

## STEERING COMMITTEE

As previously reported, the eligibility of communities and implementation of the program is overseen by a Steering Committee comprising representation from:

- NSW Aboriginal Land Council;
- Department of Human Services (incorporating the former Department of Aboriginal Affairs and Aboriginal Housing Office);
- Local Government and Shires Associations;
- NSW Water Directorate;
- NSW Health;
- Department of Premier and Cabinet;
- Treasury; and
- NSW Office of Water.

The Steering Committee provides strategic oversight of the implementation and management of the program.

The NSW Office of Water also works closely with NSWALC, Local Aboriginal Land Councils and local government councils and water utilities.

Close consultation with communities is central to the success of the program.

## Education Endowment Fund

Council made a unanimous decision at its 216th meeting on October 24, 2007 to fund a NSWALC Education Endowment Fund.

The NSWALC acknowledged education was the primary responsibility of the New South Wales Government with the Commonwealth Government providing a strategic and funding role with specific Aboriginal education initiatives.

Without detracting from those responsibilities the NSWALC took the view it should carefully consider an investment in the education of Aboriginal people by assisting in the creation of a new generation, and successive generations, who were better educated.

Council took the view this support should not replace existing benefits available to Aboriginal people in NSW but should supplement them through special initiatives and by generating greater community involvement in assisting those who wished to pursue their education.

One way of doing this was to provide scholarships.

The Endowment Fund is aimed at providing on-going support and benefits for Aboriginal people across the entire spectrum of educational opportunities, including mature age students.

Awards under the scheme are open to all Aboriginal people in NSW and provide opportunities for study at primary and secondary schools, higher learning institutions, colleges and universities.

Scholarship monies provided vary with the circumstances of the individual and the financial resources available to the NSWALC.

The eligibility criteria cover financial need, academic performance, connection with the Aboriginal community, including LALC membership, commitment to the field of study and leadership potential.

## FUND ADMINISTRATION

The Fund has been administered by Charities Aid Foundation, a not-for-profit organisation which also administers the NSWALC's Freddie Fricke Scholarship, which has been targeted at tertiary students since its launch in 2002.

CAF has been responsible for the full administration of the fund, the application process, and all associated due diligence and legal compliance.

A NSWALC Scholarship Management Committee oversees the implementation of the Scholarship funds.

During this reporting period the Committee comprised: Sydney-Newcastle Regional Councillor, Roy Ah-See, NSWALC's Director of Training and Development, Mr. Wayne Munster, CAF Chief Executive, Mr. Don Willesee and the Scholarships Administrator for CAF Australia, Ms. Margaret Dent.

## Scholarships

The inaugural round of scholarships saw nearly \$400,000 in financial assistance distributed to some 119 recipients across the State.

The second round, announced in June 2009, saw 124 scholarships awarded.

The third round, announced in June/July 2010, saw 312 scholarships awarded from 441 applications.

These allowed the recipients to pursue their studies in a range of fields including medicine, teaching, science, health, community services and trade courses.

Demand for the scholarships continued to gather pace during the reporting period.

A total of 2205 applications were received which amounted to an estimated call of more than \$2.7 million on the fund.

Following CAF's assessment of the applications it provided a list of recommended grants to 1,141 applicants with a projected call of more than \$1.6million on the fund.

Demand exceeded the available budget and so it was decided to fund all recommended applicants at a reduced individual amount.

The NSWALC's expenditure on the Education Endowment Fund during the reporting period was \$1,345,828

A total of two Freddie Fricke Scholarships were also awarded during the reporting period.

The Education scholarships are the first major community benefits scheme to be offered by the NSWALC under amended provisions of the Aboriginal Land Rights Act and this reporting period saw all Councillors increase their promotion, particularly through Regional Forums.

Given the increasing demand for scholarships, and the importance placed on education on the Closing the Gap targets adopted by the Commonwealth and NSW Governments, the NSWALC took the opportunity during the reporting period of seeking matching dollar for dollar contributions to the

scholarships from both Governments through the policy document, *Our Land, Our Rights*, which was produced ahead of the NSW State Election in March.

No response had been received from the Federal or NSW governments as this reporting period ended.

## The Subdivision of Former Reserve Lands

As reported in previous years the NSWALC also agreed to commit to a 50-50 funding partnership with the Commonwealth Government to survey Aboriginal reserves and former missions.

At present virtually none of these Reserves has a formal town plan or easily accessible records in terms of the layout of essential services infrastructure.

A total of \$6million was committed to this project.

The surveys were designed to enable individual grid plans to be produced which would remove a major impediment to any future proposals to subdivide individual blocks on these communities to allow for home ownership.

This was one of two Program Funding Agreements entered into with the Commonwealth.

The other was a \$2.3m agreement for the repair and maintenance of 70 houses owned by the Walgett Local Aboriginal Land Council.

Considerable progress was made on both of these projects during this reporting period and further details can be found in the year in review contribution from the Program Management Unit.

## Briefings To Council

Council received regular briefings on the progress of these vital programs throughout the reporting period.

It will continue to closely monitor their progress in the new financial year.

It considers programs such as the Aboriginal Communities Water and Sewerage Program and the Educational Endowment Fund to be practical measures to assist our communities and State and Federal Government's to close the life and opportunity gaps between Aboriginal people and their fellow Australians.

Work to Close the Gap has become a permanent fixture of daily debate in Aboriginal Affairs since the election of the Rudd Labor Government in November 2007.

It came to power with a promise to use evidence based policy to seek to close the socio-economic opportunity and attainment gap, as well as the life expectancy gap, between Aboriginal and non-Aboriginal people.

It set a number of key objectives to close the gap on Indigenous disadvantage. They are:

- To close the life expectancy gap within a generation.
- To halve the gap in mortality rates for Indigenous children under five within a generation.
- To halve the gap in reading, writing and numeric achievements within a decade.

NSWALC believes every Australian would hope they are achieved.

It remains convinced, however, the targets remain heroic and are yet to be matched by long term Commonwealth and State funding commitments in New South Wales to programs framed in response to evidence based research and policies.

The NSWALC and the land rights network provide a significant employment and evolving participation base for Aboriginal people in New South Wales which, in Council's view, has yet to be fully appreciated in Canberra and Macquarie Street.

Despite this it will continue to pursue effective partnerships with the Gillard and O'Farrell Governments, and other stakeholders in the new reporting period, particularly Local Aboriginal Land Councils.

## Federal and State Elections

It was in this context the NSWALC took an unprecedented step during the Federal Election in August 2010 and called on all Aboriginal people in NSW to vote for the Greens to ensure they secured the balance of power in the Senate.

The Australian Greens, Chairwoman Manton said, were the only party at the Federal level to provide clear, concise and comprehensive measures and goals in a rights-based policy agenda.

This sought government compliance with international agreements, such as the UN Declaration on the Rights of Indigenous Peoples and equality of access on all major indicators of living standards, including health, education, housing, employment and training within a generation.

The NSWALC had been publicly critical of the absence of a rights-based approach to Aboriginal Affairs from the Rudd and Gillard Governments and the Tony Abbott-led Opposition at the domestic level, and at the international level, through its status at the United Nations.

The Labor and Liberal/National Party Coalition each won 72 seats in the 150-seat House of Representatives—four seats short of the requirement to form majority government. This resulted in the first hung parliament since the 1940 Federal Election.

A Gillard Minority Government eventually occupied the treasury benches in the Federal Parliament but remained reliant on the support of key Independents, including two from New South Wales, Mr Rob Oakeshott and Tony Windsor, who are generally supportive of the NSW land rights system.

The Australian Greens secured the balance of power in the Australian Senate in their own right. There are a number of major federal issues which can impact on Aboriginal people in NSW, including a lack of Commonwealth funding to Aboriginal specific programs in NSW.

They also include a review of Commonwealth culture and heritage laws, the Northern Territory intervention, the expansion of income management from the Northern Territory to NSW, constitutional reform, and water rights in the Murray Darling Basin

All require an intense lobbying effort by the NSWALC and other key Aboriginal representative organisations.

Given the Greens only assumed the balance of power in the Senate in July 2011 it was considered prudent to await the outcome of the NSWALC election the following month to receive guidance from the incoming Council on the future direction of the NSWALC's federal lobbying efforts.

It should be pointed out that despite its opposition to the Gillard Government's Aboriginal Affairs policies, NSWALC continued to work during this reporting period on the two Program Funding Agreements with the Commonwealth Government which were mentioned earlier.

## State Election

With a State Election scheduled for March 2011 the Council held a retreat at Cessnock to determine its political strategy conscious of its constant pledge to work with all Governments, and political parties, to improve outcomes for, and advance the rights and aspirations of, the Aboriginal people of NSW.

The result was a Council-endorsed 39-page policy document entitled: *Our Land, Our Rights* which was distributed to key politicians on all sides of the Parliament and to all Local Aboriginal Land Councils.

## Our Land, Our Rights

The document was prepared to clearly articulate the key policy positions of the NSWALC to all major political parties, and all members of the NSW Parliament, ahead of the widely anticipated election of the first Liberal-National Coalition in New South Wales in 16 years.

It noted the land rights system in NSW had developed over a quarter of a century without public controversy, but few people, outside of the Aboriginal community, understood what it was designed to do, and, just as importantly, what it is not.

The document also noted it had been written to assist all members of the NSW Parliament to gain a much clearer understanding of the land rights system and the work of the NSWALC and LALCs.

The policy document sought to ensure the incoming State Government would honour the ongoing statutory recognition of "our rights to land, our culture and our heritage and provide clear and unequivocal support for our rights to real and meaningful self-determination and to ongoing representation by Aboriginal people for Aboriginal people."

The adoption of measures outlined in the document, it said, would further cement the rightful place of the State's First Nations peoples, and their duly elected representative organisations, within the political, economic and social fabric of NSW.

The NSWALC called on the incoming Government, and all current and aspiring politicians, to agree to actively support the measures outlined.

It requested they work with the New South Wales Aboriginal Land Council, the land rights network, and other peak Aboriginal organisations, to implement them during the next term of the New South Wales Parliament.

The document noted the positions outlined sought to build upon the support and commitment publicly expressed by all major and minor political parties during sessions of the 54th NSW Parliament for the recognition of the spiritual, social, cultural and economic significance of land to the First Nations of NSW.

Importantly, it was also designed to assist all members of the NSW Parliament, particularly those first elected, to gain a clear understanding of the land rights system.

It was also designed to clearly flag the "demonstrated will of the NSWALC, and Local Aboriginal Land Councils, to work with all tiers of government in the past, and the future, to improve the health and well-being of Aboriginal people in NSW, mindful of the current political, statutory, and financial constraints upon us."

## Statement of First Principles for First Nations'

Conscious of the fact that the land rights system still exists at the whim of the Parliament the NSWALC called for all sides of the new Parliament to support the signing of a Statement of First Principles.

It was proposed this could include written commitments to:

- The purposes of the Aboriginal Land Rights Act 1983 and its core intention as compensation for the dispossession of Aboriginal land.
- Retention of the capital compensation fund, the NSWALC Account, or Statutory Investment Fund, in the care and control of duly elected Aboriginal people subject to normal statutory audit procedures.
- Retention of the New South Wales Aboriginal Land as the State's peak duly elected Aboriginal representative organisation and a network of Local Aboriginal Land Council under their current mandates.
- To work in the next term of Parliament for the establishment of an Aboriginal Heritage Commission as promised during the introduction of the ALRA in 1983.

In short, the NSWALC believed all members of the new Parliament should, at very least, frame all policies affecting Aboriginal people in NSW in concert with the original intent, spirit, and letter of the Aboriginal Land Rights Act 1983 (as amended) and the amended Preamble to the Constitution Act.

## Land Claim Determinations

The document called on the incoming State Government, and all parties in the new Parliament, to work with the land rights network, to accelerate the land claim determination process.

It recommended this be done through a negotiated framework to avoid the unnecessary cost of litigation to both the self-funded land rights system and the taxpayers of New South Wales and uphold the legal rights gained by Aboriginal people under the ALRA.

## Water and Sewerage

NSWALC sought a commitment the incoming Government would ensure budget constraints did not adversely impact on the continued roll out of the vital Aboriginal Communities Water and Sewerage initiative "under the agreed terms and conditions of the current agreement."

A new political and financial partnership was also sought with the incoming Government based on a genuine partnership rather than simply an advisor. The NSWALC sought to assume the role of 'critical insider.'

## Review of the Act

It also called on the incoming Government to observe the current timeline set out in the ALRA for the next review of the Act, continue the Miscellaneous Amendments Group process, and ensure NSWALC representation on any Review Taskforce.

## Education

A commitment was also sought that the incoming State Government would match the funding of the NSWALC Education Endowment Scholarship on a matching dollar-for-dollar basis.

It was also proposed the State Government work with the NSWALC to secure a similar level of financial support from the Commonwealth Government.

## Culture and Heritage

The NSWALC called on the Government, and all sides of the Parliament, to support wide ranging and urgent reform of the Aboriginal culture and heritage system through the development of an Aboriginal Cultural Heritage Bill and an Aboriginal Cultural Heritage Commission.

This should be based on recognition that the ownership of Aboriginal cultural heritage properly lies with Aboriginal people.

The NSWALC also believed an incoming Government should also move to transfer the ownership of further national parks into Aboriginal hands ahead of further joint management opportunities of national parks with Aboriginal communities.

## Aboriginal Representation

It was recommended an incoming Government, in partnership with all major parties, agree to schedule a meeting of an Aboriginal Assembly at least once a year in the NSW Parliament. The agenda for such a meeting needed to be determined between the Government of the day, and the NSWALC, with particular emphasis being placed on a progress report from Government ministers and their senior bureaucrats on the success or failure of proposed outcomes designed to close the gap.

## Election Result

As predicted, a Liberal/National Coalition Government was elected in a landslide on March 26.

It won the largest proportional number of seats in NSW electoral history, with 63 of the 93 seats in the Legislative Assembly.

Labor won 20 seats, its lowest representation in the NSW Legislative Assembly for over a century.

It had held 52 seats in the previous Parliament.

The Liberal/National Coalition held 35.

The landslide victory assured the O'Farrell Government at least eight years in power under the system of fixed four year parliamentary terms in NSW.

## Land Rights and the New Government

While the last NSW Liberal/Coalition government, the Greiner Government, was hostile to the rights agenda pursued by Aboriginal people, and their representative organisations, the political landscape has changed markedly since it lost power in 1995.

The new Government was expected to take a different approach.

The O'Farrell Government came to power with no specific Aboriginal Affairs policies but its election was welcomed by the NSWALC in a letter from Chairwoman, Bev Manton, to the Premier Elect on March 28, 2011.

Ms Manton thanked Mr. O'Farrell for taking the time during the campaign to meet with representatives of the NSWALC.

She noted the NSWALC would not expect Aboriginal Affairs to be particularly high on his Government's immediate agenda given the political problems it had inherited from the Keneally Labor Government.

In the NSWALC's view, she added, it should not be.

Ms Manton reminded him the land council system was self-funded and, largely, self-regulated. It had undergone enormous reform in recent years.

It was now working well within a new representative, fiscal and governance regime and was busily implementing a new land dealings regime to bring the development and rights agenda together along with community benefit schemes.

She drew his attention to the NSWALC's document, *Our Land Our Rights*, which noted previous Labor Governments, from the Carr Administration through to the Keneally Government, had failed to grasp the opportunities the amended Aboriginal Land Rights Act had provided to work to advance the rights and aspirations of Aboriginal people in NSW.

The letter also noted the NSWALC representative structure, and the land rights network would not exist in its current form but for the support of his parliamentary colleagues, Brad Hazzard and Robyn Parker.

The work of the NSWALC over the past three and a half years had vindicated their position in the Parliament during the most recent reforms to the ALRA.

Ms Manton noted the Coalition's policy commitment during the election campaign to return "power to the people through their Parliament."

"I also note your statement that you want to put people back at the centre of the decision making in NSW and allow them to contribute to the agenda of the Parliament," she added.

“I’m sure I speak on behalf of all Aboriginal people in NSW in supporting this.”

Ms Manton said the New South Wales Aboriginal Land Council looked forward to working with “you and your Government in the new Parliament to further advance the rights and aspirations of the Aboriginal people of New South Wales.”

## New Minister

Premier O’Farrell moved quickly to stamp his authority on the new Government.

He announced a 22-member Ministry on April 3.

Political pundits expressed surprise at the appointment of a little known former solicitor and backbencher, Mr. Victor Dominello, as Minister for Aboriginal Affairs.

Mr Dominello, aged 43, was first elected to the Parliament in the Ryde by-election in October 2008.

There had been a general expectation the National MLA for Barwon, Mr. Kevin Humphries, would be elevated from his role as Shadow Minister for Aboriginal Affairs to be the first Minister for Aboriginal Affairs in the O’Farrell Government.

He was appointed Minister for Mental Health, Healthy Lifestyles and Minister for Western New South Wales.

The appointment of Mr. Hazzard and Ms. Parker to key portfolios came as no surprise.

Mr. Hazzard, who was Shadow Minister for Aboriginal Affairs from 1996 until 2007, was appointed to the crucial portfolios of Planning and Infrastructure and Minister Assisting the Premier on Infrastructure NSW.

Ms. Parker, who is widely known in the Aboriginal community, particularly in the Hunter region, was appointed Minister for the Environment. She had been the long standing Opposition Parliamentary Secretary for Education and Aboriginal Affairs in the Legislative Council.

The election result triggered the immediate resignation of former Premier Kristina Keneally as leader of the Parliamentary Labor Party.

Former union leader, Mr. John Robertson, was elected to replace her.

The outgoing Minister for Aboriginal Affairs, Mr. Paul Lynch, retained his seat of Liverpool despite a double digit swing against him.

The Member for Auburn, Mrs. Barbara Perry, was elected as Labor’s Shadow Minister for Aboriginal Affairs on April 11.

## Balance of Power

The O’Farrell and Gillard Governments have one thing in common.

Neither hold the balance of power in the NSW Legislative Council or the Federal Senate.

In the NSW Legislative Council, which must review and endorse all legislation before it can pass into law, the landslide was not enough to deliver control to the Coalition.

The balance of power will shift in the new Parliament between the Greens, the Shooters and Fishers Party, and the Christian Democratic Party.

With two seats held by both the Shooters and Fishers and the CDP both will need to give their legislative support to the O’Farrell Government if Labor and the Greens oppose legislation.

As noted earlier, the Greens assumed the balance of power in the Federal Senate from July 1, 2011.

## State Wide Conference

More than 100 delegates from Local Aboriginal Land Councils attended a three day State Wide Conference at Cessnock in April 2011.

The Conference was organised and funded by the NSWALC. It fulfilled a promise by Council to hold two such events during its four year term.

There was vigorous debate and discussion on a range of topics.

These included:

- The internal financial and operational sustainability of the land rights network,

- Relationships with the incoming O’Farrell Government,
- Economic development,
- Culture and heritage,
- The future of social housing owned and operated by Local Aboriginal Land Councils,
- The forthcoming NSWALC election and
- The international and domestic campaigns for rights.

Chairwoman Manton opened proceedings by noting the attendance of so many delegates confirmed her view the land rights movement was going from strength to strength.

The land rights network had taken huge strides in its governance, at both the State and LALC level, since the previous conference, she said.

“We have taken huge strides in our fiscal responsibility,” she added.

“We have taken huge strides in our policy development.

“We are driving legislation and engaging with the political process as never before.

“We are laying down good and solid law through the courts.

“Most importantly, we are starting to deliver real and tangible benefits to our people.

“There is one central message we are sending to all outside of the land rights network who are prepared to listen.

“We are here to claim what is rightfully ours...our land and our rights.

“The land rights network is now self-funded.

“We are largely self-regulated.

“Just let us get on with the job.

“I know self-regulation---or compliance, in the words of the law-- causes tension within the network.

“But the question needs to be asked: do we want to govern ourselves or have someone else do it?

“I know my answer.

“I suspect I know yours.”

NSWALC Deputy Chairperson Tom Briggs provided an overview of the Conference agenda and theme—Be Informed, Be Inspired, Be Involved.

Separate reports were then received from the NSWALC’s Elders and Youth Advisory Committees in a session introduced by Sydney-Newcastle region Councillor, Roy Ah See.

This was followed by a spirited session on network issues, introduced by Wiradjuri region Councillor Craig Cromelin.

LALC delegates raised a number of operational and policy issues during the session with Councillors and the NSWALC Chief Executive Officer, Mr. Scott.

#### KEYNOTE SPEAKER

The United Nations Special Rapporteur on the Rights of Indigenous Peoples, Professor James Anaya, provided a lengthy presentation.

He told delegates the Conference was an important opportunity for Aboriginal people in New South Wales, and others, to identify positive developments in the struggle for land and rights.

He outlined his work with the United Nations and emphasised the importance of the United Nations Declaration of the Rights of Indigenous Peoples and the challenges being faced by organisations, such as the NSWALC, in seeking to have its principles enshrined in domestic laws, policies and processes.

“The New South Wales Aboriginal Land Council, and other Aboriginal land councils throughout Australia are carrying out important work in securing land rights and developing Aboriginal lands to provide greater opportunities to Indigenous peoples,” he said.

“This work is essential to operationalising the standards set forth in the United Nations Declaration and to move forward in a future in which Indigenous peoples are in control of their development, participating as equal partners in the development process,” he added.

“I believe it is extremely important for those Indigenous groups that have achieved notable

successes in advancing their rights, such as the New South Wales land councils, to share their experiences with other Indigenous peoples around the world.

“Keeping in line with the theme of this conference, I hope you can inform Indigenous peoples around the world about the lessons you have learned in advancing your rights, that you can continue and enhance your involvement in the international Indigenous rights movement, and that you can help inspire the development of new strategies for meeting the challenges Indigenous peoples continue to face around the globe.”

### CONSTITUTIONAL CHANGE

North Coast region Councillor, Dallas Donnelly thanked Professor Anaya for his presentation and introduced Mr. Scott to lead a session on constitutional change and NSWALC’s participation at the United Nations.

Before doing so he told delegates he had a “few home truths” to deliver about the Australian constitution and the place of Aboriginal peoples in it.

“There are a lot of myths about concerning the 1967 referendum and its changes to the Constitution relating to Aboriginal peoples,” he said.

“We all know that 90 per cent of the voters at the time supported changes to the nation’s founding document and popular myth has it that the referendum gave voting rights and citizenship rights to our people,” he added.

“This is not true.

“These had been achieved federally in 1962 and in all States and Territories by 1965.

“There is also the view that the referendum ended legal discrimination against Aboriginal people.

“This is not true.

“This occurred with the proclamation of the Racial Discrimination Act in 1973.

“The 1967 Referendum changed the Australian Constitution by amending the ‘race power’ to give the Federal Government authority to make laws for Aboriginal peoples, as well as for other specific races and repealing Section 127 to allow our people to be counted in the Census.

“In other words, it provided formal recognition for our people in the political system.

“Aboriginal peoples could now be counted for the first time in our own country.

“Ironically, it did this by removing any reference in the Australian Constitution to the existence of our peoples.

“The race power in the Constitution grants the Australian government power to enact special legislation for people of any race.

“It was hoped the 1967 amendments to the Constitution would be used only for the benefit of our people but that has not been the case.

“The Australian Government can, and does, enact legislation expressly removing our people from the protection of the Racial Discrimination Act when it suits its political convenience.

“I’d remind you of Hindmarsh Island and the current NT Intervention.

“Both have shown Governments can, and do, pass laws to the detriment of our people.

“NSWALC has used its status at the United Nations to argue that the Constitution should be amended to provide recognition to our people and remove the discriminatory provisions.

“All major political parties committed during the last Federal election to reform the Constitution to formally recognise us as the First Australians in the Constitution.

“But they are only talking about a tiny symbolic change to the Preamble.

“NSWALC is committed to real reform.

“At very least we want to see the race power removed, or amended, so that it is consistent with the accepted international standard for ‘special measures’ allowed by the UN Convention on the Elimination of Racial Discrimination.

“But the major political parties need to move beyond reform of the Constitution to ensure opportunities are created to remedy the disadvantage experience by so many of us.

“The NSWALC strongly advocates for the Australian Government to move beyond its ‘commitment to formally support’ the Declaration on the Rights of Indigenous People.

“We want to see it fully implement these principles into laws; policies and, most importantly, practical measures.

“We also want the Australian Government to unreservedly ratify and fully implement the International Labor Organisation convention 169 and the Indigenous Tribal Populations Convention, 1989.”

The session again provoked spirited debate on the proposed Constitutional Referendum and NSWALC’s continued advocacy work at the United Nations.

This was followed by a free ranging presentation and discussion on economic development.

A major session of the future sustainability of the land rights network, introduced by South Coast Councillor Jack Hampton, and underpinned by a NSWALC discussion paper on the topic, also provoked considerable debate and discussion.

This centred on NSWALC’s role as a regulator and advocate, the performance of the Statutory Investment Fund, the resources required to sustain the current number of LALCs, and the need for a full process of consultation with LALCs on options outlined in the discussion paper.

Central Region Councillor, Stephen Ryan, then led a session on the future of social housing and culture and heritage reform.

This was followed by the formal signing of a partnership agreement on the formation of a Coalition of Aboriginal Peak Bodies.

Western Region Councillor William Murray then introduced a session on the forthcoming NSWALC election by the Registrar of the ALRA, Mr. Stephen Wright and his staff.

Aboriginal magistrate, Ms. Pat O’Shane, picked up on the Conference theme in a forceful speech on the importance of self-determination as guest speaker at the official dinner.

The dinner also saw the launch of *Tracker* magazine and individual achievement awards to Local Aboriginal Land Councils.

Individual presentations by Local Aboriginal Land Councils throughout Conference were particularly well received.

They included presentations from the Saltwater/Freshwater Arts Alliance, the Worimi, Metropolitan, Ngulingah, Illawarra, Uladulla, Waaga Wagga and Hay Local Aboriginal Land Councils.

Many delegates agreed that one of the highlights of Conference was the launch of a video, Land Rights Honour Roll, during the opening session.

The video, which had been produced by NSWALC’s Media and Marketing Unit, commemorates the contribution to land rights of many of those who have passed away.

It was shown followed the traditional welcome to Wanaruah country from Mindaribba LALC’s, Michael Channery.

He and Councillor Ah See both paid moving tributes to the work of Rick Griffiths and Trevor Pattern during this session.

Both were stalwarts of the land rights movement in the Hunter Valley and beyond

## Tracker Magazine

As noted earlier, the first issue of a NSWALC-financed monthly magazine, *Tracker* was published to coincide with the Conference.

In a note to readers in the first issue the Council described the publication as the first Aboriginal-rights based magazine to be launched in Australia.

It pointed out Aboriginal people long ago forged their own newspapers to tell our own stories. They did so through publications such as Abo Call, the NT-based *Land Rights News* and the ever popular *Koori Mail*.

They also told their own stories in other mediums such as Aboriginal community radio and the national Indigenous television station, NITV.

But gaps still exist.

One yawning gap has been the absence of an Aboriginal rights magazine which did not shy away from holding government and the mainstream media to account to advance Aboriginal rights.

The New South Wales Aboriginal Land Council had decided to publish *Tracker* to close this gap.

Each monthly edition would be sent, free of charge, to the more than 20-thousand members of the 119 Local Aboriginal Land Councils across New South Wales.

It was Council's view that each LALC member deserved to be informed, to be involved and to be inspired.

Additional copies of *Tracker* would be sold throughout news agencies around the nation, taking the Aboriginal rights message to the wider Aboriginal community and the general public. With a total print run from its first edition of 35,000 copies, *Tracker* would be the nation's largest black publication.

*Tracker* would campaign for Aboriginal rights through evidence-based advocacy journalism.

An impressive editorial team had been assembled to provide independent news and analysis. The magazine was well received at the Conference and has since established itself within the land rights movement.

Further details on the production and distribution of *Tracker* can be found in the Media and Marketing Unit's review of operations.

## A New Direction

Premier O'Farrell and Aboriginal Affairs Minister, Victor Dominello, publicly pledged to set a new direction for Aboriginal Affairs in May 2011.

It followed the tabling in State Parliament of a 40-page performance report from the Auditor General on the Two Ways Together Strategy, the 2003-2012 Aboriginal Affairs Plan originally launched by the Carr Labor Government.

Seven priority areas had been identified to tackle the systemic disadvantage in Aboriginal communities.

All inter-related, they were health, education, economic development, justice, families and young people, culture and heritage and housing and infrastructure

The report was tabled in the Parliament on May 18, 2011.

It was the first performance audit on the Plan, which had been in full operation for eight years.

It found the Plan had substantially failed to narrow the gap in social and economic outcomes between Aboriginal people in New South Wales and the wider community and the promised stronger partnerships between Government and Aboriginal people had not emerged.

"To date," the report concluded, in part, "the Two Ways Together Plan has not delivered the improvement in overall outcomes for Aboriginal people that was intended."

"Stronger partnerships between the government and Aboriginal people are only beginning to emerge," it added.

"The disadvantage still experienced by some of the estimated 160,000 Aboriginal people in NSW is substantial."

Premier O'Farrell and Minister Dominello released a public statement to coincide with the tabling of the report from the Auditor General.

The report, they said, reflected a serious policy failure by the former Labor Government.

Premier O'Farrell said the policy failure had resulted in "significant human and financial costs."

He pledged his Government would talk "openly and honestly with Aboriginal people about the challenges that we jointly face and how to ensure that the mistakes of the previous government are not repeated."

Minister Dominello said Two Ways Together had failed "because it was politically abandoned. It's the politicians who are to blame-not Aboriginal communities or those earnest public officials on the ground."

The Minister said the Government would, in the coming period, frame a new direction for Aboriginal affairs policy in concert with Aboriginal communities and stakeholders.

The NSWALC welcomed the commitment in a public statement.

Chairwoman Manton said the overall findings of the Auditor General's report would come as no surprise "to those who have been working in Aboriginal Affairs over the past eight years."

"But, its public release should trigger a complete rethink on how the O'Farrell Government will now work with peak Aboriginal organisations and communities to build capacity and improve outcomes in the social, economic, cultural and emotional wellbeing of Aboriginal people in New South Wales," she added.

The NSWALC looked forward, she said, to discussing the report in detail with the O'Farrell Government and fellow members of the Coalition of Aboriginal Peak Organisations.

"The sad reality," she added, "is that despite the promise of self-determination, Aboriginal representative organisations, such as the NSWALC, were never given a true partnership opportunity to affect any outcomes within the Two Ways Together plan."

The NSWALC also sent a letter to every Local Aboriginal Land Council in response to the tabling of the report which urged them to make their views known.

Ms. Manton said the release of the report, and the O'Farrell Governments response, was a watershed moment for Aboriginal people in NSW.

It was a chance to work with a new government to re-set a relationship on the "delivery of services to your community, your children and future generations of Aboriginal people."

"We cannot afford to be sitting here again in 10 or 20 years, still discussing the failure of governments to service the desperate needs of our communities," she added.

"We must stand up today and insist that government get it right.

"It is the responsibility of government to properly engage with the Aboriginal community to seek the views of those affected by their policies before they are implemented.

"But we, as Aboriginal people, also have a responsibility in this process.

"We must engage with government-we must provide our views. We must speak up.

"Silence is taken by governments as approval. We must not be silent on the failings of Two Ways Together.

"If we do not engage in this process, then we are forfeiting our rights to determine our future, and the future of our children.

"We are also, in my view, forfeiting your rights to complain if government does not get it right."

## International Advocacy and Engagement

The New South Wales Aboriginal Land Council holds special consultative status with the United Nations Economic and Social Council (ECOSOC).

This status allows the NSWALC to advocate on behalf of our people at the United Nations through its various bodies and activities.

The NSWALC's ongoing participation in the work of the United Nations, and more particularly its Permanent Forum on Indigenous Issues (UNPFII) and Expert Mechanism on Indigenous Peoples (EMRIP) is in line with Council's decision to adopt, and maintain a strategy of active engagement in international advocacy as part of its Corporate Plan.

The development of networks through this international engagement also assists the NSWALC in the management of its broader statutory functions and allows it to shine a spotlight on domestic issues in the international arena.

At the same time NSWALC seeks to have international human rights standards, such as the UN Declaration on the Rights of Indigenous Peoples, adopted and applied in Australia for the benefit of Aboriginal people.

In recent years the Council has sent delegations to the UNPFII and EMRIP to represent, and to

advocate on behalf of Aboriginal people in Australia, with particular emphasis on New South Wales.

Participation at these forums also presents a useful platform for capacity-building and networking with other First Nation peoples.

## UN Permanent Forum on Indigenous Issues

The NSWALC sent a five person delegation to the tenth session of the United Nations Permanent Forum on Indigenous Issues (UNPFII) from the 16th – 27th May, 2011.

The UNPFII acts as an advisory body to the Economic and Social Council (ECOSOC) on Indigenous issues.

These include economic and social development, culture, the environment, education, health and human rights.

Its work seeks to contribute to the protection, respect and fulfilment of Indigenous peoples rights.

The delegation included – Councillor Ah-See; Councillor Cromelin; the Director of NSWALC's Policy and Research Unit, Ms. McHugh; Policy Officer, Ms. Haylee Davis, and consultant Aden Ridgeway.

The Policy and Research Unit prepared the following interventions and reports for presentation at the Forum.

- Economic and Social Development - Cr Roy Ah-See (supporting report),
- Implementation of the UN Declaration - Cr Roy Ah-See (supporting fact sheet), and
- Rights to Water - Cr Craig Cromelin (supporting report).

Lobbying packages were also prepared by the Unit on the submissions and the recent work of the NSWALC.

The NSWALC has forged a good relationship with Indigenous networks and with the United Nations Special Rapporteur on Indigenous Issues, Professor James Anaya, through its engagement with the UN.

As noted earlier Professor Anaya was the keynote speaker at NSWALC's Statewide Conference in April 2011.

The Special Rapporteur discussed his visit to the Conference in the situational report he delivered to the 10th session of the UNPFII.

## Universal Periodic Review (UPR)

NSWALC also sent a three person delegation to the tenth session of the UPR between January 25th and 27th, 2011.

The UPR examined Australia's human rights record for the first time under the new Human Rights Council which succeeded the Human Rights Commission.

NSWALC prepared a list of five key recommendations for Missions and States to consider when addressing the Australian Government's human rights performance.

All were incorporated into questions and recommendations from UN States and Missions during that Review.

## Books Behind Bars

As part of its advocacy work Council has publicly expressed its concerns about the alarming incidence of Aboriginal people being jailed in NSW, particularly our youth.

This concern led to the launch of a new initiative during the previous reporting period, the Books Behind Bars Project.

The central aim of the project is to see a lot more books, and a lot less Aboriginal people, behind bars in the State's prison system.

Council's decision to launch Books Behind Bars was informed by a number of facts.

They included the following:

- A report from the Australian Institute of Criminology which showed Aboriginal youth in NSW are nearly 26 times more likely to be jailed than their non-Indigenous peers.
- 4.4 per cent of the State's youth are Aboriginal but account for 54 per cent of juvenile detainees.

- A report from the NSW Bureau of Crime Statistics and Research which showed the Indigenous adult imprisonment rate rose by 37 per cent in Australia between 2001 and 2008.
- The Report noted the increase in NSW was 48 per cent but, with the possible exception of offences against justice procedures, it noted the increase in the imprisonment rate is not due to increased offending.
- There are currently more than 10,000 inmates in full time custody in the 31 prisons and correctional centres.
- There are eight maximum security facilities, 13 medium security, and 10 minimum security facilities in New South Wales.
- Aboriginal men, women and children are over-represented in all of them.

The NSW Government currently spends more than a billion dollars a year maintaining its prison system. Its libraries budget is about \$200,000 a year.

This equates to about \$25 a year for each inmate... less than the cost of one average paperback.

Constant requests are received from inmates, black and white, for Aboriginal specific books and resources.

Council decided to seek to improve prison conditions and to highlight the increasing incarceration rate by allocating a sum of \$5,000 to launch Books Behind Bars.

The NSWALC now collects new and used books and donates them to the Library Services section of Corrective Services in NSW for use by prisoners in the State's correctional services system.

More than 1,000 books had been sent into the State's prison system by the end of the reporting period.

#### **MATERIALS REQUIRED**

Libraries in prisons have traditionally been a repository for old second hand books.

Corrective Services NSW are trying to change this with a number of innovative programs, including the donations program.

They have particular requirements on donated books and educational materials.

The Library will accept book donations if they are:

- Of interest to users.
- In good physical condition.
- Fairly current or, if not, have some historical value.
- Of a subject not already covered by existing materials in the collection.
- Already held in the library and are used sufficiently to warrant other copies.

The major collection point for books donated under the Books Behind Bars campaign is the NSWALC Aboriginal Resource Centre on the ground floor of NSWALC's Parramatta headquarters.

Zone offices also accept donated books and educational materials.

Council believes Books Behind Bars is a small but practical initiative worthy of widespread support from across the land rights network and the wider Aboriginal community and has promoted the project across the network of Local Aboriginal Land Councils.

It will continue to do so in the new reporting period.

### **Social Enterprise Finance**

The outgoing Council made a number of important decisions immediately ahead of the NSWALC election.

One was to join Social Enterprise Finance Australia, a consortium of equity investors and commercial lenders with national and international expertise. Social Enterprise Finance Australia (SEFA) has been established to provide finance to social enterprises on commercial terms together with targeted business advice and support.

An integral component to this objective is a commitment to assist its customers to build their capacity to manage debt and to become financially sustainable over time.

The consortium seeks to create positive social and environmental impacts in addition to financial returns.

#### **ABOUT SEFA**

The consortium has brought together Australian and international corporate, and other entities, with proven track records in the social enterprise sector.

Current commercial and enterprise partners are Triodos of the Netherlands, Community Sector Banking (joint venture of Bendigo Bank), the Macquarie Group Foundation, Bush Heritage Australia, The University of Sydney Business School's, Innovation and Entrepreneurship Research Group, Mallesons Stephen Jaques, and the Institute of Strategic Management.

A SEFA Loan Fund, with an initial base of \$10 million, has been established to provide financial services to the Australian social enterprise sector.

SEFA, as trustee of the Loan Fund, will focus on three broad areas of social impact – community, environment and Indigenous – as well as supporting developing social enterprises via an incubator fund.

By concentrating on these areas, the Fund will be addressing some of Australia's largest unmet development finance needs.

The financial products and services provided by each of these funds aim to:

- leverage successful organisations that have a social, ecological and/or cultural remit, and which seek to provide substantial benefits to local communities
- lift capacity and improve sustainability within the sectors they serve
- increase awareness and understanding of the uses of debt and equity finance to service capital requirements
- increase sustainable economic activity that benefit communities and individuals most in need

The Fund will connect investors with social enterprises and entrepreneurs, provide financial products that encourage social enterprises to develop and grow, and aim to catalyse the social impact investment market in Australia.

Education and mentoring are core to the success of enhancing the abilities of social enterprises and SEFA is developing an educational program focused on business management and responsible debt financing.

Together with the Macquarie Group Foundation and other members of corporate Australia, SEFA plans to introduce a mentoring program with experienced business people and entrepreneurs providing guidance and advice to social enterprises.

It had also sought matching funding from the Commonwealth Government through its Social Enterprise and Investment Fund as this reporting period ended.

It planned to begin processing applications from social enterprises for loans and investments from November, 2012.

### NSWALC'S INVOLVEMENT

The NSWALC decided to join the consortium in line with one of its key legislative mandates to establish commercial enterprises and community benefit schemes to create a sustainable economic base for Aboriginal communities.

Wealth generation and commerce are also key priorities in the NSWALC Community Land and Business Plan and Corporate Plan.

They commit the organisation to maintain and strengthen existing partnerships arrangements and develop ones with private sector stakeholders to maximise the potential for economic, social and cultural growth and prosperity across all regions throughout NSW.

The organisation is committed to ensuring commercial and financial sustainability by engaging in sound commercial and business opportunities underpinned by independent professional advice.

The NSWALC aims to work in collaboration with all relevant industries to maximise financial, employment and capacity building opportunities for all Aboriginal people and their communities.

It constantly monitors the business and industry environment to identify suitable and viable commercial enterprise opportunities for Aboriginal people and seeks to pursue partnerships with key industry groups to build commercial and economic sustainability for Aboriginal people.

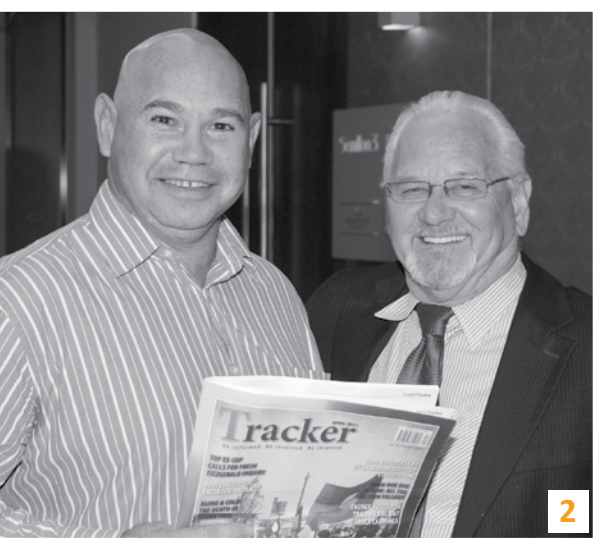
The Council supported the SEFA initiative in the belief the social enterprise sector can provide equitable investment opportunities for Aboriginal businesses in New South Wales and elsewhere.

Further details on the specific activities of Council are contained within the achievements section for the Governance and other Units throughout this report.

# Statewide Conference 2011



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1. A wide shot taken behind delegates looking towards the stage.
2. Councillor Cromelin with Kevin Manton at the launch of Tracker Magazine.
3. UN Special Rapporteur Professor James Anaya makes a point during his keynote speech.
4. Paulette Whitton from Koori Radio takes a copy of Tracker's first edition.
5. Wiradjuri Region delegates take time out from conference sessions for a group photo.
6. NSWALC Chief Executive Officer, Geoff Scott, addressing delegates.
7. Councillor Dallas Donnelly (right) celebrates Tracker's Launch with Deputy Chairperson Tom Briggs.