCs but unfortunately not all land councils worked at the same effective level and some failed to participate.

Ms Broun said this was a difficulty and pointed out that during the consultations some of the LALC representatives were not even on speaking terms with some of the LALC members and some LALCs did not have high memberships.

These issues needed to be addressed.

Ms O'Donnell said the Government needed to ensure that there was further consultation with local communities on a community by community basis

Murrin Bridge delegate **Annette Olsen** said a lot of their community services were disappearing and the Government was not helping.

Only the LALC was advocating on their behalf.

Mr Gordon again highlighted the need to start targeting industries and to provide training to locals on how to engage and link with each other.

Ms O'Donnell expressed her concern that people were making decisions on cultural grounds when they had no right to do so.

Goodooga LALC delegate **Michael Anderson** said there was a need to have economic checks conducted on people engaged to develop LALC Community Lands and Business Plans and raised concerns about the alleged vested interest of DAA staff on specific projects. Ms Broun offered to investigate the allegation.

Delegate Timberly said the Land Council system should develop the cultural aspects of communities, not just the financial.



NSWALC used the Information Expo to launch a new poster - *Cherish the Children* - to emphasise that our children are our future.

Launch of NSWALC Booklets and Poster.

The Exhibition Space was opened on the second day of Conference. All delegates were invited to adjourn to the area for the opening. NSWALC Chairperson Bev Manton used the opening to launch two NSWALC booklets and a new poster.

She told delegates NSWALC had decided to use "this rare opportunity to get everyone together in the one room at the one time to launch two important booklets and a new poster."

The booklets were a *Lands Claims Manual*, the *Indigenous Populations Projects 2006 to 2021* and a poster.....Cherish Our Children.

Ms Manton said the *Land Claims Manual* was self explanatory.

"It is an easy to follow, step-by-step guide, for each LALC on how to lodge a land claim," she said.

"This manual also provides a guide on what land can be claimed as well as providing guidance on what land is generally unclaimable."

Ms Manton said the Populations booklet was also designed to assist the LALCs.

"It was clear land councils needed better localised and regionalised population statistics," she said.

"This project, funded by NSWALC, and developed in consultation with the Australian Bureau of Statistics gives us the type of statistics we all need for the first time," she added.

"Put simply, they will better equip us to do our jobs and develop policies and programs based on solid, reliable up-to-date data."

Ms Manton said the theme of the Cherish the Children poster "said it all."

"We simply want to emphasis what in our hearts we all know – our children are our future. As the poster says – Cherish Them," she said.

"This is a message we want everyone to appreciate," she added.

"I now officially launch the booklets and poster - all are available electronically on NSWALC's website."

A full list of exhibitors is contained at the end of this report.



The guest speaker at the Official Dinner was the sole Aboriginal MP in the New South Wales Parliament and the NSW Minister for Community Services Linda Burney.

Official Dinner

The second night of the Conference ended with an official dinner for all delegates.

The guest speaker was the sole Aboriginal MP in the New South Wales Parliament, Linda Burney.

Ms Burney, the Member for Canterbury, is the Minister for Community Services and the current National President of the Australian Labor Party.

Ms Burney began her speech by acknowledging the Wanaruah traditional owners, Wanaruah Elder Tommy Miller and all other Elders, members of NSWALC's Governing Council, the Federal Opposition spokesman on Aboriginal Affairs Tony Abbott and NSW Liberal Senator Marise Payne, who were both in attendance.

"You all know, as I do," she said, "how important it is to observe the protocols at significant gatherings such as this one."

"When we pay our respects to traditional owners, it makes us think about some very important things," she continued.

"We think about the Country we're standing on... and we remember the past, and our

beginnings... and we acknowledge our relationships, kin, and community.

"I found myself explaining this protocol to the NSW Labor Caucus—we had just introduced it into the Parliament's Standing Orders—explaining that 'it was just good manners.'

"When Geoff Scott called me to speak tonight I felt touched and very honoured.

"The NSWALC is more than a quarter of a century old, and its strengths are many.

"It is democratically elected, its members are people like yourselves, brought together because of our Aboriginality and our Country.

"Most importantly of all, we've won freehold title on our land.

"I remember well the passing of the *Aboriginal Land Rights Act* in 1983.

"The irony is that I was one of the many people on Macquarie Street protesting about the legislation.

"I remember Mr. Flick scaling the fence and heading for the House.

"I think he made it up to the verandah. Bless him.

"Now that I'm a Member of Parliament I know what sort of alarm Uncle would have caused.

"It was a different world back in 1983.

"Nelson Mandela was still a prisoner at Pollsmoor. The Cold War was in full swing, with the Soviet Union and NATO still gripped in their paranoid nuclear standoff.

"In Australia, Bob Hawke was an ambitious trade union leader in Opposition, the Newtown Jets still played at the top level of rugby league, and Neighbours was nothing but an idea in a television writer's mind.

"The Aboriginal Land Rights Act was a critical step in Australian land rights.

"It didn't just give us ownership, but more importantly, it provided self-determination and self-management. Two of my ministerial colleagues, Tony Kelly and Ian Macdonald, were in the Parliament when it was passed, and they've talked to me about its progress through the House."

Ms Burney recognised the work of Pat O'Shane and Frank Walker in bringing the legislation about and said it was crucial to realise the legislation "recognised that land rights aren't just symbols for Aboriginal people... ..they're important economically, culturally, spiritually and politically."

"Genuine land rights are tools to empower communities, not just pieces of paper.

"Land councils develop businesses, build infrastructure, maintain housing, and get people trained.

"Land councils in this State now control more than 80,000 hectares of land, worth billions, some of it in flash suburbs.

"And they lobby and fight for the interests of Aboriginal people.

"The law-making around land and First Peoples is fairly new in Australia.

"It began in 1993 with the Mabo decision and subsequent legislation.

"Genuine land rights are tools to empower communities, not just pieces of paper. Land councils develop businesses, build infrastructure, maintain housing, and get people trained."

LINDA BURNEY MP
MINISTER FOR COMMUNITY SERVICES.

"Of course we will never forget the Howard Government and their attempt in the 1990s to wind back what Eddie and his mob on Murray Island had fought for with the infamous "Ten Point Plan."

"What's remarkable was that ten years before Mabo, we achieved freehold land in New South Wales.

"Of course the gains we made in '83 didn't come out of the blue.

"Tonight I remind us all of that great Australian, Vincent Lingiari.

"In the 1960s and 70s, Vincent Lingiari and the Gurindji people fought for and won the right to own their own land.

"In New South Wales, Aboriginal people started electing their own Land Councils, which submitted land claims.

"My slightly personal connection to those days is my then partner, who was the first Registrar, and had the job of setting up all of the Councils.

"Our journey in NSW really has been about survival.

"The brunt of British invasion has been felt the longest in our State.

"Land claims came from all over the State: from places as far apart as Wilcannia and La Pouse.

"In 1965, Aboriginal people and their allies in the Freedom Ride challenged the brutal segregation of country towns.

"In 1967, Aboriginal people and their allies won full citizenship rights by Referendum.

"The gains we made when the *Aboriginal Land Rights Act* was passed were just one part of a longer struggle in achieving justice, getting equality, and improving outcomes for our communities.

"That struggle is about the wider issues of land, but it's also about every family, and every community.

"And when it comes to communities, we all know the numbers, and we all know the problems.

"In the last six years, the number of Aboriginal children in care has increased by 90%.

"The likelihood of an Aboriginal child going into care is ten times greater than that of a non-Aboriginal child.

"While only 4% of the State's children are Aboriginal, Koori kids make up 30% of the children in Out Of Home Care, and half of the children in the Juvenile Justice system.

"This isn't right.

"The situation can't go on.

"We can't let this happen to another generation of Koori kids.

"As many of you have probably heard, the Government has just issued its official response to Commissioner Wood's Inquiry into child protection: Keep Them Safe.

"Government agencies and community organisations together are going to change the way we do things.

"The best line of protection for children is the family.

"After parents and kin, the community has a responsibility to keep kids safe, and after the community, the Government has the job of stepping in.

"When I said that self-determination and self-management were vital to Aboriginal rights I meant it... ..and that's why income management,

one of Wood's recommendations, has been rejected.

"You don't strengthen communities by removing their ability to manage themselves.

"You can't force people to co-operate.

"You can't treat people without respect.

"I am interested in local-based solutions which have the support of families and the community.

"We need to build and support services that are right for Aboriginal families. And we need to do that creatively and proactively.

"This week I will be formally launching "Tackling Violence", a project that aims to reduce domestic violence in Indigenous communities by partnering with local rugby league clubs, state and local government, the ARL and NRL, and the media.

"The project is modelled on the successful program run by the Normanton Stingers in North Queensland.

"Now in its third year, the Normanton program – with the fantastic slogan 'Domestic Violence – It's Not Our Game', has resulted in a drop of more than 50% in reported domestic violence incidences – and this figure continues to rise.

"We've chosen 4 communities and 5 teams – the Tingha Tigers from Inverell, Windsor Wolves, the Lower Clarence Magpies, and two teams from Dubbo – Dubbo CYMS and Dubbo Macquarie.

"The great Larry Corowa is working with us to take the message to communities, and we're developing a parallel women's program with the help of Dixie Gordon of Mudgin-Gai

"Domestic and family violence costs the NSW economy \$2.8 million annually.

"The Department of Community Services' Domestic Violence Helpline takes more than 23,000 calls per year and the DoCS Helpline has domestic violence recorded as an issue in a third of all its calls.

"The incidence and effect of domestic and family violence is one of the most serious issues affecting Aboriginal communities.

"NSW Aboriginal women are four times more likely than other women in NSW to be a victim of



Linda Burney, the sole Aboriginal MP in the New South Wales Parliament with Conference Delegates at the Official Dinner. Ms Burney was the official guest speaker at the Dinner.

domestic and family violence and to suffer more serious injuries.

"This is a fundamental disconnect between Aboriginal communities and non-Aboriginal Australia.

"The Premier, in his address this Australia Day, acknowledged that: "A third world nation festers within our own borders, shaming us all".

"We can and must do better in the way we share responsibility for our kids, as a Government, as a community, and as concerned people."

Ms Burney ended her speech by looking forward.

"The NSW Aboriginal Land Council is a proud institution of Aboriginal self-government," she concluded.

"I've got every confidence that the next 25 years will be as successful in fighting for self-determination as the last.

"We should not look back at the gains we've made in the last quarter of a century with complacency.

"We're not finished yet.

"Our history gives us this challenge: if we've come so far in 25 years, what victories are we capable of winning in the next?

"I look forward, in particular, as National President of the Australian Labor Party, to soon working with a national representative Indigenous body.

"Elected, accountable, responsible bodies are nurturing grounds for leaders.

"It was in the community organising sector that Barack Obama, America's current President, got his skills and his inspiration.

"I look forward to the day when we have an Aboriginal Prime Minister—or even a President.

"In closing can I say: keep your humour, love your children, and thank you to so many people in this room. Isaac Newton coined the phrase; that we see so far because we stand on the shoulders of giants.

"The work that I do now is a result of the strength of those shoulders—yours."

THIRD AND FINAL DAY.

The third and final day of Conference began with a keynote speech from the Minister for Families, Housing, Community Services and Indigenous Affairs, Ms Jenny Macklin.

The Minister began by acknowledging the traditional owners and Elders, past and present.

She also thanked Chairperson Manton for her support and guidance in the past year.

The Minister also congratulated the New South Wales Aboriginal Land Council “on the great work you do.”

The organisation, she said, was a “strong voice as an advocate for NSW Aboriginal people – pursuing cultural, social and economic benefits.”

The Minister cited the Education Endowment Fund and NSWALC’s “robust contribution to national Indigenous policy issues.”

“A year ago, the Australian Parliament and the Australian nation came together in a defining moment in our country’s history – when we formally apologised to Indigenous Australians,

in particular the Stolen Generations, for the injustices and mistakes of the past,” she said.

“But it was more than symbolically acknowledging and confronting our history.

“The Apology gave us the impetus to work together to overcome the legacy of the past – the entrenched disadvantage and marginalisation of Indigenous people.

“It gave us the starting point to re-set the relationship between Indigenous and non-Indigenous Australians; a new relationship based on trust and respect.”

“Because, we know that government alone cannot rebuild Indigenous communities. We won’t succeed unless Indigenous people drive this change.

“Government and Indigenous Australians must work together in partnerships defined by clear objectives and responsibilities where each partner is effectively engaged.

DAY THREE



Minister for Families, Housing, Community Services and Indigenous Affairs, Ms Jenny Macklin delivers a keynote speech.

“Effective engagement is built on respect for Indigenous views and acknowledgement of the diversity and cultural resilience of Indigenous societies.

“It also requires a commitment to open up pathways for sharing views and dialogue at all levels.

“Engagement does not mean that there will never be hard decisions taken.

“It is the role and responsibility of government to resolve difficult and contentious issues and sometimes this means decisions which are not necessarily popular.

“It is my job to act in the national interest. But as part of our decision-making process, it is also my responsibility to consult widely, fully respectful of the views and opinions of Aboriginal people.

“In his Closing the Gap report, delivered last week in Parliament, the Prime Minister spoke of the high expectations after the Apology that ‘change would be swift and results sudden.’

“While high expectations are a positive, they can be difficult to meet when the challenges we face have been decades in the making.

“In this first year, the Government has been laying the foundations for evidence-based action which is essential to bring about real change to close the gap.

“We have set six national targets and established mechanisms, through the Council of Australian Governments, to measure the rate of progress by all governments against these targets.

“In November last year, all Australian governments signed up to an historic investment to start to close the gap – \$4.6 billion for health, housing and economic participation.

“Of this, \$1.6 billion has been committed nationally to improve Indigenous health.

“The bulk will be spent in urban and regional communities.

“But this is not only about dollars – it is national policy reform reflecting the commitment of government at every level to tackle entrenched problems in a comprehensive, national approach.

“It is my job to act in the national interest. But as part of our decision-making process, it is also my responsibility to consult widely, fully respectful of the views and opinions of Aboriginal people.

MS JENNY MACKLIN
MINISTER FOR FAMILIES, HOUSING,
COMMUNITY SERVICES AND
INDIGENOUS AFFAIRS.

“At the same time, consultations on a national Indigenous representative body – led by Indigenous people – are proceeding.

“Another plank in our platform to re-set the relationship between Indigenous and non-Indigenous Australians. And, to build the solid foundations necessary for real and lasting change.

“Housing is essential to making this change.

“It underpins the Australian Government’s comprehensive agenda to close the gap.

“Housing is central to protecting children, getting them to school, improving health and hygiene and shaping parents’ everyday social norms like going to work.

“The past twelve months have been a time to work through and resolve the many complex issues which have thwarted real progress in housing for decades.

“All of us here know that investment in housing is essential to turning around Indigenous disadvantage.

“Without decent housing we will never improve Indigenous health and education or boost participation in the labour market to build the economic development essential for viable communities.

“Because children will never grow up safe and well and reach their potential in a house shared with many others.

“Over the past year the Government has worked on two parallel paths:

“First, we are working to establish the policy foundations required in relation to land tenure and housing reform; and

“Second, we have made unprecedented financial commitments directed to changing the face of Indigenous housing across the nation within a decade.

“No Australian Government has ever before matched this level of focus and commitment to redressing the contribution of poor housing to Indigenous disadvantage.

“We are mobilising an additional \$1.94 billion for remote Indigenous housing.

“This will bring the total investment in housing and infrastructure reform in remote communities to \$5.5 billion over the next decade.

“The Remote Indigenous Housing National Partnership will see the construction of around 4,200 new houses and upgrades of 4,800 existing houses.

“The NSW share of this package for remote housing is expected to be \$396 million.

“It is complemented by a similarly historic investment in social housing.

“Through the COAG National Affordable Housing Agreement, we have committed \$6.4 billion nationally for social housing over the next five years. A further \$800 million has been committed to tackle homelessness.

“It is expected that a very substantial proportion of the new funding will be injected into social housing in urban and regional NSW.

“So that existing houses can be upgraded.

“And new houses, incorporating design features to improve living standards and reduce living costs, can be built.

“We know that investing in decent housing to give families and children a safe and healthy place to live is essential to expand the life chances of all Australian children.

“We know too that most Aboriginal people live in urban and regional Australia – that more than 10 per cent of non-remote community and public housing is occupied by Aboriginal people.

“Investment in social housing is central to the Government’s housing reform agenda and critical if we are to close the gap.

“In NSW, we estimate our investment in social housing will mean an additional 1,600 Indigenous people will have access to new social housing and an additional 1,800 people will benefit from upgraded housing.

“The Government’s substantial investment will also open up important employment opportunities for Aboriginal people.

“And there will be scope for Aboriginal corporations to bid for contracts for construction and upgrades.

“We must take the opportunity offered by the investment of new resources on this scale to deliver much needed housing reform.

“In the recently finalised COAG National Partnership Agreement on Remote Indigenous Housing, all governments agreed to “develop and implement land tenure arrangements to facilitate effective asset management, essential services and economic development opportunities.”

“As we embark together on this essential reform, we are determined to learn from the past so we do a better job building and managing housing, including housing on Aboriginal land.

“We understand that land and waters are the basis of Indigenous spirituality, law, culture, economy and well-being.

“At the heart of Government policy is our respect for cultural connections to land and our respect for communal and traditional land holding systems. This is non-negotiable.

“Within that non-negotiable framework, we want to work with Aboriginal people to also provide the secure tenure needed to attract government and commercial investment, to enable better service delivery and facilities, and to drive economic development.

“Secure tenure underpins provision of mainstream public and community housing across Australia.

“But housing on Aboriginal land has never been put on that secure footing.

“The consequences of this can be seen across the country.

“Houses that are unliveable because no-one takes responsibility for repairs and maintenance; the absence of any incentive to collect the rent to help pay for repairs and maintenance; poor tenancy management where overcrowding isn’t checked, and routine inspections are irregular or even non-existent; all conditions which have contributed to a general reluctance to invest in housing.

“With secure tenure arrangements in place government is accountable for the ongoing condition and maintenance of public housing.

“Secure tenure firmly places the responsibility at the feet of each housing authority or community housing organisation to provide a decent level of housing service just as mainstream public housing providers must do in the city.

“To put it simply, this is not about taking land away from Aboriginal communities; it’s about making sure housing providers do their job.

“I have recently written to the New South Wales Housing Minister and to housing ministers elsewhere in Australia to set out the secure tenure requirements which will underpin our major COAG investment.

“There are three requirements.

“At the heart of Government policy is our respect for cultural connections to land and our respect for communal and traditional land holding systems. This is non-negotiable.”

MS JENNY MACKLIN
MINISTER FOR FAMILIES, HOUSING,
COMMUNITY SERVICES AND
INDIGENOUS AFFAIRS.

“First, the government must have long term control over and access to public housing – and therefore responsibility - subject to the privacy of tenants.

“Governments will be able delegate this control and responsibility to community housing organisations which have the capacity to manage housing assets at public housing standards.

“Second, we must be able to put housing management reforms into place –better repairs and maintenance and ordinary tenancy agreements which protect tenants and clarify responsibilities.

“And third, any native title issues need to be resolved to ensure that construction and refurbishment can proceed as quickly as possible,

“This approach means that governments must treat Aboriginal land owners like any other land owners.

“If we want to build public housing on your land, we must negotiate a lease to do it.

“And you have the opportunity to negotiate the terms of those leases including boundaries, the restriction of development in special places and to require that any new investment proceeds in places where a lease has been agreed.

“Here in New South Wales the Aboriginal Land Rights Act 1983 provides clear processes for the leasing of land.

“Leases can be granted only if the Local Aboriginal Land Council agrees.

“And if the term of the lease is more than three years, the consent of the NSW Aboriginal Land Council is also needed.

“These provisions give you maximum flexibility to negotiate the terms and conditions while ensuring that the land owners remain in control of the process.

“Throughout this process there is no change to the underlying ownership.

“It remains communal Aboriginal land – but communal land on which Aboriginal people can benefit from the Government’s ambitious housing investment.



Delegates listen to the keynote address from the Minister for Families, Housing, Community Services and Indigenous Affairs, Ms Jenny Macklin.

DAY THREE

"In the Northern Territory and South Australia Aboriginal land owners have agreed to leases in over ten communities comprising 10,000 residents and covering over 1000 existing houses. This will allow the construction of around 240 new houses and 1000 upgrades of existing houses over the next three years.

"The length of the leases varies. In South Australia in the APY Lands it is 50 years. In Tennant Creek it is 20 plus 20 plus years.

"The Northern Lands Council has recently agreed to 40 year leases over four major communities.

"Essentially we are looking for leases that reflect the life of the asset we are building.

"Developing the foundations for greater security of tenure is driving a joint NSW Aboriginal Land Council and Australian Government project which I announced in November last year with your Chairperson Bev Manton.

"Under the agreement, the Land Council and the Federal Government are each contributing \$3.3 million to allow the subdivision of 63 former Aboriginal reserves.

"Sub-division is important in normalising land tenure arrangements in these communities.

"Subdivision also has the advantage of improved management and funding of infrastructure such as electricity and water.

"The joint subdivision project is an example of Government and Indigenous land bodies working together to improve land holding arrangements.

"The agreement of the Local Aboriginal Land Councils is required in order to subdivide land in accordance with the NSW Aboriginal Land Rights Act 1983.

"The land owners can ensure that underlying Aboriginal title is retained while the opportunity for individual title can drive economic development.

"I understand that the NSW Aboriginal Land Council will be working closely with communities over the coming months to further explain the benefits of the subdivision project.

"The NSW Aboriginal Land Council and my department have also entered into a \$2.3 million

agreement for repairs and maintenance on 70 homes in the town of Walgett and on the Gingie and Namoi reserves.

“Housing conditions have been scoped by Housing New South Wales and work is scheduled to start shortly after the appointment of a project manager and works contract managers.

“As well as the focus on public housing, the Government is determined to support as many Indigenous Australians as possible to achieve their aspirations to own their own homes.

“In New South Wales around one third of Aboriginal people either own or are purchasing their own home.

“Indigenous Business Australia presently manages over 1000 active home loans in NSW under their Home Ownership Program.

“We recognise that home ownership can bring important social and economic benefits.

“Greater financial security. Greater independence. A more stable environment for raising children. And greater confidence in engaging with the employment market.

“One of the advantages of moving to put secure tenure arrangements in place on land council land is that home ownership will become an option for those tenants who wish to move in that direction.

“I don’t underestimate the challenges of reform. The changes involved will, at times, be confronting for us all – governments, land councils, and tenants.

“That’s why it’s imperative that we work together. I have asked my Department to make sure they work closely with NSW land councils in taking the housing agenda forward.

“I know that David Borger, the NSW Minister for Housing, is similarly committed to working with you on these issues.

“To succeed we must have a robust working relationship based solidly on trust and good faith.

“I look forward to continuing to build that relationship with you.”

Goodooga LALC delegate **Michael Anderson** said he was shocked and disturbed by the content of the Minister’s speech in regard to land tenure. He asked: “Who’s security is it you want—yours or ours? Now you want to take the land back from us. How can you put this proposal to us without a smile. You want to take us back to the 60s.” He reminded the Minister she had stated in Parliament while in Opposition that Labor did not believe the provision of housing should be contingent upon land tenure.

Minister Macklin said the Rudd Labor Government was not in “any way challenging or taking away anybody’s title to land.” She said this was non-negotiable. The Minister said governments needed to develop clear lines of responsibility and that would only come if we “have clarity of tenure.”

Mr Anderson stated that Aboriginal people owned their land and asked: “How much clarity do you need?” The Minister said the proposal would not take away from people holding title to their land.

A number of delegates sought clarification on the funding for homelessness and asked if some of this funding would be spent on shelters for men. The Minister said the funding would be spent on shelters for both men and women.

Wanaruah LALC delegate **Noel Downs** raised a number of concerns including the need for more consultation and the Commonwealth’s closure of the Community Employment Development Scheme.

He said the Federal Government had provided his community with little notice on proposed consultations on initiatives such as the National Indigenous Representative Body.

On housing, he said it appeared the Commonwealth was seeking to have LALCs hand over their housing management to other providers.

Minister Macklin said the Commonwealth would be more than happy to support current housing management arrangements with those providers “doing the right thing for tenants.” She said the Commonwealth recognised that not all were currently doing that.

She said there had been a massive expansion of the Indigenous Employment Program and was happy to provide figures on that.

Minister Macklin said the Commonwealth had extended the time for consultations on the NIRB so it could be led by Aboriginal people.

Onerwal LALC delegate **Violet Sheridan** also expressed concern with the leasing proposal and also asked about the intervention in the Northern Territory. Ms Sheridan said many people had voted to “get rid of John Howard,” but the intervention has continued.

The Minister said she understood there was broad concern within the Aboriginal community in relation to the NT intervention over the suspension of the *Racial Discrimination Act*. She said the Government would be asking Parliament to lift that suspension later this year.

Wilcannia LALC delegate **Dawn Evans** raised the question of overcrowding in housing, with “most houses overcrowded.”

The Minister said most of the overcrowding resulted from not enough houses. She said the Commonwealth Government could not build 20,000 houses in a year but did expect a substantial increase in houses over the next five years.

She said it would take time to tackle the problem “but if we do not start now we will see the overcrowding continue.”

Ms Evans also raised petrol sniffing and suggested it should be outlawed.

Minister Macklin said a number of initiatives has helped reduce the incidence of petrol sniffing in Central Australia such as the introduction of Opal Fuel but she said there was a question mark over the effectiveness of making it illegal. She said the question people had to ask was whether such a move would stop it. She said she would be happy to discuss the issue further as it is an area “that requires us to do a lot of things.”

Brewarinna LALC delegate **Grace Gordon** said better housing did not necessarily guarantee the safety of women and children. She said there should be specific funding for safe housing and for exit housing for women and children. She said community projects were being overlooked.

Minister Macklin said the Commonwealth Government understood the critical importance of this issue and the investment on homelessness mentioned earlier was a component of that. More broadly, her ministerial colleague, Tanya Plibersek, was developing a national plan for the protection of women and children as part of her responsibility as Minister for Housing. A group of men and women, who were leaders in the field of Indigenous violence, had been brought together to provide high level input into the plan.

A number of delegates raised concerns that insufficient time had been allocated for questions to the Minister and continued to ask questions as she left.

They were reflected in comments from Pilliga LALC delegate **Coral Toomey**.

She said every time delegates wanted to ask questions they were told no more questions could be taken. She then raised a number of issues she said had not been dealt with.

Chairperson Manton and Mr Scott explained Minister Macklin had a tight timetable. NSWALC had no control over that timetable.

PLENARY SESSION

AUSTRALIAN GOVERNMENT PROGRAMS AND SERVICES.

Minister Macklin's presentation to Conference was followed by a plenary session on Australian Government Programs and Services.

The session was facilitated by NSWALC Deputy Chairperson Tom Briggs.

The first presentation was given by the State Manager (NSW/ACT) of the Department of Families, Housing, Community Affairs and Indigenous Affairs, Ms Sue Finnigan.

She was followed by the General Manager of Indigenous Business Australia, Mr Ron Morony, and IBA Board member Leah Armstrong.

A presentation was then given by Ms Phillipa McDermott from the Department of Education, Employment and Workplace Relations.

Ms Finnigan acknowledged the traditional owners of the land and paid her respects to the Elders attending and Elders of the past.

She then outlined the work of her department, which she said, employed 130 staff members with Indigenous offices in Coffs Harbour, Tamworth, Dubbo, Wagga, Sydney and Queanbeyan and regional offices in Lismore and Newcastle.

The department managed 5,000 service providers across the state.

Its main work was in disabilities, carer respite, children, a range of youth programs and a big range of family programs, particularly around parenting skills, family violence programme, children development programs. It was also involved in partnership arrangements with the State government through DOCS, Health, Education, DAA and the Police.

Ms Finnigan said a key area of responsibility was Aboriginal Affairs.

She had noted earlier comments from delegates about the appropriate use of language when referring to Aboriginal people.

Her department prefer using Aboriginal rather than Indigenous Affairs.

She said the main role of the Indigenous Coordination Centres was to deliver services.

ICC staff worked with local communities to make agreements for effective partnerships and to work with local communities on planning and helping them address their needs either through a program or specialist projects.

A whole of government approach was taken to deliver services.

She said community members should not have to worry about dealing with individual government departments.

Direct funding agreements were the preferred method of delivering services.

She cited a recent agreement with Murdi Paaki to deliver better services where they are most needed.

A Regional Partnership Agreement had been struck in the Many Rivers Region through the Coffs Harbour ICC to increase Aboriginal employment in the area by harnessing the opportunity of green development.

Other RPA's were being discussed in the Illawarra region and in the Tamworth region.

Ms Finnigan then spoke about the reform of the CDEP programme which would come into effect on July 1, 2009. The reforms were intended to provide real skills and jobs to Aboriginal people. These jobs would bring the benefit of superannuation and training and development.

All CDEP providers were being provided with an assistance package to help them shift to a new business model.

Ms Finnigan said the Federal Government had so far received about 100 submissions on the proposed establishment of a National Indigenous Representative Body. The second stage of the consultation process would be led by Aboriginal people with a national workshop to be held in Adelaide the week after the State Conference.

She then spoke on housing reform which had been covered in detail in Minister Macklin's speech.

Narromine LALC delegate **Judy McMillan** pointed out that the LALC strived towards self sufficiency. She said the LALC was not eligible for assistance under the current guidelines for the National Affordability Housing Agreement because they required an organisation to be planning development of 20 or more houses. She asked if there was any flexibility in those guidelines.

FaHCSIA Officer Wendy Maybury, who assisted Ms Finnigan with her presentation, said Ms McMillan interpretation of the guidelines was correct. The criteria did state 20 houses or more.

Ms McMillan asked if it was too late to make an application.

Ms Maybury said the first round of proposals had been assessed and said she'd check to see if there were any other processes open to the LALC.

Goodooga LALC delegate **Alan Lamb** asked when the Department was going to visit Goodooga. He said FaHCSIA and other departments needed to provide services to the 350 people living at Goodooga. He said the local store had been closed down in 2004, the building of two houses had been started two years ago but never been completed, and the health service had been closed down.

Ms Finnigan gave a commitment she would visit the community.

Yass LALC delegate **Violet Sheridan** also asked for the Department to visit the community. She said Yass was always being overlooked.

Ms Finnigan gave an undertaking the Department would follow up on the request.

Brungle Tumut LALC delegate **Denise Williams** reminded Ms Finnigan that a Regional Partnership Agreement was also being developed for the Riverina. Ms Finnigan acknowledged preliminary discussions had been held.

Ms Williams also raised concerns that New South Wales, which had the highest Aboriginal population in Australia, was missing out on Federal Government funding for housing because of its concentration on remote areas. She said Aboriginal people in NSW were being denied their rights to proper housing. Ms. Finnigan said she was not the decision maker in this regard but said she would relay the feedback to the government.

Guyra LALC delegate **Douglas Cutmore** asked how job agency money would get to the people on the ground once CDEP's were closed. He said Aboriginal people were intimidated dealing with white bureaucrats and asked when Aboriginal people would be employed in job provider agencies.

Brewarinna LALC delegate **Grace Gordon** said it was very hard to get funding to support projects for the safety of women and children.

Councillor Briggs said this was an issue relevant to all communities. He said it was up to "each individual in our communities to make sure we are heard."

Illawarra LALC delegate **Sharralyn Robinson** suggested thought needed to be given to staffing job networks with Aboriginal people to make them more culturally appropriate. There was little evidence of this at the grassroots level.

The session ended with a debate between some delegates about speaking out of Country.

Indigenous Business Australia

The General Manager of IBA, Mr Ron Morony spoke to a short slide presentation on creating Indigenous wealth and economic development in partnership.

Mr Morony said it was a great honour to be at Conference on the ancestral lands of the Wanaruah people and thanked the Chairperson, Deputy Chairperson and Chief Executive Officer for the invitation to attend.

He told delegates he had held the position for over 11 years.

Over this time he had strongly advocated for Indigenous economic independence and "I continue to believe that economic growth is vital for the future well being of our people."

"To underscore the importance of this, I believe that without Indigenous Australians participating equally in this country's economy, the Federal Government's goal of closing the life expectancy gap will not be realised," he added.

"Social issues will not be solved by social programs alone – developing economic and commercial opportunities and jobs are essential.

“That is why IBA strives for a nation in which Indigenous Australians share equitably in the economic opportunities afforded to the rest of the nation.”

Mr Morony said IBA had grown significantly in the past four years in increasing its capacity to assist Indigenous Australians achieve economic independence.

As well as the original focus on joint-venture partnerships with Indigenous groups and private investors, IBA now managed the Indigenous Home Ownership scheme and small business development programs.

He said he was enthusiastic about these developments because they allowed IBA to provide a more holistic and flexible approach to economic development for Indigenous people.

IBA could now provide a range of opportunities for those Indigenous people who were looking to become economically independent – whether it was owning their own home, starting up a small business, or growing commercial capacity through a larger investment with the private sector.

Synergies among its programs could be utilised to maximise benefits to its clients. Owning a home, for example, could provide the financial confidence and capital needed to start up a small or medium business.

Mr Morony told delegates there were about 1,300 families currently on a waiting list seeking access to new IBA home loans. The wait for approval was currently about 12 months.

A large investment with local Indigenous groups and the private sector might provide opportunities for smaller Indigenous business spin-offs in the community, contributing to the development of a local economy.

IBA was experienced in working with Indigenous organisations, “bringing our programs and expertise to the table, and working together to develop economic opportunities for our people.”

“We are always on the look out for new, commercially viable opportunities,” he added.

“And I’m pleased to say our relationships with the NSW Aboriginal Land Council are growing. We are currently working with Zone Directors -

Andrew Riley, Les Turner, Tony Sutherland and Steve Merrit – to identify any business opportunities we could successfully pursue together.

“IBA now has a local coordinating presence to build and maintain those working relationships through Wendy Hills, our State Coordinator who looks after NSW, Victoria and Tasmania.

“Wendy is here to work with local Indigenous groups, including Local Aboriginal Land Councils, to coordinate a holistic IBA response to economic opportunities and assets and to maximise commercial returns.

“With that resource in mind, for the remainder of this presentation I want to provide you with some more detail about the support IBA can offer through its small business and investment programs.

“Leah Armstrong, one of IBA’s long-serving Board members, will then talk about IBA’s support for home ownership both in the mainstream market and on Indigenous land.”

Mr Morony said IBA had resources in Coffs Harbour, Sydney, Wagga and Tamworth.

A couple of areas, such as the South Coast region and Western NSW, were under-serviced.

Business Support

Mr Morony said IBA’s small business program aimed to assist Indigenous people to establish, acquire and grow viable small businesses.

IBA could provide assistance with:

- Business finance. IBA provides business loans for viable businesses at interest rates lower than mainstream banks
- Professional business advice – IBA offers assistance in accessing qualified financial, legal and other experts for both pre and post business start-up support
- Support and guidance on feasibility, product development, tender submissions and managing business growth; and
- Ongoing business mentoring.

IBA offered such support “because we want our clients to succeed.”

“Last financial year, IBA’s small business program approved 93 loans totalling more than \$17 million to assist Indigenous people to purchase, establish and grow small businesses,” he said.

“It provided business support to 444 clients, totalling more than \$6 million. The program achieved a high one-year business survival rate at 92.3%.”

In NSW, IBA has been talking to LALCs in regional forums to discuss business opportunities and form alliances to work together.

Mr Morony cited the partnership developed with the Local Aboriginal Land Council to develop a small shopping centre at Nambucca Heads.

Investments

Mr Morony said IBA had a long history of encouraging closer working relationships between Indigenous groups and the private sector for mutual gain.

IBA Investments did this by brokering joint ventures with Indigenous groups and private sector partners to enable Indigenous people to own, manage and benefit from larger commercial enterprises.

Through joint ventures IBA provided:

- capital that together with cash or land contributions from an Indigenous group increases the Indigenous ownership of a commercial venture
- links to Indigenous groups to private sector companies called capability partners, where the private sector skill and commercial expertise is transferred to Indigenous groups sitting side by side in the management of the commercial venture;
- ongoing business support and mentoring to Indigenous partners; and economic advice to groups and individuals.
- maximum opportunities for Indigenous

partners to sit on boards of management and boards of directors to build governance, management and operational capacity.

He displayed three slides which showed some of types of the joint-ventures IBA and Indigenous partners engage in.

They included:

- Joint venture with industry partner
- Property development; and
- High cash flow businesses

Mr Morony said IBA took a commercial approach in assessing an investment proposal which included consideration of:

- Value – Can we buy at a fair price?
- Indigenous participation – Will there be Indigenous ownership?
- Portfolio fit – Does it fit our investment policy?
- Management – Will it be well run?
- Exit strategy – Can we sell it later? and
- Risk – Are the risks of buying it manageable?

Agreements usually included rights for the Indigenous partner to buy-out IBA’s share of a joint venture progressively, when the Indigenous partner was positioned to do so.

In 2007-08 IBA Investments managed 32 investments and presented 7 new proposals to the Board.

IBA’s investments provided 885 employment opportunities in 2007-08, of which 254, or 29%, were taken up by Indigenous Australians.

He used a partnership with the Julalikari Council Aboriginal Corporation as an example.

This particular acquisition provided a solid example of a joint venture in a high cash flow business.

IBA, with the Julalikari Council, purchased the Tennant Creek Foodbarn and four specialty stores in August 2008.

The initial equity split for the venture was IBA 90% and the Julalikari Council 10%

IBA provided an equity loan to enable the Julalikari Council's buy in to the investment

The existing supermarket served a community of approximately 3000 residents, most of whom are Indigenous.

It was the only grocery retailer in Tennant Creek, and a wholesaler to outlying community stores and stations.

IBA undertook thorough financial and operational due diligence of the existing business before entering into the venture and was confident the business was both commercially viable and sustainable.

The store would be managed by Outback Stores under a management contract to ensure a more efficient customer focussed service including improved point of sale operations.

A Board of management would be appointed by the Shareholders to oversee the development of the venture and, as the business prospered, Julalikari Council would have the opportunity to actively participate in its management and growth to the long term benefit of the entire Tennant Creek community.

Julalikari Council would gain management training and participation and corporate governance experience

IBA expected to sell down its equity in the joint-venture after fifteen years.

Expected outcomes for the venture includes not only a solid financial return to IBA and Julalikari Council and jobs and training for local community members but also improved nutrition and health outcomes with the availability of a greater variety of products and healthy foods for the community.

Carbon trading and land management

As well as these programs, IBA was also keen to use its commercial expertise to expand the development of commercial capability with Indigenous organisations and individuals.

This includes looking into new types of business arrangements, such as place based approaches to economic development, as well as exploring new or developing industries.

IBA was currently looking into the impacts and Indigenous business opportunities presented by the Federal Government's proposed Carbon Emissions Trading Scheme.

It planned to develop a relationship with NSWALC on how that could be responded to.

IBA would host another Business Briefing on this topic- similar to one held in Sydney in November last year on the global economic crisis.

The Briefing would bring together Indigenous business leaders, industry specialists, Indigenous partners and IBA representatives to discuss issues relating to the Carbon Trading Scheme and to develop potential strategies for the future.

Mr Morony said in all of these activities, "we must, as you must, adjust to the dynamic and changing landscape in which IBA, Indigenous groups and industry operate, including the current financial situation. "

"I would argue, however, that in these financial times we need to seek out and be commercially opportunistic about investing in businesses that create long term returns for Indigenous Australians.

"From my own experience it takes leadership and vision to take the first steps. How we engage in business is often a product of the local economy, the opportunities that present themselves, and our ability to grasp them.

"If we work together then we have an improved chance of making such economic development a reality."

Councillor Briggs then introduced Ms Armstrong who paid her respects to the traditional owners of the land, the Wanaruah.

She also thanked the organising committee for her invitation to attend.

Ms Armstrong said she was a Torres Strait Islander woman who had lived in Newcastle for the past 20 years.

She said she was a foundation member and Director of the Yarnteen Aboriginal Corporation, and a Director of Indigenous Business Australia, a position she had held since 2001.

She was also a member of the National Policy Commission on Indigenous Housing, and a non-member Director of the Native Title Services Corporation (NTSCORP).

“Like Ron, I am a firm believer that active economic participation by Indigenous Australians is fundamental to achieving broader social outcomes and closing the gap on Indigenous life expectancy,” she said.

“My organisation, Yarnteen, was established in 1991 with a focus on encouraging Aboriginal people to be active participants in the broader community through economic empowerment,” she added.

“I want to talk to you briefly today about the Yarnteen model that separates the economic and social arms of the organisation, that separately achieve sustainable economic and social outcomes for Indigenous Australians.

“From the beginning Yarnteen sought to achieve economic independence and become a real player in the mainstream economy of our region. Independence from government funding was thought fundamental to achieving our objectives and for long term sustainability.”

Ms Armstrong said Yarnteen now operated several wholly owned commercial enterprises.

- Port Hunter Commodities – a purpose built bulk warehousing operation with storage capacity of over 60,000 tonnes of agricultural commodities in the port of Newcastle; and
- Riverside Car & Boat Wash – a modern eco friendly car and boat washing service recently built in Port Macquarie.

She said Yarnteen also had a number of property investments, including a stake in Scarborough

House, a commercial office complex in Canberra, along with IBA and four other Indigenous groups.

The profits from the commercial interests were invested into social pursuits like Yarnteen College, a nationally accredited training organisation, and other cultural and youth programs for Indigenous people.

While the social programs could source funding from Governments, the separation of social and economic interests allowed Yarnteen to independently grow a substantial asset base as well as achieve social outcomes.

Ms Armstrong said this was a corporate structure endorsed by IBA for Indigenous groups to achieve both economic and social outcomes, “which has in the past proved difficult to do.”

She said her role at Yarnteen had many similarities to her role as an IBA Board member.

“I value the opportunity to apply my local commercial development experience on a national level, allowing me to encourage economic sustainability for Indigenous Australians across Australia,” she added.

She said her participation as a member of the National Policy Commission on Indigenous Housing also enabled her to progress economic and social outcomes for Indigenous Australians.

“Ensuring our families have a safe and stable place to call home is fundamental if we are to achieve improved results in areas such as health, education and economic development,” she said

“Our role is to advise Government on regional strategies for housing delivery that promote the health and economic participation of Indigenous people,” she added.

“With this in mind, we have begun work on our initial tasks of assessing the capacity of existing programs, and identifying opportunities for facilitating private sector involvement and Indigenous housing policy objectives for government in remote, regional and urban contexts.

“The delivery of Indigenous housing in this country must be addressed in order to improve the living standards of our people.

“This must include the promotion of home ownership for Indigenous Australians to ensure that Indigenous Australians are offered the same opportunities to succeed, socially and economically, as all Australians.

“Traditionally, Australians have been able to realise the dream of investing in their own homes, and having an active stake in their economic participation.

“For too long this opportunity has not been available for many Indigenous Australians.

“IBA aims to address this by facilitating the strengthening of our Indigenous families and communities through increased rates of Indigenous home ownership and broader economic participation in business and commercial ventures with the private sector.

“We believe that this can be best achieved by establishing strategic partnerships with key stakeholder organisations.

“While work in this regard is already underway, we would welcome the opportunity to further develop relationships with the NSW Aboriginal Land Council and Local Aboriginal Land Councils in order to maximise economic outcomes for Indigenous Australians.

“Recognising and developing the aspirations of our people is the first step, and by working together we improve our chances of making economic independence a reality for Indigenous Australians.”

Department of Education, Employment and Workplace Relations

Councillor Briggs thanked Ms Armstrong for her presentation and invited Ms McDermott from the Department of Education, Employment and Workplace Relations to address the Conference.

Ms McDermott acknowledged the Wanaruah people and Elders, past and present.

She then presented an outline of a power point presentation on the formation of DEEWR and what this meant for the future of Indigenous Australians, a profile of the Indigenous community, at both a national level and at a state level, and the subsequent challenges and opportunities.

Ms McDermott said the formation of the Department created a range of service delivery and business opportunities for Aboriginal people.

The Department was able to provide a “one stop shop,” by offering an expansive range of services at critical points in people’s lives with a particular focus on segments of the community that suffer systemic disadvantage.

Having this type of seamless arrangement was essential to encourage early learning, keeping kids at school, establishing links to vocational or higher education, the transition to employment and to maintaining that employment.

She provided a diagram which demonstrated the DEEWR linkage and initiatives designed to achieve Indigenous economic independence.

Ms McDermott noted the national Indigenous population was 517,200 according to estimates by the Australian Bureau of Statistics with the NSW Aboriginal population at 148,200, or 28 per cent of the national figure.

She also presented an age profile of the NSW population along with a slide which projected changes in the youth population (15-19 years) of New South Wales. It showed 21.6 per cent of the Aboriginal population in 2001-2006 was in this age bracket compared with minus 1.3 per cent for the non-Indigenous population.

This was projected to increase to 22.5 per cent of the Indigenous population between 2006 and 2011 compared with 0.6 per cent of the non-Indigenous population. ABS census data from 2006 showed an Indigenous youth unemployment rate of 27.4 per cent compared with 11.5 per cent for all youth and an education participation rate of 38.4 per cent for Indigenous youth compared with 51.7 per cent for all youth.

School retention rates, based on the same data, were also outlined. The figures showed a disparity of 7.5 per cent in retention rates in Year 10 (91.4 per cent for Indigenous students compared to 98.9 for non-Indigenous students) but this rose to 35.8 per cent by year 12 (40.1 per cent for Indigenous students compared with 75.9 per cent for non-Indigenous students)

Delegates were reminded that in his National Apology the Prime Minister had stressed the challenge in closing the gap was to achieve a future “where we harness the determination of all Australians, Indigenous and non-Indigenous, to close the gap that lies between us in life expectancy, educational achievement and economic opportunity.”

Ms McDermott then outlined a range of specific childcare, education, and employment programs and cited examples such as an aerial mustering venture under the Indigenous Small Business Fund and the Tribal Warrior under the Structure Training and Employment Project. A brief summary of how DEEWR became involved in assisting LALCs fund development of their Community Land and Business Plans.

Delegates were informed twelve economic development officers were being appointed around NSW to assist LALCs draw out opportunities to assist with their business plans.

Their job would be to assist LALCs to look at their business plans to further their business opportunities. They would be on deck in about three months when most of the LALCs would have completed their plans.

Balranald LALC delegate **Edward Murray** said there were 29 unemployed Aboriginal people in Balranald who were registered with two or three different agencies. Employment had been organised with National Parks for four young people for two days a week but an argument between the two employment agencies had resulted in them not working.

Mr Murray said he had completed a mentoring program but there seemed to be no coordination between the government departments who worked out of the same office. They did not appear to talk to each other.

Money was taken up with Regional Project Officers but none was seen on the ground. This left Balranald in a very difficult position.

Ms McDermott asked Mr Murray to contact her so the Department could look at the problems.



NSWALC Land Claims Officer Terry Millot hands out NSWALC's new Land Claims Manual which was launched during the Conference.



From left to right: Awabakal's Ronnie Gordon with Sean Gordon, CEO of Darkinjung LALC, and NSWALC's Joe Flick.

Narromine LALC delegate **Neita Scott** said young children were coming out of primary school unable to read. She said there was no funding for tutoring. There should be.

Ms McDermott said a lot of Commonwealth money had just been passed to the State Government so DEEWR no longer had the relevant funding. She said the State Government had yet to determine the guidelines on how it was going to use the money.

Ms Scott asked if there was specific funding for mentoring young children on the importance of education. Ms McDermott said it was not her area but she could find out.

Ms Scott said the LALC's recycling business was closing down even though it had been successful for 14 years. "What is going to happen to our young people," she asked.

Goodooga LALC delegate **Alan Lamb** requested the Department visit the community. Ms McDermott agreed she would do so.

Brewarrina LALC delegate Grace Gordon also raised the issue of small business.

She said some people would like to purchase a business but they were on welfare benefits or their credit was shot. These were barriers to entry into small business. The need for references could present another barrier.

Mr Morony said IBA's guidelines was that a person should put some of their own money into a small business venture, but there was a capacity for IBA to put in 100 per cent of the money. Other factors taken into account included the amount of experience and skills of those seeking to start the proposed venture and an assessment of the survival potential of the proposed business.

CONCURRENT WORKSHOPS

Two concurrent workshops were held on the final day of Conference. One on LALC Elections and Rolls, the other on an Aboriginal Land Management Framework being developed by the Department of Environment and Climate Change.

LALC Elections and Rolls

This workshop was facilitated by Councillor Cromelin and presented by the Registrar of the ALRA, Mr Stephen Wright, and one of his officers, Mr Maurice Stewart.

Mr Wright and Mr Stewart spoke to a power point presentation.

They noted that the responsibility for the update and maintenance of the consolidated membership rolls of Local Aboriginal Land Councils had transferred from NSWALC to the Registrar since July 2007.

The presentation outlined what constituted a land council membership roll, the definition of an Aboriginal person, applications for membership, changing voting rights, land councils' responsibility in the maintenance of rolls, removal of members from a roll, suspension of members and membership disputes.

It was pointed out that a LALC membership roll is the record of each member of that Council. LALC members are the adult Aboriginal persons who are listed on the LALC membership roll for the LALC area.

A Chief Executive Officer of a LALC must prepare and maintain the LALC membership roll. The roll must be in writing and recorded on paper and/ or electronically (using computer software such as Microsoft Excel or Word.)

The CEO must list on the roll the names and addresses of those Aboriginal person who have qualified for membership.

The definition of an Aboriginal person, as defined by the ALRA, is a person who:

- Is of Aboriginal descent.
- Identifies as being Aboriginal.
- Is accepted as an Aboriginal person by the Aboriginal community in which they live.

Membership was open to any adult Aboriginal person who:

- Resides within the area of the LALC; or
- Has a sufficient association with the area of the LALC; or
- Is an Aboriginal owner in relation to land within the area of a LALC.

Membership based on residence must mean that the person resided within the LALC's geographic boundaries. Membership by association is not restricted to cultural affiliation and could include historical and family ties or any other association a LALC deemed appropriate.

The presenters pointed out the difference between voting and non-voting members.

A voting member could fully participate in land council meetings and vote on LALC issues. Those with non-voting status could attend meetings and be involved in discussions but could not vote on issues proposed by the land council.

An individual could be a member of more than one LALC but could only be a voting member at one LALC at any one time.

A person seeking to be accepted as a member of a LALC was required to submit a written application for membership to that council setting out the basis for their application (residential association or Aboriginal owner).

An individual's application must be considered at a valid LALC membership meeting where acceptance of an application is determined by voting members of the LALC.

Those voting members must be satisfied that the applicant is qualified for membership according to the provisions of s54 2 (a) of the ALRA.



Delegates from LALC in the Wiradjuri region pose for group photo.

If the application of membership is successful and they have applied to be a voting member, the completed application form must then be forwarded by the LALC to the Registrar.

The presenters said it was important to note that the LALC CEO must place the individuals name on the LALC membership roll as a non-voting member until such time as they have received confirmation from the Registrar, via a s54(3)(c) notice that the person involved is not a voting member of any other LALC.

If the individual is found not to be a voting member at any other LALC they must be added to the membership roll of the LALC as a voting member once this information is received.

It was explained that a member of a LALC could change their voting rights/join another LALC and/or change their voting rights. They could do so once within a 12 month period.

This could be done through a s56(5) notice through a LALC and the Registrar.

The presenters emphasised the importance of proper maintenance of membership rolls.

They said the membership roll of a LALC was the written record of all of the people who are members of a particular council.

The CEO of each LALC must prepare and maintain a membership roll which included specific information on each member. If this information was not recorded a person could not exercise the rights of a LALC member.

It was the responsibility of each member, with the assistance of the relevant CEO, to ensure their details on the membership roll were accurate and up to date.

The CEO must record the following information on the roll.

- The full christian and surnames of each member.
- The residential address of each member. (Post Office boxes are not valid addresses).
- Their date of birth.
- The date the member was recorded on the roll.

- The voting or non voting status of each member.
- The basis of membership (residential/by association/ Aboriginal owner)
- Whether a member is suspended, and the start and end dates of the suspension period.

The names of members could only be removed from the roll by a CEO if:

- A member died; or
- A member resigns in writing; or
- A member no longer resides in the LALC area and the members of the LALC at a valid members meeting decide that the person does not have a sufficient association with the area to continue as a member; or
- The CEO, after making reasonable inquiries, is satisfied that the residential address of the person is unknown.

The presenters also emphasised the importance of a CEO retaining all returned mail and/or keeping a record with such mail in a special file. This was often helpful in dealing with claims a LALC had failed to contact a member.

The CEO of each LALC must send a certified copy of the LALC's membership roll to the Registrar not less than ten weeks before the beginning of each financial year. LALC rolls should be with the Registrar's office by April 21.

The CEO of each LALC must also advise the Registrar in writing of any changes to the membership roll that have occurred since a copy of the complete roll was last sent to the Registrar.

It was important to record the date when a new entry on the membership roll was accepted. If for any reason the exact date was not known it was important to record a date as close as possible to when a person joined.

Delegates were advised a LALC member could be suspended if that person's conduct was considered to be detrimental to the best interests of the Council. Such a determination would depend on individual circumstances.

Many LALCs had adopted a member-approved Code of Conduct to assist them in determining detrimental conduct.

The process for the suspension of a member was set out in s57 of the ALRA and Schedule 2 of the ALRA Regulations 2002.

A number of steps were required to be taken in cases of proposed suspension to afford procedural fairness to the affected member.

The Chairperson of the LALC Board should call a members meeting where the proposed suspension of a member is to be discussed.

A meeting notice, with the proposed suspension listed as an agenda item, should be published in the local newspaper (s), allowing *at least seven* clear days notice.

The day of publication of the notice of meeting in the newspaper(s) and the proposed meeting day could not be counted in the required period of notice. This meant, in effect, that not less than **nine** days notice of such a meeting had to be given.

It was important that the name of the member proposed for suspension *not* be published in any notices ahead of the meeting.

A number of important steps needed to be taken if members resolved to proceed with a suspension.

A letter, marked Private and Confidential, should be sent to the affected member clearly outlining the grounds for suspension.

The letter should cite specific incidents relating to the grounds for suspension. The Registrar's office should be consulted about the exact wording.

Reference should be made in the letter to the non-adherence to a LALCs Code of Conduct in cases where a LALC had adopted such a Code.

The member should, in the same letter, be invited to address a subsequent meeting of members or provide a written submission to be read at that meeting should they wish to contest the proposed suspension.

This provided both parties a fair and balanced opportunity to put their case.

It was recommended that letters of this nature be sent by registered mail to ensure the letter was received and responded to within the statutory time frames.

If it was decided to proceed with the proposed suspension at the subsequent meeting a relevant resolution should be put to the meeting and voted upon by a majority of members.

Such resolutions should be clearly worded.

They should be clearly recorded in the minutes along with any debate.

The minutes of meeting, meeting notices and correspondence were all crucial documents upon which the Registrar would rely in the event of an appeal against a suspension.

Suspension carried a number of consequences for the affected member.

A suspended member is not entitled to attend meetings of the LALC or vote on any matter during the period of suspension. A suspended member is also not entitled to change their voting rights to any other land council at which they are a member during this period

The CEO of the LALC must notify the Registrar of all details of a suspension and record on the membership roll when any suspension took effect and when any suspension ended.

Delegates were informed that a LALC that has suspended a member may revoke its decision at any time. In that event, the affected member automatically resumed his or her membership rights.

The presenters emphasised the need for the CEO of each LALC to ensure their membership lists were kept up to date.

Individuals seeking information about their membership to a LALC should firstly approach the relevant CEO.

Individuals who had been accepted as members previously but were not currently entered on the membership roll should fill out a Previous LALC Members Declaration Form. This should be provided to the LALC CEO so it could be forwarded to the Registrar.

The Registrar's Office could be contacted in regard to any dispute over membership.

Narromine LALC delegate **Neita Scott** asked for clarification on the processing of s54(3) (c) notices. She asked if such notices were checked when they arrived at the Registrar's Office and if the Registrar's Office entered them on the LALC roll or "do we do it."

Mr Stewart explained the procedure.

Ashford LALC delegate **Leanne Kelly** pointed out that their membership roll contained both Ashford and Anaiwan LALC members as voting members.

Mr Stewart said a letter could be sent to the members concerned to ensure they only voted at one LALC.

Mr Wright said he was aware of this matter and members of Anaiwan LALC should not have become Board members of Ashford LALC. He pointed out that the only person who could change the voting status of a member was that member. Ashford LALC's problem was that it could not locate those affected.

Ms Kelly confirmed that a number of them had not responded to letters sent to them by the LALC.

Mr Wright asked to be advised of their names and the Registrar's Office would follow the matter up.

Chairperson Manton asked if it would be appropriate for Ms Kelly to change the status of those affected.

Mr Wright said those involved "won't say yes or no to having the problem resolved." He said the Registrar's Office did not have the advice to change their voting status. He suggested Ashford LALC hold them on its roll as voting members until the Registrar's Office could contact the LALC and seek to correct the situation.

Coonamble LALC delegate **Les Trindall** suggested the need for care about members seeking to vote in two LALCs. If this was happening it could impact on any decisions made by the LALC. Mr Wright agreed.

Councillor Ah See asked if a non-voting member could vote in elections for NSWALC's Governing Council. Mr Wright said this was not allowed.

Darkinjung LALC delegate **Sean Gordon** asked if the Registrar had any funding to develop an easier membership access database by

developing some sort of photo ID swipe card. This card could be linked for use at such places as shopping centres and would provide a direct benefit to members.

Mr Wright said no such funds were available but it was a good idea.

Broken Hill LALC delegate **Maureen O'Donnell** asked how such a card would work. Mr Wright suggested this matter be further discussed at the end of the session.

Neita Scott and Les Trindall then raised the issue of members by association. Ms Scott said her LALC was receiving lots of membership enquiries from people who did not live in town. Mr Trindall said Coonamble LALC had 16 non voting members who lived in Queensland. He said the LALC should write to them to seek to declare them members by association because they never attended meetings.

Mr Wright said the LALC could write to them and ask them to resign but "whether they will or not is the issue."

Mr Trindall asked if a LALC could require people seeking to become members to attend a meeting of members. Mr Wright said this was not possible

Koompahtoo LALC delegate **Bob Sampson** said members should only belong to the LALC in the area in which they lived. A lot of people in Koompahtoo LALC were from Bahtabah and Wanaruah.

Councillor Ah See asked if a suspended member could be employed by a LALC. Mr Wright said this was possible.

Armidale LALC delegate **Margaret June Walford** asked about non-Aboriginal people such as Administrators putting people on the membership roll.

Mr Wright said an all-functions Administrator had the right to put people on the roll.

Once the Administrator ended his or her term, a LALC Board could move to have those people removed from a roll if they believed they had evidence those persons did not meet the membership criteria.

Menindee LALC delegate **Evelyn Bates** then asked if those seeking membership should be required to provide proper documentation such as a birth certificate. Mr Wright said the amount of information to be provided was an important question for all LALCs.

In response to a further question from Councillor Ah See, Mr Wright said those seeking membership could attend a meeting or send a letter to the relevant CEO. If a LALC was not satisfied with the information and did not believe a person had met the eligibility criteria it was then a matter of entering into a dialogue to try and satisfy the criteria.

Ms Walford said she had an issue with people not on the roll who applied to the Housing Commission for assistance and then asked the LALC to confirm their Aboriginality.

Mr Wright said LALCs should never give a person a letter to say they are an Aboriginal person unless they are a member of the LALC.

La Perouse LALC delegate **Ros Fields** said a lot of people of Aboriginal descent did not identify as Aboriginal or are identified as such in the community. Mr Wright said this was a problem.

He reiterated that LALC CEO's had a great responsibility to make sure the members were given as much information as possible when considering applications for membership.

In closing the workshop Mr Wright said regional workshops on the management of membership rolls would be very good and his office would attend them.



Mr Russell Couch, the Director of Cultural Heritage Policy and Knowledge in the Culture and Heritage Division of the NSW Department of Environment and Climate Change.

Aboriginal Land Management Framework.

Central Region Councillor Stephen Ryan facilitated this workshop.

Councillor Ryan welcomed participants and introduced the presenter, Mr Russell Couch, the Director of Cultural Heritage Policy and Knowledge in the Culture and Heritage Division of the NSW Department of Environment and Climate Change.

Mr Couch provided a snapshot on the functions of DECC.

He highlighted the Department's goal to assist Aboriginal people throughout NSW in their cultural connections to country through land management in areas such as National Parks, cultural heritage protection, works and natural resource management.

Meaningful engagement with communities was essential to ensure the needs of Aboriginal communities in cultural heritage were met.

Mr Couch said DECC respected Aboriginal culture, both traditional and contemporary, and the special relationship Aboriginal people have with country.

DECC sought to incorporate Aboriginal people's knowledge, insight, values and involvement in its efforts to conserve and protect the environment.

The Department administered a wide range of relevant legislation, including the *National Park and Wildlife Act 1974* (NPW Act) and *Native Vegetation Act 2003*.

Mr Couch said DECC was the lead agency in the development and implementation of a NSW Aboriginal Land Management Framework for access, use and management of public lands (including national parks) by Aboriginal people.

He spoke to a short power point presentation on the proposed Framework which would form the platform for dialogue with Aboriginal people and stakeholders on issues relating to land management in NSW.

The feedback and points raised in these discussions would be used to develop the Framework. The project was seeking the Aboriginal community's views on access to, and use, of public lands, community involvement in managing those lands, and the services Government provided to Aboriginal people.

Public lands included state forests, national and state parks, travelling stock reserves and crown lands.

These constituted about 15 per cent of the total land mass of New South Wales.

Land management also included State marine waters and rivers.

Although land management was the first focus of the project key related goals included reducing social disadvantage and strengthening the capacity to practise culture and self determination.

Comments about land management could refer to these goals.

A discussion paper, *Towards an Aboriginal Land Management Framework*, set out the issues in five major themes. These were:

- Acknowledging Aboriginal connection to country.
- Improving Aboriginal access to public lands.
- Increased Aboriginal participation in the management of public lands.
- Developing economic opportunities from the sustainable use of land.
- Learning and working for country.

He then turned to what such a Framework could do.

Mr Couch said a Framework, based on community feedback, could:

- Provide a consistent approach to land access, use and management by Aboriginal people.
- Identify gaps in current programmes.
- Identify opportunities to develop common principles and policies.
- Better coordinate the delivery of the Government's land management, cultural heritage, conservation and economic development responsibilities.

Mr Couch said DECC was inviting Aboriginal people and their communities to attend a series of regional workshops currently being convened across the State.

The workshops were being advertised in local community media and on DECC's website.

Input would be received from the community until March 31, 2009.

Mr Couch said the proposed Framework was a "whole of government," project.

It was hoped the framework would complement other NSW Government initiatives to advance a number of social, justice, economic and cultural outcomes for Aboriginal people in NSW in line with the commitment in the NSW State Plan to improving outcomes for Aboriginal people.

Balranald LALC delegate **Edward Murray** said he did not always receive advice on proposed workshops or meetings and missed out on providing input. He said he was yet to receive any information about proposed consultations and workshops on the Framework.

Mr Couch said he would arrange for a DECC officer to contact Mr Murray.

Mr Murray asked if it was possible to sit in an Advisory Committee or take part in the Committee selection process. He also asked if the Government had plans to introduce carbon trading.

Mr Couch said opportunities did exist to participate in Advisory Committees. He said carbon trading was essentially a matter for the Commonwealth Government and DECC was waiting to take its lead from the Commonwealth in regard to any emissions trading scheme.

In response to a further question from Mr Murray the presenter said DECC was working on some bio banking projects, adding that Marcia Ella Duncan had done some work in this regard.

Wanaruah LALC delegate **Noel Downs** asked if the information and feedback gained from workshops could be referred back to LALCs. Mr Couch said that all participants would receive feedback and relevant information generated from the workshops.

Guyra LALC delegate **Douglas Cutmore** raised concerns that he “has never seen a DECC representative in the last ten years.” He asked how Aboriginal people could get DECC “to the table.”

Mr Cutmore said there needed to be more open dialogue if DECC and Aboriginal people were to become partners. He said he had previously invited a DECC representative to the LALC to discuss sacred sites protection but the invitation had been declined for various reasons.

A brief discussion resulted on Indigenous Protected Areas. It was generally agreed the Commonwealth Government did not promote IPA's at the local level. Mr Couch said DECC could be used as an advocate in this regard for local communities.

Narrabri LALC delegate **Lyn Trindall** expressed her concern that travelling stock routes should be returned to Aboriginal people when a lease expired.

Goodooga LALC delegate **Michael Anderson** said there were a number of sites out west on travelling stock routes which were being fenced 20 metres or so on either side. This had affected Aboriginal sacred sites without the knowledge of traditional owners.

He said Western Catchment Authorities needed to exercise caution in how they went about their business. Councillor Ryan said some of these issues were being addressed through the community engagement process.

Mr Couch said the Government was also aware of these issues. He added that the Government should assist communities to solve the problems through regional community based protocols. There also needed to be consistency on who spoke for country and how the Government dealt with this.

Mr Anderson said there was a needed to develop proper protocols on how to engage community people in their roles as traditional owners and this needed to be addressed as part of the negotiation on the proposed framework. Mr Couch agreed there need to be more work in this area.

Bega LALC delegate **David Dixon** advised that his LALC was currently trying to secure funding from DECC for a clean up of their land. The LALC had been trying to secure this funding since before Christmas. They had been told more information was required and would like to be briefed on the appropriate process.

NSWALC Deputy CEO **Norman Laing** asked if the draft framework would be put to State Cabinet. He also asked what, if any, legislative implications there would be for NSWALC.

Mr Couch confirmed the framework would go to Cabinet and said NSWALC would have input into any legislative process.

Brewarrina LALC delegate **Jason Ford** asked how the framework might affect the protection of Aboriginal sites on private land. He said many farmers failed to consult with Aboriginal people when dealing with sites.

Mr Couch said some stakeholders did have problems with the guidance process on how to manage this issue. Current legislation was unenforceable.

The Government could only prosecute people for damaging Aboriginal sites if it could prove they did so knowing it was an Aboriginal site.

Wanaruah LALC delegate Noel Downs said he was aware of an incident where someone was caught destroying a sacred Aboriginal site but was not prosecuted because the legislation could not be enforced.

Koompahtoo LALC delegate **Lois Towney** said there were people who deliberately sought to damage sacred Aboriginal sites.



Youth delegate Andrew Carter informs delegates about a Facebook page which had been established by participants in the Youth Forum.

CONFERENCE CLOSE

NSWALC Chairperson Bev Manton began the close of proceedings with a short address.

Before doing so she invited Youth delegate **Andrew Carter** to inform delegates about a Facebook page which had been established by participants in the Youth Forum.

Mr Carter acknowledged the Traditional Owners of the land and Elders, past and present.

Mr Carter referred to previous discussions held at Conference on the use of computers and Facebook and vivo.

With the youth feeling they do not have enough power within their LALC, he believed if he developed a Youth Facebook they could use the discussion board in the Facebook to share ideas so they need not wait 7 years before the next Forum. He said he had developed such a site.

This could be used to bring everyone together to keep the Youth and Elders involved and thus close the gap between the Youth and Elders.

Ms Manton thanked him. She told delegates that in bringing the official proceedings of this Conference to a close she briefly wanted to "take you back to where we started."

"I spoke in the opening session of an underlying theme," she added.

"Be Informed. Be Involved. Be Inspired...to work together for change.

"It is my belief, and that of my fellow Councillors, that all delegates will be going home better informed.

"This, I'm sure you will agree, is a key outcome.

"All Councillors have learned much these past three days about the increasing pressures on the network.

"I would hope all LALC delegates will be going home with a better appreciation of the increasing pressures on NSWALC.

"We have certainly all been involved.

"In that regard.....I'd like to thank all delegates for their contribution to the wide ranging Conference debate and discussion.

"It has certainly been robust and invigorating.

"It is also my hope that all of the information, discussion and debate has inspired a much greater understanding between all of us.

"It is clear we have many complex issues in front of us.

"We have much work to do together.

"In the opening session NSWALC's Deputy Chair Tom Briggs set out on behalf of all Councillors the desired outcomes.

"He expressed the hope the record of this Conference would reflect that all delegates would come away with:

- An increased sense of unity and common purpose.
- A clearer vision of the complex issues, and pressures, we all need to address, and to overcome, to sustain our self funded land rights network.
- A clearer vision of the complex issues, and pressures, bearing down upon the management of the investment fund.
- A clearer vision of the direction of NSWALC and the policies and procedures which have been developed, and are being developed, which seek to instill, and

sustain, a culture of clear and fair compliance across the network

- A clearer vision of the ever increasing economic, administrative and social pressures on the LALC network.
- A greater appreciation and understanding of the political, social and economic environment in which we all operate.
- A clearer roadmap for the next 25 years of land rights, and land management.

"I believe the record of Conference, in large measure, will reflect that.

"We said at the start of Conference that time would be our chief enemy.

"It has been.

"I know there are delegates who do not believe we have had sufficient time to fully debate all of the issues and to raise their many questions.

"But let's be clear.

"We always need to strike a balance between the provision of information and feedback.



NSWALC Chairperson Bev Manton officially closes proceedings with a short address.

"That process does not.....and should not.....end here.

"We need to keep the dialogue and debate going, particularly on issues such as the future sustainability of the network and social housing.

"That has to be the key outcome of this Conference.

"In that regard our immediate task is to settle our view on the Land Dealings Exposure Draft Bill.

"As you know the consultation period set by Government is tight.

"Our Zone Directors have been working behind the scenes here to work out a schedule of community consultations on those.

"We will be sending out a network message in the next few days to let everyone know where and when they will be held.

"Please ensure this is passed on.

"It is vital we get your feedback, and that of LALC members, to Government.

"It is vital we also get your feedback, as soon as is possible, on the draft NSWALC Business Plan.

"We have heard the message loud and clear on the question of payments to LALC Board members and the need for an award for LALC staff.

"As you have heard good faith payments can be made now.

"We will be issuing further advice on these important matters and any determination on allowances from the Minister as soon as we can.

"We have also heard the message loud and clear on the need to progress the rights debate, including Treaty, arising out of general Conference debate and the panel discussion on the proposed Bill of Rights.

"There are significant costs involved in organising a Conference such as this.

"They impose a limit on the time we can spend on each and every issue.

"I believe the organisation and running of this Conference has once again demonstrated that the professionalism of our staff, under the guidance of Geoff Scott and his managers, has been taken to a new level.

"There are many glitches, big and small, at Conferences such as this.

"The staff have handled them, smoothed them out, and ensured Conference has run, as much as possible, to the tight schedule.

"I sincerely thank all of the staff, on behalf of Council, for a job well done and would ask delegates to show their appreciation!

"They have one more job to do which I touched on earlier.

"That is to get a full report on Conference to all LALCS.

"That will be with you as soon as we can have it produced.

"I'd also like to thank all of the presenters, exhibitors and facilitators....and the staff at Crown Plaza Hunter Valley for their assistance over these past three days.

"There have been many highlights during this Conference.

"Chief among those for me was the Elders forum and the Youth forum.

"I believe the outcomes of those forums have given everyone, particularly NSWALC's Governing Council, much food for thought.

"Those forums were only the beginning of our formal recognition that both need a more active role in the ongoing deliberations of Council and the network.

"It was a first step to the formation of an Elders Council and a Youth Council.

"I'm sure it will interest all delegates to know that Ronald Stewart was one of the Elder delegates from Nowra. Ron is 79.

"His granddaughter Jessica is 18. She was a Youth delegate.

"Their presence and contribution here provides a telling demonstration of the enduring health and vitality of our land rights network.

"I'd like to thank all delegates who filled in the LALC Surveys.

"We have just under 60 responses to date.

"We will be following up on all the other LALCs to fill them in post-Conference.



From left to right: Annette Olsen, CEO of Murrin Bridge LALC, Terrie Milgate CEO Trangie LALC and Diane Smith, Trangie LALC Board Member.

“This is essential feedback.

“When reviewing a Conference you always have to weigh the cost against the benefit and the things that could be done better next time.

“I’m sure everyone will agree the benefits of this Conference to all who attended has well outweighed the cost.

“We have learned lessons which will refine the organisation of our next Conference.

“I’d like to finish on a note upon which I know we can all agree.

“NSWALC’s Governing Council has listened to the unanimous view of all delegates...the need for more State Conferences.

“We believe we should hold at least two in every term of Council, in addition to our Regional Forums.

“We are committed to doing so.”

Chairperson Manton also informed delegates the Governor General, Ms Quentin Bryce, has offered NSWALC the use of Government House for important events like the launch of the Youth and

Elders Strategy later in the year. She then invited Councillors to sum up the Conference from their point of view.

Deputy Chairperson Briggs said he had thoroughly enjoyed the past three days which “had been a long time coming.”

He said he felt very privileged to be working for his people and “this had been one of the best State Conferences of the land rights network which I have attended.”

Councillor Briggs said he felt a lot of LALCs had set a benchmark to move forward with a lot of positive work coming out of the Community Land and Business Planning process.

He was very impressed with the outcomes from the Elders and Youth forum and felt these needed to be formalised as an integral part of the governance network.

He said NSWALC and LALCs formed the most powerful Aboriginal network in the country when they sought to work together for their mutual benefit and he looked forward to working closely with the network to address priorities raised.



The Chairperson of Narromine LALC Netia Scott in discussions with Les Trindall, Board Member of Coonamble LALC.

DAY THREE

Councillor Patricia Laurie said she had spent 25 years as a LALC delegate, “fighting with Councillors and directing them and supporting them,” at similar Conferences. She now felt “very privileged to be a Councillor.”

The support she had been given over the Conference was “mind blowing.”

She felt that all LALCs were now more aware of what Councillors “were doing now and what they had planned for the future.”

All Councillors were committed to continuing the Elders and Youth forums.

Councillor Laurie congratulated the Conference co-ordinating team and the Secretariat team for their tireless efforts and praised Northern Zone staff “who had put in a lot of work towards the success of this Conference.”

Sydney/Newcastle Region Councillor Roy Ah See said the Conference had met all his expectations, particularly the passion, drive and commitment of delegates.

He expressed the hope that the expectations of LALC delegates had been met.

He thanked LALCs for travelling “far and wide to attend,” and wished them a safe journey home. He echoed the sentiments of his fellow Councillors on the success of the Elders Forum and the Youth Forum.

Councillor Ah See acknowledged that the financial situation of the network may be “a bit rocky,” but the network could boast sound advisors to provide necessary advice.

He also emphasised the need for a co-ordinated approach at the regional level to express solidarity when dealing with Government.

He said he had been encouraging this approach in his Region with success.

South Coast Regional Councillor Jack Hampton thanked all delegates, the assistance he had received from members of the Southern Zone office.

He wished everyone a safe trip home.

Wiradjuri Region Councillor Craig Cromelin thanked the Wanaruah people for their hospitality and said that it had been a “great honour” to attend as a Wiradjuri man, a

Councillor and to meet and talk to so many delegates.

He thanked and paid his respects to his fellow Councillors who were essentially mediators between LALCs and NSWALC.

More often than not Councillors were the only ones that LALC personnel could talk to. He ended by thanking the delegates from LALCs in his Region.

Councillor Cromelin said he came from a small community.

Despite attaining office at a Regional and State level he "would never forget where he came from."

Central Region Councillor Stephen Ryan said he spoke on behalf of fellow Councillors Steve Gordon and William Murray who were not in attendance at the final session. He thanked all delegates on his, and their, behalf and wished everyone a safe trip home.

Councillor Ryan conveyed his thanks to the families of all of those involved in the land rights

movement. He acknowledged that without them "all of us now involved would find it much more stressful and difficult."

Chairperson Manton then invited NSWALC CEO Geoff Scott to say a few words.

Mr Scott said he felt very privileged to have the opportunity to hold the position of CEO with NSWALC which was "like coming home."

He noted his mother Neita's attendance as a delegate from Narromine LALC and acknowledged her "ongoing guidance."

Mr Scott thanked all delegates for the courtesy shown to each other and to staff during the three days. He also praised staff for their initiative and enthusiasm when tasked with organising and running such a major event.

The Conference had been a tremendous opportunity to take the time to reflect on what had been achieved in the land rights struggle and what lay ahead.



Central Region Councillor Stephen Ryan thanked all delegates for attending the Conference and wished everyone a safe trip home.

LALC SURVEYS

NSWALC took the opportunity of the State Conference to conduct a written survey of all LALC delegates.

The survey was designed to canvass the views of the land rights network on some key State and National issues to be faced over the next few years.

Council asked all LALC representatives to take time during the Conference to consider the brief source material provided and respond.

The feedback gained from the survey would assist NSWALC in its deliberations on the issues raised and reflect a network view on how to take some of them forward in the best interests of LALC members and the wider Aboriginal community.

A total of 114 LALCs attended the State Conference.

A total of 73 LALCs responded.

This represents a 64 per cent response rate.

The survey booklet contained four components covering:

- A National Indigenous Representative Body.
- The Cost and Turnout of NSWALC elections
- Treaty
- The sustainability of the Land Council system.

The Background material provided to inform the survey is detailed below together with key responses.

A: NATIONAL INDIGENOUS REPRESENTATIVE BODY

Background

The Rudd Labor Government is committed to establishing a new National Indigenous Representative Body.

A National workshop comprising about 100 Aboriginal and Torres Strait Islander representatives will be convened in Adelaide from March 11-13 to take the policy proposal forward.

The workshop will:

- Review submissions and the outcomes of consultations conducted by the Federal Government to date on the establishment of a new representative body.
- Identify the key elements or features of a new National Indigenous Representative Body which can then be distilled down to a series of preferred models for a new representative body, and
- Identify a process for further consultation with Indigenous communities leading to the establishment of an interim representative body from July/August 2009.

The workshop is not intended to:

- Endorse a final model for a national representative body or
- Decide membership of a national representative body.

By the end of the workshop the organisers are seeking to broadly address the following general questions surrounding the proposed body:

- Why do we need one?
- What should it do?
- Who should it be made up of?
- How should it go about its business?

NSWALC's Governing Council has determined that its two representatives at the workshop should be the Chairperson, Bev Manton, and the Deputy Chairperson, Tom Briggs.

The Council would appreciate as much feedback as possible from the LALC network through the State Conference to enable Councillors Manton and Briggs to carry a strong message from New South Wales to the national workshop.

QUESTIONS

1. Do you think we need a new National Representative Body? Yes/No
2. If so, what do you believe it should do?
3. Do you believe it should be elected and not selected or should it contain a mix of elected and appointed positions? Please tick (a) or (b)
 - (a) fully elected
 - (b) a mix of elected and appointed
4. If you consider it should be a mix of elected and appointed, do you consider that NSWALC, as the State's peak elected Aboriginal representative body, should be automatically given a place on the new body as the duly elected representative voice for the land council network in New South Wales? Please tick (yes) or (no)
5. If not, why not, and who do you think the new representative body should be made up of?
6. What should be the primary tasks for the new body?
7. Should the Federal Government undertake a new round of community consultations to road test proposed new models after the national workshop? Yes/No

Key Responses included:

- 89 percent of respondents voted in favour of the establishment of a National Representative body;
- 86 percent said the body should be fully elected; and
- 90 percent agreed that the Federal Government undertake a new round of community consultations to road test proposed new models after the national workshop.

B: COST AND TURNOUT AT NSWALC ELECTIONS

Background

The NSWALC election was held in May 2007, resulting in the election of the present nine-member Governing Council.

Section 122 (2) of the Aboriginal Land Rights Act 1983 requires the Minister for Aboriginal Affairs, in consultation with NSWALC to determine a date for the election of all Councillors.

In the absence of a Council, the former Minister for Aboriginal Affairs, Milton Orkopoulos determined in October 2005 that a NSWALC election would be held on May 19, 2007.

The NSWALC administration pointed out at the time that this would clash with the NSW State General Election which was due to be held on March 27, 2007 under the fixed four year terms set out under statute.

The Minister refused to alter his decision.

The State Electoral Commission subsequently conducted the face to face poll which resulted in the election of the current nine-member Governing Council. The NSWALC administration set aside an amount of \$490,000 to cover the cost of the election in its 2006-07 budget.

It paid a total of just over \$461,000 to the State Electoral Commission in November, 2007 for its conduct of the election.

The current Minister for Aboriginal Affairs, Mr. Lynch, wrote to the NSWALC Chairperson in

March, 2008 and enclosed a copy of a 21-page report from the Electoral Commission on the conduct, outcome and cost of the election.

The Commission raised a number of issues for consideration for future NSWALC elections.

These included:

- The possible conduct of a postal election instead of a “face to face” poll.
- The timing of NSWALC elections.
- Strategies to increase voter participation.

The Commission said a postal vote election could reduce costs and organisational demands on both NSWALC and the Commission in future elections.

A postal election was also one option to achieve greater voter participation due to the convenience postal voting would afford members. Consideration should also be given to ensuring NSWALC elections did not coincide with State and Local Government elections.

The Electoral Commission said many of the processes critical to the NSWALC election were required to be undertaken in parallel with the general election.

“This places a difficult strain on the availability of NSW Electoral Commission staff whose time and expertise is required in the conduct of both elections,” the report said.

“In addition there is cause for concern as to whether messages critical to the NSW Aboriginal Land Council election were lost among the advertising campaigns and media focus on the State elections.

“Consideration should be given to the timing of future elections so that they are well away from State and Local Government elections.”

Section 122 (1) of the ALRA stipulates that elections of all Councillors are to be held not sooner than 3 years and nine months, and not later than 4 years and three months, after the previous election of all Councillors.

The report also pointed out the significant cost per elector of the “face to face,” State wide voting system.

A full postal election would see a “major reduction in the organisation and management of the election and the overall cost.”

It noted that no written complaints were received regarding the election but the voter participation rate of 28 per cent was “disappointing.”

In this context “it would seem appropriate that consideration be given to identifying and

implementing strategies that could increase participation at the next election.”

Minister Lynch said he would appreciate the Council’s views on these matters “in due course.”

This Conference presents an opportunity to canvass views from a good cross section of the LALC network on these issues.

Questions

1. Have you seen a copy of the State Electoral Commission Report? Yes/No
2. If so, do you agree with its recommendation that these issues be considered before the next election? Yes/No
3. If not, would you like to receive a copy of the report? Yes/No
4. It is estimated a full postal election for NSWALC would cost less than \$100,000. Given the cost of the last poll and the major projected savings would you support a move to a full postal election? Yes/No
5. Given the fact that more than 16-thousand LALC members were eligible to vote at the last election and less than a third did so, do you believe a full postal vote might increase participation? Yes/No
6. What other steps, if any, do you consider could be taken to increase participation in the NSWALC electoral processes? (e.g. do you consider a reduction in the age limit for LALC membership and voting rights should be lowered from 18 to 16?).
7. What, if any, further measures do you think could be considered to increase participation in NSWALC elections?

Key Responses:

- 86 percent responded that they had not seen a copy of the State Electoral Commission report;
- 85 percent supported a move to a full postal NSWALC election.

C: TREATY AND PARTNERSHIP AGREEMENT

Background

The Rudd Labor Government policy commitments going into last November's election contained a pledge to consider entering a treaty/treaties/or agreements with Australia's First Nations.

NSWALC, in association with the then Aboriginal and Torres Strait Islander Commission, led an education campaign on a Treaty or Treaties back in 2001 through to 2003. This was a major focus for NSWALC at the time of the last State Conference in 2002.

It is anticipated that a new National Representative Body, should it be established, would consider this question as a priority so it seems a good opportunity to canvass the views of LALC Representatives on the question of a Treaty or Treaties at this Conference.

A companion issue is the question of an overarching agreement between the Commonwealth, the NSW Government, NSWALC and other peak Aboriginal representative bodies in NSW.

As Conference participants may be aware NSWALC and ATSIC were parties to a major overarching partnership agreement with the Commonwealth and NSW Governments during the tenure of the NSWALC Governing Council which was elected between December 1999 and November 2003.

A new partnership agreement on Aboriginal Affairs is currently being negotiated between the Commonwealth and NSW Governments without any involvement from NSWALC or the land council network. This is despite a commitment from both Governments to work in partnership with Aboriginal representative organisations.

Questions

1. Do you think NSWALC and the LALC network should pursue a Treaty or Treaties with the Rudd Government? Yes/No
2. If so, what areas do you think such a Treaty or Treaties should cover?
3. If not, why not?
4. Do you believe NSWALC, and other peak Aboriginal representative organisations, should actively seek to negotiate a new overarching partnership agreement with the New South Wales and Commonwealth Governments on Aboriginal Affairs issues over and above specific regional agreements? Yes/No
5. If so, what areas do you think should be covered by that agreement. What principles (e.g. self determination, First Nations status) would you wish to see enshrined in such an agreement?

Key Responses

- 96 percent of respondents wanted NSWALC to pursue the enactment of a Treaty
- 86 percent were in favour of NSWALC pursuing, with other peak bodies, the establishment of a new overarching partnership agreement with the State and Commonwealth Governments

Key issues members wanted a Treaty to address included:

Human rights	62
Land	60
Rights	57
Sovereignty	54
Cultural heritage	45
Compensation	45

D: SUSTAINABILITY OF THE LAND COUNCIL SYSTEM

Background

As all Conference attendees would be aware the future structural and financial sustainability of the current land council structure has been an issue for debate over the past decade or so.

The key issue is how the finite resources of the self-funded structure can be made more sustainable and cost effective.

It was a key topic in the Discussion Paper released by the ALRA Review Taskforce in November 2005 and was featured in the community consultations conducted by NSWALC during that review process.

As you are aware the NSW Parliament subsequently amended the Act to abolish the 13 Regional Aboriginal Land Councils, to be replaced by regional forums meeting on an “as needed” basis, reduced the number of regions to nine, and left the current structure of 121 Local Aboriginal Land Councils in place.

An independent situational analysis of the land council structure commissioned by NSWALC at the time from SGS Consultants concluded the LALC structure was a sector “in crisis from a financial sustainability point of view.”

That analysis found the core costs of maintaining the network of LALCs, the additional costs for the appointment of investigators, administrators, legal expenses and the recurring cost of meeting LALC liabilities all placed a huge burden on the system.

The Review Taskforce concurred with this view. It stated that the current arrangements are “not financially sustainable and are not cost effective,” because of the number of under-performing LALCs. The land council system, it said, was “resource intensive and over stretched.”

It recommended LALCs continue to play an important role as a vehicle for local decision making but the optimal number should be compulsorily reduced to about 60.

This recommendation was not supported during NSWALC community consultations, nor by NSWALC.

However the ongoing sustainability of the network is still a core issue.

NSWALC’s Governing Council believes this State Conference provides another opportunity to provoke discussion and debate on these issues.

Super LALCs could be created through a voluntary administrative amalgamation or small federation of LALCs (say four or five in the same region) who would retain their individual identities but pool their administrative resources to introduce economies of scale to their operations.

If properly structured these new entities could have a larger pool of funds but could, for instance, employ one better paid CEO and employ the one Auditor.

There are many complex issues involved in such a concept and there would have to be much debate at LALC and regional level on the concept.

Questions

1. Do you agree that the future structural and financial sustainability is a core issue still facing the LALC network? Yes/No
2. If so, what structural or operational changes would you make to reduce the number of LALC’s and how would you see a reduced number improving LALC services to their communities?
3. Would you support a network-wide debate on these issues, including the possible creation of super-LALC’s through the voluntary amalgamation of existing LALC’s into a cluster or small federation of LALCs. They would retain their individual identities but combine their resources through negotiation to introduce economies of scale? Yes/No
4. Do you think these issues could be properly considered and dealt with by forming an advisory committee to NSWALC comprising a number of Councillors and LALC representatives? Yes/No

5. If so, would you support the formation of a such a group given the complex issues involved. Yes/No
6. Do you consider the current size and structure of the NSW Governing Council to be the most effective representative structure available to Aboriginal people in NSW in their pursuit of self determination. Yes/No
7. If not, what would you like to see an alternative peak State representative body look like?
8. Are there any issues of significance that you feel State Council should be currently pursuing that they are not? Yes/No
9. If so, what are they?
10. Do you believe the current Zone structure is working to the best interest of the Local Aboriginal Land Council network? If not, how would you like to see the structure improved?

Key Responses

- 95 percent said the future structural and financial sustainability of LALCs was a core issue;
- 70% consider the current size and structure of the NSW Governing Council to be the most effective representative structure;
- 62% supported a network-wide debate on this issues;
- Of those who responded to the question of reducing the number of LALCs, 37 voted for no reduction in current LALC numbers

The membership's response about the issues that the State Council should pursue included:

Treaty	26
Rights	23
Uniform wages	20
NT intervention	17
Support CEO and Board	16
Closure of CDEP	15
Performance agreements	15
Uniform systems	12
Additional funding	12

Detailed Survey Responses

The detailed responses to the survey questions are listed below.

A: NATIONAL INDIGENOUS REPRESENTATIVE BODY

1. Do you think we need a new National Representative Body?

Yes: 89% No: 11%

2. If so, what do you believe it should do?

Treaty	65
Housing	25
Human rights	63
Law and justice	25
Self determination	62
Racism	24
Representation	58
Women's issues	22
Social values	56
Sea and mining rights	21
Land	52
Equal access	18
Cultural and Heritage	52
Same as ATSIC	15
Delivery of services	51
Compulsory elections	12
Policy advice	47
Police	11
Report to Prime Minister	45
Youth issues	10
Education	27
Men's Issues	6

3. Do you believe it should be elected and not selected or should it contain a mix of elected and appointed positions?

(a) fully elected 86% (b) a mix of elected and appointed 14%

4. If you consider it should be a mix of elected and appointed, do you consider that NSWALC, as the State's peak elected Aboriginal representative body, should be automatically given a place on the new body as the duly elected representative voice for the land council network in New South Wales?

Yes: 84% No: 16%

5. If not, why not, and who do you think the new representative body be made up of?

Elected people by the people	62%
Same as NSWALC	14%
Same as ATSIC	16%
Chairs of peak organisations	8%

6. What should be the primary tasks for the new body?

Bill of Rights	69
Law	38
Treaty	66
Health	36
Human rights	66
Housing	36
Republic	64
Equal access	33
Addressing disadvantage	64
Employment	30
Representation	63
Service delivery	29
Policy advice	62
Business development	28

Cultural heritage	60
CDEP	28
Policy development	59
Govt accountability	26
Empowerment	54
Sea and mining rights	19
Closing the Gap	48
Training	15
Land	47
Police	14
International issues	44
Social values	10
Women's issues	44
Youth	5
Education	43
Men's issues	4

7. Should the Federal Government undertake a new round of community consultations to road test proposed new models after the national workshop?

Yes: 90% No: 10%

B. COST AND TURNOUT AT NSWALC ELECTIONS

1. Have you seen a copy of the State Electoral Commission Report?

Yes: 2% No: 98%

2. If so, do you agree with its recommendation that these issues be considered before the next election?

Yes: 71% No: 29%

3. If not, would you like to receive a copy of the report?

Yes: 85% No: 15%

4. It is estimated a full postal election for NSWALC would cost less than \$100,000. Given the cost of the last poll and the major projected savings would you support a move to a full postal election?

Yes: 85% No: 15%

5. Given the fact that more than 16-thousand LALC members were eligible to vote at the last election and less than a third did so, do you believe a full postal vote might increase participation?

Yes: 82% No: 18%

6. What other steps, if any, do you consider could be taken to increase participation in the NSWALC electoral processes? (e.g. do you consider a reduction in the age limit for LALC membership and voting rights should be lowered from 18 to 16?)

Full time advertising campaign	67
One membership status	45
Pre polling booths	42
More polling booths	38

Door knocking	37
Lower voting age	37
Junior members roll	28
Increase postal votes	27
Junior members roll	21

Please note 34 LALC’s strongly expressed views against lowering voting age.

7. What, if any, further measures do you think could be considered to increase participation in NSWALC elections?

Major advertising campaign	69
Compulsory voting	33
Candidate forums	31
Letter box drops	29
LALC info sessions	27
Membership drive	22
Age representation	19

C: TREATY/TREATIES AND PARTNERSHIP AGREEMENTS WITH COMMONWEALTH AND STATE GOVERNMENTS

1. Do you think NSWALC and the LALC network should pursue a Treaty or Treaties with the Rudd Government?

Yes: 96% No: 4%

2. If so, what areas do you think such a Treaty or Treaties should cover?

Human rights	62
Fishing rights	35
Land	60
Health	31
Rights	57
Education	29
Sovereignty	54
Dedicated seats	25
Cultural heritage	45
Housing	23
Compensation	45
Mental health	19
Constitution reform	39
Police	14
Water rights	35
Sport and recreation	10

3. If not, why not?

Four LALC’s expressed views that NSWALC should develop a treaty with the State Government.

4. Do you believe NSWALC, and other peak Aboriginal representative organisations, should actively seek to negotiate a new overarching partnership agreement with the New South Wales and Commonwealth Governments on Aboriginal Affairs issues over and above specific regional agreements?

Yes: 75% No: 25%

5. If so, what areas do you think should be covered by that agreement. What principles (e.g. self determination, First Nations status) would you wish to see enshrined in such an agreement?

First Peoples status	54
Self determination	48
Human rights	45
Culture	36
Land rights	24
Compensation	23
Dedicated seats	14
Economic outcomes	12

D. SUSTAINABILITY OF THE LAND COUNCIL SYSTEM

1. Do you agree that the future structural and financial sustainability is a core issue still facing the LALC network?

Yes: 95% No: 5%

2. If so, what structural or operational changes would you make to reduce the number of LALC's and how would you see a reduced number improving LALC services to their communities?

No reduction	37
More funding	34
No amalgamations	23
Improved governance	21
No administrators	18
Central management hub	15
LAC based on LGA	13
Abolish DAA	7
Amalgamations	2

3. Would you support a network-wide debate on these issues, including the possible creation of super-LALC's through the voluntary amalgamation of existing LALC's into a cluster or small federation of LALCs. They would retain their individual identities but combine their resources through negotiation to introduce economies of scale?

Yes: 62% No: 38%

- 4. Do you think these issues could be properly considered and dealt with by forming an advisory committee to NSWALC comprising a number of Councillors and LALC representatives?**

Yes: 53% No: 47%

- 5. If so, would you support the formation of a such a group given the complex issues involved.**

Yes: 58% No: 42%

- 6. Do you consider the current size and structure of the NSW Governing Council to be the most effective representative structure available to Aboriginal people in NSW in their pursuit of self determination.**

Yes: 70% No: 30%

- 7. If not, what would you like to see an alternative peak State representative body look like?**

2 Wiradjuri Regions

Regional Land Councils

Additional reps

- 8. Are there any issues of significance that you feel State Council should be currently pursuing that they are not?**

Yes: 82% No: 18%

- 9. If so, what are they?**

Treaty 26

More regional forums 10

Rights 23

Funding based on m'ship 9

Uniform wages 20

Home ownership 8

NT intervention 17

Mining rights 6

Support to CEO and Board 16

Less Councillors 5

Closure of CDEP 15

Training 5

Performance agreements 15

No Zone Offices 6

Uniform systems 12

Royalties 4

Additional funding 12

Budgets 2

Additional Councillors 2

- 10. Do you believe the current Zone structure is working to the best interest of the Local Aboriginal Land Council network? If not, how would you like to see the structure improved?**

Yes: 68% No: 32%

Comments:

Better communication to LALC 48

Zones under resourced 21

Reduce staff in Zone 21

Report directly to State 19

Youth worker 6

List of Exhibitors

Following is a list of organisations which set up exhibition and information booths at the Conference.

- AbSEC
- Awabakal Aboriginal Medical Service
- Department of Aboriginal Affairs
- Department of Environment and Climate Change
- Department of Families, Housing, Community Services and Indigenous Affairs
- Indigenous Business Australia
- NSW Link-up
- NSW Aboriginal Education Consultative Group
- Consumer, Trader and Tenancy Tribunal
- Office of Fair Trading
- Tranby Aboriginal College
- Office of the Registrar
- ICAC
- NSW Aboriginal Housing Office
- Roads and Traffic Authority



The exhibition and information booths at the Conference proved very popular for Delegates to access a variety of promotional material and information.

Following is a list of LALC and other delegates attending the Conference. The LALC delegates are listed in NSWALC regions.

Central Region

Dubbo LALC	Uppannia Sullivan
Dubbo LALC	Seth Toomey
Gilgandra LALC	Fay Carney
Gilgandra LALC	Veronica Smith
Mudgee LALC	Debbie Foley
Mudgee LALC	Alicia Lonsdale
Narromine LALC	Judy McMillan
Narromine LALC	Netia Scott
Nyngan LALC	Sheila Couley
Nyngan LALC	Kelly Shipp
Trangie LALC	Terrie Milgate
Trangie LALC	Diane Smith
Warren Macquire LALC	Keith Redman
Warren Macquire LALC	George Riley
Weilwan LALC	Ros Darcy
Weilwan LALC	Muriel Milgate
Wellington LALC	Neville Brown
Wellington LALC	Joanne Carr

North Coast

Baryugil LALC	Andrew Donnelly
Baryugil LALC	John Magna
Birrigan Gargle LALC	Annette Laurie
Bogal LALC	Lance Manton
Casino Boolangle LALC	Linda Stewart
Casino Boolangle LALC	Rita Torrens
Grafton Ngerrie LALC	Wesley Fernando
Gugin Gudduba LALC	Michael Davis
Gugin Gudduba LALC	Ron Randall
Jali LALC	Veronica Williams
Jali LALC	Joanne Bolt
Jana Ngalee LALC	Terrence Robinson
Jana Ngalee LALC	Allan Boota
Jubullum LALC	Ross James
Jubullum LALC	Cedrick Walker
Muli Muli LALC	Matthew Green
Ngulingah LALC	Patricia King
Tweed Byron LALC	Kyle Slabb
Yaegl LALC	Noeline Kapeen
Yaegl LALC	Eileen McLeay

North Western

Baradine LALC	Ron Magann
Baradine LALC	Lorraine Ransfield
Brewarrina LALC	Feli McHughes
Brewarrina LALC	Grace Gordon
Collarenebri LALC	John McGregor
Collarenebri LALC	Paul Peters
Coonamble LALC	Wayne Fernando
Coonamble LALC	Les Trindall
Goodooga LALC	Catherine Cubby
Goodooga LALC	Allan Lamb
Moree LALC	Karen Craigie
Mungindi LALC	Gloria Thurston
Mungindi LALC	Lexie Haterley
Murrawari LALC	Maxwell Sullivan
Narrabri LALC	Lyn Trindall
Narrabri LALC	Edward Trindall
Nulla Nulla LALC	George Orcher
Nulla Nulla LALC	Kevin Knight
Pilliga LALC	Cheryl Barnes
Pilliga LALC	Coral Toomey
Walgett LALC	William Kennedy
Walgett LALC	Richard Simpson
Wee Waa LALC	Damien Aidon
Wee Waa LALC	Sharon Gibbs
Weilmoringle LALC	Roger Harnett
Weilmoringle LALC	Les Barker

Northern Region

Amaroo LALC	Patty Davis
Amaroo LALC	Kim Sampson
Anaiwan LALC	Greg Livermore
Armidale LALC	Helen Gordon
Armidale LALC	Margaret Walford
Ashford LALC	Leanne Kelly
Ashford LALC	Malcolm Talbot
Coonabarabran LALC	Gail Watton
Coonabarabran LALC	Maureen Sulter
Dorrigo Plateau LALC	Robyn Heath
Guyra LALC	Douglas Cutmore
Guyra LALC	Jeffrey Ho
Moombahlene LALC	Peter Harmond
Nungaroo LALC	Gordon Nean
Red Chief LALC	Greg Griffiths
Red Chief LALC	Wayne Griffiths
Tamworth LALC	Robyn Weatherall
Tamworth LALC	Donald Craigie
Walhallow LALC	Jason Allen
Wanaruah LALC	Noel Downs
Wanaruah LALC	Des Hickey

South Coast Region

Batemans Bay LALC
 Batemans Bay LALC
 Bega LALC
 Bega LALC
 Bodalla LALC
 Bodalla LALC
 Cobowra LALC
 Illawarra LALC
 Merriman LALC
 Mogo LALC
 Nowra LALC
 Ulladulla LALC
 Ulladulla LALC
 Wagonga LALC
 Wagonga LALC

Mal MacCallum
 Todd Chatfield
 David Dixon
 Glenda Dixon
 Stella Bolt
 Tony Terare
 Danny Chapman
 Sharralyn Robinson
 Ron Nye
 Norman Russell
 Adell Hyslop
 Shane Carriage
 Fred Carriage
 Vanessa Mason
 Vivanne Mason

Sydney/Newcastle

Awabaka LALC
 Awabaka LALC
 Bahtahbah LALC
 Bahtahbah LALC
 Darkinjung LALC
 Darkinjung LALC
 Deerubbin LALC
 Deerubbin LALC
 Gandangarra LALC
 Gandangarra LALC
 Koombahtoo LALC
 Koombahtoo LALC
 La Perouse LALC
 La Perouse LALC
 Metro LALC
 Metro LALC
 Mindaribba LALC
 Mindaribba LALC
 Tharawal LALC
 Tharawal LALC
 Worimi LALC
 Worimi LALC

Cheryl Kitchener
 Bob Smith
 Micheal Green
 Margaret Harvey
 Sean Gordon
 Robert Morgan
 Kevin Cavanagh
 Frank Vincent
 Mark Johnson
 Cinderella Cronan
 Bob Sampson
 Lois Towney
 Ros Field
 Ron Timbery
 Paul Morrris
 Robert Welsh
 Rick Griffiths
 Tom Miller
 Ross Evans
 Donna Hipwell
 Andrew Smith
 Jamie Tarrant

Western Region

Balranald LALC
 Balranald LALC
 Broken Hill LALC
 Broken Hill LALC
 Cobar LALC
 Cobar LALC
 Dareton LALC
 Dareton LALC
 Menindee LALC
 Menindee LALC
 Tibooburra LALC
 Tibooburra LALC
 Wilcannia LALC
 Wilcannia LALC

Edward Murray
 Jason Smith
 Joanne O'Donnell
 Maureen O'Donnell
 Rena Clemants
 Joan Evans
 Colin Thorne
 John Hardy
 Evelyn Bates
 Noeline Ferguson
 Myrna Lalor
 Myles Lalor
 Dawn Evans
 David Clarke

Wiradjuri Region

Albury LALC
 Albury LALC
 Bathurst LALC
 Bathurst LALC
 Condobolin LALC
 Condobolin LALC
 Cowra LALC
 Cowra LALC
 Cummeragunja LALC
 Cummeragunja LALC
 Deniliquin LALC
 Deniliquin LALC
 Griffith LALC
 Griffith LALC
 Hay LALC
 Hay LALC
 Leeton & District LALC
 Leeton & District LALC
 Moama LALC
 Moama LALC
 Murrin Bridge LALC
 Murrin Bridge LALC
 Narrandera LALC
 Narrandera LALC
 Onerwal LALC
 Onerwal LALC
 Orange LALC
 Orange LALC
 Peak Hill LALC
 Pejar LALC
 Pejar LALC

Doug Ewen
 Kelly Goldsworthy
 Warrick Peckham
 Shirley Scott
 Isabel Goodagong
 Narelle Reynolds
 Frances Coe
 Lavinus Ingram
 Kevin Atkinson
 Rebecca Atkinson
 Flower Debbie
 Rose Dunn
 Judith Johnson
 Margaret McGregor
 Ian Woods
 Renee Woods
 Karen Davy
 David Watts
 Joseph Day
 D. Morgan-Bulled
 Jacqueline Dutton
 Annette Olsen
 Kath Harrison
 Theresa Johnson
 Jason Ritters
 Violet Sheridan
 Peter Fuller
 James Williams
 Cherie Keed
 Chelsea Boney
 Alfie Walker

Wiradjuri Region (con't)

Tumut-Brungle LALC	Rebecca Leigh
Tumut-Brungle LALC	Denise Williams
Wagga Wagga LALC	Bessie Malcolm
Wagga Wagga LALC	Natalie Smith
West Wyalong LALC	Andrew Carter
West Wyalong LALC	Leeanne Hampton
Young LALC	Enid Clarke
Young LALC	Norma Freeman

Youth & Elder Forum Delegates

Karuah	Alyssa Feeney
Trangie	Samantha Quinn
Nyngan	Josie Turk
Jubullum	Alex Torrens
Birrigan Gargle	Shirleen Pearce
Coonamble	Brendon Harris
Brewarrina	Jason Ford
Tamworth	Meg Suey-Richmond
Tamworth	Mark Sutherland
Nowra	Jess Stuart
La Pouse	Chris Ingre
Darkinjung	Kalinda Naden
Balranald	Jason Smith
Balranald	Ronald Murray
Brungle-Tumut	Rebecca Lee
Coffs Harbour	Sue Hoskins
Nyngan	Michael Morris
Narromine	Paul Brydon
Bunjalung Elders	Irene Harrington
Bunjalung Elders	June Gordon
Mungindi	Leslie Woodbridge
Goodooga	Michael Anderson
Wanaruah	Barry French
Nowra	Ron Stewart
Darkinjung	Jenni McKeown
Awabakal	Ronnie Gordon
Young	Enid Clarke
Tumut-Brungle	Julie Lucke

Other Delegates

SEARMS	Christine Lee
SEARMS	Melissa Ellis
Murdi Paaki	William Johnstone
Murdi Paaki	Des Jones

Central Coast

Birpai LALC	Diane Rutherford
Birpai LALC	William O'Brien
Bowraville LALC	Lisa Ballangarry
Bowraville LALC	Penny Stadham
Bunyah LALC	Steve Flaherty
Bunyah LALC	Tony Gray
Coffs Hbr. & Dist. LALC	Chris Spencer
Coffs Hbr. & Dist. LALC	Yvette Pacey
Forster LALC	Tim Kelly
Forster LALC	Lee Simon
Karuah LALC	Fiona Manton
Karuah LALC	Dave Feeney
Kempsey LALC	Wendy Cowan
Kempsey LALC	Harold Smith
Nambucca Heads LALC	Louise Robinson
Nambucca Heads LALC	Terry Marshall
Purfleet Taree LALC	Gordon McDonald
Thungutti LALC	Deal Roberts
Thungutti LALC	Esther Quinlan

NOTES

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Conference CD

This CD contains copies of Speeches and Powerpoint Presentations delivered at the Conference. The CD also contains Photographs taken during the Statewide Conference - some of which have been used throughout this Report.

Aboriginal People are advised that this CD contains images of deceased persons.

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