

The Aboriginal Land Rights Act 1983 (NSW) – *Looking Ahead*

Seminar – Thursday 17 March 2011

Registrar's speaking notes

Ladies and Gentlemen if I may ask that we come to order so that we can begin today's proceedings.

Firstly, may I introduce to you Mr Ricky Lyons, the chairperson of the Metropolitan Local Aboriginal Land Council who will welcome us. [Ricky Lyons delivers welcome]

Thank you Ricky for your warm and generous welcome; may I offer my and my family's respects and best wishes to all of the Aboriginal families who have been part of the land upon which we meet today.

Ladies and Gentlemen I decided to call today's seminar "*The ALRA – Looking Ahead*" knowing that in asking people to speak and think about what may lie ahead for the ALRA we would inevitably and properly be drawn back to its history. The ALRA is not an isolated legislative anomaly (despite what some may think or say). It is in fact an important part of the long rich and tumultuous history of Aboriginal rights in NSW.

With this in mind and knowing how we all can be enmeshed in the issues and challenges that immediately confront us, I thought it would be good to take a breath, step back and spend a day reminding ourselves that the ALRA is as much about ideas, aspirations and patterns of Australian colonisation as it about audits, quorums, corrupt conduct or the minutiae of administrative law principles that occupy the minds of judges. All these things are important, however they are certainly not more important than the profound concepts that the ALRA presents us with.

So today is an opportunity to share stories about the ALRA, to learn from others about what has happened and may happen in different parts of the land rights movement and to reflect on those stories and the philosophical underpinnings of the ALRA. I am very attracted to the idea of sharing stories.

I am reminded of a lesson from African culture. A child asks an elder, "Grandfather, God created all the animals didn't she/he? Yes child all the animals", the Grandfather said. "Grandfather all the animals have different roles, some hunt, some graze, some swim...for what purpose did God create people?" "Ah" says the old man, "God created people because he likes to listen to stories".

With this in mind I hope you will find today's stories interesting and engaging (I'm sure our speakers are hoping you find them so).

As to how we may proceed, you will see from your program that each speaker has been allocated one hour. Within this hour they have been asked to deliver a prepared paper and to engage in a conversation with all of us. I will play the role of chairperson (a daunting task in a room that is probably at least half full of chair people!). I would ask that our exchanges are respectful and relevant to our conversation.

We will have microphones available for all speakers and Tabatha, Courtney and Amanda from my office are on hand to make sure we all have access to them. Please make yourself known to these three ladies at any time during the day if they can assist you.

Our five speakers today bring a wealth of experience, knowledge and dare I say battle scars to a conversation about the ALRA; I will introduce each as they come to the lectern, I thank them now for their efforts in participating in the seminar.

I must also convey to you Mr Adam Black's apologies for not being with us today, Adam is attending to serious family business. Adam was to be our first speaker and he has prepared a challenging paper on the role of dispute resolution within the ALRA and his profound experiences in cross cultural dispute resolution practises with the Yolgnu of north east Arnhem Land. I will return briefly to those cross cultural experiences later in these introductory remarks when I offer you the necessary explanation for the artefact you see I have with me today.

The papers will be published on the Registrar's website (hopefully next week), a set will be delivered to each Local Aboriginal Land Council and you may obtain a set by contacting Tabatha Dantoine from my office.

Before moving to today's first guest speaker (Mr Terry Lawler) I would like to offer you some potted information about the ALRA to hopefully wet your appetite for our conversation.

With the mention of appetite, I am reminded to tell you that morning and afternoon tea and lunch will be served in the area adjacent to us at hopefully the times set out in the program. I trust you find the refreshments to your liking.

I would also ask you to familiarise yourself with the exits from our meeting room and the locations of the bathrooms for your convenience.

To return to the ALRA; firstly some brief comments about it as a living law:

- (i) The ALRA was made law in 1983;
- (ii) It was amended in 1986, principally to ensure Aboriginal Land Councils would pay Local Government rates for their land (one way or another) – rates remain a sore point across the land rights network;
- (iii) It was amended in 1990, principally to strip the then 13 Regional Aboriginal Land Councils of their assets and to provide Local Aboriginal Land Councils and the New South Wales Aboriginal Land Council with the power to dispose of their land (the wounds of these amendments are still visible today);
- (iv) It was amended in 1994 in an attempt to reconcile the legal principles of the ALRA with the emerging legal principles of Native Title law (these issues remain alive and challenging today);
- (v) It was amended in 1996 to introduce the concept of Aboriginal Owners that underpins the joint management of NSW conservation lands and to provide land claims that have been refused for the essential public purpose of nature conservation, may be granted subject to joint management. (I will leave it to Mr Andrew Smith later today to tell you about the profound success of joint management for Aboriginal Land Councils, I would argue the concept remains controversial and continues to suffer resistance to its tenets);
- (vi) The ALRA was further amended in 2001 to principally introduce an honesty and disclosure of interests regime that was cut and pasted from the Local Government Act, to create a separation of authority within the NSWALC and to create an independent office of Registrar (I leave the last point for your comment...);

- (vii) Following the removal of the NSWALC and the appointment of an administrator, a review of the Act and a couple of different NSW Ministers for Aboriginal Affairs, it was amended in 2006 to principally change the governance model for LALCs and to introduce concepts of “community land and business plans” and community benefit schemes”;
- (viii) It was amended in 2009 to create a code for land dealings by Aboriginal Land Councils and to regularise the ALRA with the NSW Real Property Act, it also introduced the concept of the “community development levy” (there is currently much colour and movement in relation to land dealings!);
- (ix) Lastly; Aboriginal Affairs NSW, the NSWALC and the Registrar have worked on a further amendment Bill which has kindly be named the “Miscellaneous Amendment Bill”. A draft Bill has been created and awaits comment and dialogue within the land rights world and hopefully consideration by the next NSW parliament in 2011.

This is surely the story of a living law!

To set the scene further, I would offer you some statistics [refer to PowerPoint presentation]:

1. Aboriginal Land Councils
2. Land Claims
3. Aboriginal Owners
4. Membership of Local Aboriginal Land Councils

Now I will return to the explanation of the artefact you see I have with me. I owe you an explanation, and I hope you receive it with good grace.

The artefact is my “Galpo” known in other languages as a Woomera. It is an artefact of the Dhurili Clan Nations of the Yolgnu of north east Arnhem Land. It was bestowed upon me by those clans and I have been invited by them to carry it with me as a symbol of respectful cross cultural dialogue. A cannot see how any dialogue about the ALRA is not profoundly cross cultural.

The Galpo was bestowed upon me as part of the Mawul Rom project convened on Elcho Island, north east Arnhem Land.

The Mawul Rom project; the brilliant original idea of the Rev. Dr Djiniyini Gondarra (a senior Dhurili Clan Nation Elder) and Mr Patrick McIntyre (a Darwin barrister) has been practised since 2004 and continues to grow. While I could say much about Mawul Rom, for today I simply direct you to its website www.mawul.com

The Galpo has many uses, its most obvious being to propel a spear. The Yolgnu of north east Arnhem Land propel their spears with great skill and their spears are fearsome having been steel tipped and razor sharp for hundreds of years thanks to the Yolgnu's long and successful cross cultural relationship with the Macassan peoples from north of Australia.

However the Galpo has an equally important use within Yolgnu culture as a symbol of gentle, loving respectful dialogue, it is a man's artefact. The Yolgnu strongly desire this symbolism to resonate in the cross cultural space. To carry it is to acknowledge this symbolism and to practise it. I am honoured to do so.

Respect is such an important part of any dialogue; to hear and be heard gives us all a sense of purpose and well-being. I would encourage us all to be respectfully heard and to hear today.

If I may, one last anecdote to inform our conversation:

Nearly 30 years ago a now grey and aging Australian rock legend responded to the acrimonious meltdown and break-up of his then seminal band by asking members of two other world renowned former bands (of which he was a fan) to join him in a "super group". They said yes and then he promptly contacted his angry former band mates and asked them to join his super group, they mostly did and the result remains the stuff of rock mythology to this day!

When he was asked why he thought it was a good idea to do what he did his response was:

"Because humour beats bitterness every time".

With that in mind I hope you enjoy today's proceedings.

I now move on to our first speaker Mr Terry Lawler... [Terry's bio]