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*New South Wales Aboriginal Land Council System Review*

*Report of*  
*Six Focus Groups covering the topic areas:*

- *Membership, Representation and Structure*
- *Land*

*Report to NSWALC*  
*January 2005*



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## 1. Introduction

The NSW Aboriginal Land Council (NSWALC) commissioned Kate Sullivan and Associates Pty Ltd to run six discussion groups around NSW to research what a sample of people think about a range of issues. The impetus for this research was the New South Wales Government review of the state's Aboriginal Land rights Act (ALRA) and land council system. This report reports the views of participants and does not seek to make judgements about issues raised.

### 1.1 Methodology

#### *Discussion content*

Discussions with senior executives of NSWALC identified the following issues to be canvassed

- Membership, representation and structure, and
- Land

A moderator's guide was prepared and is available as Annexure A. Copies of an information pack about the review and recent structural changes prepared by NSWALC for use in their information sessions was made available at the beginning of each discussion group.

#### *Group location and selection*

The groups were to cover western Sydney, the north northern tablelands, the north coast, the south coast, and the west. A discussion group was also to be run with members of the "Round Table" (a group of opinion leaders convened by NSWALC to act as a sounding board for issues to do with the review.)

The newly-appointed NSWALC zone managers were asked to recruit people for a discussion group of six people (being advised to invite eight or ten in order to have the attendance of six). They were asked to recruit a cross section of people according to the following criteria:

*... men and women from a range of leadership positions in the local community (eg Indigenous health or HACC, justice or youth or employment organisations, elders groups, or other community organisations, including some who are land council members). This group should include some younger members.*

In one zone the manager did not perform this role and staff from NSWALC head office handled arrangements. In this case eight of ten participants came from one land council. In all, 39 people attended discussions, including seven people who were members of LALC executives, seven people who were co-ordinators of LALCS, ten people who were members of LALCs, five people who were or had been regional representatives, five others, and members of the Round Table. Some of those who participated had been state councillors in the past.

### ***Participant cost reimbursement***

An incentive payment of \$60 was paid to participants who indicated that they were not on salary for the day. Travel allowance was available where required.

### ***Moderation, recoding and transcription***

Discussion was moderated by Kate Sullivan and tape recorded. De-identified transcripts were made by Luana Johnston who attended each discussion group.

## **1.2 The nature of qualitative research**

Several points about the group discussion technique need to be emphasised:

- The intention of the process is to allow the participants to discuss issues and respond to ideas in their own way and in their own words. The process is "non directive", which means that, as far as possible, the moderator does not either guide the discussion or intervene too often to ask specific questions and wait for specific answers.

The richness of insights from the technique lies in the extent to which people, within a framework and guided only by the moderator, can reveal something of themselves in the way they discuss the issue and the way they interact as a group.

It is possible to use a group discussion to include more directive, interventionist techniques by the moderator. Specific issues may be raised, participants may be asked to undertake an exercise to reveal a preference or choice amongst alternative options. In the current case there were opportunities to use comparative structure diagrams and explore any differences of response presented by participants.

- By definition, qualitative research of this sort does not result in conclusions or findings which can be counted or "measured". The point of the exercise is not to be able to claim that X% of people think in a certain way or hold a certain view or that Y% of people agree with certain propositions or can be expected to buy a specific product or support an idea.

The primary task of the researcher in this sort of research is to provide a context within which people can discuss an issue, product or idea and then report accurately what people said and the views they expressed.

This means that the consultation report may contain material which, in an objective sense, is going to sound odd or even incorrect to another reader. That may be the case, but this is not the point so far as the value of the consultation is concerned. The crucial responsibility of the process is to present the way those people in the discussion actually talked about the issue. To the extent that their perceptions and attitudes are "wrong", the research has already served a vital function in alerting a client to the fact that there may be discrepancy between what *they* think and feel and what people who are "customers" [or "potential consumers"] think and feel.

If issues and ideas presented appear confused or wrong, that does not mean that the report or the discussion process has made a mistake. It simply tells us that this is the way people expressed their views. Their perceptions and [perhaps incorrect] assumptions create the reality to which the client, in its broader product or project development strategies, needs to respond.

## 2. Membership, representation and structure

### 2.1 Elections and office holders

#### *The democratic system*

There is a widely held view that the current “full democratic” or “direct election” system is not working. At the Local level the current system resulted in the election of family groups either time after time, or in turn. Many believed that the system was not working – because of vested family interests – and that some other system needed to be developed to deliver self-determination

Many felt that the current system of direct elections for State<sup>1</sup> councillors amounted to popularity elections which some people thought were determined by how much beer candidates provided for voters. It was stated that this was not the Aboriginal way. The view was put that direct election of State councillors has brought about the worst set of councillors – people who are there for the wrong reasons. It was stated that the old system in which regional representatives elected State councillors was closer to an Aboriginal system. In that system people had to win the support of their peers to get elected. The current system was full of promises and no delivery. The previous system (prior to 1991 when Regional Representatives elected state councillors) was said to have been well supported by the people.

*Can I say that I don't think that it's Aboriginal to have direct elections and have a popularity comp and unfortunately in the XX Region that was the biggest problem we had. Our respected cultural leaders are not always the most loved because they tell the truth and truth tellers are not the ones who will go and buy cartons or buy off votes and I can tell you clearly in my whole life I watched an extended family of mine use popularity comps as a way to maintain his status as a Councillor. Previous to 1990 he struggled because the Regional reps picked their best – selected – I mean you took away the power of the Local. The Local picks their best Regional rep who then goes on to the Regional Council, the Regional Councils therefore are a representative of the best of the Locals – well that was the way it was structured prior to the amendments of 1990. Then they enabled them to pick their State<sup>1</sup> rep. Because it's a popularly elected person on the side of them so that took away the respect of all those Local Regional reps and the status that they brought because their local communities put them there because they had that knowledge. That's all wasted because someone in the background can go around and promise everyone everything – deliver very little of course – but the promises are what get people all excited and they vote and then they are gone. And then you look at the numbers who voted in those direct elections for councillors and they weren't representative of our communities. People were getting across the line with 30 votes. I just think that 1991 amendment nearly kneecapped our whole cultural practices of local communities picking their cultural representative.*

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<sup>1</sup> Informants in this research widely refer to the New South Wales Aboriginal Land Council (NSWALC) as either “State “ or “State land council” and this report uses these terms when presenting the voice of participants.

Some believed that if candidates came from an area where there was a large membership and had a large family they might organise to get themselves elected but they would feel no obligation to any other land council in their region. LALCs with small numbers of members cannot influence who is elected. It was suggested that a system was needed that would make state councillors accountable to all the LALCs in their region. One system that was suggested was that state members should be elected by local and regional reps only. Local members would vote for a member from those nominated and instruct the Chair to vote for that member so effectively each land council would have one vote for a state councillor and that vote would be determined by the membership.

*First speaker: What if – we are saying – you know we have tossed a few things around – now Regional reps they get elected, they get nominated they go out and meet the people or whatever, now they get a roll to say who can and who can't vote so obviously they are going to concentrate in where they are going to get the most votes in that area, which is usually their local area. Say for instance your office bearers of your local land council were the only ones that could vote for that person..... for the State. or your Regional... rep. Wouldn't that make that Regional rep more accountable to see every land council in that area so therefore they would cover much more of their community because they know at each land council they are going to get 3 votes if they'd been seen there. They are not going to get – I'm only saying this because I went up for our Regional – only because I wanted people to know where we were because it seemed like nobody would come our way at all. So I thought if put myself up then people are going to know; one, who I am and; where I am actually from, which was the main reason for doing it. But because I am only from my tiny little area and I knew I would only get a few votes, and I went into it knowing I wasn't going to get anywhere, the person from Axxx area who put themselves up knew that they had much more votes in their area so you don't need to go out of that area to represent another Lands Council, issues of land council and whatever, because you know once you go up for election you are going to get voted – all the votes were there you are definitely going to get in. So if every land council office had a vote on the nominated person – that's equal isn't it? (Chair of a LALC)*

*Second speaker: And at the end of the day you still might end up with what you had before but I think what (last speaker)) has suggested or put up here I feel is a good idea because I feel very concerned because when the time comes around again we might end up with the same people again and that worries me. If we are going to – if the system is going to allow those same people back there that got us where we are now so I think it is very important that we look at another system and I think at this stage the one that (3) has put up seems to be one alternative that we need to be looking at anyways.*

Others described the situation where nominees could not (or thought they would not be able to) get their LALC to vote for them but could go to neighbouring LALC members within the region, where they might not be so well known, and buy votes with beer. This was said to be not uncommon. The antidote suggested to this situation was to make it essential that a nominee's own LALC endorsed their candidature.

Grass roots election was strongly supported but people felt that a process was needed to get better skills and abilities.



*I know that we talk about cultural ways of doing things but we are in a Westminster democracy and one of the things I know we talked about a lot in my region was that maybe there should be a qualification for the elected person that stands or maybe they should give some sort of – pay some sort of a – down payment on a right to stand as a candidate or something to bring forward better candidates because I think that's been a problem that people who would really make the place go and run just don't get up there and stand for election. I don't know how you encourage them to be there. (Round table member)*

Some people (especially people who were chairs or co-ordinators) felt passionately that members having a vote for the State representatives was important – however there was a general acknowledgement that the system was not delivering accountability of State councillors (see further below).

*“The democratic right of Local members to vote is the only power we have left”.*

Suggestions about how to maintain a democratic system and get improvement included:

- regional councillors providing the nominations for State Council and all members continuing to vote;
  - regional councillors vet nominations against a set of agreed criteria;
  - limit the number of terms for which a State member can stand;
  - LALCs put up one nomination each (if they wanted to) ensuring that the person being nominated met certain criteria and all members vote for councillors from their region;
  - nominees should have to be endorsed by the local community at the LALC meeting (with or without an agreed set of criteria);
  - a regional forum made up of regional representatives elect a State representative or councillor who is also the chair of the regional forum. The regional chair is the State councillor and must report back after each meeting.
- One person thought that voting should be compulsory for members.
  - One person added a note of caution about people's satisfaction with the results of a democratic system:

*..I think you have to also take into account the fact that people don't like who the system elects. And that's more their gripe with it than the fact that the system doesn't work for them. I don't know how you could change it to make it more effective. You just have to be careful that people's disgruntlement with the voting system is not just simply related to the fact that they don't like who continually gets elected.*
  - One person believed that only people with traditional association to the area should be able to stand for office at all levels. Others thought that elected representatives should respect the views of those with traditional association to land.

### ***Structure of State Council***

- There was some discussion in several groups about whether one could do away with a State level altogether.
- There is currently no process for negotiation or consultation between State and Local councils
- At State level, there should not be a secretary or treasurer and there should not be a permanent chair. The chair should be elected for each meeting. Councillors need to be paid – but should be based in the region.

### ***State councillors - skill, experience and qualities***

Concern was often expressed by participants about the use of the term “skill” in the question posed. Skill was usually taken to imply educational qualifications. The point was made repeatedly by participants that many people who have experience and wisdom don’t have formal educational qualifications.

Some felt that it was important to distinguish between the method of representation and achieving more skilled councillors. Councillors should be elected firstly on their authority to represent their people and secondly on their skill level for that reason “*you should not be able to be a state councillor if your local land council did not endorse you*”.

Many believed that the lack of skills and qualities at State level occurs because people elect their family members and it all comes back to membership problems at the Local level.

*That’s the only prerequisite that you be a member. I think you should show and prove what you could do and I really don’t know what the answer is but something needs to be better than what we’ve got.*

Statements about skill at state level included the following sorts of comments:

- there was a need for skills at State level
- people need to be educated
- election should be merit based. Create criteria that people would need to meet. Nominees should have to produce a written resume demonstrating how they met a set of criteria
- should be like the AHO board where independent interview takes place – (it was not clear who should be doing the interviewing, though the idea of getting endorsement at regional level was a possibility)
- State councillors needed to be accountable to the LALCS and members
- nominees should have to satisfy the criminal records checks before the election takes place and maybe nominees should meet some criteria in order to stand
- need a balance between local representation and training about governance.

*What (2) is saying is a different system, is that each local land council would be allowed to put up one person and they would go through the local process to nominate that person.. So that's another way of doing it. But I think what we are saying is that we don't think that the full democratic system is working for us and that people self nominate and people vote for them cause it's just not bringing through the right people.*

### ***Skill at local level***

There was considerable discussion in some groups about the low level of skill in the elected representatives which was generally seen as tied to the fact that people were elected based on family links.

Suggestions for improved skill levels at local level included:

- those nominated for local office should have to be vetted by the State land council and could be ascribed points according to their skills

*Like overall you've got – say to be appointed to this position you get 100 points – 50 points will come from the election by members and 50 points will come State approval.*

In other words local executives would be elected by the LALC but would have to be approved by the State council according to a set of skills criteria.

- a buddy or mentoring system for newly elected or incoming nominees to work with outgoing officials for 3-6 months
- ensure committee/board governance training for elected reps is provided in a timely manner. Many thought that this should be compulsory, and therefore would need to be funded
- ensure effective training in what the NSWLR Act says – not just one day.

The adequacy of easily accessible expertise provided by the State land council to assist LALC elected reps was discussed and there was debate about how much “hand holding” the State should do through its branches.

The reported rule which prevents land council employees from nominating as a regional representative, and from voting on lots of issues because you might be seen to have a pecuniary interest by virtue of your employment, was seen by some to be unfair on people who work for the land council. It meant that their talents were not being used. It was also said to mean that land council employees couldn't have a say (vote) if their land was being sold, and it meant that elected representatives couldn't take on CDEP or other work for the land council when sometimes that is the only work available.

The skill level of LALC staff was also an issue. People felt that LALC staff often did not have the appropriate skill level *‘so these people can't usually assist the elected reps’*. It was felt that wages are not high enough to attract competent people and that staff need training as well as elected representatives.

### ***Training for Local executive***

There was general agreement about the need for compulsory training for new executive members (within one month of election). Some thought that it should be conducted by the LALC co-ordinator or by the branch office. Some thought that this training should be provided by the Registrar because he was seen as “having the right answers” and NSWALC was always giving different and contradictory answers. One of the major issues was clarity about the executive role, rather than about skill:

*Some chairs don't understand their roles – they think that they are there to make decisions – and don't understand that their role is only to ensure that the office manager puts into place the decisions of the meeting.*

### ***Operation of elections and voting***

The following issues became apparent or were directly raised:

- Not all LALCs with members present conduct secret ballots.

Apparently not all land councils are holding secret ballots for elections and some people are concerned that this prevents a range of people from standing and that some voters might feel intimidated. The comment was also made that votes for issues such as sale of land should also be by secret ballot.

- The comment was frequently made that there were often few members present when local elections were held.
- Some other people suggested that elected positions (at both the state and local levels) should be time limited ie people should only be allowed to stand once or twice at the most.
- One LALC co-ordinator felt that the time period between local elections is too short. “*By the time you have the executive trained up they are voted out*”. Other people said that two years was either too short or too long depending on *who* was elected, so it was probably about right.

### ***Remuneration***

Having paid state councillors was thought to have led to people standing for election for the wrong reason, and some saw it as eating into the investment fund. However most people thought that there needed to be some sort of remuneration – “*but not an open cheque book*”. The following views were expressed:

*if you are going to have State councillors, the old system was the better system. You actually had people coming up from the Locals, through the Region, the Region electing the Council. The whole thing changed when they offered them \$100,000 something a year to go – to be councillors and you got every Tom, Dick and Harry putting their name in a hat right, to get their \$110,000 or whatever it was.*

- In order to attract good quality people it was not only necessary to provide a salary but some sort of severance pay or pension to tide people over at the end of their four year term was also needed. Some incentive is necessary to attract people

to give up a well paying job for four years unless the Government could arrange secondments so that people can go back to their jobs when their term is up.

- Many people spoke about what a thankless task being an elected official or a co-ordinator was.
- There should be some remuneration for the LALC executive to attract good people – especially if you are going to make them meet certain criteria – but the most important thing is to have clear, legislated, responsibilities.

## **2.2 Accountability of state councillors and local executives**

### ***State councillors***

There was general agreement and frequent mention of the fact that State councillors were not accountable to LALCs. Participants felt there was a need for clarity about the role and accountability of elected councillors and that councillors should be accountable to the voters. Comments included:

*This paper (the NSWLC information package that was handed out) talks about it, everyone's talking about this separation of powers and management stuff. And I think the role of the Regional Councils need to be – I think it's there but it hasn't really - people haven't been educated about it. Their role and the role of the State rep who is part of, should be part of the Regional Council – this is getting back to the Regional Council electing their own rep. That's got pros and cons to it but that's another way to think. They could even go back to that. The Regional Council and the State representative would have the presence within the region. They would have a regional office. That person would be based in the region. And the State Council wouldn't have to meet every month they could meet, I don't know, three times a year or something like that.*

- Need for skills-based selection of state councillors and state councillors need to know their obligations and need to be answerable – “*must be a way to pull them into line*”.
- Need to regulate and monitor the performance of State councillors and need checks and balances once they are elected. While the roles of elected representatives are written in the Act, the responsibilities are not spelt out. There needs to be accountability.

Suggestions to improve accountability included:

- Greater level of understanding on the part of those standing for election of what the role of the State land council and the councillors is
- There should be a contractual obligation
- People should have to swear that they will perform the duties

*I think before they actually stand, something's got to be put in place about their obligations. And they need to sign off on this sort of form – like a contract, so if they are not doing the right thing – and every land council should have it to show you are obliged to do this under your contract. Something needs to be written, they need to be answerable back to the people.*

- Need for consequences if councillors mess up

*That has got to stop, so if people get up – put their hand up – yeah I want to be on the State land council – well they know if they mess it up then they'll go to jail or you know it actually means something. At the moment there is no accountability.*

- There should be some form of complaints mechanism
- There need to be easier ways to recall them

*I think that's (accountability) the biggest problem, I don't really care who runs RALC whether its Joe Blow on the corner or the ex-politician but there's got to be some means to pull them back into line because I mean because once they get elected they're a law unto themselves. They just do as they want and the local members that elected them they just don't get anything out of them.*

- Should be fit and proper persons – this needs to be established before elections
- Needs to be some way or someone to check if they are doing the right things – “an independent (non-government) Aboriginal watchdog”
- State councillors need to report back to the RALCs and LALCs. They need to have real contact.
- State councillors should be based in the region – not in Parramatta.

There was discussion about a Terms of Reference or Code of Conduct which might deliver accountability. It was thought that the Terms of Reference should spell out what the State councillors' duties are and LALCs need to be informed of these duties, and that a code of conduct might be needed too, with identified penalties

*But if we had a Terms of Reference that would spell out the duties of an elected person - and if I wasn't carrying them out the Locals would know that and they could make complaints and that complaints should be managed somehow. I know there were councillors and I wouldn't say who they were, but there were councillors that didn't visit certain Locals and didn't visit a lot of Locals because they didn't like the people in that area. And they slip behind having the information and the benefits that should be theirs so there needs to be some sort of guidelines for the election process when you swear in as a representative of that area you swear to do those things or give your consent to do those things and support those communities. Could be something like that but other than that it is a democratic election and you've got to make your vote count at the next election.*

There was a need for greater transparency

*Person A: A lot of our land councils – something is done wrong in our land councils so you've got an investigator in – we are not even privy to that investigation report that's been done on our land council. And then nothing happens to that person or the people who have done wrong but the whole community suffers and you know what it's like in a small town.*

*Person B: I heard one very clever man say not so long ago these people were doing the wrong thing and they don't bother turning up and they are going to get hit over the head with a feather. That's what happens isn't it Uncle, or a pat on the back.*

*Person C: Its good to hear other people share my views about things you know. I think the ones that don't do the right thing they are the ones that get the reward. I think it should be turned around the other way you know because....*

- In management of investments the State land council doesn't have to meet the same sort of criteria that local government elected representatives do

*Even the people who get in if they haven't trained – because what's happened is at the moment the State government has given the State land council a big pot of money – its like giving a kid a big jar of lollies and not given them any training or you can only have one a day or something – because there's been no financial skills and managerial skills stressed with the use of it. Like with the investments, I'll give you an example – with investments right, State land council does not have to meet the criteria, or it appears it does not have to meet the criteria that's laid down for say local government in where money is invested. And that's why part of the money that was invested in Japan we lost. What was it – 60 million?*

### **Training for State councillors**

*The way to deal with lack of skills is through training, and providing some mentoring so that those who have done it before and know how to do it can help new people coming in. Training should include financial literacy. The training sessions that the Registrar runs are not in plain English. The State should have skilled staff in the regional office so that they can offer support to the LALCs – especially accounting and legal advice. Training should be compulsory for State councillors. Training provided should be competency based.*

### **Local executive**

Some complained that there is no monitoring of the LALC executive.

*“And that's where I think legislation has to change because we talk of some communities being controlled by one family for up to 20 years and they've always given a minus result that the State body knows they are giving a minus result but they are powerless to do anything about it.”*

## **2.3 Membership and meetings**

### **Membership**

Declining membership and lack of attendance at meetings was one of the major issues raised. Apparently the majority of members who attend meetings are older women. Men and younger people did not attend often.

*We need a membership drive and we need to get young people to start to get them involved in land councils because the average age of land council members would be 50 and probably in some places well into the 50's and the other thing, without the women we would not have land councils in NSW, because they make up the majority of every meeting.*

Many people spoke about how the new rules about membership and registering as voting members had disenfranchised people, especially those people who could not read (often older people) and/or do not usually read mail.

People spoke of the need to attach new members, especially young ones, and the need for a membership drive to get people to re-apply who haven't responded to their letters.

People felt that the lack of accountability and transparency in LALCs and in the NSWLAC was impacting upon member numbers.

*We are not getting the young people involved because they don't want to be involved because there are so many – so much bad things happening and they can just see it happening time and time again and nobody is being held accountable.*

Some were dissatisfied with the membership rules since they said that new people would come in from outside and set the agenda for the local people – this extended to getting houses ahead of people who were locals and had been there and on the waiting list for years – “they come in and come to the meeting and vote themselves into houses”.

In some areas close to state borders there are issues about people not living in NSW being members of land councils. Membership should be restricted to the areas of the land council – especially voting membership. People come from over the border and vote. They only come when they want to.

### ***Membership and electoral role status***

All groups commented that the NSWALC needed to improve its system of notifying the voter status of members:

- Membership roles have not been appropriately administered or monitored by the State land council
- LALCs are not getting their membership approvals back. In some cases they have mixed up addresses

People felt that this was a serious matter. The fact that verified rolls had not come back was thought to have potential legal implications for some of the decisions made at LALC meetings and/or their ability to make decisions with any confidence.

Apparently many people don't understand about being registered to vote.

*We have 150 on our books but only about 20-30 are registered to vote. They were all sent a letter but they didn't respond – and then they turn up and want to vote. It is very disruptive.*

The new membership rules are said to be very confusing for older members – “they don't grasp it”.

- Some people have been members for years and years and they won't have read or responded to a letter and so they have been disenfranchised. This seems unfair, especially where there are low levels of literacy amongst our older people.

*There are now only a handful of members. Most people didn't respond to the letter that they got about needing to re-register. About 50% of the membership has been lost. The new system has disenfranchised Aboriginal people.*



Some people felt that the new system disenfranchises their children from taking advantage of the work they have done – if they are not living in the same place as their parents and are not registered to vote there.

Some people raised the problem of being registered with the Electoral Commission:

*Aboriginal people out there believe the minute that they go in and vote through the Electoral Commission - they haven't been on the electoral roll in their life, that they are going to be tracked down and fined. That's a real concern.*

There is also a belief that the criminal records checks are not monitored by the State land council. There is a perception that, although the check is sent away, it often doesn't come back and State level should take an active role in notifying the results of police record checks.

### **Aboriginality**

Issues raised included definitions and proof of Aboriginality and the question of who should decide Aboriginality. The following points were raised or discussed:

- *Aboriginality* needs to be tightened up – people who have never identified and who have no Aboriginal ancestry are jumping on the bandwagon;
- Need to clarify what “*members by association means*” – and membership issues generally. This is important for all sorts of reasons. In order to get on an AHO housing list you have to be approved by a land council.

There was discussion about whether or not potential members had to prove Aboriginality and the different ways that the LALCs presently handled this. Some believed that LALCs did not require proof of Aboriginality before people could sign up. Some representatives of land councils saw their role as supporting people in tracing relatives or records in order to demonstrate their Aboriginality. Others felt Aboriginality should be tested by members at a meeting:

- The role of LALCs determining Aboriginality needs to be examined and clarified, not just for membership and voting rights of LALCs but also because other organisations have until now used membership of LALC s as a test of Aboriginality.
- Aboriginality is an issue to be determined by Aboriginal people at land council meetings.

*If the members at a meeting make a determination that they are not convinced and the person attending that meeting satisfies their definition of Aboriginality then that's where it should rest. Not to some external person (the Registrar) writing to us and asking us to give a please explain.*

- There should be no appeal at all.
- NSWALC should have an appeals mechanism regarding Aboriginality (rather than the Registrar) and that the NSWALC should argue for this. The Registrar was

seen as representing the Government and it was felt strongly that Aboriginality should be dealt with by Aboriginal people.

One person thought that people using genealogies and pieces of paper to prove Aboriginality, rather than hearing a collective voice acknowledge their Aboriginality is a process that undermines Aboriginality itself.

There is a lot of confusion about Aboriginality certificates. The issue is delicate and volatile:

- Government departments are frequently requesting confirmation of Aboriginality from LALCs but do not pay any administration fees.
- Some agencies are now not accepting LALC Aboriginality certificates.
- There is a great deal of confusion about a directive from the Registrar that the LALCs not issue Aboriginality certificates but rather make a statement about whether the person concerned is a member of the LALC.

### ***Traditional association and membership***

- Some people felt that only those with traditional associations should be able to hold office.
- Some believed that there is a need to resolve differences between membership and traditional association. Whatever solution is developed it should be inclusive. Others thought that this should be sorted out at meetings. They did not want to rely on “pieces of paper” (genealogical evidence) but wanted to resolve membership issues by existing members voting. (See further below 2.5 and 3.1)

### ***Meetings***

It was generally felt that there was a problem with the meeting and executive system:

- it is hard to get a quorum
- hard to get the same people to two or three consecutive meetings – this led to decisions made at one meeting being reversed at the next
- some issues that members shouldn’t vote on (eg rental levels) where they had direct interests
- need more delegations to the executive to get consistency in decision making and policy – this was seen as especially important where business decisions were being made – and potentially changed at the next meeting.

Others disagreed with the preceding point and thought that the chair was free to act providing decisions were in line with the Act and within the budget.

Some felt that the way meetings are run, with meeting procedure of mover, seconder and putting the motion is a disintegration of the Aboriginal way of discussing things. In this system there is no real discussion.

Attendance of non-Aboriginal people at meetings is an issue. It was reported that the Registrar had said that non-Aboriginal spouses could attend meetings and speak – but that what they said wouldn't be recorded in the minutes.

### ***Attendance at meetings***

Attendance at LALC meetings was identified as a major problem

*..they may have 80 members, they may have 200 members, but they still can't get quorums at meetings. I don't know whether you can't run it in an Act but something needs to be done. Maybe you can, I don't know, for land council to become more of a voice of the community.*

Low attendance numbers (especially at election time in some areas) was a problem. Consistency of attendance was another problem identified, especially if important matters dealt with at one meeting were overturned at the next meeting by a different group of people. This apparently made it difficult for LALCs to act in a business-like way.

Attendance was often affected by housing issues, with people turning up to vote when they or their family thought that they might get a house,

*Some people have a cargo cult mentality when it comes to meetings – “what can I get out of it?”*

Reasons offered for lack of attendance varied, but the following sentiments were common:

*Lots of people don't turn up to meetings because they are not getting any economic benefit – especially in Western NSW.*

*People still have aspirations about getting land but because there are no resources to go with land – people lose interest. Resources are needed to keep the interests of the community together. People withdraw from taking part. They don't feel that they are in control.*

It was said that older people don't go to meetings because they will be abused. Respect for elders has diminished.

## **2.4 Functions and structures of the three tiers**

Views about the role, function and structure, (past present and future) of the components of the three tiered structure were varied. Most (but not all) believed that RALCs in their present form and with present legislation were a waste of money. A number of people thought it would be worth exploring whether the State council could be dispensed with, and replaced with occasional meetings of regional representatives. Some thought that RALCs should be dispensed with, but that the roles which they should be undertaking (eg regional planning and monitoring of government service delivery) could be picked up by the State land council working on a regional basis. Many people believed that the regional tier had worked very well before it had its powers and funding removed in the 1990s.

In general people believed that the national trend towards regionalisation and regional agreements in Indigenous affairs meant that there was an imperative to have some regional system in place to hook into the national trend. There was a strong belief that the structure and functions at this level should be funded by government. Not knowing whether funding would be available made it hard to develop forward thinking about this issue.

*..if you look more broadly at what's happening with national affairs and where we are seeing perhaps the demise of Regional Councils as well, there is a huge argument for saying we need to have some control over how we communicate at a regional level. But how can we articulate what those things should be with these kinds of structures when we're not sure what kind of commitments there are to funding that. It really limits our ability to sort of be aspirational when we are not sure what sort of commitment there is from Government.*

Regions and regional boundaries were seen as important, being more or less aligned with traditional boundaries and the value of the regional process was seen as being about having a combined voice. The regional level was also seen as providing support for LALCs.

There was great suspicion about letting the RALCs hold land or buildings (on behalf of Locals) because land that RALCs had held for Locals previously was taken by the State land council when the Act was changed and RALCs could no longer hold land. Much bitterness remains about this as land and or buildings had been acquired in partnership with other land councils in their region. This experience coloured people's views when discussing the role of the State and Regional land councils in relation to land.

*The changes to the Act in the 90's – when the State Land council took control of the Regions – they took over our land.*

Note: Participants' views about RALCs reflected their experience. Clearly there is a lot of variety in what RALCs are currently doing and how effective they are. Some participants had memories of “the old system” pre 1991, which many felt had been a good system. Some participants were bitter that they had lost assets.

### ***Role and function of RALCs and LALCs***

There was general agreement that when “NSWALC removed the resources of the RALCs in 1998” they removed the regional councils' ability to take a regional role. Many believed that a re-enforced regional structure is essential to a workable representation structure. There is a need for a very strong region.

*We can't hold deeds and titles. What has a Region got? A name, no functions and no resources to carry it out.*

One person thought that as LALCs were statutory authorities they shouldn't cede that power to a region – “*it is at the local level that the people are*”.

Some people thought that a three tiered structure was necessary – especially in the post-ATSIC era, the regions are needed to deal with things like land and water and with government bodies on a regional basis, but they must be fully resourced. Some

saw the RALCs as providing an active advocacy and co-ordination role. The problem with the current system is that there are no resources.

Others saw the need for the regional planning and advocacy role but saw it as being carried out by the State land council through the zone offices, possibly working to regional boundaries. The fact that zone boundaries were not regional boundaries was identified as problem.

Some thought that there was a need to review the role of LALCs.

*I think people have to really seriously look at what the functions are of the local land council. I think they're expected to be everything to everybody – the different agencies that drop in there and all the different community people that walk in and think they're – it's every need in the community. I mean do we need to narrow it down to land and land management, maybe with some economic development training and all this other stuff some other agency provides?*

Some others could see no reason to have a RALC, especially with their current role and level of resources. State councillors are not currently accountable to the LALCs. A suggestion was to do away with Regional Councils and get the State councillors and local chairs to meet together every four months.

Others thought there was potential for a partnership between LALCs and well-resourced RALCs, with the latter to have a regional “bigger picture” role in enterprise development and enterprise management.

Potential roles of the RALCs:

- Support and train LALC executives
- Lobby group on behalf of locals
- Need for a regional presence in the post ATSIC era
- Regions should be involved in regional planning and should be in control of program dollars; regions should make the allocation according to a regional plan.
- Could hold land in trust for LALC if the LALC becomes dysfunctional.
- RALCs could take over the functions of LALC if LALC not functioning (though this could be done by a branch office). There should not be any administrators.

*The better systems for administrators is to actually strengthen the Regional Office and put extra staff in there and let them take over the management of the local land councils if they are not operating properly.*

Some thought that there is a need for the regional boundaries to match Aboriginal boundaries. The suggestion was made that except for the Sydney basin these could follow 8-12 language blocks. Regional planning should match cultural boundaries.

Some thought that addressing the issue of aligning regional boundaries with traditional boundaries would also resolve some native title and traditional owner (TO)

issues (see further section 2.5). Others disagreed, saying that it would be too hard because of the large amount of movement of people that had occurred.

### ***Role and function of NSWLAC***

It would appear that the role and function of NSWALC is not well understood at local level and that clarification is seen as necessary. There was general discussion about what the function of the State land council should be, and some thought that it was trying to (or having to) take on too many roles

*Do you keep your central office in a pauper role that they can't fund the Locals or do you try and cut off functions that you don't need to have so that you can give more money to the Locals.*

Some felt that land council networks should be the core business of state councillors; others thought that the State can take an advocacy role including taking on issues such as removing the rating requirement, developing a separate environmental planning regime for Aboriginal land. They should be actively advocating on behalf of LALCS. For example:

- They should have lobbied against the *Vendor Tax* applying to land councils. They should be reviewing state legislation to consider its impacts on local land councils and Aboriginal people. State should develop a strategic relationship with the Department of Environment and Planning (DIPNR) etc and also deal with the rates issues.

One person thought that it would be good to broaden the scope of the legislation to allow the land councils to take in health – but that this needed to happen at the local level. (This was the same person who said that the core function of the land council was land and enterprise.) The view was that in the absence of ATSIC, the scope of the Act should be broadened.

Suggestions for change included:

- Do away with regional councils and get the state councillors and local chairs to meet together every four months;
- Do away with the state council and have occasional forums of regional reps; and
- Do away with the position of chair of the State land council, rather the chair should be elected for each meeting:

*I am talking NSW land council – well there shouldn't be one in the Act, there shouldn't be Treasurer or Secretary and there should be an elected Chair for every meeting so there is no one Chair that can be elected around the place, and that would stop these people from looking at themselves and looking inward all the time. Look at the fight about who's been the Chair over the last ( ? ) years – hasn't that wrecked us?*

Discussion about doing away with the State level included:

- The COAG trials and State Government policy are all putting emphasis on regional agreements – not on state level policy - so why have a State council?

- The state level has always made decisions without any consultation with the regional or local levels
- and

*the lynch pin of all this in my view is the fact that Locals who have the responsibility and obligations and for State land council admin and others to start respecting the Locals and not seeing them as, whatever they see them as. They certainly don't see us as people who can make a decision, let me put it that way.*

#### *Relationship between the levels*

There was considerable discussion about the interaction of the NSWALC and the LALCs:

*Well in the past that's the role (regions taking on local issues and taking them to the State) that we've tried to do, but I'm harking back to something I brought up before – there was two of our locals were having problems and we could see when it came around next June that two of our locals would end up on cessation of funding and we tried to get State to react to give us some assistance because the skill level wasn't there and they just turned a blind eye. And the blind eye was turned because the fellow that was in control of the Region at the time, his uncle was the State Treasurer – so they just turned a blind eye and we got no assistance and what happened – in June the funding was ceased. So you know, you can take – from a regional point of view, you can take the issue further but it's getting State to listen. (Member of a regional executive.)*

*We were sort of talking about this before – if you know a Local is getting into trouble, you know – now that's the reason, the whole reason why State land council exists is for local land councils, in a sense isn't it? That's the reason they are there. You know - give the Locals a bit of a go because most of them are trying to have a go. They are doing the best that they can but without that communication and support mechanisms – without those things being in place, you are fighting a losing battle. (Some one who has worked in the land council system for more than ten years)*

## **2.5 Traditional association, native title and the land council system**

### ***Traditional association***

The most common view about traditional association was that it (like Aboriginality) was something that should be sorted out by Aboriginal people themselves, usually at the local level.

In some places land councils seems keen to accommodate historical associations to land such as old missions, and to consult with those who had a traditional association to land, especially if there was a question about whether land was to be sold. In other places land council members who were not (and did not claim to be) traditional owners would not entertain any approach from people who claimed traditional association, especially if that claim was based on documentary evidence. In general people agreed that local land councils themselves should sort these issues out,

*“cultural matters, we should be able to resolve ourselves as black fellas”*

though this would not necessarily result in any consistent approach. In some places a fairly direct overlap between LALC membership and traditional association was reported, and in other places not. In some places where this overlap does not exist LALC members are willing to consult (and some actively do) with traditional interests and in other places they are not. Some views about traditional association were coloured by views about native title. Some thought that the two issues were inextricably linked:

*Why we can't consider going back to traditional structures based on cultural linguistic groups is beyond me. (..Boundaries for) Regional Councils I think Murdi Paaki is a really good example in the west of a near traditional structure with their community groups. Whether they are representative of the traditional structures is different, but the actual structure is based on language and cultural grouping. We have those groupings, they are still alive and I think it would be wrong of NSWALC to take the opportunity of the Review to marry the two and then you wouldn't have this problem of where does the Native Title Act fall into a local land council decision making process. You could actually encompass both. There just seems to be a disaster if they don't attack or address the issue of where does the role of Traditional custodians play. You cannot have that separate. It doesn't work like that at a local land council level. Everyone is mixed as one but when it comes to the decision making of the Local to offset land which we are talking about here this mob over here, the Traditional Owners have got a big role to play, but it causes conflict because the two structures don't align. This is the opportunity for the State land council to do what it should have done in the first place. And I don't know who we blame there whether we go back to who was running the State, Neville Wran or whatever but you've got to use our cultural structures, then you have authentic representation and you can actually make agreements on cultural issues, hopefully start getting away from the breakdowns that are going on in community land councils about, they are Traditional Owners, we moved here and that's just wrong. That is just dividing us again.*

There was criticism of the fact that the State land council, while it was managing Native Title Services had not provided family trees and boundary maps (see further section 3.1).

### ***Native title***

Views about native title and its relationship to the land council system varied. Although people were asked to comment on implications of native title for membership issues, most spoke about the impact of native title on land rights in NSW. There was a fairly widespread view that native title was divisive and destructive and some people were reluctant to engage in discussion about it. There was general resentment about the fact that since 1994, claims under the NSW Land Rights Act are subject to the native title legislation and that the land council has to fund the native title process. The native title legislation was seen to have had a detrimental effect on claims under the NSW Land Rights Act.

*Land Rights has come to a standstill in my region because of native title. They'll process the white man's access to using native title for the use of his land and development but they brought all the letter of the law on Aboriginal land councils to prevent them from doing anything with the land or even claiming land.*



There were differing opinions expressed about how native title and the Land Rights Act should relate to each other:

*I think bringing the traditional affiliation into the system formally would be a disaster .... and I ..... think that there's a lot to be said for bringing native title, the conducting of native title back into the NSWALC system. Because it worries me that when its not under the one house its just another way in which Governments can divide us between native title owners, traditional owners and the rest of the Aboriginal community. And it seems to me if you follow through the principal of self-determination we as Aboriginal people should be deciding how to resolve those issues. There's two reasons: there's first of all, I guess the ideological reason if we are self-determining and we are exercising our sovereignty we should take responsibility for how we resolve the tension between people who claim to have the traditional affiliation and those who through other circumstances now are well established as families within those areas. And there's a pragmatic reason for it and that is that it stops that splitting us off amongst each other. And its used as a strategy by State Governments. They use land rights claims against native title and they use native title against land rights claims. It seems to me we have missed a great opportunity to be very strategic and put the pressure back on to them and say well we've got two here, which do you want? Rather than allowing us to play it off each other.*

Some spoke about the conflict of interest that arose for them as elected representatives within the NSW land council system and as members of a community or cultural interest group in relation to native title claims (see further section 3.1).

## **2.6 Administration issues related to membership and elections**

There was general dissatisfaction with the way administration of voter rolls had been handled (see above) and general dissatisfaction with the level of support and advice from the NSWALC in the past. There was a lot of discussion about “THEM”, meaning the NSWALC.

There were several comments about the fact that NSWALC either did not process police checks on local elected officials, or did not get back to the LALCS with the results of the checks. Some people suggested that this was a misunderstanding of the processes involved, in that returns only had to come back if there is a problem, but others wanted to be reassured that the checks had in fact taken place.

The sorts of comments made about NSWALC performance included:

- Dissatisfaction with the NSWALC response if a LALC fails to put in a return or if there is something wrong with it. NSWALC leaves it too long before getting involved with non-performing LALCs – ‘*You end up with administrators when the thing could have been sorted out early*’ – things get into a vicious cycle and spiral down.

*See this is what usually the problem is – is that there are indicators along the line that says that that land council is in trouble. You know you've got a number of indications they are not complying – they haven't held their AGM – or whatever the indicator is. Now State land council, even your regional office needs to be like ‘okay x how are you going? - you haven't put your quarterly report in. Do you know what I mean?’ It doesn't matter if you are a fully funded land council or if*

*you are an unfunded land council. Even State land council there has sort of got to be that – communications has got to be sort of a little bit better in that sense instead of nailing.... nailing you – bang, you are now unfunded or we are not going to release your allocation because you are not complying. We didn't know about that – you know what I mean – that communication was sort of there between the two – because your regional land council, other than your branch – what does it really do in a sense. (Community member with many years experience of working in land councils)*

And at another meeting

*And then when your quarterly report was supposed to be in to NSWALC they won't wake up down there until you start ringing up saying where's my money? So you know, you can go into a pretty vicious cycle straight away and it only takes one break in the chain at the moment, whether it is the executive that chucks the towel in or the Coordinator that's been there for awhile, throws the towel in or something happens and a Local can go down the gurgler pretty quick and there goes their assets and everything that they had, basically. Because the first step they say at NSWALC – and it takes them too long to basically put an Administrator in I think. It doesn't actually have to be an Administrator but at least it has to be some sort of financial help. (LALC Co-ordinator)*

- State land council doesn't do anything to help LALCs. LALCs should be free to get on with it if they are performing well.
- State land council needs to be proactive in monitoring how the LALCs are going – should not take on role of policemen but a helping 'older brother' role. There should be a requirement for regular acquittals against budget and quarterly reports. If the acquittal doesn't happen, action should be taken immediately.
- State land council should be more open in communications. Needs better communication and greater level of truth.
- Land councils who are doing the right thing get no attention. Investigation reports are not made available and the same people who have been investigated get re-elected.
- Everyone knows that there are no repercussions for doing things the wrong way. 'Need to start rewarding the ones who do it right!' Young people don't want to be involved because bad things happen and there is no accountability.
- Need to stop propping up failing land councils – There should be fewer land councils. Criteria for deciding which land councils to drop should be a combination of size of membership and how the land council has functioned in the past – i.e. its track record.
- If a land council is functioning well it should not be dissolved or amalgamated just because it is small. Track record is more important.

There was general disgruntlement about the recent changes to branches and about the new zones:

*Well you might take the message back that we violently disagree with zoning, the zones.*

Many people were puzzled about why the creation of zones was taking place at the same time as review.

### **3. Land and benefits**

#### **3.1 Land and enterprise**

Some general issues and principles were discussed. These included issues about the role of LALCs and land, the need for people with cultural associations to be involved in decisions about land and the need for a strategic approach to land holding – such as the NSWALC having a register of all land and information about its saleability etc. For example:

- Local involvement in land is important. The politics of local land should be kept at the local level. Some participants thought that this was sacrosanct – others thought that with appropriate MOUs and protocols in place (a revamped and resourced) Regional Council could hold and manage land on behalf of LALCs if LALCs wanted this or were incapable of doing it themselves.
- There is a need to separate out culturally significant land and make sure that those with cultural associations have a say. A mechanism to identify those with traditional associations is needed.
- Dissatisfaction was expressed about State councillors making decisions about land – as it was felt that this should be the prerogative of locals. This was especially an issue where most local members had traditional associations with land. It should be up to locals – not people at State level who come from another region.
- Section 40D is confusing.
- The land claim and granting system is flawed from the outset because if a land council did get a property that was a working farm (or capable of being a working farm) they did not get the capital or finances to keep it operational and couldn't borrow against the land.

*So we get given land back but we don't get any way to develop that land or ideas for that land or anything like that. Nothing is given for the next the step, the next level.*

- The State land council should have a “duty of care” to ensure that LALC land is protected and LALCs get the best deal they can in respect of developing and selling lands.
- A register of all land council land is needed, including data about its saleability. The register should be a tool for the State land council to develop strategic

approaches to land and as the basis for advocacy activity. They should provide advice and guidance to LALCs.

*Person A: I reckon there needs to be a project done right throughout NSW about what land holdings does the land council system network have. And then you could narrow it right down to the locals and say what type of land do you own? Is this land going to be used some time in the future? Is it possible to use it some time in the future? Can you use it now? Does it have any cultural significance? I don't think this has been done. And what sort of zoning is this land – is there any opportunity for re-development in the future or re-zoning in the future? Nobody knows that except some locals who may have done some work with local government - some consultancies locally. Maybe that could assist the State land council to say well we have got to think differently about land. Maybe some of the land could be categorised differently. Maybe some it should be disposed of – maybe some funds should be set aside to help locals pay for all of this. Or work towards re-zoning. I believe that is the sort of work the State land council should be doing on behalf of the locals.*

*Person B: We should have all that technical expertise.*

*Person A: That's what I am talking about when I mean technical support, scientific support to do the EIS. A. H. assures me they are opening the land unit.*

*Person B: That's what I am saying with the disposal of land, the State land council should have that technical expertise to do that. I have seen local land councils wanting to re-zone their land and it takes 3 or 4 years and they just get the shits and walk away from it. And what the hell do I know about re-zoning land?*

There was general agreement that the State land council should have a watchdog role, not to make decisions about whether to sell or develop land but to see it was done effectively and was of benefit to the community.

*There has got to be something there anyway that stops greedy developers and our greedy mob for getting away with dodgy stuff. ... I think if the intentions are right and the checks and balances are in place, they are getting the right deal for their money then Locals should be able to have a free leg to do what they want. But I think that regulatory body still has to be there just to ensure there is a safety net.*  
(LALC Member)

### ***Keeping land in perpetuity***

Views varied about this issue. Some people thought that land should be held in trust for future generations and others thought that it was appropriate for LALCs to be able to sell land to use the money for things such as the education of children. Many thought it was a decision for each LALC. There was a strong view in some meetings that claimed land should not be sold<sup>2</sup>. Others thought that the process for selling or disposing of land was flawed (see below).

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<sup>2</sup> The question of whether land councils held this land in trust for the whole Aboriginal community was not directly canvassed, though many commented on the needs of future generations.

- Keeping land in perpetuity is fraught with danger. It assumes that LALCs would need to go to government for money and would be able to bear all the costs of managing the land, including council rates.
- Not being able to sell land ignores the fact that it is the LALC who decides and should decide what happens to LALC land.
- Elected members have a responsibility to provide benefits for members here and now.
- Missions and reserves should be held in perpetuity but other land should be kept or sold depending on price and what else you want to do with the money. These lands are too significant to risk mortgaging. *(Many participants spoke of the special importance of missions and reserves to people who lived at or were born there, regardless of the traditional affiliation of these people.)*
- Should be mandatory that LALCs review all their land holdings and identify what is to be held in perpetuity and which might be sold, under what circumstances.

### ***The process of selling land***

Selling of land was discussed by all groups. Views about the adequacy of the processes and the need to involve those with traditional association varied from group to group and sometimes within groups.

Concern was expressed that the Government (through the Act) should not take away the self-determination of Aboriginal people. Selling land should be a LALC decision – and it needs to be an open process ensuring people get value for money.

It was widely held that decisions to sell land should be preceded by good asset assessment and planning by LALCs so that they make informed decisions and do not sell off land that should be kept for future generations (community uses or cultural heritage). The asset assessment needs to be supported by the State land council.

The following sorts of views were expressed:

- The selling of land should be the business of people with traditional association.
- The process of decision making (to dispose of land):
  - The process is flawed – the current process involves a minimal number of people. All members need to have an opportunity to agree or disagree about the disposal of land, and traditional people should have a say
  - there is a problem with the current system where as few as 8 people are needed at a meeting to decide to sell land and a larger quorum should be needed at these meetings
  - it is unrealistic to raise the quorum number for these meetings because of the difficulty of getting people to meetings, even when they are advertised
  - the processes for selling land works OK. The debate takes place at a community meeting. The process is advertised and 80% of those present

must agree. This system is good enough. In fact it couldn't be harder to sell land.

*What you will find when it comes to the final decision on the voting to dispose of the property is that those that are in favour will definitely be there, those that aren't really in favour don't turn up and sometimes you only get the 10 that are in favour that'll turn up – or 12 or whatever. So because they aren't really in favour of it they just stay away or they think, well I'm not going to go in there because they are going to vote in favour of selling it anyway. (LALC Co-ordinator)*

- if people are arguing about the numbers of people who should be present at a meeting to sell land they were worrying about the wrong thing. The issues should be about how the executive was engaging and communicating with the membership.
- The idea of signing off that the land was not of cultural significance was ridiculous and a major flaw in the Act, because all land is of cultural significance to Aboriginal people.
- The idea of cultural significance is complex:

*Person A: ....as Unc says, you are never going to see black fellas sell a burial ground, a ceremony ground, midden sites – those sort of prescribed things – up home. They're – that's what we view as culturally significant, but if you told us is that land culturally significant, well probably we would say yeah we used to walk through it. So does that make it culturally significant? We had a problem with a bean patch up home that come up for sale. The old people were saying its not culturally significant because the way they view culture was, is it a burial ground, is it a dancing ground, ceremonial ground, is it an old campsite? No it wasn't but yeah some members of the community had been there and worked on this bean patch and they viewed it as culturally significant and they are still up in arms today about defining what's culturally significant.*

*Person B: ... Yes it is a complex concept for us to deal with but we are the ones who need to deal with it and we shouldn't be, in approving the sale of the land, making a sweeping statement that this land is not culturally significant...*

*Person A: (If it wasn't in the Act). You'd have the debate but you wouldn't have the worry about the meaning of saying that this is not culturally significant, because that just scares the life out of us. How would we be viewed by our future generations if they had to define that word? Don't want to go there.*

- Culturally significant land shouldn't be sold and it shouldn't be rateable.
- Selling land that has been claimed is defeating the purpose of the Land Rights Act – it shouldn't be sold away. It should be possible to develop land without selling it if you can get assistance from the State land council. Need the expertise of the State LC. If the State doesn't have the skills it needs it should be able to get them.
- Some rules proposed for selling land:
  - A meeting where a decision is made to sell land should have to have a higher number present for a quorum - not just 80% of a normal quorum

- Must be mandatory to invite people with traditional associations to the meeting
- Need to make a formal for and against case for the sale of land and need to ensure people are making an informed decision. Key words are transparency and information
- If you don't do these things then only those who are for the sale will turn up
- People should be able to vote secretly about selling land.

The role of the State land council in selling land was discussed by all groups. The general consensus is expressed by the following quote:

*It's the LALC decision to sell it but NSWALC's duty of care to ensure they are getting the right price for it, that the deals they enter into are the best deals they can get and are not going to fatten a third party.*

### ***Land and enterprise development***

In general people felt that decisions about development of land and enterprises should be local level decisions but that the NSWALC should have a strong role in provision of advice and funding. The following sorts of comments were made:

- Land and enterprise are the core functions of the land council
- The State land council should assist LALCs with enterprise development. The State land council and all of government (eg State and Regional Development) should develop the capacity of Locals to run enterprises. And provide funding for enterprise development
- LALCs should have access to the NSWALC Investment Fund
- LALCs shouldn't have to sell land to create enterprises – should have funding for enterprise development. NSWALC should invest in LALC enterprises. LALC should be able to access the ALC investment fund to develop enterprises.
- Land councils are the biggest landowner on the North Coast on NSW but they are not behaving like a big land owner – no strategy and no development. Opportunities for CDEP and land council to work together in development projects.
- Need assistance and or funding from NSWALC for business plan development (which is now compulsory). Assistance should be grants, not loans.
- It should be the role of the State or Region to look at land assets and to assist with developing ideas for developing land. The State land council should come out here to visit the Locals.

### **Cultural heritage**

The fact that cultural heritage protection and management is not under the control of land councils was raised in most discussion groups.

The following sorts of comments were made:

- LALCs have no say in cultural heritage management. LALCs should have the power to look at developments for cultural heritage. LALC should have control and protection of cultural heritage.

*None of us have any cultural recognition at the State level – native title, it's a Federal thing – okay we know that and my view is – and we all know who we are – our fellas out there where we belong, our areas that we ought to be making the Land Rights Act work for us in my view, but if I was a native title – if I was as an original person from the area that I come from be on the land rights legislation as a member then putting a motion that all of our people who belong in this area would be the sub-committee for cultural heritage. Okay and when they put that forward then they and we go as a body to the Government and say its about time you handed back to us our sites and that for our original people – the people who belong here and know them, to look after.*

- There is no recognition of the role of local land councils at State level. A suggestion was made that each land council should have a subcommittee of traditional owners who could look after cultural heritage.

*...the main point for me was if you can get culture and heritage back into Land Rights but the practical solution is to have that reserve as a sub-committee and the criteria would be, you are a Traditional Owner family. Therefore they've got a role to play. There's no disrespect to them for their cultural rights but everyone who is born in an area and lives in an area also got a right to participate in the land council. On everything else - but culture and heritage, yeah. That's the Traditional Owner area - because I would feel stupid if I was to stay here longer and join up and then be on a culture and heritage committee – I'd say no that is morally wrong – my old people would hit me on the head.*

### **Association**

Local and traditional association with land is an important issue. Some people feel that the Act should specify that those with traditional associations should be consulted in regard to decisions affecting land. Others believe strongly that this is a local issue and that you have to rely on the fact that Aboriginal people will do the right thing (see also section 2.5).

- Local or traditional association is an issue that should be sorted out locally. Trying to alter the system to legislate for recognition of traditional affiliation would be a disaster.
- Need protocols in place for dealing with land where there are traditional associations.
- LALCs hold land on behalf of Aboriginal people. Where people with traditional association exist they should be consulted.



### ***Land claims and native title***

The following sorts of comments were made about land claims and native title (see also section 2.5):

- The State land council should take a greater role in land claims, and there should be better working relationships and closer arrangements between State (NSWALC), the Indigenous Land Corporations (ILC) and the Native Title Unit.
- Land rights have come to a standstill. The Native Title Act is useless and destroys families by setting them against each other.
- The Government applies the letter of the law regarding compliance with the native title legislation for land councils
- Native title legislation and NSW Land Rights Act should be administered by the one body to prevent governments wedging us.
- Native title should be separate from the land council system.
- The current situation with two sets of legislation makes it very hard for State councillors when the people they represent have differing rights under the two acts.

### 3.2 Summary of each discussion group's views of role of NSWLAC, RALC, and LALC in regards to land

Acquiring land	Managing land	Selling land	Developing land	Enterprise Development
This should be a LALC role. State should look at all claimable lands in the state and liaise with LALCs about claims. Zone offices to assist.	Should be a local responsibility. RALC should provide training, monitoring and advice. The State LC should provide training and monitoring.	This should be a local decision with the State having an overseeing role to prevent bodgie deals.	A local role but LALCs need help from State with legal issues and funds.	
Local level role. State should provide advice about claimable land and submit claims (in consultation with LALC) when land comes up. Lands are not being claimed.	Local level role. State should provide advice and assistance.	Local level role. State should provide advice and assistance.	Should be a local decision but with money from the State.	Local level role. State should provide advice, assistance.
Should be a local responsibility but there is not enough money to buy land. There is no land to claim.	Should be a local responsibility.	Under s.40D the role is partly local role and partly a State.	Should be a local decision but with money from State.	
Thought to be a State role.	Local level role. State should provide advice and assistance.	Local level role. There is a perception that s.40D removes self-determination. The State LC should not be removing self-determination.  40D should work. If people have broken the law they should go to jail.	Should be a local decision but with money from State.	Local level role. State should provide advice, assistance.  Opportunities for partnerships with CDEPs should be explored.

<b>Acquiring land</b>	<b>Managing land</b>	<b>Selling land</b>	<b>Developing land</b>	<b>Enterprise Development</b>
Local level role. State should provide advice about claimable land and submit claims (in consultation with LALC) when land comes up. Lands are not being claimed.	Local level role. State should assist if asked.	Local level role. State should have oversight, and provide advice. Supervising the process not making the decisions.	Local level role. State should advise about development options and assist with legal advice.	Local level role. State should provide advice, assistance. Opportunities for partnership with private developers should be explored.
A LALC role and/or a RALC role depending on the situation.	A LALC role.	Under s.40D the role is 50/50 50% local and 50% State role.	Should be a local decision with State verifying the decision-making process. State should fund development, provide technical support and scientific assessment, scrutinise the process. Local should maintain ownership of development projects.	S40AA State should assist in funding.

### 3.3 Benefits

There was widespread acknowledgement that the NSW ALRA prevents LALCs from passing on any benefits to members. Direct benefits were said to exist only for those members who rented land council houses and /or who were employed by a LALC. Some participants raised the issue of whether subsidised rents would constitute a direct benefit under the Act and should therefore be disallowed. Many saw housing (especially on old reserves and missions) as compensation due for past wrongs (and central to the intention of the Act) rather than as benefits.

There was a general view that land was often more of a burden than a benefit, and that there were other benefits which came from the land council system (see below). The general view that the Act provided few if any benefits was presented as a reason for declining membership.

*When you look at the preamble to the Act and the purpose why the Act was imposed and it was imposed – if you were to ask the question in the light of the intention behind the Act you would have to say there are absolutely no benefits in regards to the intention that have flowed from the Act that correlate to the intention behind the Act. The intention behind the Act was to compensate Aboriginal people for dispossession and to bring about social justice but every arm of Government, as I said before, has actively worked against the intention behind the Act. And I think to answer your question, rather than find out those items where people – and you could probably do that – you could probably get quite a few pages together of benefits that have flowed from the Act but to me in my view what that does is give credence to the very small amount of benefits that have flowed from the Act. When that wasn't the intention of the Act – it wasn't the intention of the Act to give one or two Councils a benefit or to give some small, you know, benefit, it was compensation and it was supposed to be about compensating for dispossession and bringing about some social justice. Has that been achieved through the Act? No.*

#### ***Land and economic benefit***

- Land is not always a benefit (economic) – it can be a burden. For the majority of land councils it has not been a benefit (economic).
- Land can be more a burden than a benefit. (Rates, fire hazard control, noxious weeds, and feral animal control.) A lot of land council land is zoned open space or nature conservation and can't be sold for development. Things like fire hazard reduction costs (which were not applicable when it was Crown land) are crippling.
- Many land councils with valuable land are cash poor and have difficulty raising funds for development or for ongoing land management.
- “Land is important, but we haven't benefited from it.” (There was a general consensus that while it was not economically beneficial – people had benefited from having land) – “just being able to be on Aboriginal land”.

*.... the Act was based on an economic base for us right? Culturally it is great to have a parcel of beachfront that we have got back, that we can go and throw a line*

*in and walk through without having to walk through someone else's yardage or council but the reality from an economic basis it has provided us with not much.*

- Claiming of Crown land was to have benefited all Aboriginal people in NSW but it hasn't benefited people in Western NSW or other places where there is no valuable or usable vacant Crown land. The review needs to look at this issue.
- The premise that owning land should deliver economic benefits is correct, but this hasn't been realised. Owning worthwhile land should deliver economic benefits. It is not the intention of the Act that is the problem.
- That the Act bestows benefits is a fallacy. We can only claim Crown land if it is goat tracks. Where there is a high population there is no claimable land.
- Land becomes a burden rather than a benefit, especially if rates have to be paid on it. Where there is claimable land in western Sydney it is very expensive to clean it up. The Crown had been exempt from the need for fire mitigation etc – if we get the land we are subject to all the local government regulations.
- If you do have land you need funds to develop it. – Need grants from NSWALC.
- In 1983 the LALCs couldn't acquire land because we didn't have the money. We have had land claims in since 1983 that are still not settled. There is one surveyor for the whole of NSW to deal with land claim Certificates of Title (CTs).
- A minority of land councils have benefited from land. Some areas such as Metro land council have become substantial landholders and have had economic benefit which they have been able to put back into housing, where their members live.
- The fact that the Act links into the National Parks Act and facilitates the hand back of National Parks has been a benefit to some.
- Local governments are trying to tie up land which has been granted in Local Environmental Plans (LEPs), zoning it for fauna and flora protection (7b). Some people believe that there is a concerted effort by government, local government and others to ensure that LALCs can't use the land by zoning it for nature conservation.
- All our land claims have been challenged by government – we have had to go to the Land and Environment Court to win our claims. We have had to use members' own resources to fight our legal cases to win our claims. This is at odds with the intention of the Act to set up land rights to give social justice to Aboriginal people.

### ***Housing as a benefit?***

- Housing has been a benefit of the ALRA but it has also been a burden. The possibility of being able to own or buy your own home is a benefit.
- A house is not a benefit. It should be an entitlement.
- Old people see housing as theirs (especially if it is what was a Mission or Reserve.) They believe that it is the one thing they thought had been delivered as compensation under the Act. These people feel that they should not be charged rent – at the most they should pay a service charge, not rent

### ***Distribution of economic benefits***

- Distributing land or housing would lead to unequal distribution. The Act is supposed to benefit all its members – but it depends on where people are living. The Act restrains us from selling housing cheaply to our members – have to sell at the highest price.
- Equity in the share of benefits needs to be addressed. The coast has all the land and the west has nothing.
- The situation is that the body corporate might be rich but the members are poor. – Members can't get the benefits.
- Section 52<sup>3</sup> creates another layer and makes it impossible for Aboriginal people to get land from the body corporate.
- Enterprises are currently set up like a communist system supposedly for everyone to benefit – they could be put out to tender to Local members for them to run.
- Conflict of interest situations – e.g. if a LALC employs people on a project then that person can't vote and or/ executive members can't take employment on land council projects.
- LALCs with coastal property get an economic benefit. Many LALCs have land that is only fit for mountain goats.
- Some land councils have sold their land or some of it and are rich and they still go on getting the \$110,000, when there are small and poor land councils that are struggling.

Two groups discussed a proposal that they had heard about, which was that benefits should be shared out across the state more evenly. In one group the view was:

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<sup>3</sup> The informant was unsure of exactly which section he was referring to but possibly s.52(1)(e) which says that land is to be vested in the LALC

*As long as it went out to those poorer land councils and don't stay idle in NSWALC drawing that interest for them to you know – for themselves.*

In the other group someone reported that he had heard this proposal talked about on the coast and that many coastal people thought it was fair enough to share some of their funds – because the Act said “for the benefit of all Aboriginal peoples in the state”.

***Benefits of the ALR Act – other than economic benefits related to land***

- The only people who benefit from the NSWLR Act are co-ordinators and administrators

*Person 1: I mean you can't operate the way we are going and expect to benefit anything. The only thing beneficial if you put it down to it is the Coordinators – I am on full time employment for the time being and that's the Office Admin, they're the only ones benefiting. The ordinary community member – they don't see the benefits. I mean they might grab the car every now and then and go to a funeral and things like that but that's about it.*

*Person 2: I guess it's a matter of how you recognise benefits. What do you see benefits as – as a benefit to the community. Do you see it as pure monetary gain? Communities benefit through capacity building through what you are able to organise for your – I would hate to see a community without a land council because that is the only structure that they have that is in place that gives them that little bit of democracy and little bit of sense of knowing where they can go to in the future. And we can get our hands on training packages and training through TAFE. We would never get it through NSWALC, but without a land council you won't have any of that sort of stuff so there are a great deal of benefits that does really – the spin offs that do go to a community. But as far as enterprise building and business building goes the benefits are very minimal and State land council needs to be make funding available for land councils so they can get those enterprises going.*

- Owning land is important to Aboriginal people – it is important to be able to walk on Aboriginal land. There are cultural benefits to holding land:

*And then we get our land, now all it does is give us a goat track but in the goat's track we've got our camp that we've camped on and held our family gatherings on since I was a child. That's the benefit - there is no real economy thing, it's a cultural traditional practice I suppose, that we've been able to regain by having access to it. But other than that you've got to pay rates on it and caretake for it, fire plans, feral pest plans.*

- Benefit is not only dollars. Land councils have the ability to deliver capacity building to local communities. The system delivers democracy and a hope for the future. Land councils provide some training to some people.
- The fact that there is a representative structure is a benefit. LALCs have some clout in dealing with and influencing governments but haven't had the support from the NSWALC – i.e. in dealing with issues such as water rights and access. Recently there has been a trend by Governments of ignoring LALCs and not dealing with them. There should be stronger recognition from government for the land council structure. The fact that the LALC is a statutory body, and elected

body is a benefit, however increasingly local government and state government agencies ignore LALC views.

- There are no benefits which go to supporting the intention behind the Act of delivering compensation for dispossession and delivering social justice. Compensation and social justice has not been achieved and not for all of the Aboriginal people in NSW.
- land councils are the only places where people can go to get help; help with sickness fund, assistance with papers and forms, use of phone and fax.

*XXX.. is a little town, a little community – now the land council is it! There's no other organisation, there is nothing else for the community, so that's the body in that town, for the Koori community.*

- Employment was seen a major benefit for LALCs. Land councils often provide the only employment in small communities thorough cultural heritage surveys, CDEP projects hosted by land councils and land council contracts such as forestry , catering etc.
- The ALRA does give people a voice, especially through the LALC.

*It did give us a voice. The voice wasn't spoken properly that's all.*

- LALCs play a role in capacity building and in getting people together – (community building).
- Need funding for enterprise development – to build capacity.

### ***Loss of benefits***

The introduction of the NSW ALRA meant the loss of hunting and gathering rights which had existed under the Aboriginal Act in 1969.

## **4. Other issues raised**

### **4.1 Prescriptive Act, compliance and administrative and structural changes**

#### ***Prescriptive Act compliance and the history of amendments***

Every group commented upon the prescriptive nature of the Act and the emphasis on compliance. The following sorts of comments were made:

- There is a conflict between the preamble (social justice and all Aboriginal people benefiting) and the emphasis on compliance.

*All the amendments to the Act have ever done is enforce systems onto Aboriginal people and make them comply, again a process of victimising the victims. And none of the amendments to the Act since 1983 have ever empowered local land councils to achieve the intention of the Act which was to bring about social justice for Aboriginal people in NSW. None of the amendments empower Local Aboriginal Land Councils to achieve that. Its all a process of do this, jump through this hoop, jump through that – report here, report there. You know, this is*



*not working, let's fix that – nothing about the intention of the Act, you know bringing about social justice and giving local land councils an opportunity to provide social programs. (LALC Chair)*

and

*...when you look at all the amendments to the Act is what they've done is impose compliance, compliance, compliance when its never been about, well this was the intention of the Act, the intention of the Act was to bring about social justice, how do we make the Act do that, how do we make the Act work that. Every amendment, you can go back and look at it for yourself, every amendment to the Act has been about comply, comply, comply.*

- Amendments to the Act have focussed on compliance and has led to victimising the victim. Amendments have not empowered people. The amendments have not enhanced delivery of the intent of the Act in regards to social justice.
- The current system punishes the victim. If the State land council stepped in early enough then the LALCs wouldn't need to be relieved of their responsibilities. The NSWALC has become the police arm of the Act.
- There has been an emphasis on compliance rather than a focus on how the NSWALC can help to achieve social justice.
- There is a lot of energy and money tied up in compliance at both local and State level – how does compliance fit with trying to achieve social justice?
- Changes to the Act have led to increased functions for the State Land council but have not delivered any additional funds to carry them out. There is a need for balance between state and local functions.
- NSWALC doesn't have policies – all the policies are written into the Act and so there is no flexibility. The Act is too prescriptive – NSWALC should set policy, the Act shouldn't be used to set policy.

*Could I just make a point I have just thought of. I haven't read their Act for a while but think the Act is too prescriptive. I have never seen a policy, excuse me if I am wrong, I have never seen a proper policy document from the State land council saying this is our policy in relation to land. Nearly everything that is policy ends up in the Act. And people are just stuck with it then.*

### ***Separation of powers***

- Separation of powers is an important issue. This needs to be dealt with both at State and Local levels.

### ***New zone structure***

- The new zone office will not be able to provide adequate service. The branches didn't have enough staff, so how can fewer offices (fewer staff) do the job?

- Can't see how one zone office is going to be able to provide the same level of services that the four branches provided. Where there were about 10 land councils per branch there will now be 40 land councils to a zone.
- Can't see how one zone office is going to be able to provide the same level of services that the branches provided.

### ***Capacity building***

- Need capacity building programs for LALCs.

### ***Funding structure***

- Annual allocation to LALCs is not high enough – certainly can't use it to undertake development or business enterprise.
- There is currently no equality in funding either in the way the NSWALC allocates funds to LALCs or in the fact that some LALCs get their rates paid after defaulting. Coastal councils with lots of assets don't need their \$100,000 – other councils have no assets at all.
- The current funding system needs to be reviewed. The current system of funding all LALCs to the same level is no good.

### ***Value of discussion meetings***

Participants expressed gratitude at being able to get together with their colleagues and have a good discussion about a wide range of issues.

- the State land council should set up regular meetings for office managers or co-ordinators with in each region – so they could meet on a regular basis for support and exchange of ideas. This would stop the co-ordinators from feeling so isolated.

## **4.2 Housing and the rates issues**

There was general agreement that housing was a major issue that needed to be addressed and most commentators promoted the outsourcing of housing management:

- Land councils shouldn't be providing social housing. This should be done by housing providers. The land council has a bad name as a housing provider and this means insurances are very high.
- Rental properties are a millstone.
- Management of housing should be outsourced
- Should make it mandatory for LALCs to outsource housing management. Make funding dependent upon it.
- New people who come into the community don't want to join the land council but they want to get on your housing list

### 4.3 Cultural heritage

A strong and consistent view was expressed about the need for Aboriginal people to be in control of their cultural heritage.

- The Land Rights Act has not protected intellectual property or given control to Aboriginal people of cultural heritage.
- LALCs need stronger powers to deal with developers about cultural heritage.

*See there should be a focus within the land councils to not just having the Coordinator and the Admin Assistant – we should have our cultural heritage workers back there. There should be 5 people fully employed within the land council and that's a minimum of 5 people to cover all the different areas.*

- Hunting and fishing rights are related to the right to control cultural heritage.

### 4.4 Minister's interest

The fact that the Minister is no longer requiring a copy of our annual report is an indication of the fact that the Minister is not interested.

*When was the last time you saw the Minister at a land council function?*

### 4.5 Role of elected local land council representatives not appreciated

A number of people spoke about what a thankless task being an elected official was.

*Sometimes its – as I've said I've been in – this is my fourth – second term of two years – and I don't think I've been swore at as much, abused as much, told how low we are as much – you are always ripping off the land council. So it is a thankless position and if I didn't respect my community and want it to go somewhere I wouldn't be doing it. It's certainly not something if you read the job description you would take on.*

### 4.6 What the review should achieve

While participants were not asked specifically about what the current review should achieve, most groups made some comment about this. The following sorts of comments were made:

- The review should deliver control of cultural heritage to LALCs
- The State land council should be intending to bring about the intention behind the Act. Should aim to stop the various arms of government trying to prevent the achievement of the intentions of the Act as set out in the preamble.

*... I think the State land council should be making a clear and definitive statement to the Government of the day, and all Parliamentarians, is what they should be intending to do when amending the Act, is to bring about for Aboriginal people, the intention behind the Act. And stop using the arms of Government to be an instrument that prohibits the intention of the Act from being truly and fully met and when I say the intention I am talking about the intention as espoused in the preamble to the Act.*

- The review should recommend a re-introduction of the land tax. 15 years of land tax is not the equivalent of over 200 years of dispossession.

*...the intention was to address social justice, I think we are worth and I think our country has been worth a bit more than that percentage of land tax for 15 years. Because it was actually a model we could say to other people, they are paying the rent. Well they only paid the rent for 15 years out of 200, they're not a good tenant.*

- LALCs should be able to develop land without reference to the need for Local Government regulations – LEPs etc.
- Mineral rights should be available to Aboriginal people and LALCs
- Hunting and gathering rights should be delivered by the legislation. This issue has only been dealt with by way of negotiated rights. This is not adequate.

### ***Issues that need further debate and getting the terminology right***

It was felt that when the electoral system and or structure is drafted up it should come back to the people to check the wording – to make sure it is appropriate in terms of Aboriginal terminology.

There was a general view that many issues such as Aboriginality, regional boundaries, and cultural significance of land need ongoing discussion and debate within the Aboriginal community, and the review should facilitate this.

*This is something (regional boundaries) as was said we need to have a lot of more discussion, more debate as Aboriginal people about this because at the end of the day you'll find that really isn't the case. We know there's been a lot of stuff that has gone down the chute. We are well aware that its been eroded for one reason or another. But I think you'll find that this is where Aboriginal people have got to come together and they have never really been given the opportunity to come together and argue their case and put their case and debate their case. There's been no process in place that strengthens Aboriginality or recognises it, the validity of Aboriginality. That's why we are sitting around the table here today. That's why we have a Land Right Act from the outset that has totally opposed Aboriginality, hasn't recognised it at all you know. And its been amended and amended and interfered with and here we are struggling to try to fit our distinctive thinking as Aboriginal people, and we do have a distinctive thinking contrary to non-Aboriginal people. .... if you do agree then we have got to come back to the table, us Aboriginal people and say no we need a lot of discussion about this because that's how we operate on a daily basis. We might say something here but as soon as we walk out the door we fall back into the – if we are not structurally assimilated that is – we fall back into the category of thinking like Aboriginal people and interacting with other Aboriginal people as Aboriginal people. So where there's – you know Kooris haven't been given the opportunity to really debate these and talk these over. We have been put into this northern hemisphere timeframe of where we have to come up with answers all the time that has to do with the rest of our life and the future of our life and the future of our kids. You know the future of Aboriginality in this State so you know if that's what I understand that you are saying that we need to really think this out a little bit better than saying, you know – a Paakantjii, here's a Paakantjii woman sitting here right – argue with her that these fellows don't know what they are talking*

*about over the river but you come back and I am a Wiradjuri woman and you debate it with me about what – who's who in the zoo and I'll go toe to toe with you. Do you see what I am saying? So in order for us to strengthen ourselves we have got to have these debates. Unfortunately we are in a timeframe and unfortunately it is not fitting into the category of the way we have got to be fitting today but that's the reality for us. If we don't come to that conclusion as Aboriginal people what's the point, you know?*

