

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

Seminar – Thursday 17 March 2011

Registrar's comments on the proceedings

I convened the seminar to provide an opportunity for all those with an interest in the Aboriginal Land Rights Act 1983 (NSW) ("ALRA") to take a step back from the immediate issues confronting them and to reflect and contemplate on land rights.

Five thoughtful and spirited speakers gave us some wonderful insights and observations and offered some provocative ideas about the future of the ALRA.

Approximately 100 people attended the seminar; my thanks go to all who gave up their time to join us on the day. The dialogue between our speakers and their audience was stimulating and demonstrated there is still much passion and concern for land rights in New South Wales.

The Speakers

Our first speaker, Mr Terry Lawler gave us an interesting perspective as someone firmly established in the commercial world and yet with considerable experience with Aboriginal Land Councils and the non-government disability and welfare sector.

Terry pointed out the recurrent themes he had encountered in Local Aboriginal Land Councils ("LALCs") that had adversely impacted on their operations and observed that he has seen improvements in LALC administration over time.

He advocated strongly for a focus under the ALRA on education and youth.

Further, Terry called on the New South Wales Aboriginal Land Council ("NSWALC") to focus on: advocacy and rights; land, cultural heritage and environmental management; education and youth.

Provocatively, Terry suggested that it may not be useful to retain the current capital in the NSWALC fund if the full benefits of the ALRA are to be realised.

Our second speaker, Mr Tony McAvoy asked a fundamental question: does the ALRA represent a radical departure from government/Aboriginal relations since colonisation or is it more of the same?

Drawing on the approach of Governor Macquarie in 1815 and the treatment of the Dharawal people Tony described the ALRA as a work in progress that looks very different in 2011 than it did in 1983.

His division of LALCs into three tiers; the large coastal “mega-LALCs”, a middle tier and the small land poor LALCs predominantly west of the Great Dividing Range paints a complex picture for the future of the ALRA.

For Tony uneven resource distribution and the seeming triumph of function over form in the ALRA means not all LALCs will be treated equally even though they may have been created that way.

An important theme for Tony is the burden former Aboriginal housing reserves that were vested in LALCs in 1983 remains for them. He sees these lands as an important element of influencing how LALCs will fair into the future.

Our third speaker, Mr Andrew Chalk drew our attention to the significance of the ALRA as a piece of legislation and to the political vision that underpins it. He reminded us that while many state parliament laws regulate everyday life, the ALRA tried to remedy the harm caused to Aboriginal people by colonisation and to distinguish Aboriginal identity in a positive and independent way.

He pointed to the profound political struggle that gave rise to the ALRA.

Andrew spoke about the significance of the land claims process under the ALRA, the evolving and improving governance model of Aboriginal Land Councils and the strength of the independent financial model established by the ALRA.

He concluded with the observation that while the ALRA requires all involved to observe the technical requirements of the law, land rights under the ALRA must have vision if it is to survive and prosper.

Our fourth speaker, Mr Andrew Smith spoke to us from the perspective of a LALC. He gave us a view of the dynamic history of the Worimi LALC and how throughout the highs and lows of that history the right to claim land under the ALRA maintained the LALC's momentum towards its current success.

Andrew focused on land claims lodged by the Worimi LALC over lands along the Stockton Bight from the mouth of the Newcastle River to close to Port Stephens in the north.

He explained how these land claims underpinned long and complex negotiations between the Worimi LALC, the NSW government and others that have culminated in some wonderful outcomes for the Worimi LALC and the Aboriginal community it serves.

In particular; the creation of the "Worimi Conservation Lands" over a large area of land on the Stockton Bight, the creation of a land management agreement between the Worimi LALC and the NSW government over other lands at the Stockton Bight that provides an income stream to the LALC and has allowed the LALC to develop a successful tourism business in the dune system of the Bight guiding quad-bike and 4WD tours, and the development of a sand extraction business on land owned by the Worimi LALC that will provide the LALC with long-term economic independence.

Andrew concluded that if LALCs are able to maintain good standards of governance and management their future and that of the ALRA is exciting.

The last of the seminar's speakers, Mr Geoff Scott reinforced the point that the ALRA is groundbreaking legislation. He said that while it had created diverse roles and responsibilities that sometimes included inherent conflicts and frictions, it works for Aboriginal people.

Geoff reminded us that we must not forget that any law such as the ALRA exists in a legal, social, cultural and economic context that will influence its success or otherwise.

He pointed to the substantial asset base created under the ALRA (approximately \$2.2 Billion dollars at the date of the seminar). Further, he asserted that the ALRA has given Aboriginal people in NSW:

- (i) a voice,
- (ii) a governance framework,

- (iii) resources, and;
- (iv) a foundational catalyst for the development of many other initiatives.

Geoff highlighted the need for sound and thoughtful asset management under the ALRA and reminded us of the demise of the Aboriginal and Torres Strait Islander Commission and the lessons we must learn from it.

He said that unity within the Aboriginal community around the issue of land rights and leadership within the land rights network were critical to its future success.

Lastly, Geoff stated that difficult decisions must be made to secure the future of the ALRA and that the Aboriginal community must be willing to make those decisions in their own right, not wait for others, such as government, to do it for them.

Some final remarks

It was interesting for me to ask five people, all enmeshed in the land rights world to think about the future of the ALRA in 2011, some 28 years after it became law. Each speaker was given the seminar topic and asked to develop their paper individually.

Interestingly all the speakers found common themes from their individual perspectives. The three that stand out for me are:

1. That the ALRA is very important legislation going to the heart of Aboriginal rights and identity,
2. That throughout its sometimes turbulent history it has continued to provide benefits to Aboriginal people in NSW,
3. The ALRA has some major challenges ahead of it if it is to remain relevant and useful.

From my perspective as the Registrar of the ALRA the challenges ahead are both exciting and daunting.

What will we all focus on as the future of the ALRA unfolds?

Will we be mired in the technical administration of the law or will we honour its visionary inception and focus on its vision for the future?

My pragmatic view is that we will continue to do both however the vision is the key because it goes to the fundamental relationships between Aboriginal and non-Aboriginal people in NSW.

To return to some of my opening remarks on the day of the seminar, I think this relationship must be based on respect, goodwill and good faith interactions arising under the ALRA.

Stephen Wright

Registrar

Aboriginal Land Rights Act 1983