



## Priorities of the Registrar, *Aboriginal Land Rights Act 1983*

1. The effective and efficient performance of the statutory and ancillary functions of the Registrar in accordance with the *Aboriginal Land Rights Act 1983* (ALRA),
2. The provision of timely and accurate advice and assistance to Aboriginal Land Councils in accordance with the ALRA,
3. The provision of timely and accurate advice and assistance to persons seeking to be registered as Aboriginal owners pursuant to the ALRA,
4. The provision of timely and accurate advice to the Minister administering the ALRA,
5. The provision of information and the promotion of the ALRA to all relevant persons,
6. The effective performance and development of the resources of the Registrar's office.



**STAFF OF THE OFFICE OF THE REGISTRAR:**  
**BACK ROW. ANDRA EISENBERG, RACHEL LENEHAN,**  
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**KATHRYN GREGSON, STEPHEN WRIGHT (REGISTRAR).**

### Performance Report

The Office of the Registrar, *Aboriginal Land Rights Act 1983* is a statutory office created under the Act. The Registrar is a statutory office holder. Until 25 October 2002 the person holding the office was appointed under Part 2 of the *Public Sector Management Act*. On 25 October 2002 the *Aboriginal Land Rights Act Amendment Act 2001* commenced. From that date the person appointed as Registrar was deemed to have been appointed under the *Statutory and Other Offices Remuneration Act 1975*.

The Registrar and staff are administratively linked to the Department of Aboriginal Affairs, however the independence of the Office of the Registrar is recognised by the NSW Government and the Registrar is able to carry out all statutory functions without actual or perceived influence. The Registrar reports to the Minister administering the ALRA in relation to statutory functions.

The Office of the Registrar is a separate legal entity from the Aboriginal Land Councils constituted under the ALRA.

Two highlights for the Registrar in the 2002/03 reporting year were:

1. The commencement of the *Aboriginal Land Rights Amendment Act 2001* (ALRAA) on 25 October 2002 and the significant changes to the functions of the Registrar,
2. The continuation and expansion of the process of entering the name of persons with a cultural association with land on the Register of Aboriginal Owners.

### Summary of Statutory Functions

The ALRAA<sup>1</sup> added new statutory functions and amended existing functions of the Registrar. The functions of the Registrar are listed in s. 165 of the amended ALRA. The following list of functions highlights the new or amended functions of the Registrar:

- to register land claims made under the ALRA by the New South Wales Aboriginal Land Councils or Local Aboriginal Land Councils,
- to maintain the Register of Aboriginal Land Claims and the Register of Aboriginal Owners,
- to approve the rules of the New South Wales Aboriginal Land Council and Local and Regional Aboriginal Land Councils,
- to make recommendations to the Minister and carry out such other prescribed functions in relation to the constitution of Local Aboriginal Land Council areas and the constitution of Local Aboriginal Land Councils, the alteration of area boundaries of Local Aboriginal Land Council areas and the changing of names of Local Aboriginal Land Councils,

1. The *Aboriginal Land Rights Amendment Act 2001* (ALRAA) commenced on 25 October 2002. This act amended the *Aboriginal Land Rights Act 1983* and so the principal act remains the *Aboriginal Land Rights Act 1983*.

- to make recommendations to the Minister and carry out such other prescribed functions in relation to the alteration of area boundaries of Regional Aboriginal Land Council areas and the changing of names of Regional Aboriginal Land Councils,
- to issue compliance directions to Aboriginal Land Councils, officers of Aboriginal Land Councils and councillors relating to the administration of the ALRA and the regulations and to refer failures to comply with such directions to the Court,
- to mediate, conciliate or arbitrate disputes relating to the administration of Aboriginal Land Councils or to refer such disputes to independent mediators, conciliators or arbitrators,
- to investigate complaints regarding the non-disclosure of pecuniary interests and breaches of the ALRA and the regulations,
- such other functions conferred or imposed on the Registrar by or under the ALRA or any other Act.

A number of ancillary functions arise from the explicit statutory functions of the Registrar. The principal ancillary functions of the Registrar are:

- to provide advice about the meaning and operation of the ALRA, *Aboriginal Land Rights Regulation 2002* (ALRR) and the rules of Aboriginal Land Councils,
- to provide advice about the Aboriginal land claims process,
- provide advice about the information required for a person to establish their descent and cultural association with land to enable them to be registered as an Aboriginal owner pursuant to the ALRA,
- to provide information, education and training about the ALRA and ALRR.

## The Operation of the Registrar in 2002/2003

### ABORIGINAL LAND CLAIMS

The ALRA provides that Local Aboriginal Land Councils (LALCs) or the New South Wales Aboriginal Land Council (NSWALC) may make claims to Crown Land that:

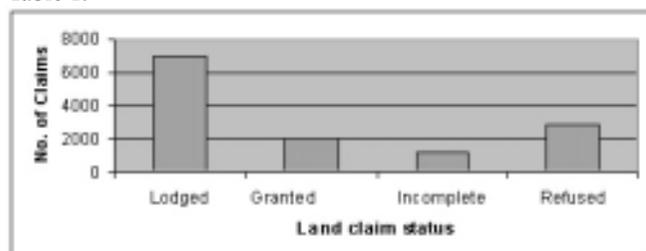
- Are able to be lawfully sold or leased, or are otherwise reserved or dedicated for any purpose, under the *Crown Lands Act 1989*;
- Are not lawfully used or occupied;
- Do not compromise lands which, in the opinion of the Crown Lands Minister, are not needed or likely to be needed as residential lands;
- Are not needed or likely to be needed for an essential public purpose;
- Do not comprise lands that are subject to an application for a determination of Native Title (other than a non-claimant application that is an unopposed application) that has been registered in accordance with the *Commonwealth Native Title Act 1993* or the *Native Title Act 1994* (NSW), and;
- Do not comprise lands that are the subject of an approved determination of Native Title (within the meaning of the *Commonwealth Native Title Act 1993*), other than an approved determination that no Native Title exists in the lands.

Individual land claims must be lodged with the Registrar before they can be forwarded to the Minister administering Crown Lands for determination. The Registrar must decide whether the land claim is in a proper form and in certain circumstances if the claim can be approved. LALCs may lodge a land claim for land within their area without the approval of the Registrar. Such a land claim must clearly identify the land claimed, and if so, the Registrar is bound to register the claim. If a LALC or LALCs make a land claim outside their area(s) the Registrar must approve the claim before it can be registered.

Once a land claim is registered it is referred to the Department of Lands for investigation to determine if it is 'claimable Crown Land'. The Minister responsible for the determination of Land Claims is the Minister administering the *Crown Lands Act 1989*.

Table 1 provides a summary of all land claims since the commencement of the ALRA in 1983. During the period 1 July 2002 to 30 June 2003, 250 land claims were registered.

Table 1:



**THE REGISTER OF ABORIGINAL OWNERS**

During 2002 – 2003 the number of individuals registered as Aboriginal owners in NSW increased. These people are registered for Mutawintji National Park, Mt Grenfell Historic Site and Biamanga and Gulaga National Parks.

Under Part 8A of the ALRA the Office of the Registrar has the responsibility of keeping a register of Aboriginal owners. The Registrar must use his best endeavours to enter in the register the name of every Aboriginal person with a cultural association with land in NSW. The name of an Aboriginal person must not be entered in the register unless the Aboriginal person consents to the entry of their name in the register, is directly descended from the original Aboriginal inhabitants of the cultural area in which the land is situated and has a cultural association with the land derived from the traditions, observances, beliefs, customs or history of the original Aboriginal inhabitants of the land.

Under this legislation priority is given to the entry in the register of the names of Aboriginal people with a cultural association with land listed in Schedule 14 to the *National Parks and Wildlife Act 1974* (“Schedule 14 areas”). Lands listed in Schedule 14 are reserved or dedicated (eg. as a National Park or Historic Site) under the *National Parks and Wildlife Act 1974*, and have been identified as being of cultural significance to Aboriginal people.

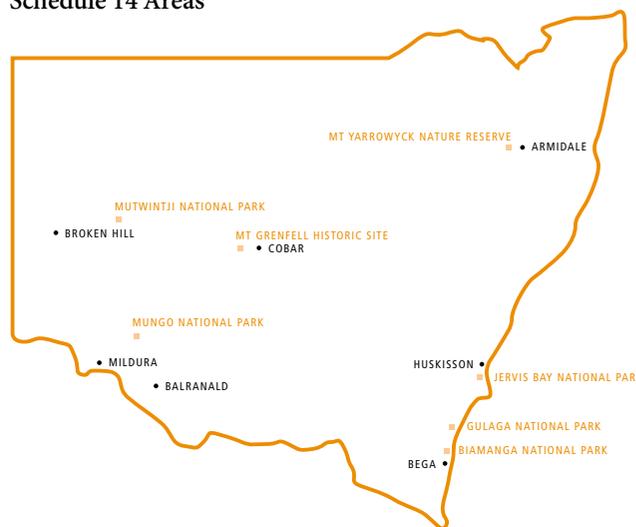
Under Part 2 of the ALRA certain Crown land is claimable by Aboriginal Land Councils. Land that is needed for the essential public purpose of nature conservation is not considered under the legislation to be ‘claimable Crown land’.

However, where an Aboriginal Land Council has claimed land of this nature under the ALRA, provision is made in section 36A of the ALRA for the land to be granted to an Aboriginal Land Council for joint management as conservation lands, subject to certain conditions.

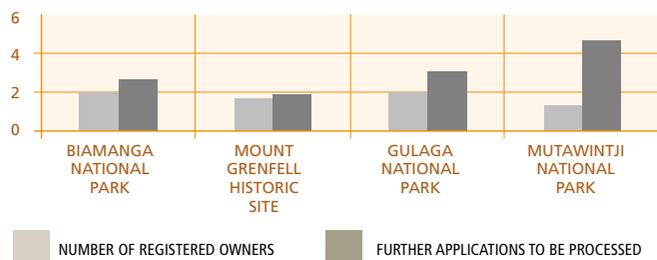
There are currently seven Schedule 14 areas:

- Mutawintji National Park
- Mount Grenfell Historic Site
- Mungo National Park
- Mount Yarrowyck Nature Reserve
- Jervis Bay National Park
- Biamanga National Park
- Gulaga National Park

**Schedule 14 Areas**



These lands are able to become part of a process in NSW called ‘joint management’. Title to the lands may be vested in an Aboriginal Land Council and leased to the Minister for the Environment. The land is then jointly managed by the Aboriginal owners and the National Parks and Wildlife Service. A board of management is established for each area of land under joint management and consists of a majority of Aboriginal owners whose names are listed in the register of Aboriginal owners held by the Office of the Registrar.



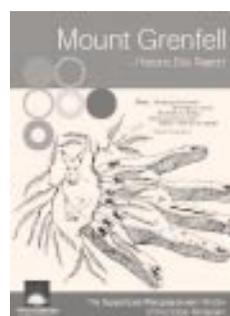
**Table 2. Register of Aboriginal owners – Statistical breakdown (as at 30 June 2003)**

During the reporting period the Office of the Registrar developed and implemented a further research project to assist and support the entry of Aboriginal owners in the register of Mutawintji National Park. This is in addition to the three projects previously commissioned for Biamanga National Park, Gulaga National Park and the Mt Grenfell Historic Site. All of these research projects were engaged to gather information to assist individuals with requesting entry in the register as Aboriginal owners, and gather particular information about Aboriginal cultural heritage specific to the people and land of the Schedule 14 areas.

These projects have enabled the names of Aboriginal owners to be entered into the register for these areas of land. As the register does not close and further requests for entry in the register are received, work continues to assist people with their requests.

Further planning began to develop similar projects to enter the names of Aboriginal people in the register of Aboriginal owners for the Mt Yarrowyck National Park. At the request of the Mutawintji board of management the Office also commenced work to increase the amount of people entered in the register for the Mutawintji National Park.

During the reporting period the office also published two publications, *The guide to the Aboriginal ownership and joint management of lands in NSW* and *Yapapunakirri: lets track back: The Aboriginal world around Mount Grenfell*. These two publications have been distributed widely across NSW.



The history and cultural association of the Nganyampaa Wangaaypuwan people with the Mount Grenfell Historic Site, written by Dr Jeremy Beckett and Dr Tamsin Donaldson with Brad Steadman and Steve Meredith.



The Guide is available to all Aboriginal people thinking about entering their name in the register. Used by the staff in the Office of the Registrar to help them understand the legislation and the process of joint management, written by Warwick Baird.

#### ABORIGINAL LAND COUNCIL AREAS AND BOUNDARY MATTERS

In the reporting year 2002/03 the following matters were resolved by the Registrar:

- Warren Macquarie Local Aboriginal Land Council (LALC): an area that was previously not constituted within any Local Aboriginal Land Council area was constituted within the Warren Macquarie LALC area (29 November 2002),
- Pilliga Local Aboriginal Land Council and the Baradine Local Aboriginal Land Council (LALC): the Pilliga LALC amended the boundary of its area, the Baradine LALC area was constituted within the area vacated by the Pilliga LALC area (31 January & 7 February 2003)
- Trangie Local Aboriginal Land Council (LALC): an area that was previously not constituted within any Local Aboriginal Land Council area was constituted within the Trangie LALC area (7 March 2003),

- Sydney and Newcastle Regional Aboriginal Land Council (RALC) area & Central Coast Regional Aboriginal Land Council (RALC) area: the Worimi LALC area was included in the Sydney and Newcastle RALC area by the alteration of the boundary of the areas of the Sydney and Newcastle RALC and the Central Coast RALC (30 May 2003)

#### **ABORIGINAL LAND COUNCIL NAME CHANGES**

In the reporting year 2002/03 the following matter was resolved by the Registrar:

- The Yota Yota Local Aboriginal Land Council changed its name to the Cummeragunja Local Aboriginal Land Council (13 December 2002)

#### **ABORIGINAL LAND COUNCIL OPERATIONS**

The Registrar continued to provide advice and assistance to Aboriginal Land Councils during the 2002/03 year.

A series of 10 regional workshops were jointly convened by the Registrar, the Department of Aboriginal Affairs and the New South Wales Aboriginal Land Council to inform Aboriginal Land Councils about the amendments to the ALRA made by the ALRAA. The workshops were convened across NSW and were attended by approximately 300 representatives of local and regional Aboriginal land councils.

The second half of the reporting year has been a transitional period for the Registrar, planning and implementing procedures and work practises for the new and amended functions of the Registrar (s. 165 (b), (f), (g), (h) - ALRA).

Particular emphasis has been given to the implementation of a revised Register of Aboriginal Land Claims, the procedures for dispute resolution (mediation, conciliation and arbitration), the procedures for the practise of issuing compliance directions and investigations of failures to disclose pecuniary interests or other breaches of the ALRA. This work will continue in the following year and an evaluation process will be undertaken.

#### **REGISTRAR'S OFFICE STAFFING**

During the 2002/03 reporting year the re-structuring of the Registrar's staffing to account for the new and amended functions of the Registrar continued.

Revised position descriptions and evaluations for the positions have been conducted to account for the new and amended functions of the Registrar. The recruitment of permanent staff to all the relevant positions will be completed in the 2003/04 year.