

TOO BROAD FOR TOO FEW?

I will commence by clearly stating that as a non Aboriginal man I have the limited perspective that comes from this fact. My first involvement with Aboriginal Land Councils came when I was appointed Administrator of Koombahtoo Local Aboriginal Land Council (KLALC) in February 2003. It is also fair to say that this is the first time I experienced actively working with Aboriginal people and communities. Since that time I have been the Administrator of several other Local Aboriginal Land Councils (LALC's) and our firm is currently the auditor of a number of Hunter, Central Coast and Sydney based LALC's. These experiences have had a significant impact on me as well as a major Not For Profit Organisation (NFP) – Like Without Barriers Ltd (LWB) – of which I was a co founder and have chaired for the last 11 years.

LWB was established to improve the quality of life for vulnerable and marginalised people. We commenced in Newcastle and now operate in every Australian state and New Zealand and are the largest NFP provider of out of home care (foster care) in Australia. LWB provides care for over 400 Aboriginal children and delivers services to remote communities in the NT, WA, urban NSW and Adelaide. We are the first organisation in our sector to have completed a formal Reconciliation Action Plan; 2 of our 9 Directors are Aboriginal people and we are exceeding our goal to employ an additional 150 Aboriginal people over 3 years. I am not suggesting that these achievements are because of me – LWB has fantastic executives, staff, carers, government and community support. My LALC experiences, however, have enabled me to far better appreciate the community and personal challenges, cultural and respect issues, communication requirements and relevant service models that are a critical part of LWB's achievements to date.

The story of KLALC is a well worn path that I do not intend to specifically revisit. As stated I have also acted as Administrator for a number of other LALC's where there were different challenges and of course opportunities. As my roles as Administrator have been with LALC's that were experiencing challenges the following comments in this paragraph relate to those LALC's only. I do consider however that some of these matters are an influence on many LALC's. Overall the issues relating to these appointments included – a deficiency of administration, financial and management skills; control by family group(s) to the detriment of others; fraud and misrepresentation; corrupt and criminal conduct; actions that knowingly were in contravention of the ALRA; misrepresentation to NSWALC re actions and events; involvement of high profile individuals to achieve inappropriate results; focus on personal short term benefit rather than medium/longer term LALC benefit; significant internal disputes between family or "power groups" within the LALC's; family and/or personal relationships that were hindering appropriate commercial actions; a significant lack of maintenance of LALC assets resulting in lost resources to the community and oppressive actions including aggressive or even violent behaviour by the few against the majority. These issues then resulted in – responsible people losing interest and not staying involved; responsible people not wanting to join LALC's; youth participation at a low level; the LALC not being a representative body for Aboriginal people in their LALC area; poor community perception by non Aboriginal people of LALC's and their members; some LALC officers being found guilty of corrupt and/or criminal conduct by the ICAC and the Courts; only a limited number of members receiving benefits; Aboriginal people who were not LALC members not being considered at all and in some instances actually excluded from potential benefits; micro management by members; apathy and inaction; reducing number of LALC members and difficulty to attract and keep quality staff and LALC officers.

Lawler Partners Pty Ltd
ABN 64 090 945 681

Sydney
Level 9, 1 O'Connell Street
Sydney NSW 2000 Australia
GPO Box 5446 Sydney NSW 2001

telephone 02 8346 6000
facsimile 02 8346 6099

info@lawlerpartners.com

Newcastle
763 Hunter Street
Newcastle West NSW 2302 Australia
PO Box 2368 Dangar NSW 2309

telephone 02 4962 2688
facsimile 02 4962 3245
DX 4303
mail@lawlerpartners.com.au

It is very pleasing, though, to see in recent years the work of many people bearing fruit with more competent and committed people taking roles with some of the LALC's. We all know that these are not easy jobs with the administration and officers having a broad range of business, governance, advocacy, cultural and community issues to deal with and with most LALC's having very limited resources. LALC officers and staff are regularly reminded that as with all groups of people - you cannot satisfy all of them all of the time.

The above has made me ask myself - why so the issues I refer to above happen and is it possible to significantly reduce their occurrence and impact? How do we make LALC's and their operations more relevant to the Aboriginal people in their areas? How do we get a better result for Aboriginal people? I do not consider that more and more governance is the answer as greed is a very inventive motivation. I would ask the question - are we trying to do too much for too few?

I am not questioning the purpose of the ALRA to;

- provide land rights for Aboriginal persons in NSW
- provide for representative LALC's in NSW
- vest land in those Councils
- provide for acquisition and management of land and other assets and investments by and for those Councils and the allocation of funds to and by those Councils

I do consider however that we should give more consideration to the services that LALC's provide or attempt to provide under "the provision of community benefit schemes".

As Administrator I have been involved in several business and community plans. In all of these plans the same issues came forward such as education, housing, employment cultural activities, aged care and youth services. All of these matters are of great importance however most LALC's do not have the financial or management and commercial resources to make material differences in all of these areas. If the same situation occurred in business you then have to determine the area(s) that you can make the most positive impact with the allocation of limited resources. Trying to spread such limited resources too thinly across too many demands only ensures the best results are not achieved and results in the failure to achieve worthwhile significant and permanent change. This approach can also result in weaker governance and reporting systems that provide encouragement to those who are motivated by self interest.

I acknowledge that it is for the Aboriginal people to determine their priorities. If I am entitled to an opinion I consider that the focus needs to be youth and education. I cannot suggest a more effective way for the nation's largest publically funded Aboriginal representative organisation to "liberate and empower Aboriginal people in NSW through economic and social independence" - a goal again stated in the 2010 NSWALC Annual Report. This Report also states correctly that we need to "develop sustainable benefits that contribute to the financial, social and cultural needs and wants of Aboriginal people in NSW." I consider that education is the foundation to ensuring sustainable cultural, political, social and economic rights for Aboriginal people and that NSWALC should provide the leadership and guidance to assist in achieving this. I do not accept the cop out - "this is the government's job" that comes from all sectors of the community when challenges are perceived to be too hard. We all have a responsibility for our youth and must invest our time, money, initiative and political will to maximise the opportunity for them. We must make every effort to ensure equality.

NSWALC is to be applauded for establishing the Education Endowment Fund of \$30m and providing scholarships from the income of this fund with more than 500 scholarships

allocated to date. What could be achieved if education and youth opportunities were the only community benefits that NSWALC and all LALC's were focussed at providing?

I have heard on numerous occasions in all sections of the community that the "youth are our future". This view has also been supported at many LALC meetings that I have attended which should not be a surprise to anyone. Aboriginal youth education statistics reflect shockingly on our individual communities, our governments, us as individuals and our country. The reasons for such statistics are numerous being based on location, individual circumstances, environment, personal goals, family support just to state a few. In overview the education statistics include;

- 60% of Aboriginal children are significantly behind non Aboriginal children by the time they commence school
- 40% increase in Aboriginal student chances of employment if they complete year 10 or 11. if complete year 12 this goes to 73%
- 3% of Aboriginal students complete a university degree
- Less than 20% of Aboriginal children graduate year 12
- Less than 30% of Aboriginal children graduate year 10

Low literacy rates do not result from Aboriginal people being unable to learn. There are numerous examples of where focussed and culturally appropriate initiatives have had great success in improving Aboriginal youth education results. Good education determines children's health, literacy, employment, social status and productivity. It also assists in breaking down incorrect and racist perceptions. As stated by an Aboriginal graduate of Deakin University – "It was education plain and simple that changed the way I look at the world and it probably changed the way the world looked at me".

The age distribution of the Aboriginal population in NSW is quite different to the non Aboriginal population as there is a much greater proportion of youth in the former. More than 40% of the Aboriginal population are less than 15 years of age and there are approximately 40,000 Aboriginal children in schools in this state. In my opinion this is where the focus needs to be and this is a time critical issue. Every one of these young people who does not receive an education is not being provided with their right to this foundation for their future.

Education includes a large number of challenges however the benefits and opportunities certainly justify us doing our best to meet these challenges. There are initiatives that have been successful in finding solutions and positive ways to address community justice issues, child violence, racism, pre-school education, family based services, culturally appropriate programs and work place transitions for example. There is a shortage of Aboriginal educators and teachers however there is one clear way to improve this – more education for more people. This will provide the best opportunity for success and assist in ensuring that relevant and appropriate education programs are developed and taught. Such programs as regularly stated should include leadership and cultural awareness training. I would also suggest, from personal experience, that such programs should also include experiences and opportunities to develop skills related to commercial matters as there is a significant shortage of Aboriginal people with such a skill base. Understandably the struggle for human rights has resulted in representation in the legal community by Aboriginal people however this is not the case in commerce from my experience.

What does this mean for the ALRA and NSWALC? Clearly there would be a reduced range of responsibilities and greater focus on fewer goals and related issues. In overview I suggest that the focus would be;

- Advocacy and rights
- Land, cultural heritage and environmental management
- Education and youth

In overview for the year ended 30 June 2010 NSWALC had total revenue of approx \$85m including the increase in asset values and a bad debt provision write back. Total expenses were \$45m with an overall surplus of \$40.4m. We need to keep these numbers in perspective as in the previous year which was impacted by the GFC there was a loss of \$82m after the write down in investments of \$90m. As at 30 June 2010, NSWALC had an Investment Fund of \$540m, total gross assets of \$601m and an overall net worth per the balance sheet of \$592m. Although the asset base is significant at \$592m the operating revenue of \$63.3m and operating expenses of \$45.1m in the 2010 year means that NSWALC would not be considered a large business in general commercial terms. Of the \$45.1m in expenses approximately \$13.2m was spent on employees and related expenses and \$13.7m on funding for LALC's. These are the major 2 expenses as would be expected and constitute 60% of NSWALC's costs.

The NSWALC organisational structure is shown on p28 of the Annual Report. Following this are 11 pages describing in detail the operating structure that is in place and currently needed to meet the organisations existing obligations and responsibilities. These are listed as;

- Executive
- Finance and admin division
- IT unit
- Human resources unit
- Records and administration unit
- Investment division
- Commercial unit
- Network services – includes Compliance and evaluation unit, Intervention unit, Operational policy unit, Training and development unit, and the Zone offices
- Legal services unit
- Land services unit
- Corporate governance unit
- Secretariat
- Complaints
- Internal audit
- Staffing
- Policy and research
- Media and marketing unit

There were 110 staff employed by NSWALC at 30 June 2010 and of these 32 are located at zone offices. I would strongly argue that the breadth of responsibility that NSWALC currently has and the resources available spreads these resources far too thinly to really achieve in all of these areas of responsibility. I do not consider that this is an issue about streamlining structures or methods of operation (like ALL organisations there would be improvements) but the need to redefine the focus. What this focus is needs to be agreed on the basis of what provides the best value for money for Aboriginal people, for their opportunities and their quality of life. It is totally understandable that the role of NSWALC was required to initially be a broad one by the Aboriginal people who fought for its establishment and their related rights. Is this structure and the responsibilities that it has, however, the best way to go forward?

I suggest it is time to reconsider the ALRA and as a result NSWALC's role. As stated this is not a criticism of the current positive efforts by the many people involved – it is a function of focus and providing the best opportunity for beneficial change. What this means for the ALRA would need to be worked through but would incorporate a review of the most appropriate number and location of LALC's; LALC structures, objects, functions and planning; NSWALC structure, functions, objects, planning, governance and compliance. These matters would be considered based on how NSWALC could deliver the best value for Aboriginal people by maximising the achievements in the 3 areas detailed

above – advocacy and rights; land, cultural heritage and environmental management and education and youth. To achieve this I consider there would be a smaller organisational structure at NSWALC required than currently is the case. Equality for all is also a critical issue and therefore it needs to be ensured that LALC's with significant and valuable asset bases share those financial benefits and the opportunities they provide with the less wealthy LALC's. There is no rational argument against this concept if you believe that all young Aboriginal people are entitled to the same opportunities in life. This principle of equality also requires that all Aboriginal children benefit from such an approach and not disproportionately the children of LALC members.

I also wish to share with you a recent discussion I had with a well known business person who actively contributes to community issues. The person passed the comment that the CEO of a large Not for Profit organisation commented how they had lost \$40m of their \$100m share market investments with the GFC and how terrible that was. This organisation is a very public one seeking community money for health research. When it was suggested to the CEO that perhaps a far bigger issue to consider was – how will the \$60m in the share market help find a cure for disease the conversation ended. In my opinion the level of the NSWALC Account set out in S150 of the ALRA needs review. Millions of dollars sitting in investments will not by itself achieve anything re improving the quality and opportunities for people. The size of the fund is not an end in itself it is what it can achieve and achievement will only come from spending it in the most effective way. IF for example it was possible to achieve a material improvement in the education of all Aboriginal children over the next 15 years and it would require spending all of the investment fund I would ask – is that a worthwhile achievement?

In my opinion – yes.

Thank you for the opportunity to be with you today.