

LAND RIGHTS AT THE CROSSROADS

Geoff Scott

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I acknowledge the Gadigal people of the Eora nation on whose land we have gathered today and pay my respects to their elders.

I also thank Ricky Lyons for his welcome.

I also acknowledge the members of the Board of NSWALC, the numerous representatives of Local Aboriginal Land Councils, agencies, and individuals who have come along today.

Thank you for your interest and for giving your time to listen and engage in this debate.

My name is Geoff Scott. I am a Wiradjuri man from Central New South Wales. I have the privilege and honor to be the CEO of the New South Wales Aboriginal Land Council.

This forum, the initiative of the Registrar of the Aboriginal Land Rights Act, provides a space to engage in a debate about a piece of legislation which was described as groundbreaking and innovative at its inception.

I would contend this is as true today as it was in 1983.

It stands as the only initiative which has stood the test of time and delivered real assets and independence to our people. It is the only structure of its kind in the history of this nation. It was conceived and born in controversy and friction; criticized for not going far enough by some; too far by others.

The legislation is an evolving mixture of diverse roles and responsibilities, including inherent conflicts and frictions. But it does work.

I would like to provide my views and perspective today on a number of issues. Some of you may agree with those views, some may not, but I feel we must, at the very least, have a debate about them.

They are designed to make us think about:

- Where we are today,
- How we got here,
- Where we want to be tomorrow,
- What type of world do we want for our children?

I will not attempt to restate the points made by the previous speakers and instead focus on other issues. Mr. Chalk, Mr. McAvoy, Mr. Smith and Mr. Lawler have covered many relevant aspects very well. It is a challenge to follow Andrew, his presentation and message were fantastic.

There are many other similar stories that could, and should, be told. My words will be a little drier. I need to initially put to you that the Aboriginal Land Rights Act was not conceived and is not implemented in a vacuum. To consider the impact, operations and future of the Aboriginal Land Rights Act you must take into account the environment in which it operates from a legal, social, cultural and economic sense. It is not possible to canvass all those aspects today, but one must be aware of this reality.

The land rights system is truly at a crossroad.

The combination of the Act and the efforts of many people, both Aboriginal and non-Aboriginal has delivered a solid foundation now, and for the future. The land council system has an Investment Fund with a balance of some \$615,000,000 which is structured to deliver a stream of monies to underwrite the land council system in perpetuity. It creates an operational and investment stream of around \$45,000,000 per year. Coupled with this substantial financial asset base is our land base: this is valued at, at least \$1,600,000,000 and has both economic and cultural value.

These facts need to be re-stated:

- Investment Fund \$ 615,000,000
- Land Base \$ 1,600,000,000

\$ 2,215,000,000

An asset base in excess of \$2.2 billion is significant in anybody's language. But it must be viewed in context and in the right perspective. Equally the challenge is how to effectively use this asset base, and the structures we have, to achieve a number of outcomes.

The population of Aboriginal people in NSW is approximately 157,000. At its current value the capital and land base equates to about \$14,000 per person. This is not a substantial wealth base when considered in these terms. However, it is one which can, and must be utilised, for the direct benefit of all Aboriginal people in NSW and future generations.

The Aboriginal Land Rights Act is not a panacea for all the social and economic ills prevalent today. But, the legislation creates a structure which:

- provides a voice,
- provides a governance framework,
- provides resources and
- provides a foundational catalyst for the development of many other initiatives.

This includes the promotion and protection of Aboriginal peoples' culture and heritage - a task which is yet to be realised.

I must take the opportunity here to question an activity of the current NSW Government in this regard. It continues to recognise a group of people who cannot sustain their claims to native title, to the exclusion of all legitimate elected Aboriginal people in the Sydney-Newcastle region. I would call on the NSW Government to urgently consider its current position and resolve what is becoming a source of substantial friction in the Aboriginal community. I refer here to the status of the "Darug". Ongoing denial and ignorance of such a substantial issue is, in my view, not a sustainable way forward.

But I digress.

Intergenerational wealth creation, coupled with protecting a developing a system of benefits which contribute to the financial and cultural needs and wants of

Aboriginal people in New South Wales, is a challenge. Aboriginal people will not see such generosity as delivered by this legislation again. We must not squander the asset base at our disposal. The call by some Aboriginal people for the immediate realisation of this asset base for the benefit of the current generation is, perhaps, understandable. This is especially so given the dire circumstances that many Aboriginal people still face. This position is not defensible.

In my view it is

- selfish,
- immature,
- indulgent,
- shortsighted.

It is a fire sale mentality. It would meet some short-term need but would disinherit future generations. We must not sell the farm to pay for the government's mortgage.

The call for immediate realisation of the asset base is triggered, in part, by:

- The current perceived inability of the land council system to deliver benefits to its members. A view I would challenge; and
- The continued failure of governments to respond to the dire circumstances of Aboriginal people and ensure sustainable progress in health, housing, education and employment for our people (as is their right as citizens of this country).

This fuels the frustration and sense of urgency that is felt by many Aboriginal people in New South Wales. Aboriginal people must not let this abrogation of responsibility by government(s) trigger the frittering away of our hard won asset base.

Aboriginal people must unify to ensure our citizenship rights are delivered. We must also ensure that these benefits are delivered in a sustainable and mature manner. It is only when we, as Aboriginal people, have secured our basic citizenship rights that we will be able to make best use of our asset base. Assets in the hands of people in an environment governed by despair, frustration and apathy

will not be used wisely or with an eye to the future. Instead those assets will be used to meet to basic day to day needs and wants.

We must learn from the lesson of ATSIC's demise. ATSIC, in part, fell prey to the ideology of John Howard and his insidious band of cohorts, ably assisted by the Australian Labor Party. Chief among those Labor figures was a former embittered NSWALC staffer. In its final days, ATSIC resembled Yassar Arafat's compound at Ramallah, held in impotent isolation, while the government chose whom it would deal with.

The activities of both Commonwealth and State governments today have the potential to realise a similar situation. But the major contributor to the demise of ATSIC was Aboriginal people themselves. ATSIC was led to the slaughter by a majority of the ATSIC Board of Commissioners, who could not see the wood for the trees. They failed to manage their roles as elected representatives and advocates with their roles as executive decision makers. But, of course, Aboriginal people themselves elected the ATSIC Board. We voted them in.

Then there are those who simply did not vote at all. Their failure was even greater because they didn't meet the fundamental responsibility required of them in a democratic society. They didn't exercise their right, or obligation, and vote for their own. The very act of choosing to not to participate rendered these individuals as inept.

In my view, their non-participation surrendered their right to criticise. The same must be said about those who chose not to engage in this structure. But even worse were those who cut ATSIC down because they felt it had not provided the funds they considered their organisations were entitled to. The many submissions to the so-called ATSIC review bear testament to the immature and ignorant political and social intelligence of some of our own. ATSIC was not the answer to all issues, it was not the funder of all.

Similarly, the land council system in New South Wales is not the answer or funder to all.

The amateur brinkmanship displayed by “our leaders” over ATSIC must be recognized for what it was; fools trading away our strategic position, constructed over many years, for simplistic and selfish posturing and grandstanding.

There are other groups who must share a large measure of the blame for its demise. The first group are those leaders who actively campaigned for the abolition of ATSIC. All need to be cast in history as our greatest “Judases.” They include a cohort of Regional Council chairs who got into bed with the darker side, to remove the ATSIC board, purportedly to secure their own status and position. The other group is the National Indigenous Council, who stepped in and provided a degree of public legitimacy for the actions of the Howard regime. These people’s names are not worthy of being repeated in polite company. We know who they are. More importantly they know who they are.

The latest dalliance by the Federal Government to create a national representative structure has, I feel, fallen at the first hurdle. It lacks ethical and moral fibre. It lacks integrity and it lacks the independence so vital to underpin such an initiative. It cannot deliver. We must consign it to the rubbish bin of history. We must move on from this corrupted attempt at providing a voice for Aboriginal people.

And, lest we forget, the primary spin from the government for the abolition of ATSIC was precisely the same as for the abolition by previous governments of both the National Aboriginal Conference and the National Aboriginal Consultative Conference. It contended they had lost the support of Aboriginal people.

The object lesson from ATSIC’s demise is that disunity is death. Our inability as Aboriginal people to unite and provide advice and assert our positions on policy, programs and politics is a failure to exercise our right to self-determination. We must engage with and support our own.

Contrary to popular belief, Government has not taken self-determination away from us. We, as a people, have never fully exercised this right. Self-determination is a right all people inherently possess. Unless we assert this right, we lose it. The NSW Aboriginal Land Council system must step up and take the lead. We must continue to build our own political organisation. It must be an organisation of people working for our people. Our capacity and our voice must not be dependent on the benevolence of government. This has been our collective failure in the past.

Those now seeking to pursue their own version of this legislation fail to grasp the intent and the purpose of the land council network. They have a single minded focus. They are part of the problem, not the solution. The legislation is a framework for inclusion. It is a framework for establishing the relationships between Aboriginal people and the wider community. It is about providing a voice. It is about managing and governing ourselves. And it has delivered, despite a few hiccups along the way and not to the extent that some would have hoped.

The land council system has now evolved into a structure which is on the cutting edge of fiscal responsibility and governance. It is allowing us to regulate ourselves and providing a catalyst for further positive progress.

All current, and past governments, have purported to provide assets to Aboriginal people. In doing so, one common theme repeats itself: the assets always remain within the grasp of government. Land obtained under the various land claim or grant schemes, is still held at the pleasure of the state. The demise of ATSIC, and changes to the Northern Territory Aboriginal Land Rights Act, are testament this reality. Notwithstanding this, land is the main asset we have. Aboriginal people must not dispose of their land for the quick buck. We must use our land in a sustainable way. Our collective mantra should be to focus on leasehold transaction first. Disposal should be our last option. Intergenerational sustainability must be our focus. We must deal with our assets on our terms, not the terms of the fly by night developers.

I now wish to turn to the concept of community. It is a nebulous one, fraught with inconsistency and dichotomy. The only concept of community that has any legitimacy is one in which the constituents have a sense of accountability to each other and a common purpose, a family or group of families, in a cultural sense, a clan, a tribe, one people. The ravages of removal, forced amalgamation and intergenerational poverty have left Aboriginal people with an ad hoc, loose and adversarial “community”.

These false concepts of “community” are not based on anything but current geographical groupings. Some have been fortunate to retain a clan structure but not one with any semblance of interconnectedness. The lack of human capital is prevalent and works to pit Aboriginal group against Aboriginal group. All forms of

government continue to focus on the concept of community as one which has some sense of sameness based on geographical groupings. Aboriginal people must assert their family, clan allegiances and build alliances between the different groups.

Only when we recognise this reality can we move on and develop as a people with diverse internal groups and vastly differing levels of sophistication, aspirations and needs.

The bleating of “social commentators” cannot be the driver of these developments. We must define ourselves, and our communities. Aboriginal people must abandon the tall poppy syndrome and instead acknowledge and celebrate our intellects, our thinkers, our elected leaders. They are the people who have stepped up, and can take us forward.

We must be organised enough and brave enough to take on the government and others to advance the wellbeing, the future of Aboriginal people. We must embark on a strategy to build the capacity of our own. We must identify, support and educate people from our own ranks to take the fight forward and advance the circumstances of our children.

We cannot rely on public servants to be a brake on the excesses of the political masters of the day. Recent changes and “new” operational ethos of the public service has reduced it to a mere shadow of the former professional body it once was. It is now devoid of the capacity for open, fearless and frank advice. This is not because of the many hardworking and committed public servants. They do their job. It is due to the machinations of the mandarins and their political masters of the day, and our adversarial political structures and processes.

At the same time we must challenge the taboos, the conventions and the ongoing failures. The inappropriate behaviours and activities permeating many, of our “communities” and “organisations”, must be identified and dealt with. They must be dealt with firmly and decisively. If we do not, others will have to.

If someone does not have the skills or abilities to carry out the duties and responsibilities entrusted to them, then we must act. We must provide support and assistance or replace them. We must not shirk that responsibility. We must also be cognisant of the way the sets of behaviours have developed and why they have

been allowed to persist. In saying this we must not allow ourselves to sink to the active business of degrading and humiliating people. Any process of change must be based on moral principles and ethics. We must not seek to humiliate, degrade, or treat with disdain.

The environment in which we now exist is one permeated by meanness, misinformation and the destruction of structures and groups which have achieved much. They may not have achieved as much as we would all like, but this lack of progress is a burden we all share.

Aboriginal community and culture is not rocket science. It is about identity, about reciprocity, about respect and, most importantly, it is about collective support and unity. It can only be sustained when we all mind each other's business. To mind your own business is the very antithesis of a working contemporary culture. It is a dynamic and evolving culture but few of us recognise this fact.

But this is a debate for another day.

There is one final point which, I think, must be debated. It is the need to separate business from politics. Business cannot be conducted within the hurly burly of community politics. We must reach a consensus on how we do this. There are examples where this has been achieved. If we do not then a barrier will continue to prevail. To move forward here will take trust from the people. It will also take professionalism, skill and integrity from those given the responsibility to conduct business on our behalf.

If we do not govern ourselves than someone else must.

The friction inherent in the many and diverse functions of NSWALC exist and must be managed. This is the harder aspect of self-determination. It is one we must embrace.

In closing, my intent today was not to describe the problems in isolation. It was to convey to all that what we have before us is something very unique and innovative, even by today's standards. It is something we must all embrace.

Only together can we go forward. We must view the world as the glass half full.

The Land Council System does deliver on many fronts. It does in areas such as education grants and scholarships, infrastructure maintenance, and financial literacy programs, amongst others. Many diverse initiatives are being created and delivered directly by Local Aboriginal Land Councils.

The Land Council System stands ready to work with anyone who has the interest of Aboriginal people at their core. Equally, it stands ready to challenge those who do not. We need constructive and mature debate to fully realise our collective potential and build on what we have. If not then, we are entitled to ask: why are we here today?

Again, I re-emphasise, we must not wait for government to deliver self determination. It has been there all along. Our challenge is how that is realised, and how we realise the provisions of the Declaration on the Rights of Indigenous People and incorporate that into our everyday business.

We are the people we have been waiting for.

It is our responsibility. We must not shirk that responsibility.

I'll leave you with some advice from my mother. I'm sure you will not be surprised to learn she still gives me advice every day. She always told me that people:

“Don't care how much you know, until they know how much you care.”

I think that sums it up.

Thank you.