

Standing Committee on State Development

# **Inquiry into economic development in Aboriginal communities**

Ordered to be printed 30 September 2016 according to  
Standing Order 231

New South Wales Parliamentary Library cataloguing-in-publication data:

**New South Wales. Parliament. Legislative Council. Standing Committee on State Development.**

Economic development in Aboriginal communities / Standing Committee on State Development. [Sydney, N.S.W.] : The Committee, 2016. i– xvi; 122 pages; 30 cm. (Report no. 40 / Standing Committee on State Development)

Chair: The Honourable Greg Pearce, MLC.  
“September 2016”

ISBN 9781922258250

1. Aboriginal Australians—New South Wales—Economic conditions.
2. Business enterprises, Aboriginal Australian—New South Wales.
  - I. Title.
  - II. Pearce, Greg.
  - III. Series: New South Wales. Parliament. Legislative Council. Standing Committee on State Development. Report no. 40

330.9944 (DDC22)

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## Terms of reference

1. That the Standing Committee on State Development inquire into and report on strategies to support economic development in Aboriginal communities in New South Wales, including but not limited to:
  - (a) options for sustainability and capacity building of NSW Aboriginal communities into the future, utilising existing community networks and structures
  - (b) leveraging economic development support, including provided by the Commonwealth Government and the private sector
  - (c) establishment and sustainability of Aboriginal owned enterprises.
2. That the committee report by 30 September 2016.

These terms of reference were adopted by the committee on Tuesday 25 August 2015 and referred to the committee by the Hon Leslie Williams MP, Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education.

## Committee details

### Committee members

<b>The Hon Greg Pearce MLC</b>	<b>Liberal Party</b>	<i>Chair</i>
<b>The Hon Mick Veitch MLC</b>	<b>Australian Labor Party</b>	<i>Deputy Chair</i>
<b>The Hon Rick Colless MLC</b>	<b>The Nationals</b>	
<b>The Hon Paul Green MLC</b>	<b>Christian Democratic Party</b>	
<b>The Hon Natasha Maclaren-Jones MLC</b>	<b>Liberal Party</b>	
<b>The Hon Ernest Wong MLC*</b>	<b>Australian Labor Party</b>	

\* The Hon Ernest Wong MLC replaced the Hon Sophie Cotsis MLC as a committee member on 7 March 2016.

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## Chair's foreword

The committee was unanimous in finding that there is a desperate and moral need for leadership and action on the deplorable outcomes for our Aboriginal communities. However, encouragingly, we also found there is a broad acceptance that now is the time to act.

The inquiry was established to consider strategies to support economic development in Aboriginal communities in New South Wales as a means of addressing disadvantage and creating sustainable communities. Sadly and unjustly, despite decades of investment and goodwill by successive governments, there continues to be an unacceptable level of disadvantage in Aboriginal communities.

There has been a depressing lack of progress in Closing the Gap. Aboriginal children are twice as likely to be at risk of sexual abuse.<sup>1</sup> Aboriginal women are six times more likely to experience domestic violence than non-Indigenous women.<sup>2</sup> Incarceration rates demonstrate the urgent need for action with 50 per cent of the New South Wales juvenile detention population made up of Aboriginal children. There are horrific figures for youth suicide, homelessness and reduced life expectancy. Scandals such as the Northern Territory juvenile detention system expose all Australians to shame and international criticism.

There is widespread commitment to engage to address problems, particularly from Aboriginal communities themselves and there are many examples of successful Aboriginal activities. However, the reality is that there continues to be a clear divide and resultant disadvantage between Indigenous and non-Indigenous Australians. Economic development is the key to unlock this spiral of shame.

The NSW Government has taken some positive steps through the OCHRE Plan and education, health and Aboriginal housing. Direct policies include public sector employment, the construction industry and procurement. OCHRE envisages development of an Aboriginal economic development framework which is the 'key vehicle' for driving economic opportunity for Aboriginal people in New South Wales. However, over two years since the release of OCHRE the framework is still in development. The lack of outcomes cannot be ignored and there continues to be widely held concerns about government acting in silos, duplication and waste, a lack of a sense of urgency and accountability, and reliance upon top down government rather than community partnerships and enabling support.

New South Wales has unique advantages to tackle the underlying causes of economic disadvantage:

- Relative to other states and territories New South Wales has a high urban and regional Aboriginal population and a relatively small remote population.
- Since 1983 New South Wales has had a lands claim process which allows Aboriginal communities to claim ownership of vacant Crown land with which the communities have a connection thus (subject to clearing the enormous backlog of claims) underpinning cultural and development opportunities.

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<sup>1</sup> Child Family Community Australia, *Child protection and Aboriginal and Torres Strait Islander children* (September 2015), <https://aifs.gov.au/cfca/publications/child-protection-and-aboriginal-and-torres-strait-islander-children>.

<sup>2</sup> NSW Bureau of Crime Statistics and Research, *Trends and patterns in domestic violence assaults: 2001 to 2010* (May 2011), <http://www.bocsar.nsw.gov.au/Documents/BB/bb61.pdf>.

- A strong land council network and a system of land ownership provide considerable opportunities to enhance Aboriginal prosperity, however, there are serious issues relating to governance and accountability.
- New South Wales is embarking on a \$73 billion infrastructure spend with many opportunities for Aboriginal employment and business participation.

The committee has concluded that a major push from the government is needed to generate momentum, and sustain it, in the area of economic development in Aboriginal communities.

We recommend a strong coordinating agency to drive economic reform in a way that harmonises Aboriginal economic development with the state's broader economic policy; developing and harnessing capacity building opportunities; and ensuring that the economic prosperity and development opportunities envisaged by returning land to Aboriginal communities under the *Aboriginal Land Rights Act 1983* are able to be realised.

It must be recognised that lasting improvements can only be achieved through consultation and cooperation between government, the communities themselves and their leaders and other sectors. Objectives for Aboriginal economic improvement must be front and centre with respect to Aboriginal culture and history included. Desired outcomes and accountabilities must be clear and assessable.

The committee has recommended:

- Responsibility for Aboriginal policy and programs should be moved to the Premier cluster. An advisory board with the Premier as Chair should be formed including appropriate Aboriginal, government and private sector representation as a coordinating body to test and identify objectives, programs and spending and to monitor outcomes.
- Running parallel to this should be a top-level bureaucratic structure—possibly a secretaries and chief executive officers committee. This structure would safeguard consistency and coordination of outcomes across all departments and alleviate the issues surrounding duplication and confusion of services available. Relevant KPI's for the participants are essential to ensure accountability and avoid the continued waste of resources.
- The Crown lands claims process must be further reformed. The recent Aboriginal Land Agreement negotiation framework is to be applauded, however, there needs to be consideration of further prioritising of claims, utilisation of private sector processing of claims, and funding for processing of the claims to allow Aboriginal communities to leverage their assets. To accompany this there needs to be a process for reviewing zoning of land acquired by Aboriginal communities.
- The land council system must be strengthened and reformed. It needs additional funding for capacity building of its participants, performance of its objectives and activities. There is a need to have more flexible governance arrangements in some areas and a strengthening of governance in others including conflict of interest.
- The government needs to support an entity, perhaps UrbanGrowth NSW, to assist land councils with development opportunities and there needs to be special financing for Aboriginal enterprises which can be repaid out of profits.



I would like to thank all of the contributors, stakeholders and witnesses who took part in the inquiry. I would also like to extend my thanks to the committee secretariat and staff, especially Rebecca Main, Kate Mihajek and Lynn Race.

A handwritten signature in blue ink, appearing to read 'Greg Pearce', is centered on the page.

The Hon Greg Pearce MLC  
**Committee Chair**

## Recommendations

- Recommendation 1** **8**  
 That the NSW Government recalibrate its relationship with Aboriginal communities to empower individuals and encourage economic sustainability and prosperity, this includes developing a framework to ensure standards of good faith, and standards for meaningful engagement, with Aboriginal communities.
- Recommendation 2** **8**  
 That the NSW Government adopt a whole-of-government approach to Aboriginal affairs to ensure a coordinated and targeted response to address the critical issues within Aboriginal communities as a matter of urgency.
- Recommendation 3** **8**  
 That Aboriginal Affairs be relocated in the Department of Premier and Cabinet.
- Recommendation 4** **8**  
 That the Premier convene an advisory board on Aboriginal economic development comprising of key ministers, Aboriginal representatives and the broader community to test and identify Aboriginal objectives, programs, policies and spending, and to monitor outcomes.
- Recommendation 5** **9**  
 That a high-level public sector interdepartmental committee be established, that:
- comprises of secretaries and chief executive officers of government agencies
  - is responsible for ensuring that Aboriginal policies are implemented, and integrated in all government activities
  - has a key role in measuring outcomes and accountabilities of Aboriginal policies, and
  - has set key performance indicators it must report on to the advisory board on Aboriginal economic development.
- Recommendation 6** **13**  
 That Aboriginal Affairs release its current draft of the Aboriginal Economic Prosperity Framework for community consultation, and specifically engage with Aboriginal stakeholders to complete the Framework as soon as practicable.
- Recommendation 7** **16**  
 That the NSW Government review its procurement policies to:
- establish appropriate targets for including Aboriginal business in government supply chains, and
  - determine how to better incorporate targets, accountability and evaluation frameworks to promote economic development in Aboriginal communities.
- Recommendation 8** **16**  
 That the NSW Government set a target for part of the \$73 billion infrastructure funds to be spent on Aboriginal businesses.

- Recommendation 9** 18  
That the NSW Government ensure Industry Based Agreements include rigorous accountability mechanisms and satisfactorily measure outcomes and regular public reporting of objectives and outcomes
- Recommendation 10** 18  
That the NSW Government:
- consider how procurement and other policies can positively interact with Industry Based Agreements to deliver Aboriginal economic development, and
  - expand Industry Based Agreements into other industries including information technology and communications.
- Recommendation 11** 21  
That the NSW Government ensure place-based, community-driven approaches are embedded as a key component of the development and implementation of initiatives to drive Aboriginal economic development.
- Recommendation 12** 26  
That Aboriginal Affairs continues to facilitate the operation of Opportunity Hubs.
- Recommendation 13** 27  
That the Department of Education include community-specific Aboriginal culture in school curriculums.
- Recommendation 14** 30  
That the NSW Government continue to support proven successful education and life skills programs, like that operated by the Clontarf Foundation, and take action to deliver programs that target Aboriginal girls and young women in schools and in vocational education and training.
- Recommendation 15** 30  
That the NSW Government, in collaboration with Aboriginal organisations, develop and implement a mentoring program for young Aboriginal women by female Aboriginal elders.
- Recommendation 16** 34  
That Training Services NSW continue to investigate, develop and implement stronger pathways between vocational education and training and meaningful employment opportunities for Aboriginal people.
- Recommendation 17** 42  
That the advisory board on Aboriginal economic development investigate and identify the most appropriate government agency or body to be responsible for funding and service delivery of capacity building initiatives for Aboriginal organisations.
- Recommendation 18** 42  
That the NSW Government match dollar-for-dollar the NSW Aboriginal Land Council's \$16 million in funding for economic development opportunities for Indigenous enterprises, and that these funds be placed in a trust to be managed by the proposed advisory board on Aboriginal economic development.

- Recommendation 19** 45  
That Aboriginal Affairs undertake consultation with local Aboriginal land councils to investigate the possibility of amending the compliance requirements, particularly the investment options, for local Aboriginal land councils with significant funds under management.
- Recommendation 20** 49  
That the advisory board on Aboriginal economic development ensure the government agency or body identified in recommendation 17 facilitate training, skills development, networking opportunities, and other services to enhance the governance capacity of Aboriginal organisations.
- Recommendation 21** 50  
That the NSW Government commence a review of local Aboriginal land council governance, and as part of this review, investigate how to minimise potential conflicts of interests.
- Recommendation 22** 53  
That the agency or body identified in recommendation 17 be responsible for brokering and facilitating partnerships between local Aboriginal land councils, other Aboriginal corporations and relevant private sector parties to assist with business and financial capacity.
- Recommendation 23** 53  
That the NSW Government investigate whether UrbanGrowth NSW may be a suitable government body to support local Aboriginal land councils with land claims.
- Recommendation 24** 58  
That the NSW Government ensure resources are targeted at wraparound services for Aboriginal businesses to enhance the development of Indigenous enterprises across the State.
- Recommendation 25** 58  
That the NSW Government develop alternative pathways for Aboriginal enterprises and local Aboriginal land councils to access funding sources.
- Recommendation 26** 64  
That the Department of Industry-Lands promote the use of the Aboriginal Land Agreement process to encourage local Aboriginal land councils to engage with this process.
- Recommendation 27** 64  
That the NSW Government provide resources for preparation and negotiation, for a period of five years, to ensure the best outcomes for Indigenous participants in the Aboriginal Land Agreements process.
- Recommendation 28** 64  
That the NSW Government amend the processing system for Aboriginal land claims and Aboriginal Land Agreements to allow the prioritisation of sites with significant potential for economic development.
- Recommendation 29** 64  
That the NSW Government allocate additional resources, for at least five years, to reduce the backlog of Aboriginal land claims, and allow private solicitors to prepare and submit land claim applications to the Department of Industry-Lands.

- Recommendation 30** 65  
That the NSW Government establish a ‘one-stop-shop’ that includes representatives from the appropriate agencies to facilitate the Aboriginal land claims and Aboriginal Land Agreement processes.
- Recommendation 31** 66  
That the NSW Government explore issues of limited title with land council representatives with the aim of processing land claims expeditiously.
- Recommendation 32** 71  
That the Department of Planning and Environment continue to:
- amend the regional planning processes to include consultation with local Aboriginal land councils and Aboriginal groups in the formation of regional plans, and establish new requirements concerning local environmental plans
  - develop a solutions brokerage project focusing on Aboriginal community lands and infrastructure
  - develop capacity building activities to encourage Aboriginal individuals and organisations to have a better understanding of the state’s planning system including working with the University of Sydney to customise its Planning for Non-Planners course, potential cadetship positions and mentoring opportunities.
- Recommendation 33** 71  
That the NSW Government use the advisory board on Aboriginal economic development to develop and implement workshops for Aboriginal individuals and organisations that explain how to leverage land and water as an economic asset, and the impact of key planning legislation on this process.
- Recommendation 34** 71  
That the Department of Planning and Environment review planning legislation to better accommodate the aspirations envisaged in the *Aboriginal Land Rights Act 1983*.
- Recommendation 35** 74  
That the NSW Government provide resources to local Aboriginal land councils to support their participation in negotiations concerning the transfer of Crown land to local councils.
- Recommendation 36** 77  
That the NSW Government develop and implement an awareness raising campaign targeting Aboriginal communities about their entitlements under the *Aboriginal Land Rights Act 1983* and the *Native Title Act 1998* (Cth).
- Recommendation 37** 77  
That the NSW Government consider adequately funding Prescribed Bodies Corporate, as is the case in other states.
- Recommendation 38** 79  
That the Department of Planning and Environment investigate opportunities to develop a template for joint ventures between local Aboriginal land councils and local government.

**Recommendation 39**

**81**

That the NSW Government proclaim section 21AA of the *Fisberies Management Act 1994*.

## Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Hon Leslie Williams MP, Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education on 25 August 2015.

The committee received 37 submissions and three supplementary submissions. The committee also received 13 discussion paper responses.

The committee held four public hearings: one at Parliament House in Sydney, and three in regional locations: Dubbo; Tamworth; and Narooma. The committee held a public roundtable at Parliament House following the release of the discussion paper.

The committee also conducted six site visits to the Central Coast, Dubbo, Brewarrina, Tamworth, Guyra and the Far South Coast.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents, answers to questions on notice and the discussion paper.

## Procedural issues

The committee released a discussion paper on 7 July 2016, which provided an overview of the key issues and sought stakeholder views on various questions that had been developed in response to these issues. The committee received 13 discussion paper responses and held a roundtable on 18 August 2016 to discuss what specific actions need to be taken, and by whom, to address economic development in Aboriginal communities.





## Chapter 1      Driving reform

The NSW Ombudsman has condensed the views of many stakeholders in stating that increasing the economic prosperity of Aboriginal people is crucial to improving social outcomes, and sustaining and renewing Indigenous culture and languages. Prosperous Aboriginal communities also have positive effects on the wider economy including reduced government expenditure. Inquiry participants agreed now is an opportune time to drive reform in this area.

This chapter examines options for driving reform in Indigenous affairs including giving priority to a whole-of-government approach to Aboriginal affairs with culture at its centre. It also discusses the NSW Government's Opportunity, Choice, Healing, Responsibility, Empowerment (OCHRE) Plan, specifically the Aboriginal Economic Development Framework, public sector employment and procurement policies, Industry Based Agreements, Local Decision Making, and accountability, transparency and evaluation mechanisms. The chapter also explores the need for a strong entity to be charged with driving reform in this sphere.

### Culture as central to reform

- 1.1      The committee acknowledges that culture is a fundamental part of any reform agenda that is designed to improve Aboriginal wellbeing, including in the area of economic development and empowerment. Indeed the NSW Government sets it firmly at the heart of development and empowerment of Aboriginal communities<sup>3</sup> and the NSW Ombudsman identified culture as a 'key asset and comparative advantage' of Aboriginal communities.<sup>4</sup> Amongst other witnesses, evidence from successful local Aboriginal land councils and Aboriginal enterprises highlighted the importance of protecting culture by investing back into local communities.<sup>5</sup>
- 1.2      In addition, strong Aboriginal leadership has been emphasised as being critical to ensuring that culture is embedded in reforms designed to improve Aboriginal wellbeing and prosperity.<sup>6</sup>
- 1.3      The committee recognises that culture must be at the centre of any reforms designed to progress and drive economic development in Aboriginal communities, and acknowledges that Aboriginal leaders have a key role in driving reforms that are culturally appropriate and embraced by Aboriginal communities. It is with this in mind that we have made recommendations that envisage culture at the centre and Aboriginal leaders and communities as central players.

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<sup>3</sup> NSW Government, *OCHRE* (2013), p 4.

<sup>4</sup> Submission 19, NSW Ombudsman, p 21.

<sup>5</sup> See, for example, Submission 11, Darkinjung Local Aboriginal Land Council, p 4 and Site visit report: Singleton, Williamtown and Watanobbi, pp 1-2.

<sup>6</sup> Wunan Foundation Inc., *Empowered Communities: Empowered Peoples Design Report* (2015), p 9.

## Issues with the current approach to Aboriginal affairs

1.4 Evidence gathered during the inquiry highlighted the clear divide between Aboriginal and non-Aboriginal people in New South Wales across key social and economic indicators including education, post-school training, employment, incarceration rates, suicide rates, access to finance and human capital, business ownership and home ownership.<sup>7</sup>

1.5 Stakeholders expressed frustration at the lack of economic autonomy and independence of Aboriginal people and suggested a mix of historical and recent factors caused the disempowerment of Indigenous communities. Mr Sean Gordon, Chief Executive Officer of Darkinjung Local Aboriginal Land Council, told the committee that ‘... the lack of economic development is the greatest atrocity caused to Aboriginal people since the arrival of Europeans.’<sup>8</sup> Mr Gordon contended that successive government policies have resulted in Aboriginal peoples’ dependence on government assistance:

From day one we have almost been cut out of markets and opportunities, and policy after policy has continued to put us in a situation which has resulted in the position we are in today, where Aboriginal people are absolutely dependent on government in regards to welfare, and where Aboriginal organisations exist to provide services to a disempowered people.<sup>9</sup>

1.6 Inquiry participants suggested that over decades the NSW Government’s approach to Aboriginal affairs had been piecemeal and insufficient in addressing critical issues affecting Indigenous communities. For example, Mr Daniel Lester, Deputy Ombudsman, Aboriginal Programs at the NSW Ombudsman, stated ‘Despite good intentions and work done by independent government agencies the overall approach by government in our view ... has been quite disjointed and poorly targeted.’<sup>10</sup>

1.7 Notwithstanding the good intentions and some progress with OCHRE, many inquiry participants expressed the need for further concerted effort. OCHRE is discussed in detail later in this chapter.

1.8 NTSCORP similarly stated that the siloing of Aboriginal issues has had ‘devastating’<sup>11</sup> consequences for social justice in Aboriginal communities. Further, it had detrimental effects on policy delivery:

This silo effect has resulted in fragmented decision-making and policy agendas operating unsuccessfully in isolation, often leading to unnecessary duplication of statutory red tape, confusion between decision makers and communities and added stress on already overstretched resources.<sup>12</sup>

<sup>7</sup> See for example, Standing Committee on State Development, NSW Legislative Council, *Discussion Paper: Economic development in Aboriginal communities* (2016), p 1, p 23, p 24, and p 41.

<sup>8</sup> Evidence, Mr Sean Gordon, Chief Executive Officer, Darkinjung Local Aboriginal Land Council, 18 August 2016, p 19.

<sup>9</sup> Evidence, Mr Gordon, 18 August 2016, p 19.

<sup>10</sup> Evidence, Mr Daniel Lester, Deputy Ombudsman, Aboriginal Programs, NSW Ombudsman, 18 August 2016, p 3.

<sup>11</sup> Discussion paper response - Submission 45, NTSCORP, p 2.

<sup>12</sup> Discussion paper response - Submission 45, NTSCORP, pp 2-3.

- 1.9** Likewise, Mr Sam Jeffries, Convenor of the Local Decision Making Regional Chairpersons Group, described the ‘failure of coordination and collaboration’ between and within governments as critical to the lack of economic development in Aboriginal communities.<sup>13</sup> Mr Jeffries was concerned that governments’ reactive approach to Aboriginal affairs and the lack of long term policy solutions exacerbated the issue:

If we look at the New South Wales Government’s role in this—or any government’s role—we see that they have always been reactive rather than be proactive. We do not seem to have the political will or the political commitment to develop long-term strategies and stick to those commitments for a 20- or 30-year period so that we give it time to work through and be realised. Governments or political parties seem to think that undertaking that for Aboriginal people is some kind of political suicide.<sup>14</sup>

- 1.10** The NSW Government acknowledged that there have been challenges in the coordination and service delivery of Aboriginal programs identifying particular concerns with the ‘transactional’ nature of its relationship with Aboriginal communities, describing it as ‘very sectorial’ and ‘largely deficit driven.’<sup>15</sup> Mr Jason Ardler, Head of Aboriginal Affairs, remarked that in his experience, Aboriginal communities are hoping to rebalance their relationships with the government:

When I go out and talk to communities what I hear them talk about is the need for a kind of a delicate rebalancing of the investment between the most vulnerable and our efforts to actually shift the whole population forward and I think that is where economic development really comes into its own.<sup>16</sup>

- 1.11** Mr Jeffries emphasised the need to clarify the ‘intricate’<sup>17</sup> relationship between government and Aboriginal communities:

... quite often what happens is that on our side understanding the complexity of government and all its machinations is a real challenge for us. On the Government’s side the challenge is understanding all of our complexities and machinations as well and how we make those things work. Quite often I think both of us are guilty of not understanding this game that we are in ...<sup>18</sup>

- 1.12** Certain stakeholders agreed that there had never been a more opportune time to drive Aboriginal economic development in New South Wales. Mr Warren Mundine AO, Chair of the Prime Minister’s Indigenous Advisory Council, highlighted the positive aspects of the current environment particularly the drive for self-determination and independence in Aboriginal communities:

The good news is that in my 60 years of life this has probably been the best environment, the best climate, for engagement and doing business. Even from the Indigenous side, if we had had this conversation 15 years ago it would have been a

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<sup>13</sup> Evidence, Mr Sam Jeffries, Convenor, Local Decision Making Regional Chairpersons Group, 18 August 2016, p 6.

<sup>14</sup> Evidence, Mr Jeffries, 18 August 2016, p 6.

<sup>15</sup> Evidence, Mr Jason Ardler, Head, Aboriginal Affairs, 18 August 2016, p 11.

<sup>16</sup> Evidence, Mr Ardler, 18 August 2016, p 11.

<sup>17</sup> Evidence, Mr Jeffries, 18 August 2016, p 12.

<sup>18</sup> Evidence, Mr Jeffries, 18 August 2016, p 12.

totally different conversation—even 10 years ago. The shift in thinking that if we are going to get real self-determination, if we are going to get real independence to do things, we have to have an economic strategy to do that, and that is what we should be focusing on: how an economic strategy happens.<sup>19</sup>

**1.13** Ms Anne Dennis, Deputy Chairperson of the New South Wales Aboriginal Land Council (NSWALC), agreed it is the right time for change, saying ‘We are moving into a new era for Aboriginal people to have a voice and to build capacity right across New South Wales.’<sup>20</sup> Ms Dennis noted that the organisations and structures are in place to support Aboriginal economic development.<sup>21</sup>

**1.14** Ms Dennis added ‘... we need that genuine government commitment to be able to work and allow Aboriginal people to have that control and the voice in our future and our destiny.’<sup>22</sup> Ms Dennis encouraged the government to engage in genuine and meaningful consultation with Aboriginal people:

It [coordination, cooperation and communication] is just about being genuine and meaningful, that we work together as Aboriginal people with Aboriginal people to allow that building of capacity and having that voice within community. We have got mechanisms in place right across New South Wales; now we need to get on and it is about action: how we start to work together. I think it is that goodwill and that action needs to happen.<sup>23</sup>

**1.15** Likewise, Mr Stephen Wright, Registrar of the *Aboriginal Land Rights Act (1983)*, identified the need for ‘respectful engagement’ between the NSW Government and Aboriginal communities to gain insights into the potential for economic development.<sup>24</sup> The Registrar stated this process would benefit from a ‘place management’ paradigm.<sup>25</sup>

**1.16** NTSCORP was similarly concerned about the engagement between the NSW Government and Traditional Owners and proposed that minimum standards of good faith and meaningful engagement be established:

I think a fair point to be made for companies’ engagement in Aboriginal communities, be that through land councils or prescribed bodies corporate [PBC] and native title groups or other organisations may be an area for the Government to ensure minimum standards of good faith and minimum standards for meaningful engagement.<sup>26</sup>

<sup>19</sup> Evidence, Mr Warren Mundine AO, Chair, Prime Minister’s Indigenous Advisory Council, 18 August 2016, p 13.

<sup>20</sup> Evidence, Ms Anne Dennis, Deputy Chairperson, New South Wales Aboriginal Land Council, 18 August 2016, p 5.

<sup>21</sup> Evidence, Ms Dennis, 18 August 2016, p 14.

<sup>22</sup> Evidence, Ms Dennis, 18 August 2016, p 14.

<sup>23</sup> Evidence, Ms Dennis, 18 August 2016, p 13.

<sup>24</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act (1983)* (NSW), p 3.

<sup>25</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 3.

<sup>26</sup> Evidence, Ms Mishka Holt, Principal Solicitor, NTSCORP, 18 August 2016, p 26.

## Urgent need for a whole-of-government approach to Aboriginal affairs

**1.17** There was consensus among inquiry participants that there was an urgent need for the NSW Government to adopt a whole-of-government approach to ensure a coordinated and targeted response to address the critical issues within Aboriginal communities.<sup>27</sup> Importantly, the Registrar advised that any governance arrangements in this sphere should consider and address the cultural authority of Aboriginal people.<sup>28</sup>

**1.18** The NSW Government has recognised the need for a revitalised approach to Indigenous affairs. Mr Ardler supported rebalancing the relationship between the NSW Government and Aboriginal communities:

We need a relationship ... that is whole-of-government and whole-of-community. It needs to be more forward looking and more aspirational, and it certainly needs to be mutually accountable.<sup>29</sup>

**1.19** Mr Ardler acknowledged that there should be a ‘whole-of-life-cycle approach’<sup>30</sup> to Aboriginal affairs that is place-based and long-term:

I think there is a need for a more holistic, place-based ... approach that is not just about the usual programmatic approach. We need greater longevity in the approach that we are taking.<sup>31</sup>

**1.20** Mr Ardler noted this approach was complicated by the need to navigate the numerous relationships between service delivery agencies and Aboriginal peak bodies which tend to reinforce the siloed-nature of engagement between the parties.<sup>32</sup>

**1.21** The NSWALC concurred with the need for a whole-of-government approach that empowers Aboriginal people through collaboration, investment and capacity building:

A whole of government approach, developed in partnership with Aboriginal peoples, and based on a genuine commitment to action, investment and capacity building, must be the foundation of any approach. Such an approach should commit to investing in Aboriginal people developing solutions, build on the successes and take on board lessons learnt.<sup>33</sup>

**1.22** Additionally, the NSWALC suggested that this approach should be founded on the core principles of the United Nations Declaration on the Rights of Indigenous Peoples including autonomy, participation, engagement and consultation.<sup>34</sup>

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<sup>27</sup> See for example, Discussion paper response – Submission 41, NSW Minerals Council, p 1 and p 2; Evidence, Mr Lester, 18 August 2016, pp 8-9.

<sup>28</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 2.

<sup>29</sup> Evidence, Mr Ardler, 18 August 2016, p 11.

<sup>30</sup> Evidence, Mr Ardler, 18 August 2016, p 11.

<sup>31</sup> Evidence, Mr Ardler, 18 August 2016, p 12.

<sup>32</sup> Evidence, Mr Ardler, 18 August 2016, p 11-12.

<sup>33</sup> Discussion paper response – Submission 43, NSWALC, p 2.

<sup>34</sup> Discussion paper response – Submission 43, NSWALC, p 4.

**1.23** The NSW Minerals Council also ‘strongly’ supported the need for the NSW Government to adopt a whole-of-government bipartisan approach to drive economic development in Aboriginal communities.<sup>35</sup>

**1.24** A number of inquiry participants encouraged the private sector to be actively involved in investing in, and supporting, the prosperity and sustainability of Aboriginal communities. Mr Jeffries stated that responsibility for elevating Aboriginal economic disadvantages rests across the public, philanthropic and private sectors.<sup>36</sup> Similarly, Mr Mundine and Mr Lester noted the merit of engaging the private sector in this area.<sup>37</sup>

### **Relocating Aboriginal Affairs**

**1.25** There was some concern during the inquiry that the Department of Education was not the most appropriate government agency to house Aboriginal Affairs and drive economic reform. The Economic Development Office of Shoalhaven City Council explained these concerns:

While education is the cornerstone of economic and community development, there may need to be more of a focus on realising current economic opportunities such as business development and land development.<sup>38</sup>

**1.26** The council suggested that the Department of Industry may be a more appropriate location for the business development aspects of Indigenous affairs:

The NSW Department of Industry has experience in the development of industry sectors and would be able to provide assistance and expertise in terms of the development of Manufacturing, Tourism and Arts, Culture & Creative Industries. In addition, the NSW Department of Industry deals with the Infrastructure and Construction sector and could provide advice and broker partnership arrangements.<sup>39</sup>

**1.27** Alternatively, the Registrar proposed that a ‘satisfactorily resourced’ Office of Aboriginal Affairs should reside within the Department of Premier and Cabinet.<sup>40</sup> The Registrar advised that there are a number of advantages to this re-positioning:

- recognising that Aboriginal people are distinct and subject to a range of interactions with the government
- providing the best opportunity for the NSW Government to recognise and adopt priorities in Aboriginal affairs policy
- limiting the opportunity for competing government agencies to overwhelm and confuse Aboriginal affairs policy and priorities development.<sup>41</sup>

<sup>35</sup> Discussion paper response – Submission 41, NSW Minerals Council, p 1 and p 2.

<sup>36</sup> Evidence, Mr Jeffries, 18 August 2016, p 6.

<sup>37</sup> Evidence, Mr Mundine 18 August 2016, p 14 and Evidence, Mr Lester, 18 August 2016, p 4.

<sup>38</sup> Discussion paper response – Submission 44, Shoalhaven City Council, p 7.

<sup>39</sup> Discussion paper response – Submission 44, Shoalhaven City Council, p 7.

<sup>40</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 1.

<sup>41</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 1.

- 1.28 The Registrar noted that there is historical precedent for Aboriginal affairs to principally reside within the Department of Premier and Cabinet.<sup>42</sup>

*Committee comment*

- 1.29 The committee notes the considerable concerns of stakeholders that despite decades of investment and goodwill from successive governments there continues to be an unacceptable level of disadvantage in Indigenous communities. The traditional silo approach to engagement with Aboriginal communities has exacerbated fragmented decision-making and policy delivery which has led to unnecessary duplication of programs and services, bureaucratic red tape, and burdened already-overstretched resources.
- 1.30 We acknowledge that notwithstanding this situation, there has never been a more promising time for Aboriginal individuals and communities to take advantage of opportunities to advance their economic potential. The NSW Government must build upon its current commitment by collaborating with established Aboriginal organisations, particularly the local Aboriginal land council network, to identify and harness these opportunities to create sustainable and prosperous Indigenous communities.
- 1.31 The committee notes that there is a need for more intense, respectful and meaningful consultation between the NSW Government and Aboriginal communities in order to leverage economic potential. We accept that there are challenges in rebalancing the relationship between these parties. It is essential that both groups understand and respect the needs and concerns of each other if economic progress is to be made. We recommend that the NSW Government recalibrate its relationship with Aboriginal communities to empower individuals and encourage economic sustainability and prosperity, this includes developing a framework to ensure standards of good faith, and standards for meaningful engagement, with Aboriginal communities. The committee agrees that it is imperative to include the private sector and the wider community in these engagement processes.
- 1.32 The committee recognises that there is an urgent and overwhelming need to adopt a whole-of-government approach to Aboriginal affairs in New South Wales and that this approach should consider the cultural authority of Aboriginal people and communities. We note that the approach should also consider how to best nurture each person's development throughout their entire life. The committee recommends that the NSW Government adopt a whole-of-government approach to Aboriginal affairs to ensure a coordinated and targeted response to address the critical issues within Aboriginal communities as a matter of urgency. The committee encourages the NSW Government to ensure this new approach is bipartisan, long-term and considers opportunities for participation from business, and the private and philanthropic sectors.
- 1.33 The committee recognises the good work of Aboriginal Affairs and notes the significant role education plays in enhancing economic development in Aboriginal communities. However, the committee recommends that Aboriginal Affairs be relocated to the Department of Premier and Cabinet to ensure a whole-of-government approach and proper coordination of policies and services which will best harness the opportunities available to create strong and prosperous Indigenous communities.

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<sup>42</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 2.

- 1.34** To consolidate the whole-of-government approach, we additionally, recommend that the Premier convene an advisory board on Aboriginal economic development comprising of key ministers, Aboriginal representatives and the broader community to test and identify Aboriginal objectives, programs, policies and spending, and to monitor outcomes. Further, the committee recommends that a high-level public sector interdepartmental committee, comprising of secretaries and chief executive officers of government agencies, be established. The interdepartmental committee would be responsible for ensuring that Aboriginal policies are implemented, and integrated in all government activities. This interdepartmental committee will report to the advisory board and will have a key role in measuring outcomes and accountabilities.

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**Recommendation 1**

That the NSW Government recalibrate its relationship with Aboriginal communities to empower individuals and encourage economic sustainability and prosperity, this includes developing a framework to ensure standards of good faith, and standards for meaningful engagement, with Aboriginal communities.

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**Recommendation 2**

That the NSW Government adopt a whole-of-government approach to Aboriginal affairs to ensure a coordinated and targeted response to address the critical issues within Aboriginal communities as a matter of urgency.

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**Recommendation 3**

That Aboriginal Affairs be relocated in the Department of Premier and Cabinet.

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**Recommendation 4**

That the Premier convene an advisory board on Aboriginal economic development comprising of key ministers, Aboriginal representatives and the broader community to test and identify Aboriginal objectives, programs, policies and spending, and to monitor outcomes.

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**Recommendation 5**

That a high-level public sector interdepartmental committee be established, that:

- comprises of secretaries and chief executive officers of government agencies
  - is responsible for ensuring that Aboriginal policies are implemented, and integrated in all government activities
  - has a key role in measuring outcomes and accountabilities of Aboriginal policies, and
  - has set key performance indicators it must report on to the advisory board on Aboriginal economic development.
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**OCHRE**

**1.35** Stakeholders highlighted that the NSW Government had taken some positive steps to address economic development in Aboriginal communities. A frequently cited example was the release of OCHRE, the government's plan for Aboriginal affairs, in April 2013. OCHRE aims to 'support strong Aboriginal communities in which Aboriginal people actively influence and fully participate in social, economic and cultural life.'<sup>45</sup> The three foci in OCHRE are: education and employment; language and culture; and governance and accountability. The Department of Education, is the lead agency responsible for overseeing OCHRE's implementation.<sup>44</sup>

**1.36** The Hon Leslie Williams MP, Minister for Early Childhood Education, and Minister for Aboriginal Affairs,, advised that the NSW Government will undertake an extensive 10-year evaluation of OCHRE.<sup>45</sup> The evaluation will commence in 2018 and be undertaken in three parts.<sup>46</sup>

**1.37** Mr Lester noted the central role OCHRE plays in enhancing economic development in Aboriginal communities:

Through OCHRE the Government has acknowledged the effective reform in education, and also employment has been central to addressing Aboriginal disadvantage, and commits to implementing the state-wide Aboriginal Economic Prosperity Framework to drive whole-of-government action and also to leverage existing mainstream economic initiatives such as the upcoming \$73 billion in infrastructure that will occur in this State over the next four years in particular.<sup>47</sup>

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<sup>43</sup> NSW Government, *OCHRE* (2013), p 5.

<sup>44</sup> Evidence, Ms Amity Durham, Executive Director, Social Policy, Department of Premier and Cabinet, 26 February 2016, p 2.

<sup>45</sup> Evidence, the Hon Leslie Williams MP, Minister for Early Childhood Education, and Minister for Aboriginal Affairs, 29 August 2016, p 16 (Inquiry into Budget Estimates 2016-2017).

<sup>46</sup> Evidence, Minister Williams, 29 August 2016, p 16 (Inquiry into Budget Estimates 2016-2017).

<sup>47</sup> Evidence, Mr Lester, 18 August 2016, p 4.

- 1.38** Culture is a central tenet of OCHRE. The NSWALC emphasised the integral role culture plays in cultivating economic opportunities for Aboriginal people:

Strategies to support Aboriginal peoples and Aboriginal organisations to develop economic opportunities based on promoting Aboriginal culture and heritage and protecting natural resource should be further explored and supported. There are key opportunities relating to tourism, arts, museums, keeping places, theatre, and natural resource management.<sup>48</sup>

- 1.39** The NSWALC encouraged the NSW Government to support economic opportunities that advance Aboriginal culture and heritage through ‘... promotion, approved supplier endorsement, and assistance with protection of intellectual property rights associated with cultural enterprise.’<sup>49</sup>

- 1.40** Despite the release of OCHRE and the success of certain initiatives, some inquiry participants suggested that there is a need for greater government coordination to drive economic development in Aboriginal communities.<sup>50</sup> For example, Supply Nation asserted that the NSW Government should provide ‘more strategic leadership’ in its approach to Aboriginal affairs that focuses on ‘economic development of Aboriginal communities, empowerment of Aboriginal people, and creation of wealth and business capacity building.’<sup>51</sup>

- 1.41** The NSW Minerals Council maintained that it was crucial to strengthen coordination within the government to discourage the traditional siloed approach to Aboriginal affairs from delaying or derailing reform.<sup>52</sup>

### *Committee comment*

- 1.42** The committee notes that the NSW Government has taken positive steps to reform the approach to Indigenous affairs through the development and implementation of the OCHRE framework. The committee applauds the framework’s focus on education and employment, language and culture, and governance and accountability. However, the committee recognises that the NSW Government must provide more strategic leadership to ensure the prosperity of Indigenous communities and have in place a mechanism for accountability of government initiatives, measuring and evaluating outcomes, and reviewing action where progress stalls.

### **Aboriginal Economic Development Framework**

- 1.43** The Aboriginal Economic Development Framework is the ‘key vehicle’ for driving economic opportunities for Aboriginal people in New South Wales. The framework is a commitment under OCHRE that aims to ‘... set the strategic direction for NSW; and [c]oordinate the activities across government to improve alignment, address duplication issues and identify

<sup>48</sup> Discussion paper response - Submission 43, NSWALC, p 5.

<sup>49</sup> Discussion paper response - Submission 43, NSWALC, pp 5-6.

<sup>50</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 3.

<sup>51</sup> Discussion paper response - Submission 40, Supply Nation, p 4.

<sup>52</sup> Discussion paper response - Submission 41, NSW Minerals Council, p 2.

gaps for further investment.<sup>53</sup> Two years after the release of OCHRE the framework is still under development and is expected to be released in the next 12 months.<sup>54</sup>

**1.44** Inquiry participants noted the vital role the framework has in guiding economic development for Aboriginal communities. For example, Mr Lester advised that the framework will provide ‘... an important platform for promoting economic independence for Aboriginal communities.’<sup>55</sup>

**1.45** Similarly, Shoalhaven City Council viewed the framework as ‘... the first step in improving coordination in the area of economic development in Aboriginal communities.’<sup>56</sup> The council was concerned the framework was still being developed and proposed that its completion be a government priority.<sup>57</sup>

**1.46** Mr Lester stated that the framework must be ‘sufficiently flexible and strong,’<sup>58</sup> take a tiered approach to development opportunities and incorporate accountability mechanisms:

That tiered approach provides opportunities at multiple levels, both within individuals, enterprise and communities. Clearly the framework needs to assign responsibility to relevant agencies that have, and are given, authority to work across portfolios as well and is underpinned by strong and robust governance arrangements.<sup>59</sup>

**1.47** Mr Lester also said that procurement opportunities should be embedded into the Aboriginal economic prosperity framework.<sup>60</sup>

**1.48** In addition, Mr Lester highlighted the importance of cooperating with other key stakeholders in this sphere:

Whichever entity is tasked with driving the AEDF [Aboriginal Economic Development Framework], it is essential that this is achieved through collaboration with key partners, including the OCHRE LDM Regional Alliances, the NSW Indigenous Chamber of Commerce, the NSW Aboriginal Land Council, Supply Nation, the Australian Industry Group, the Business Council of Australia, the Jobs NSW Fund Board, federal and local governments, and relevant non-government service providers.<sup>61</sup>

**1.49** Likewise, Shoalhaven Council suggested that the government collaborate with stakeholders including Aboriginal organisations and councils to develop the framework.<sup>62</sup>

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<sup>53</sup> Answers to questions on notice, NSW Government, 13 April 2016, p 1.

<sup>54</sup> Evidence, Ms Louisa Mamouney, Acting Executive Director, Industry Policy, Economic and Regional Development, NSW Department of Industry, 26 February 2016, p 15 and NSW Ombudsman, *Fostering economic development for Aboriginal people in NSW* (2016), p 1.

<sup>55</sup> Evidence, Mr Lester, 18 August 2016, p 4.

<sup>56</sup> Discussion paper response - Submission 44, Shoalhaven City Council, p 7.

<sup>57</sup> Discussion paper response - Submission 44, Shoalhaven City Council, p 7.

<sup>58</sup> Evidence, Mr Lester, 18 August 2016, p 4.

<sup>59</sup> Evidence, Mr Lester, 18 August 2016, p 4.

<sup>60</sup> Evidence, Mr Lester, 18 August 2016, p 4.

<sup>61</sup> Submission 19, NSW Ombudsman, p 9.

<sup>62</sup> Discussion paper response – Submission 44, Shoalhaven City Council, p 8.

### Strong entity

- 1.50** Previous reports, including the committee’s discussion paper,<sup>63</sup> have highlighted the need for a strong entity to drive the success of the Aboriginal Economic Development Framework. For example, in *Fostering economic development in Aboriginal communities*, the NSW Ombudsman cautioned that without an appropriately robust oversight body the framework is at risk of failing:

We cautioned that success in this critical area [Aboriginal economic development] was unlikely to be achieved without a strong entity with the requisite skills, expertise and clout to drive the necessary reforms in partnership with the business community and Aboriginal leaders. This risk remains if the Aboriginal Economic Prosperity Framework is not driven by the right body.<sup>64</sup>

- 1.51** Mr Lester restated the importance of this issue during his evidence to the committee:

... it is quite important that, as we have recommended, a strong and suitable body is appointed to implement this reform, and that that strong and suitable body has got clout, experience, expertise and representation from Aboriginal leaders and business leaders alike.<sup>65</sup>

- 1.52** The NSW Ombudsman noted that ‘Such a body may be an existing government agency or a newly dedicated board.’<sup>66</sup> Mr Lester observed that the NSW Ombudsman has certain responsibilities in Aboriginal affairs including oversight of OCHRE, and that this has ‘... brought to bear independent accountability and robust oversight associated to government policy and its implementation.’<sup>67</sup>

- 1.53** The discussion paper noted the NSW Ombudsman had provided detailed feedback to the NSW Government about a proposed body to provide this function:

A single agency be given responsibility for identifying and facilitating partnerships between the private sector, government and Aboriginal entities to create successful commercial enterprises and, in partnership with AA [Aboriginal Affairs], deliver on the framework’s commitments ...

The governance arrangements for the [Framework] include more representatives from the private sector.<sup>68</sup>

- 1.54** Shoalhaven Council responded directly to the NSW Ombudsman’s proposal, stating that ‘Local communities know their local area the best and ... [it] cautions against a metro based single agency.’<sup>69</sup>

<sup>63</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 14.

<sup>64</sup> NSW Ombudsman, *Fostering economic development in Aboriginal communities* (2016), pp 1-2.

<sup>65</sup> Evidence, Mr Lester, 18 August 2016, p 4.

<sup>66</sup> Submission 19, NSW Ombudsman, p 9.

<sup>67</sup> Evidence, Mr Lester, 18 August 2016, p 3.

<sup>68</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 12-13 quoting NSW Ombudsman, *2014-2015 Annual Report*, p 115.

<sup>69</sup> Discussion paper response – Submission 44, Shoalhaven City Council, p 8.

- 1.55 Shoalhaven Council was also concerned about the inclusion of the private sector on the oversight body, particularly land developers, who may focus on profit maximisation rather than economic growth and job creation.<sup>70</sup> The council continued:

This is not to say that partnerships with the private sector would not lead to economic development in local Aboriginal communities but it needs to be kept in mind that different developments will have different goals and outcomes and hence there is a need to engage a variety of partners.<sup>71</sup>

### ***Committee comment***

- 1.56 The committee is concerned that the Aboriginal Economic Development Framework has not been completed despite being the key vehicle for driving economic opportunities for Indigenous people across the state. The committee views the framework as a means for overcoming the fragmented decision-making and policy delivery that has traditionally plagued Aboriginal affairs. We reiterate our expectation that the Aboriginal Economic Development Framework be rolled out quickly and efficiently, particularly given the high levels of economic and social need in Aboriginal communities. The committee recommends that Aboriginal Affairs release its current draft of the Aboriginal Economic Prosperity Framework for community consultation, and specifically engage with Aboriginal stakeholders to complete the Framework as soon as practicable.
- 1.57 The committee accepts the need for a strong entity to oversight the Aboriginal Economic Development Framework.

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### **Recommendation 6**

That Aboriginal Affairs release its current draft of the Aboriginal Economic Prosperity Framework for community consultation, and specifically engage with Aboriginal stakeholders to complete the Framework as soon as practicable.

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### **Public sector employment and procurement**

- 1.58 Stakeholders, including the NSW Government, highlighted the opportunities to enhance economic development in Aboriginal communities through public sector employment and leveraging government expenditure to support Indigenous businesses.<sup>72</sup>
- 1.59 As foreshadowed in OCHRE, the NSW Public Service Commission has released its *Aboriginal Employment Strategy 2014-17* which focuses on Aboriginal employment and career development and includes actions to strengthen cultural competence and understanding in the New South Wales public sector.<sup>73</sup>

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<sup>70</sup> Discussion paper response – Submission 44, Shoalhaven City Council, p 8.

<sup>71</sup> Discussion paper response – Submission 44, Shoalhaven City Council, p 8.

<sup>72</sup> Evidence, Mr Ardler, 18 August 2016, p 14.

<sup>73</sup> NSW Public Service Commission, *NSW Public Sector Aboriginal Employment Strategy 2014-17* (2015), p i.

- 1.60** Certain inquiry participants encouraged further government action in this area. For example, Mr Lester promoted fostering public and private sector employment opportunities for Aboriginal people<sup>74</sup> and proposed that all NSW Government agencies have Aboriginal affairs targets.<sup>75</sup>
- 1.61** Likewise, the NSWALC stated there should be strong targets for public sector employment, retention and professional development opportunities for Aboriginal people across state and local government.<sup>76</sup>
- 1.62** In respect to procurement policies, the NSW Government also maintained its commitment to ‘aim to increase the government spend with Aboriginal owned businesses.’<sup>77</sup> Supply Nation supported enhancing NSW Government procurement policies relating to Aboriginal business by establishing mandatory targets and set asides for Aboriginal businesses and argued that the current initiatives, such as the NSW Procurement Board Direction, have not had significant success due to a lack of monitoring by government agencies.<sup>78</sup>
- 1.63** Supply Nation argued that including Aboriginal businesses in the NSW Government’s supply chain will advance and build capacity, as demonstrated by the Commonwealth Government’s Indigenous Procurement Policy which has seen approximately \$200 million spent with Aboriginal businesses in its first year.<sup>79</sup>
- 1.64** Mr Mundine adamantly supported the Commonwealth’s procurement policy and encouraged state and territory governments to consider implementing similar strategies.<sup>80</sup> Mr Mundine described the policy as simple and cost effective noting its potential to generate Indigenous employment:
- It is a very simple process, very cost efficient because that money was going to be spent anyway and it was targeting Indigenous businesses. We all know through the statistics that usually 70 per cent of employees of Indigenous businesses are Indigenous. So it has this profound effect of actually creating businesses and incomes but also getting people into work and shifting because that will be the big challenge for us.<sup>81</sup>
- 1.65** Further, Supply Nation also suggested that the NSW Government audit its portfolios to investigate how government departments and agencies may be able make their services and programs more inclusive and accessible to Aboriginal people and communities.<sup>82</sup>

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<sup>74</sup> Evidence, Mr Lester, 18 August 2016, p 4.

<sup>75</sup> Evidence, Mr Lester, 18 August 2016, p 9.

<sup>76</sup> Discussion paper response – Submission 43, NSWALC, p 9.

<sup>77</sup> NSW Ombudsman, *Fostering economic development for Aboriginal people in NSW* (2016), p 6. See also, Aboriginal Affairs, Statement from the Roundtable on Aboriginal Economic Development, 2015, p 18.

<sup>78</sup> Discussion paper response – Submission 40, Supply Nation, p 4.

<sup>79</sup> Discussion paper response – Submission 40, Supply Nation, p 4.

<sup>80</sup> Evidence, Mr Mundine, 18 August 2016, pp 2-3.

<sup>81</sup> Evidence, Mr Mundine, 18 August 2016, p 3.

<sup>82</sup> Discussion paper response – Submission 40, Supply Nation, p 4.

### *Aboriginal Participation in Construction policy*

**1.66** Certain inquiry participants were concerned about the effectiveness of the Aboriginal Participation in Construction policy. The committee heard that the policy was launched in July 2015 but has existed in various forms for approximately ten years.<sup>83</sup>

**1.67** Mr Sean Gordon, Chief Executive of Darkinjung Local Aboriginal Land Council, suggested that the policy had been ineffective as anecdotal evidence suggested that less Aboriginal builders are being employed to repair Aboriginal housing:

I could look back over 10 years and say that there were 15 Aboriginal builders employed with the Aboriginal Housing Office. I doubt there is one Aboriginal builder employed today to undertake repairs and maintenance within Aboriginal housing.<sup>84</sup>

**1.68** Mr Gordon contended there was a failure to adequately link training, employment and business opportunities in the construction industry:

So the policies are failing to support Aboriginal businesses. In fact, more Aboriginal people have moved out of the building and construction industry after getting qualifications, getting licences and setting up businesses. The contracts have not been flowing to support those businesses. Again, that is not a resourcing issue; it is a policy issue of making sure that Aboriginal businesses are continually supported so that they can take on that type of work...

That is another example of a policy that has been bolted on, not built into the existing system to allow Aboriginal people to move forward.<sup>85</sup>

**1.69** Supply Nation suggested that the policy was ineffective due to insufficient monitoring and accountability mechanisms:

This lack of consistent oversight of the previous NSW Aboriginal Participation in Construction (APIC) Guidelines meant that it is not clear if key suppliers actually delivered on the Aboriginal business and employment KPIs and outcomes that were required. However, we note that there does seem to be more accountability, transparency and credibility in the newly strengthened APIC effective from 1 July 2016.<sup>86</sup>

**1.70** Alternatively, when questioned about this issue, Ms Debbie Barwick, Chair of the NSW Indigenous Chamber of Commerce, suggested that there had been an increase in the use of Aboriginal service providers.<sup>87</sup> Ms Barwick said that the policy offers 'really great' opportunities for Indigenous people to work on large government projects particularly with Roads and Maritime Services.<sup>88</sup>

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<sup>83</sup> Evidence, Mr Gordon, 18 August 2016, p 19.

<sup>84</sup> Evidence, Mr Gordon, 18 August 2016, p 19.

<sup>85</sup> Evidence, Mr Gordon, 18 August 2016, pp 19-20.

<sup>86</sup> Discussion paper response – Submission 40, Supply Nation, p 4.

<sup>87</sup> Evidence, Ms Debbie Barwick, Chair, NSW Indigenous Chamber of Commerce, 18 August 2016, p 40.

<sup>88</sup> Evidence, Ms Barwick, 18 August 2016, p 40.

*Committee comment*

- 1.71** The committee notes the success of the Commonwealth Government's Indigenous Procurement Strategy and the use of clear and measurable targets in this policy. We acknowledge concerns that similar policies in New South Wales do not include appropriate targets or adequate accountability and evaluation frameworks. Procurement policies appear to be an efficient means of encouraging economic development in Aboriginal communities. The committee recommends that the NSW Government review its procurement policies and consider how to better incorporate appropriate targets and adequate accountability and evaluation frameworks to promote economic development in Aboriginal communities.
- 1.72** The committee notes the concerns about the effectiveness of the Aboriginal Participation in Construction policy. The committee notes the need to adequately link training, employment and business opportunities and expects the NSW Government to better harness opportunities to contract Aboriginal people and organisations in line with the Aboriginal Participation in Construction policy.
- 1.73** The committee notes that the 2016-17 Budget provides for a record infrastructure spend of \$73.3 billion in the four years to 2019-20.<sup>89</sup> The committee recommends the NSW Government set a target for part of the \$73 billion to be spent on Aboriginal businesses. However we note that capacity building and business support in this sphere may be required to make this possible.

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**Recommendation 7**

That the NSW Government review its procurement policies to:

- establish appropriate targets for including Aboriginal business in government supply chains, and
- determine how to better incorporate targets, accountability and evaluation frameworks to promote economic development in Aboriginal communities.

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**Recommendation 8**

That the NSW Government set a target for part of the \$73 billion infrastructure funds to be spent on Aboriginal businesses.

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<sup>89</sup> NSW Government, *Infrastructure Statement 2016-17*, [www.budget.nsw.gov.au/\\_\\_data/assets/word\\_doc/.../1.\\_Investment\\_Program.doc](http://www.budget.nsw.gov.au/__data/assets/word_doc/.../1._Investment_Program.doc).



## Industry Based Agreements

- 1.75** The NSW Government advised ‘IBAs are public commitments between peak industry bodies and the NSW Government to forge long term partnerships to increase Aboriginal employment and business opportunities in specific industries.’<sup>90</sup> Three IBAs have been established since 2013, the Minerals IBA, the Construction IBA, and the Civil Construction IBA.<sup>91</sup>
- 1.76** Stakeholders generally supported IBAs.<sup>92</sup> However, some inquiry participants suggested that the program should be reviewed and improvements made to enhance the efficacy of the agreements.<sup>93</sup> For example, the NSWALC advocated that IBAs have rigorous evaluation frameworks to ensure Aboriginal employment outcomes are realised:
- IBAs must have strong, clear and measurable targets that strengthen the aspirations of Aboriginal peoples and their communities, ongoing evaluation of commitments over the course of the agreement and acquitted to the intended purpose of ensuring Aboriginal employment outcomes.<sup>94</sup>
- 1.77** Similarly, Mr Lester advised that IBAs should have a strong focus on outcomes and not outputs, and considered collaboration between industry, government and communities ‘critical’ to the program’s success.<sup>95</sup> Mr Lester also supported extending IBAs into new areas including information, communication and technology.<sup>96</sup>
- 1.78** The discussion paper noted that the Local Decision Making Regional Chairpersons Group and the NSW Ombudsman suggested that the IBAs could link with Local Decision Making (LDM) Regional Alliance Accords to enhance their regional focus.<sup>97</sup> The NSWALC encouraged caution in adopting this proposal, citing concern that LDMs were in their ‘very early stages,’ and proposing these initiatives be ‘properly evaluated’ before further strategies are developed based them.<sup>98</sup> LDM are discussed in more detail in the next section.
- 1.79** There was a specific suggestion concerning the Minerals IBA. The NSW Minerals Council repeated its request that the NSW Government continue to support and fund the Minerals IBA, arguing a ‘modest’ \$200,000 investment over three years would enable it, and the NSW Indigenous Chamber of Commerce, to deliver capacity building initiatives.<sup>99</sup>

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<sup>90</sup> Submission 28, NSW Government, p 9.

<sup>91</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 17.

<sup>92</sup> See for example, Standing Committee on State Development, *Discussion paper: Economic development in Aboriginal communities*, pp 17-18.

<sup>93</sup> See for example, Submission 29, NSW Minerals Council, pp 4-5; NSW Ombudsman, *Fostering economic development for Aboriginal people in NSW* (2016), pp 18-19; Discussion paper response – Submission 43, NSWALC, pp 6-7.

<sup>94</sup> Discussion paper response – Submission 43, NSWALC, p 7.

<sup>95</sup> Evidence, Mr Lester, 18 August 2016, p 12.

<sup>96</sup> Evidence, Mr Lester, 18 August 2016, p 12.

<sup>97</sup> See for example, Standing Committee on State Development, *Discussion paper: Economic development in Aboriginal communities*, pp 18-19.

<sup>98</sup> Discussion paper response – Submission 43, NSWALC, p 7.

<sup>99</sup> Discussion paper response – Submission 41, NSW Minerals Council, p 2.

*Committee comment*

- 1.80** The committee notes that there is significant potential for IBAs to enhance the capacity of Aboriginal individuals and communities, and to promote employment opportunities across New South Wales, particularly regional areas. Again, we understand stakeholders' concerns about the monitoring and evaluation frameworks associated with this program. The committee recommends that the NSW Government ensure Industry Based Agreements include rigorous accountability mechanisms and satisfactorily measure outcomes.
- 1.81** We support the proposal to expand IBAs into other industries particularly communications and information technology. This is an excellent opportunity to encourage Indigenous people to participate in these fields. The committee recommends that the NSW Government consider how procurement and other policies can positively interact with Industry Based Agreements to deliver Aboriginal economic development, and expand Industry Based Agreements into other industries including information technology and communications.
- 1.82** We understand the reluctance to align IBAs with LDM Regional Alliance Accords as both initiatives are relatively new and have not undergone significant evaluation processes. The committee suggests that the NSW Government consider this proposal after such time that both programs are well-established.

The committee notes the concern of the NSW Minerals Council about the need for additional funding to support the Minerals IBA. We understand that the program is potentially unable to provide capacity building initiatives if the government does not provide additional funding.

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**Recommendation 9**

That the NSW Government ensure Industry Based Agreements include rigorous accountability mechanisms and satisfactorily measure outcomes and regular public reporting of objectives and outcomes

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**Recommendation 10**

That the NSW Government:

- consider how procurement and other policies can positively interact with Industry Based Agreements to deliver Aboriginal economic development, and
  - expand Industry Based Agreements into other industries including information technology and communications.
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## Local Decision Making

**1.84** The NSW Government advised that LDM is an opportunity for local leaders and government agencies to work together to deliver localised solutions to identified priorities including economic development:

Local Decision Making (LDM) supports local leadership and governance. It sets out a pathway for Aboriginal communities (represented by Aboriginal regional alliances) to have more control in the delivery and coordination of government services, and for government to support community identified priorities, including in the area of economic development.<sup>100</sup>

**1.85** The NSW Government explained that ‘LDM is underpinned by formally negotiated Accords ... [which] define the relationship between Government and community, and include agreed priorities, actions, timeframes, resources, responsibilities and ways to measure success.’<sup>101</sup>

**1.86** The NSW Government advised that LDM is being implemented across six locations across New South Wales. The first LDM Accord was signed with the Murdi Paaki Regional Assembly in February 2015.<sup>102</sup>

**1.87** Stakeholders supported LDM, noting the initiative represented a move towards a ‘place-based approach’ which has been identified as a key feature of an economic reform agenda to drive development of Aboriginal communities.

### *Implementing a place-based approach*

**1.88** Stakeholders strongly advocated for using place-based approaches to address Aboriginal disadvantage. This position was also championed by the Wunan Foundation in its report *Empowered Communities: Empowered People*.<sup>103</sup>

**1.89** As noted in the discussion paper, the NSW Ombudsman has identified certain principles that could be considered as part of a place-based approach in Aboriginal communities, including:

- identifying the specific economic assets, constraints and opportunities for Aboriginal communities and their regions
- whole-of-community or regional planning between relevant government agencies at each level, Aboriginal representatives, industry leaders and educational institutions to scope future growth industries and regions, forecast potential skills shortages and prepare Aboriginal stakeholders to exploit these
- exploring how local economies can be grown so that Aboriginal people are central actors.<sup>104</sup>

<sup>100</sup> Submission 28, NSW Government, p 11.

<sup>101</sup> Submission 28, NSW Government, p 11.

<sup>102</sup> Submission 28, NSW Government, p 11.

<sup>103</sup> Wunan Foundation Inc., *Empowered Communities: Empowered Peoples Design Report* (2015), p iii.

<sup>104</sup> Submission 19, NSW Ombudsman, p 9.

**1.90** The NSWALC explained the reasoning that supports the need for place-based approaches:

Place based approaches are founded in the importance of place, geographical and social, to a person's overall wellbeing. For Aboriginal people, the interconnectedness of country (place), culture, family and social networks are fundamental to wellbeing.<sup>105</sup>

**1.91** The NSWALC contended that any place-based approach should build off the existing local Aboriginal land council network to advance Indigenous economic development:

There are currently 120 LALCs across NSW. Development of place-based approaches must be undertaken in partnership with LALCs and should build on and support the established work, governance structures and initiatives of the land rights network.<sup>106</sup>

**1.92** The NSWALC proposed that the NSW Government support the local Aboriginal land council network to drive economic development:

The NSW Government should commit to build upon existing structures for Aboriginal peoples in NSW by developing strategies which recognise the role of Aboriginal Land Councils in delivering economic development opportunities in NSW, and seek to support Aboriginal Land Councils achieve better economic development outcomes for Aboriginal communities.<sup>107</sup>

**1.93** Shoalhaven Council supported the capacity development of the local Aboriginal land council network to facilitate place-based approaches.<sup>108</sup> The council also proposed the use of intensified and locally delivered NSW Small Business Programs to provide tailored and intensive business advisory support to assist Indigenous businesses.<sup>109</sup>

**1.94** Building the capacity of Aboriginal organisations is discussed in more detail in chapter 3.

#### *Committee comment*

**1.95** The committee understands that the deep and enduring interconnectedness of country, culture, family and social networks is central to the wellbeing of Aboriginal people. We note that the NSW Government has recognised the importance of using place-based approaches for Indigenous programs and service-delivery. The committee recommends that the NSW Government ensure place-based, community-driven approaches are embedded as a key component of the development and implementation of initiatives to drive Aboriginal economic development.

**1.96** We support the proposal that the NSW Government work within existing structures to drive economic development in Aboriginal communities. The committee recognises the significant role the local Aboriginal land council network—with its 120 member organisations—can play in supporting the advancement of Indigenous communities. However, these organisations must be adequately funded to devise and implement capacity building initiatives.

<sup>105</sup> Discussion paper response - Submission 43, NSWALC, p 7.

<sup>106</sup> Discussion paper response - Submission 43, NSWALC, p 8.

<sup>107</sup> Discussion paper response - Submission 43, NSWALC, p 8.

<sup>108</sup> Discussion paper response - Submission 44, Shoalhaven City Council, p 9.

<sup>109</sup> Discussion paper response - Submission 44, Shoalhaven City Council, p 9.

### Recommendation 11

That the NSW Government ensure place-based, community-driven approaches are embedded as a key component of the development and implementation of initiatives to drive Aboriginal economic development.

### Accountability, transparency and evaluating efficacy

- 1.97** Inquiry participants supported the need for monitoring and evaluation systems to ensure targets and outcomes are adequately measured. Importantly, Aboriginal Affairs advised that it has adopted a monitoring and evaluation framework to assess the implementation of OCHRE.<sup>110</sup>
- 1.98** Stakeholders were adamant that any strategy directed towards promoting Aboriginal economic advancement needs clear evaluation frameworks. For example, Mr Lester advised that there is a need for ‘strong, informed and flexible evaluation frameworks’ to measure the effectiveness of programs and services for Aboriginal communities across the state.<sup>111</sup>
- 1.99** Mr Mundine concurred with the need to focus on targets, timelines and accountability:
- I love the idea of targets and looking at time frames because then that puts pressure on people to actually deliver those time frames and to work in that area. I love that approach but you do have to have accountabilities then attached to that ...<sup>112</sup>
- 1.100** Mr Mundine added ‘I think the most important part, as you do in business, is that you set the targets, you look at the time frames and at the accountabilities and then you adjust budgets to meet that within those economic cycles, and that is how you operate.’<sup>113</sup>
- 1.101** Likewise, the NSWALC noted that the government services and programs require ‘rigorous’ accountability mechanisms and evaluation processes.<sup>114</sup>
- 1.102** The Registrar of the *Aboriginal Land Rights Act* (NSW) similarly noted that accountability frameworks must be reasonable, transparent and appropriate to each service delivery structure, particularly Aboriginal service delivery agents:
- Aboriginal people leading service delivery structures must understand the organisation they are responsible for, be able to balance public accountability and Aboriginal community needs, and be confident to make decisions about service delivery that will be respected and can be implemented.<sup>115</sup>

<sup>110</sup> Standing Committee on State Development, *Discussion paper: Economic development in Aboriginal communities*, p 16.

<sup>111</sup> Evidence, Mr Lester, 18 August 2016, p 14.

<sup>112</sup> Evidence, Mr Mundine, 18 August 2016, p 3.

<sup>113</sup> Evidence, Mr Mundine, 18 August 2016, p 3.

<sup>114</sup> Discussion paper response – Submission 43, NSWALC, p 3.

<sup>115</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 2.

- 1.103** The Registrar described the ‘Empowered Communities’ model as ‘an example of a well-designed and resourced Aboriginal service delivery structure.’<sup>116</sup>

*Committee comment*

- 1.104** We note the need for clear, transparent, well-informed targets and accountability measures that consider program and service outcomes rather than outputs. The committee understands that Aboriginal Affairs has implemented a monitoring and evaluation framework to evaluate the implementation of OCHRE. However, evidence gathered during the inquiry suggests that numerous stakeholders are concerned with the development and operation of the evaluation frameworks for individual programs and services. We encourage the NSW Government to ensure that all current and future initiatives have rigorous, flexible and well-understood accountability mechanisms and we believe the interdepartmental committee recommended earlier in this chapter will provide these mechanisms.

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<sup>116</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act (1983)*, p 2.

## Chapter 2 Building the capacity of individuals

As the discussion paper noted, the highest number of Aboriginal people in Australia reside in New South Wales. It is essential to build the capacity of these individuals using a holistic approach that nurtures their development throughout their lives to ensure they reach their full potential. Inquiry participants focused on the need for tailored education programs, role models and ongoing support to effect change and long term success.

This chapter examines building the capacity of individuals through education programs, post-school training and employment. It considers the operation of Opportunity Hubs and the need for community-specific culture in the education curriculum. The chapter discusses education programs operated by the Clontarf Foundation and Role Models & Leaders Australia. It also outlines possible private sector involvement in capacity building initiatives.

### Capacity building of individuals

- 2.1** The discussion paper presented statistics on Aboriginal students' participation and attainment at primary school, high school and post-school training and employment. In all of these areas, despite making improvements, Aboriginal students continue to fall behind non-Aboriginal students.<sup>117</sup>

#### Education programs and role models

- 2.2** Stakeholders promoted education as a fundamental way of enhancing Aboriginal economic development. This argument was reiterated by inquiry participants in their responses to the discussion paper. The NSW Minerals Council stated:

NSWMC [NSW Minerals Council] endorses the focus of the Discussion Paper on education for Aboriginal children as the key to breaking the cycle of poverty that continues to undermine efforts to close the gap between Indigenous and non-Indigenous Australians.<sup>118</sup>

- 2.3** Similarly, Mr Sam Jeffries, Convenor of the Local Decision Making Regional Chairpersons Group, said that education—from early childhood services through to post-school training—is the most viable economic strategy:

Certainly we take a really strong view that the best economic development strategy that we can have is to get our kids educated. That means starting in early childhood—access to the best possible early childhood services to be school ready, get into the education system and have the best access to the best levels of education so that they are job ready coming out of that system and living in society.<sup>119</sup>

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<sup>117</sup> Standing Committee on State Development, NSW Legislative Council, *Discussion Paper: Economic development in Aboriginal communities* (2016), pp 23-24.

<sup>118</sup> Discussion paper response – Submission 41, NSW Minerals Council, p 2.

<sup>119</sup> Evidence, Mr Sam Jeffries, Convenor, Local Decision Making Regional Chairpersons Group, 18 August 2016, pp 5-6.

- 2.4** Likewise, Mr Gerard Neesham, Chief Executive Officer of the Clontarf Foundation, said it is acknowledged worldwide that young people who access education gain a great benefit from it.<sup>120</sup>
- 2.5** Throughout the inquiry there was discussion about the importance of role modelling to engender success in Aboriginal individuals. For example, Ms Debbie Barwick, Chair of the NSW Indigenous Chamber of Commerce, highlighted how role modelling behaviours can change social norms concerning education, especially school attendance:
- It is more about focusing on those core values and the things that are going to get kids to want to be in school and creating that role modelling effect over a generation ... and by the time these kids get to high school it is just the norm.<sup>121</sup>
- 2.6** Similarly, Mr Neesham said that role modelling was a key feature of the Clontarf Foundation's program.<sup>122</sup> The Clontarf Foundation is discussed in more detail later in this chapter.

### Opportunity Hubs

- 2.7** As noted in the discussion paper, Opportunity Hubs are operated by non-government providers who broker and coordinate links between schools, employers, training providers, support services and Aboriginal communities.<sup>123</sup> There are currently four hubs in New South Wales. Mr David Collins, Executive Director of Training Services NSW, Department of Industry, advised that the program was the result of community consultation and is reliant on 'very strong' relationships and participation from the community and from local business.<sup>124</sup>
- 2.8** The committee received evidence about the success of Opportunity Hubs.<sup>125</sup> Mr Collins acknowledged that 'There have been a few settling-in things over time in ensuring that they are engaged both with the education system and with community.'<sup>126</sup> However, he assured the committee that 'There is potential being demonstrated there to actually make a difference and to have an impact.'<sup>127</sup>
- 2.9** The NSW Ombudsman's annual report called for Opportunity Hubs to provide pathways to further education, training and jobs for all Aboriginal students not just those who attend schools linked to the hubs.<sup>128</sup>

<sup>120</sup> Evidence, Mr Gerard Neesham, Chief Executive Officer, Clontarf Foundation, 18 August 2016, p 32.

<sup>121</sup> Evidence, Ms Debbie Barwick, Chair, NSW Indigenous Chamber of Commerce, 18 August 2016, p 35.

<sup>122</sup> Evidence, Mr Neesham, 18 August 2016, p 35.

<sup>123</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 26.

<sup>124</sup> Evidence, Mr David Collins Executive Director, Training Services NSW, Department of Industry, 18 August 2016, p 36.

<sup>125</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 27.

<sup>126</sup> Evidence, Mr Collins, 18 August 2016, p 36.

<sup>127</sup> Evidence Mr Collins, 18 August 2016, p 36.

<sup>128</sup> Submission 19, NSW Ombudsman, p 13.



**2.10** In contrast, the NSW Minerals argued Opportunity Hubs duplicate the services of other providers and that it would be preferable for the government to support existing organisations specialising in this space rather than providing a similar service.<sup>129</sup>

**2.11** The NSW Government refuted the suggestion that Opportunity Hubs duplicated the work of other providers.<sup>130</sup> Mr Collins said that the distinguishing features of Opportunity Hubs are that they seek to coordinate services that provide pathways between school and post-school training and employment.<sup>131</sup>

**2.12** Mr Collins explained how the various sectors work together to support students' education, training and career aspirations:

What we are trialling there is really something to see whether there is the capacity to tie together community, industry and other service providers to work within schools to assist people to make that transition. It is working with young people, setting up career development plans and providing that incentive to stay at school and to engage in school, and it is also designed to support them once they leave school, looking at whatever job options there are over time.<sup>132</sup>

**2.13** Mr Collins advised that Opportunity Hubs also provide positive role modelling behaviours for young people:

[Opportunity Hubs] demonstrate to young people who often may not have a role model or have that template that says: If I work through school, I can then get a job and go further. It shows them what is possible and allows them to see that the school system and the other supports outside the school system, are working together to support young people to progress through school and into further training and employment.<sup>133</sup>

**2.14** The NSWALC encouraged consultation with local Aboriginal communities when considering the effectiveness of Opportunity Hubs:

It is important to consider Opportunity Hubs in this context to ensure that the capacity of other Aboriginal organisations who specialise in this space has not been diminished, how supporting and strengthening existing frameworks may be achieved, and how pathways to education, training and employment for young Aboriginal people can be promoted across the whole of NSW.<sup>134</sup>

### ***Committee comment***

**2.15** The committee understands that education is the foundation of economic development. Students who are exposed to the fundamentals of literacy and numeracy, in addition to learning social norms around participation in school, have greater potential to develop into adults who can contribute to their community and the wider economy. We encourage the

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<sup>129</sup> Submission 29, NSW Minerals Council, p 3.

<sup>130</sup> Evidence, Mr Collins 18 August 2016, p 34.

<sup>131</sup> Evidence, Mr Collins, 18 August 2016, p 34.

<sup>132</sup> Evidence, Mr Collins, 18 August 2016, p 36.

<sup>133</sup> Evidence, Mr Collins, 18 August 2016, p 34.

<sup>134</sup> Discussion paper response – Submission 43, NSWALC, p 8.

NSW Government to continue to promote education opportunities throughout an Indigenous person's life.

- 2.16** The committee notes that the four pilot Opportunity Hubs, for the most part, successfully broker and coordinate pathways between schools, employers, training providers, support services and Indigenous communities. The committee encourages the NSW Government to continue to engage with local communities to ensure Opportunity Hubs adequately address their unique needs. Further, we support the NSW Ombudsman's proposal that Opportunity Hubs should provide pathways to further education, training and jobs for all Aboriginal students not just those who attend schools linked to the hubs.
- 2.17** We do not accept that Opportunities Hubs duplicate the services of other providers, rather, the program provides a vital link to help individuals identify and participate in these types of programs and services.
- 2.18** We acknowledge that Opportunity Hubs provide additional outlets to develop and foster mentoring relationships that encourage participation in school and the wider community. The committee recommends that Aboriginal Affairs continues to facilitate the operation of Opportunity Hubs.
- 2.19** As discussed in Chapter 1, we expect that government initiatives in this area have clear, well-informed targets and evaluation frameworks that are adequately flexible to address the needs of individual communities. We also expect that the NSW Government will evaluate Opportunity Hubs as part of the evaluation commencing in 2018.

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### **Recommendation 12**

That Aboriginal Affairs continues to facilitate the operation of Opportunity Hubs.

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### **Community-specific culture in the education curriculum**

- 2.20** The NSW Government understands the value and importance of incorporating Aboriginal culture in education this is evident from the implementation of programs introduced as part of OCHRE. However, there continues to be a need for more work in this area.
- 2.21** The discussion paper noted that including traditional languages into education curriculums is an important way to encourage young people to participate in school and could provide an opportunity to create meaningful employment for local Indigenous community members.<sup>135</sup>
- 2.22** The NSWALC explained that 'Community-specific culture can only come from community leaders and organisations deemed legitimate in the eyes of that community.' As such, the NSWALC suggested that local Aboriginal Education Consultative Groups, local representative organisations and their peak bodies be included in 'meaningful long-term engagement' about incorporating community-specific culture into the curriculum.<sup>136</sup>

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<sup>135</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 24-25.

<sup>136</sup> Discussion paper response – Submission 43, NSWALC, p 9.

***Committee comment***

- 2.23** The committee acknowledges the importance of incorporating community-specific culture in school curriculums. As discussed in Chapter 1, Aboriginal people feel a deep and enduring connection to country, and in turn their community. It is vital that schools support and encourage an appreciation of local cultures. The committee recommends that the Department of Education include community-specific culture in school curriculums. We understand that there may be a role for local Aboriginal Education Consultative Groups and representatives of the local land council networks to guide the inclusion of community-specific culture into the curriculum.

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**Recommendation 13**

That the Department of Education include community-specific Aboriginal culture in school curriculums.

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**Other programs**

- 2.24** A selection of education programs were examined in the discussion paper. The NSWALC encouraged the NSW Government to evaluate the success of available programs, particularly in relation to education of girls, in consultation with local communities and their representatives.<sup>137</sup>
- 2.25** This section examines education programs operated by the Clontarf Foundation and Role Models & Leaders Australia.

***The Clontarf Foundation***

- 2.26** The discussion paper highlighted the success of the Clontarf Foundation.<sup>138</sup> Clontarf encourages Aboriginal boys to stay in school, builds their self-esteem and expectations, and helps them find and maintain long-term employment.<sup>139</sup> Significantly, the program stays with the boys once they finish school to provide a 'safe' support network.<sup>140</sup>
- 2.27** Mr Neesham explained how Clontarf uses role modelling behaviour to teach boys positive behaviours:

That is really all we do—namely, we model behaviour for about seven years. When we get a boy we model as hard as we can into him that he is going to eat correctly, he is going to respect a teacher, he is going to know what right and wrong is, that he values a job. We take year 7 and year 8 boys out to the workforce to start modelling what should be normal for them.<sup>141</sup>

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<sup>137</sup> Discussion paper response – Submission 43, NSWALC, p 9.

<sup>138</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 28-31.

<sup>139</sup> Submission 26, Clontarf Foundation, p 3.

<sup>140</sup> Evidence, Mr Neesham, 18 August 2016, p 33.

<sup>141</sup> Evidence, Mr Neesham, 18 August 2016, p 35.

- 2.28** Mr Neesham noted that the program’s use of role modelling has positively affected norms surrounding attendance at high schools with Clontarf academies:

What we have found is that once you have been going for 10 years in a school, it sounds a long time, the little two-year-old is now 12 and when he looks up everyone is at school, so it has changed. All these schools we have been in now for in excess of 10 years, all the little ones who were just basically born are now going into high school. Everyone is in high school now but they do not know that there was a time when you were not in high school.<sup>142</sup>

- 2.29** There was discussion during the inquiry about the funding formula used to provide Clontarf academies in New South Wales schools. The discussion paper included advice from the NSW Minister for Education about this issue.<sup>143</sup> However, the Clontarf Foundation raised concerns with the Gonski model of funding for programs in the state’s schools.<sup>144</sup>
- 2.30** The committee heard that the private sector provides one third of the funding for Clontarf academies.<sup>145</sup> Consequently, Mr Neesham noted the importance of encouraging the private sector to invest in the capacity building of young people.<sup>146</sup>

### ***Role Models & Leaders Australia***

- 2.31** The committee received evidence from Role Models & Leaders Australia about the 12 Girls Academy programs it operates in 16 locations across Western Australia, the Northern Territory and New South Wales.<sup>147</sup> Role Models & Leaders Australia explained that ‘The key objective of the Girls Academy program is to focus on increasing school attendance and retention rates, and levels of attainment for young ‘at risk’ Indigenous female students in year 7 through to year 12.’<sup>148</sup>
- 2.32** The academies are set up in high schools. A feature of the program is that academy staff adopt a ‘big sister’ or ‘auntie’ role and cater to the pastoral care needs of the girls such as: monitoring their school attendance; mentoring; delivering programs about health, nutrition, self-care and management; cultural heritage; providing homework assistance; and preparing girls for post-school life by assisting them to obtain birth certificates, bank accounts and a pathway forward.<sup>149</sup>
- 2.33** Role Models & Leaders Australia explained that the academies are based on a number of key components including: mentoring and role modelling; work placement and work readiness;

<sup>142</sup> Evidence, Mr Neesham, 18 August 2016, p 34.

<sup>143</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 28.

<sup>144</sup> Evidence, Mr Neesham, Chief Executive Officer, 18 August 2016, p 33.

<sup>145</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 28.

<sup>146</sup> Evidence, Mr Neesham, 18 August 2016, p 42.

<sup>147</sup> Discussion paper response – Submission 42, Role Models & Leaders Australia, p 1.

<sup>148</sup> Discussion paper response – Submission 42, Role Models & Leaders Australia, p 2.

<sup>149</sup> Discussion paper response – Submission 42, Role Models & Leaders Australia, p 2.

sports and extracurricular activities; and leadership, teamwork and vision. The girls also receive incentives for good behavior.<sup>150</sup>

**2.34** The committee heard that the academies have had a ‘major impact’ on enrolments, attendance and year 12 graduations, reporting that ‘In 2015, 93 per cent of Girls Academy participants completed year 12, gained their year 12 certificate or gained employment before completing year 12.’<sup>151</sup>

**2.35** Role Models & Leaders Australia informed the committee that the current cost of program for an academy of 65 Indigenous girls is estimated at \$432,000 per annum. The funding model is based on one-third contributions from the Commonwealth government; schools or state/territory governments; corporate sponsors. Role Models & Leaders Australia noted that it has secured additional funding from the Commonwealth government to expand the program to an additional 1,500 girls by the end of 2017.<sup>152</sup>

**2.36** There are plans to significantly expand the Girls Academy program in New South Wales:

In NSW our funding provides for an initial engagement of 250 Indigenous girls in the latter half of 2016 and a further 650 in 2017. In total we are looking to provide a Girls Academy program to approximately 1000 Indigenous girls in NSW.<sup>153</sup>

**2.37** The organisation called on the NSW Government to ‘overcome the gender imbalance in program provision to schools’ and confirm ‘the 1/3 funding of \$2,125,200 from the central NSW Government budget to support the expansion of RMLA [Role Models & Leaders Australia] Girls Academies across NSW’.<sup>154</sup>

**2.38** It was not clear from the evidence received whether the Girls Academy program offered support to young women once they had left school. Inquiry participants were adamant that young women must receive post-school support and assistance to identify and participate in training and employment opportunities.<sup>155</sup> For example, Ms Barwick highlighted the need to connect girls with role models—both Aboriginal and non-Aboriginal leaders—who can inspire and support them once they have left school.<sup>156</sup>

**2.39** Stakeholders encouraged opportunities to develop and support mentoring relationships between Aboriginal women by female Aboriginal elders. The NSWALC explained the crucial relationship and support Aboriginal elders can provide young women:

Aboriginal Elders have a significant role in mentoring and advising Aboriginal youth in local communities. Elders are an invaluable resource and provide cultural expertise

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<sup>150</sup> Discussion paper response – Submission 42, Role Models & Leaders Australia, p 2.

<sup>151</sup> Discussion paper response – Submission 42, Role Models & Leaders Australia, p 5.

<sup>152</sup> Discussion paper response – Submission 42, Role Models & Leaders Australia, p 5.

<sup>153</sup> Discussion paper response – Submission 42, Role Models & Leaders Australia, p 5.

<sup>154</sup> Discussion paper response – Submission 42, Role Models & Leaders Australia, p 6.

<sup>155</sup> See for example, Evidence, Ms Barwick, 18 August 2016, p 35 and Evidence, Mr Neesham, 18 August 2016, p 36.

<sup>156</sup> Evidence, Ms Barwick, 18 August 2016, p 35.

and should be specifically engaged in consultations regarding the development of strategies to support young Aboriginal women.<sup>157</sup>

***Committee comment***

- 2.40** The committee notes the success of the Clontarf Foundation. The discussion paper noted that we visited the Clontarf Academy at Dubbo College South Campus in New South Wales and were impressed by the dedication of the staff and students. Clontarf academies are an excellent example of programs that cater to an individual's needs, while the focus is clearly on producing 'work-ready' participants, students are also taught healthy behaviours and have a critical support network once they finish school that helps to provide sustainable and meaningful employment.
- 2.41** The committee notes concerns about the lack of available programs targeting the education and training needs of Indigenous girls and young women. We understand that Role Models & Leaders Australia operate the Girls Academy program specifically for Aboriginal girls that provides intensive support for students to address their educational and other needs. Further, that staff play an integral role in mentoring and assisting girls and young women while they are at school. However, it was unclear whether these supports remained in place once participants left school. We believe that providing support when participants are in post-school training or employment is critical to ensuring success in young women's future endeavours. The committee recommends that the NSW Government continue to support proven successful programs, like the Clontarf Foundation, and take action to deliver programs that target Aboriginal girls and young women in schools and in vocational education and training.
- 2.42** The committee acknowledges the importance of mentoring, particularly for Aboriginal girls and that Indigenous elders can play a vital role in supporting and nurturing young women. The committee notes that fostering supportive mentoring relationships can engender cultural safety and encourage Indigenous women to participate more fully in social and economic environments. The committee recommends that the NSW Government, in collaboration with Aboriginal organisations, develop and implement a mentoring program for young Aboriginal women by female Aboriginal elders.

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**Recommendation 14**

That the NSW Government continue to support proven successful education and life skills programs, like that operated by the Clontarf Foundation, and take action to deliver programs that target Aboriginal girls and young women in schools and in vocational education and training.

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**Recommendation 15**

That the NSW Government, in collaboration with Aboriginal organisations, develop and implement a mentoring program for young Aboriginal women by female Aboriginal elders.

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<sup>157</sup> Discussion paper response – Submission 43, NSWALC, p 9.

## Post-school training and employment

- 2.43** The discussion paper demonstrated that Aboriginal people are not participating in post-school education, training, or employment at the same rates as non-Aboriginal people.<sup>158</sup> Inquiry participants argued that increasing the participation of Aboriginal students in these areas was vital to promoting economic development in Aboriginal communities.
- 2.44** It was noted that in recent years there have been improvements in Aboriginal participation in vocational education and training with increases in the number of Aboriginal enrolments at TAFE NSW.<sup>159</sup> The NSWALC noted the key role TAFE NSW plays in post-school training for Aboriginal people, particularly those in rural and regional areas and encouraged the government to guarantee access to this service:
- TAFE has a significant role in the development of skilled workforce, particularly in regional and remote communities. Their geographical reach is unmatched and, as they are local institutions, are invested in the development of their communities and maintaining local industries. Given the potential benefit to the NSW economy noted above, there needs to be guaranteed access to education for Aboriginal people, including through TAFE and universities.<sup>160</sup>
- 2.45** Stakeholders, including the NSWALC, suggested that NSW Government funding cuts to TAFE NSW had a ‘significant’ negative impact on Aboriginal people.<sup>161</sup>
- 2.46** The discussion paper listed the various vocational educational and training programs operated by the Aboriginal Services unit in Training Services NSW including Smart and Skilled, New Careers for Aboriginal People, the Elsa Dixon Employment Development Program, and The Way Ahead for Aboriginal People.<sup>162</sup> There was also discussion of the programs operated by subsidiaries of the Indigenous Land Corporation—Voyages Indigenous Tourism Australia and the Merriman Shearing School,<sup>163</sup> and an outline of Commonwealth initiatives to encourage Indigenous people to participate in the workforce. These programs included Vocational and Employment Centres and Indigenous Advancement Strategy’s Jobs, Land and Economy Programme and the Community Development Programme.<sup>164</sup>
- 2.47** The discussion paper highlighted the NSW Ombudsman’s advocacy of stronger partnerships and collaborative planning between Training Services NSW, the vocational education and training sector, industry and Aboriginal representatives to ensure training targets areas of

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<sup>158</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 31.

<sup>159</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 31-32.

<sup>160</sup> Discussion paper response – Submission 43, NSWALC, p 8.

<sup>161</sup> Discussion paper response – Submission 43, NSWALC, p 8; See also Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 37.

<sup>162</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 33-34.

<sup>163</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 34-35.

<sup>164</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 37-38.

future need and results in Aboriginal graduates being competitive for meaningful employment.<sup>165</sup>

**2.48** Similarly, the NSWALC stated that the government should not support ‘training for training sake’ as people, particularly those in regional areas, often complete courses that do not result in employment.<sup>166</sup>

**2.49** In line with other concerns about duplication and waste in Aboriginal affairs, the NSWALC stated that ‘It is vital that government do not duplicate services or negatively impact on service providers who are successfully delivering outcomes [in this space].’<sup>167</sup>

**2.50** The NSW Government advised that it viewed training, complimented by other supports such as mentoring, as integral to the economic development of Aboriginal communities:

Training is an important part of economic development. What we see is the power that it has to really transform lives and to provide an opportunity for people to engage with employment and the like. What we do know though is that the training itself is often not enough but we need to look at how we can align what we are doing with other services and other support. It is things like mentoring that make a difference.<sup>168</sup>

**2.51** Mr Collins of Training Services NSW, noted that Indigenous students who have successfully completed qualifications and participated in the department’s awards program often view themselves as role models and want to demonstrate their successful behaviours to other community members:

The other thing is that modelling is really important. An observation: we work a lot with people who are successful through vocational education and training, Aboriginal people who get qualifications and get awards. We run an awards process. We have specific awards for Aboriginal and Torres Strait Islander students. The Aboriginal students who come through this invariably tell us that that is something that they see as a role for themselves—that, having achieved and having got somewhere with their qualification, they see that there is a really important role that they have in modelling and in demonstrating to others within their towns and communities the potential that is there for them.<sup>169</sup>

**2.52** Mr Collins highlighted the successful participation of Aboriginal individuals in government subsidised training programs:

Five per cent of our enrolments in subsidised training are Aboriginal. We have a significant number of people in apprenticeships and traineeships, which is terrific because that is a combination of training and work, so they are in jobs.<sup>170</sup>

<sup>165</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, 2016, p 33.

<sup>166</sup> Discussion paper response – Submission 43, NSWALC, p 8.

<sup>167</sup> Discussion paper response – Submission 43, NSWALC, p 9.

<sup>168</sup> Evidence, Mr Collins, 18 August 2016, p 33.

<sup>169</sup> Evidence, Mr Collins, 18 August 2016, p 36.

<sup>170</sup> Evidence, Mr Collins, 18 August 2016, pp 33-34.



- 2.53** However, Mr Collins acknowledged that ‘significant issues’ need addressing to ensure that those individuals not engaged, or those that need extra support, participate in the appropriate training and to find jobs.<sup>171</sup> Mr Collins observed that the Department of Industry must collaborate with communities, service providers and the Department of Education to provide these supports:

We need to work closely with community organisations and with other service providers to provide the sort of support that is necessary to ensure that everybody is getting the opportunity that that training can provide. But we also need to be working more with our counterparts in education to see that people are getting that foundation through education.<sup>172</sup>

- 2.54** The NSWALC proposed that an industry analysis be undertaken to identify available jobs and specific industries to be targeted. Further, it was suggested that this analysis could be linked to training opportunities.<sup>173</sup> The NSWALC also noted the importance of linking with business to provide a clear pathway to employment.<sup>174</sup> In addition, the NSWALC supported the use of internships and cadetships:

Internship and cadetship programs where students study part-time and work part-time are also positive models that should be further explored. Participating students are exposed to the workplace and industry, and are better informed when choosing employment pathways post-study.<sup>175</sup>

### *Committee comment*

- 2.55** The committee notes that, while Aboriginal people participate in post-school training and employment at lower rates than non-Aboriginal people, there are encouraging statistics to suggest that Indigenous people are undertaking more post-school training opportunities particularly at TAFE NSW.
- 2.56** We note the significant number of initiatives in this sphere and encourage the NSW Government to ensure programs appropriately target the needs of individuals and their communities. As the NSWALC stated there is no point ‘training for training’s sake’, training must be tailored to ensure it leads to meaningful and sustainable employment. We encourage the NSW Government to consider undertaking an industry analysis to link training more effectively to industry and employment opportunities. Further, the committee recommends that Training Services NSW continue to investigate, develop and implement stronger pathways between vocational education and training and meaningful employment opportunities for Aboriginal people.
- 2.57** The committee agrees that training, complimented by other supports such as mentoring, is vital to the economic development of Aboriginal communities, and commends the NSW Government for implementing programs that support these structures. As discussed in Chapter 1, we note the considerable influence the NSW Government has as an employer to

<sup>171</sup> Evidence, Mr Collins, 18 August 2016, p 34.

<sup>172</sup> Evidence, Mr Collins, 18 August 2016, p 34.

<sup>173</sup> Discussion paper response – Submission 43, NSWALC, p 8

<sup>174</sup> Discussion paper response – Submission 43, NSWALC, p 8.

<sup>175</sup> Discussion paper response – Submission 43, NSWALC, p 9.

provide jobs and training opportunities and support the adoption of strong targets to measure Indigenous people's involvement in public sector employment.

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### **Recommendation 16**

That Training Services NSW continue to investigate, develop and implement stronger pathways between vocational education and training and meaningful employment opportunities for Aboriginal people.

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## **Private sector**

- 2.58** Stakeholders highlighted the important role the private sector can play in supporting the capacity development of Aboriginal individuals. For example, the NSWALC stated 'Partnerships between Aboriginal peoples and communities and the private sector have become an increasingly important mechanism for improving community and individual wellbeing and standards of living.'<sup>176</sup>
- 2.59** The committee heard that the most direct way for Aboriginal communities to leverage economic support from the private sector was through the Reconciliation Action Plan (RAP) program. A RAP is a business plan that documents what an organisation commits to do to contribute to reconciliation in Australia.
- 2.60** Alternatively, as noted in the discussion paper, stakeholders discussed the success of the Jawun Indigenous mentoring program.<sup>177</sup> Mr Sean Gordon, Chief Executive Officer of Darkinjung Local Aboriginal Land Council, told the committee that his organisation was successfully participating in the program:

Right now I have nine corporate secondees sitting in all of our Aboriginal organisations on the Central Coast. We have had this program going for well over four years. Last year we had \$1.5 million worth of corporate secondment come into our Central Coast Aboriginal organisations.<sup>178</sup>

### ***Committee comment***

- 2.61** The committee recognises that there are opportunities for the private sector to be involved in building the capacity of Aboriginal people, particularly through the development of Reconciliation Action Plans and mentoring programs such as the Jawun mentoring program. The committee encourages the private sector to be more actively involved in capacity building to ensure that training adequately addresses the needs of industry and leads to sustainable and meaningful employment for Aboriginal people.

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<sup>176</sup> Discussion paper response - Submission 43, NSWALC, p 6.

<sup>177</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 52-53 and Discussion paper response - Submission 43, NSWALC, p 6.

<sup>178</sup> Evidence, Mr Sean Gordon, Chief Executive Officer, Darkinjung Local Aboriginal Land Council, 18 August 2016, p 20.

- 2.62** The committee believes that the advisory board, recommended in Chapter 1, provides another opportunity to engage the private sector in building the capacity of Indigenous individuals. The private sector representatives of the board will be well-placed to facilitate and promote greater connections between these interests.



## Chapter 3 Building the capacity of Aboriginal organisations

Building capacity within Indigenous organisations is potentially complex but essential to enhancing the economic development of Aboriginal communities.<sup>179</sup> The growing Indigenous business and community-driven sector requires skilled entrepreneurs and employees who are capable of identifying and acting on opportunities to create prosperous enterprises within the regulatory framework.

This chapter examines building the capacity of Aboriginal organisations. The chapter considers opportunities to overcome previously identified barriers to capacity building. It also discusses how to implement supportive environments for Indigenous entrepreneurs.

### Capacity building for Aboriginal organisations

- 3.1 Evidence presented during this inquiry demonstrated that despite historically low rates of business ownership in Aboriginal communities, Aboriginal enterprise in Australia has tripled over the last two decades.<sup>180</sup> The committee heard that growing the Indigenous business sector is important as Aboriginal businesses are more likely to employ Indigenous people thus, stimulating this sector will have a positive impact on employment rates.<sup>181</sup>
- 3.2 Stakeholders argued that the obstacles to capacity building included government funding and policy delivery models, compliance requirements, governance concerns, lack of adequately trained staff, and lack of support for Aboriginal entrepreneurs.<sup>182</sup>
- 3.3 Indigenous Business Australia described the greatest challenge to capacity building as the lack of a coordinating mechanism around the provision of wraparound services for organisations such as mentoring, advice on commercial and operational systems, and assistance building strategic relationships.<sup>183</sup>
- 3.4 Inquiry participants believed that these barriers to capacity can be overcome via education and training, business development, effective governance and leadership.<sup>184</sup>

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<sup>179</sup> Standing Committee on State Development, NSW Legislative Council, *Discussion Paper: Economic development in Aboriginal communities* (2016), pp 41-42.

<sup>180</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 41.

<sup>181</sup> Evidence, Ms Laura Berry, Chief Executive Officer, Supply Nation, 18 August 2016, p 41.

<sup>182</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 41-42.

<sup>183</sup> Evidence, Mr Raghu Venkat, Senior Manager, Business and Product Development, Indigenous Business Australia, 18 August 2016, p 39.

<sup>184</sup> See for example, Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 41.

### The local Aboriginal land council network

**3.5** The local Aboriginal land council network consists of the New South Wales Aboriginal Land Council (NSWALC)—the network’s peak body—and 120 local Aboriginal land councils which are governed by boards elected by local Aboriginal community members every two years.

**3.6** Certain stakeholders argued that the local Aboriginal land council network is essential to enhancing social, cultural and economic outcomes for Aboriginal communities.<sup>185</sup> The NSWALC restated the Law Society of NSW arguments concerning the benefits of the land council network and the network’s accountability measures:

As noted in the submission by The Law Society of NSW Indigenous Issues Committee ‘the Aboriginal land council network provides a unique vehicle for the facilitation of economic development’, ‘has the advantages of being representative and inclusive’ and on the issue of accountability and transparency; are regulated by the ALRA [*Aboriginal Land Rights Act*] and NSWALC policy, must be consistent with the Community Land & Business Plan approved by members, are accountable to its members and to the public under the ALRA, *Ombudsman Act 1974* (NSW), the *Independent Commission Against Corruption Act 1988* (NSW) and the some provisions of the *Government Information (Public Access) Act 2009* (NSW).<sup>186</sup>

**3.7** It was acknowledged that, in the past, certain local Aboriginal land councils have made poor business decisions and suffered from poor governance and other issues. However, representatives from a number of land councils told the committee that they had learnt from past mistakes and are striving to develop their capacity and skills to make better business decisions, and to address governance issues.<sup>187</sup> For example, Mr Sean Gordon, Chief Executive Officer of Darkinjung Local Aboriginal Land Council, explained how Darkinjung had worked to secure the right conditions to explore economic development opportunities:

We have the conditions of Darkinjung Land Council right and our board is 100 per cent functioning. We have strong corporate governance and our members are 100 per cent committed. We have built capability and capacity within the organisation with our staff. Our members are supporting us down the economic path. We have done a lot of work with the corporate sector in that we have a significant investment from a program called Jawun ... [and] We have the corporate relationships right ...<sup>188</sup>

### Committee comment

**3.8** The committee acknowledges the important role of the local Aboriginal land council network. We note that in the past there have been governance and administrative issues with local Aboriginal land councils. However, non-Indigenous organisations have struggled with many of the same problems. Importantly, the committee recognises that the local Aboriginal land

<sup>185</sup> See for example, Submission 3, Dr Janet Hunt, p 7; Submission 36, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 12; Discussion paper response – Submission 43, NSWALC, p 8.

<sup>186</sup> Discussion paper response – Submission 43, NSWALC, p 10.

<sup>187</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 42.

<sup>188</sup> Evidence, Mr Sean Gordon, Chief Executive Officer, Darkinjung Local Aboriginal Land Council, 18 August 2016, p 20.

council network is widely-supported and is an excellent launch pad for economic development in Indigenous communities.

### Government funding and policy delivery models

**3.9** The discussion paper noted the concerns of stakeholders that the short-term nature and funding arrangements of government policies do not build capacity within Aboriginal organisations. The Registrar of the *Aboriginal Land Rights Act 1983* (NSW) highlighted the importance of having funding and policy models that are long-term, flexible, suited to the circumstances or context, and address capacity at multiple levels.<sup>189</sup>

**3.10** The Registrar encouraged the NSW Government to be more proactive in its support for Aboriginal organisations that are displaying good governance, strong service delivery, value for money and better outcomes in their community.<sup>190</sup> Nambucca Shire Council supported this suggestion:

... there should be targeted investment to enhance capacity building and development for Aboriginal organisations with this being directed to Aboriginal organisations which have demonstrated good governance, strong service delivery, value for money and better outcomes for their community. In this way the development of good organisational role models should enable the success which has been achieved by individual Aboriginal role models, for example, the arts, politics and business.<sup>191</sup>

**3.11** There was discussion about whether the NSWALC or a Commonwealth entity was better-suited to take responsibility for capacity building in Aboriginal organisations.<sup>192</sup> The NSWALC argued the government should resource capacity building initiatives but that Aboriginal people should drive the programs:

Strengthening Capacity of LALCs [local Aboriginal land councils], as local organisations with statutory functions, should be resourced by Government, but driven by Aboriginal peoples. There is an opportunity for the NSW Government to build on the investment made by NSWALC to promote economic development of LALCs.<sup>193</sup>

**3.12** The NSWALC highlighted the benefits of service delivery by Aboriginal community controlled organisations:

Service delivery by Aboriginal community controlled organisations is responsive and cost effective in addressing local priorities, culturally secure and appropriate, better value for government investment as services are better targeted and are based on local knowledge, flexible and integrated and are a major source of education and training for Aboriginal peoples as well as providing valuable employment opportunities.<sup>194</sup>

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<sup>189</sup> Submission 36, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 11.

<sup>190</sup> Submission 36, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 13.

<sup>191</sup> Discussion paper response – Submission 39, Nambucca Shire Council, p 1.

<sup>192</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 44.

<sup>193</sup> Discussion paper response – Submission 43, NSWALC, p 10.

<sup>194</sup> Discussion paper response – Submission 43, NSWALC, p 3.

- 3.13** Moreover, the NSWALC noted that it is finalising a capacity development plan for local Aboriginal land councils which involves ‘face-to-face training, connecting and sharing, advice and mentoring through all stages of business.’<sup>195</sup> The NSWALC suggested that the strong governance and accountability structures of the land council network make it a viable option for providing capacity building services:

The governance structures of the Land Rights Network are strong. LALCs are accountable and well-functioning organisations who provide a range of services, community development opportunities, and economic development opportunities often within very small operating budgets.<sup>196</sup>

- 3.14** The discussion paper noted that the NSWALC has committed \$16 million to drive economic development towards wealth creation and wellbeing for Aboriginal people in New South Wales.<sup>197</sup> Later in the inquiry, the NSWALC stated that ‘There is an opportunity for the NSW Government to match the investment by NSWALC.’<sup>198</sup>

- 3.15** The Registrar supported the NSW Government partnering with NSWALC to provide capacity building opportunities to local Aboriginal land councils:

... the NSW Government should consider a partnership with the NSWALC that bolsters the latter’s capacity to provide support and assistance to LALCs. The application of public resources to improve the governance and administration of LALCs will greatly enhance their ability to improve the circumstances of their members. This in turn will benefit the whole of NSW.<sup>199</sup>

- 3.16** The Registrar noted that NSWALC provides training and support to local Aboriginal land councils in relation to governance and administration requirements under the *Aboriginal Land Rights Act 1983* and described this as a ‘good example’ of effective capacity and development support for Aboriginal organisations.<sup>200</sup>

- 3.17** Alternatively, other stakeholders considered the NSW Government to be the most appropriate body to deliver capacity building programs. For example, Supply Nation suggested that the NSW Department of Industry could be the lead agency to provide capacity building for Aboriginal organisations, while other agencies may provide additional support:

The NSW Department of Industry should become the proactive lead agency administering this investment to deliver this capacity building and development. Additional support should come from divisions such as the NSW Office of Small Business Commissioner, and Business Enterprise Centres, and Business Advisory Services.<sup>201</sup>

<sup>195</sup> Discussion paper response – Submission 43, NSWALC, p 10.

<sup>196</sup> Discussion paper response – Submission 43, NSWALC, p 10.

<sup>197</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 43 quoting Submission 20, NSWALC, p 6.

<sup>198</sup> Response to discussion paper – Submission 43, NSWALC, p 11.

<sup>199</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 4.

<sup>200</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 3.

<sup>201</sup> Discussion paper response – Submission 40, Supply Nation, p 5.



**3.18** Supply Nation advocated a role for other business development agencies, such as Indigenous Business Australia and the Commonwealth Department of Industry, to partner and deliver a more comprehensive program.<sup>202</sup> Supply Nation proposed partnering with the NSW Government ‘... to facilitate more business networking opportunities for Aboriginal businesses and government buyers, including meet the supplier events and industry-specific forums.’<sup>203</sup>

**3.19** In regard to funding for capacity building initiatives, NTSCORP suggested that the NSW Government consider establishing a trust or permanent funding source:

It may be that if the Government is looking for a very creative solution to create some kind of trust or permanent funding source for economic development in Aboriginal communities that people are able to access, if they want, and perhaps with the assistance of some business planning, can make their case for where these opportunities can be leveraged.<sup>204</sup>

**3.20** In line with the Registrar’s comments about giving due consideration to Aboriginal culture in this area, Supply Nation supported appropriately funding the NSW Indigenous Chamber of Commerce to provide culturally appropriate and sensitive business capability services and programs to Aboriginal businesses.<sup>205</sup>

#### *Committee comment*

**3.21** The committee acknowledges that previous government funding and delivery models for Aboriginal affairs policies have not supported capacity building opportunities for Aboriginal organisations. We encourage the NSW Government to adopt funding and policy delivery models that are suitably long-term, flexible, place-based, and address capacity at multiple levels.

**3.22** The committee acknowledges the arguments supporting the delivery of capacity building initiatives by Aboriginal organisations, particularly the NSWALC. We note that there are 120 local Aboriginal land councils across the state that are well-placed to provide information regarding the training needs of local communities, as well as potentially delivering capacity building initiatives. The committee commends the NSWALC for its capacity development plan.

**3.23** We note the proposal that the NSW Government take responsibility for funding and delivering capacity building initiatives through the Department of Industry, as well as other business-orientated state government agencies and Commonwealth entities including Indigenous Business Australia and the Commonwealth Department of Industry. These organisations clearly have significant experience in training, employment services and business development. The committee recommends that the advisory board for Aboriginal economic development investigate and identify the most appropriate government agency or body to be responsible for funding and service delivery of capacity building initiatives for

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<sup>202</sup> Discussion paper response – Submission 40, Supply Nation, p 5.

<sup>203</sup> Discussion paper response – Submission 40, Supply Nation, p 5.

<sup>204</sup> Evidence, Ms Mishka Holt, Principal Solicitor, NTSCORP, 18 August 2016, p 24.

<sup>205</sup> Discussion paper response – Submission 40, Supply Nation, p 5.

Aboriginal organisations. Further, we encourage the identified government agency or body to closely collaborate with the local Aboriginal land council network.

- 3.24** We commend the NSWALC for its significant investment in economic development for its communities. As noted in the discussion paper, \$16 million of funding has been committed to give local Aboriginal land councils an opportunity to seek low-interest loans to create businesses in the community. The committee also acknowledges the proposal that the government match this funding. We believe appropriately funding capacity building initiatives will ensure strong, prosperous and sustainable Indigenous enterprises that will benefit Aboriginal communities, as well as wider society. We recommend that the NSW Government match dollar-for-dollar the NSW Aboriginal Land Council's \$16 million in funding for economic development opportunities for Indigenous enterprises, and that these funds be placed in a trust to be managed by the advisory board on Aboriginal economic development (as outlined in recommendation 4).
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#### **Recommendation 17**

That the advisory board on Aboriginal economic development investigate and identify the most appropriate government agency or body to be responsible for funding and service delivery of capacity building initiatives for Aboriginal organisations.

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#### **Recommendation 18**

That the NSW Government match dollar-for-dollar the NSW Aboriginal Land Council's \$16 million in funding for economic development opportunities for Indigenous enterprises, and that these funds be placed in a trust to be managed by the proposed advisory board on Aboriginal economic development.

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#### **Compliance requirements**

- 3.25** The discussion paper identified inquiry participants concerns of the significant compliance and reporting requirements imposed on Aboriginal organisations.<sup>206</sup> The requirements imposed by the *Aboriginal Land Rights Act 1983* as opposed to the *Corporations Act 2001* (Cth) are considered by certain stakeholders to be overly burdensome and discriminatory.<sup>207</sup>
- 3.26** The Registrar advised of the relationship between the *Corporations Act 2001* (Cth) and the *Aboriginal Land Rights Act 1983*:

... the compliance regime under the ALRA [*Aboriginal Land Rights Act 1983*] already mixes with the Corporations Act 2001 ("CorpA") because Aboriginal Land Councils may establish corporations under the CorpA as part of their functions under the ALRA.

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<sup>206</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 45.

<sup>207</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 45.

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In my view, the jurisdictional issues between the NSW ALRA and the Commonwealth CorpA means that compliance for Aboriginal Land Councils will continue to principally reside within the ALRA with increasingly relevance to the CorpA.<sup>208</sup>

- 3.27** The Registrar urged the NSW Government to work with the local Aboriginal land council network to clarify the complexities of the compliance regime:

I encourage the NSW Government to continue to work closely with the LALC network to further improve and clarify the compliance regime under the ALRA, keeping clearly in mind the need of LALCs to balance accountability, legitimate corporate agility with their diverse community activities. This balance is complex and goes to the heart of the public/private character of Aboriginal Land Council in NSW. Like all corporate governance regimes, improvement often comes from trial and error over time.<sup>209</sup>

- 3.28** The Registrar continued “The continuing analysis of the compliance balance in the ALRA and the relationship between that Act and the CorpA should be a central theme of any future review of the ALRA.”<sup>210</sup>

- 3.29** The committee heard that high-achieving local Aboriginal land councils were most concerned with issues of compliance. Mr Gordon was frustrated that he had abided by the *Aboriginal Land Rights Act 1983* to create a successful organisation, and was now burdened with excessive administrative tasks.<sup>211</sup>

- 3.30** It was suggested that the governance structures in the *Aboriginal Land Rights Act 1983* no longer adequately addressed the needs of high-achieving land councils such as Darkinjung:

We developed governance structures specific to the NSW *Aboriginal Land Rights Act* and we have used that to its full extent. Are they adequate for where we are right now? Probably not. We probably need to evolve and move to a structure that recognises where the Land Council is right now. Unfortunately, not enough work has been done in that space to recognise land councils as they get to Darkinjung’s point, as to how they evolve, or how do they move to the next phase of what land councils might look like.<sup>212</sup>

- 3.31** Mr Gordon was adamant that governance structures must account for the diverse needs of local Aboriginal land councils particularly in respect to investment options:

... you cannot have a land council like Darkinjung Land Council managing \$80 million in assets, then being treated the same as a Brewarrina Land Council. It does not make any practical sense whatsoever, to jump through the same hoops and to be dealt with in the same way. We have restrictions in regards to how we can invest

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<sup>208</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 4.

<sup>209</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 4.

<sup>210</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 4.

<sup>211</sup> Evidence, Mr Gordon, 18 August 2016, p 30. Also, see Site visit report: Singleton, Williamtown and Wattanobbi, p 3.

<sup>212</sup> Evidence, Mr Gordon, 18 August 2016, p 21.

and we are about to challenge those investment strategies at the moment. But we are stuck in 2.6 per cent investment strategies for about \$30 million. We are never going to grow that way.<sup>213</sup>

- 3.32** It was proposed that there be greater recognition of land councils performing in an exemplary manner to ensure these bodies can continue to grow:

So there needs to be greater recognition of land councils that have put good governance practices in place, that have consistently achieved outstanding audits, outstanding interim management letters and outstanding management letters, consistently being assessed under the New South Wales Aboriginal Land Council [NSWALC] system as 100 per cent for the last five or six years. Those things need to be considered to then allow a land council to evolve to the next phase.<sup>214</sup>

- 3.33** Ms Anne Dennis, Deputy Chairperson of the NSWALC, observed that while it is desirable for all land councils to achieve the same success as Darkinjung, the governing legislation must account for, and promote the needs, of all 120 land councils.<sup>215</sup> However, the NSWALC supported amending unduly burdensome compliance requirements for local Aboriginal land councils:

In principal NSWALC is supportive of amendments which support LALCs in achieving their social and economic functions under the ALRA without undue burden. In undertaking review of the ALRA, the NSWALC consults extensively with LALCs to gain the views and opinions of the land rights network.<sup>216</sup>

### *Committee comment*

- 3.34** The committee acknowledges the success of the Darkinjung Local Aboriginal Land Council and other high-achieving land councils including Worimi and Eden. These high-performing local Aboriginal land councils are excellent examples of how land can be leveraged for economic advantage and, in turn, provide programs and services to empower communities.
- 3.35** The committee understands that high-performing local Aboriginal land councils feel unnecessarily burdened by the compliance requirements established in the *Aboriginal Land Rights Act 1983* and the *Corporations Act 2001* (Cth). However, for the most part, this legislation must consider the needs and aspirations of all 120 local Aboriginal land councils. Further, local Aboriginal land councils should accept that as they grow and their interests diversify there will inevitably be increasing complexity in their governance and compliance arrangements.
- 3.36** The committee accepts that high-performing local Aboriginal land councils expressed credible concerns that they should have greater freedom in regards to their investment options as a means of supporting further economic opportunities. The committee recommends that Aboriginal Affairs undertake consultation with local Aboriginal land councils and investigate the possibility of amending the compliance requirements, particularly the investment options, for local Aboriginal land councils with significant funds under management.

<sup>213</sup> Evidence, Mr Gordon, 18 August 2016, p 21.

<sup>214</sup> Evidence, Mr Gordon, 18 August 2016, pp 21-22.

<sup>215</sup> Evidence, Ms Anne Dennis, Deputy Chairperson, NSWALC, 18 August 2016, p 23.

<sup>216</sup> Discussion paper response – Submission 43, NSWALC, p 10.

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**Recommendation 19**

That Aboriginal Affairs undertake consultation with local Aboriginal land councils to investigate the possibility of amending the compliance requirements, particularly the investment options, for local Aboriginal land councils with significant funds under management.

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**Governance**

- 3.37** The discussion paper noted that Aboriginal organisations, particularly local Aboriginal land councils, have encountered governance issues in the past. However, as Shoalhaven City Council stated ‘Poor governance is not unique to local Aboriginal land councils and is not uncommon among other community organisations and committees.’<sup>217</sup>
- 3.38** In the discussion paper, governance issues were attributed to a number of factors including a lack of autonomy, insufficient and inconsistent resources and funding conditions, the imposition of culturally illegitimate processes, composition and the skills-base of board members.<sup>218</sup>
- 3.39** In the later stages of the inquiry, it was suggested that other possible causes for governance issues were the risk-averse nature of the NSWALC as a regulator, and the increasingly complex activities of local Aboriginal land councils.
- 3.40** There have been attempts to rectify the governance issues facing Aboriginal organisations. For example, following the Aboriginal Land Rights Act Review 2012 the Act was amended to increase the terms of local Aboriginal land council board members and required a code of conduct for local Aboriginal land council members.<sup>219</sup>
- 3.41** Further, the Registrar noted there was a need to tailor governance training for specific Aboriginal organisations to ensure it meets the needs of their ‘structure, operations and nuances.’<sup>220</sup>

***NSWALC as a regulator***

- 3.42** The Independent Commission Against Corruption (ICAC) proposed that the risk-averse nature of the NSWALC as a regulator may, unintentionally, be perpetuating governance problems for local Aboriginal land councils.

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<sup>217</sup> Discussion paper response – Submission 44, Shoalhaven City Council, p 11

<sup>218</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 46-47.

<sup>219</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 47.

<sup>220</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983*, p 4.

**3.43** Importantly, Dr Robert Waldersee, Executive Director, Corruption Prevention Division at ICAC, advised that the local Aboriginal land council network has the key elements for good governance:

In the LALC system, initially we looked at the elements of governance. At first blush, they are all in place: you have members who are effectively shareholders; you have a community, land and business plan that is effectively a strategic plan; you have a board that is accountable to the members; you have a CEO that is accountable to the board; and you have a regulator that is responsive and risk based.<sup>221</sup>

**3.44** However, Dr Waldersee explained that problems arise when the NSWALC bears the financial risk of local Aboriginal land councils thus becomes risk averse, centralised, and ultimately disconnected from its network:

NSWALC, while it is the regulator, also in reality bears a lot of financial risk when things go wrong. Given its limited resources, that has to create a risk-averse organisation. Risk-averse organisations are often centralised. When you are centralised, you become disconnected from the network that you are governing, which is a complaint we heard commonly.<sup>222</sup>

**3.45** Further, it was argued that the NSWALC's accountability mechanisms become less effective:

The community, land and business plan should in theory produce a set of accountabilities to which the board is held by the membership, but it is often seen as a tick-a-box, so it is not functioning. You have members who are not engaged. There is often very low turnout at the meetings.<sup>223</sup>

**3.46** Dr Waldersee described the situation as a 'vicious cycle rather than a virtuous cycle'<sup>224</sup> and explained that private sector accountability measures lack effectiveness when applied to local Aboriginal land councils, in turn, causing problems for the NSWALC:

In what should work in the private sector as, say, a normal corporate board, you would have shareholders holding people accountable to strategic plans. The whole thing becomes virtuous in that there is self-determination and yet governance. The self-interest, the information and the capabilities of all the players work together to hold it in place. Instead we are seeing the opposite, where you end up with LALCs that are essentially existing in a moral hazard because the risk is being absorbed by NSWALC. NSWALC is not in a position to push the risk back.<sup>225</sup>

**3.47** The committee heard that the ICAC is examining how to overcome the problems identified:

We are looking at how you go from this sort of vicious cycle to a virtuous cycle and get a board that can be held accountable in the same way as a corporate board can be held accountable, a membership that is engaged, a business plan that is actually a

<sup>221</sup> Evidence, Dr Robert Waldersee, Executive Director, Corruption Prevention Division, ICAC, 18 August 2016, p 36.

<sup>222</sup> Evidence, Dr Waldersee, 18 August 2016, p 36.

<sup>223</sup> Evidence, Dr Waldersee, 18 August 2016, p 36.

<sup>224</sup> Evidence, Dr Waldersee, 18 August 2016, p 36.

<sup>225</sup> Evidence, Dr Waldersee, 18 August 2016, pp 36-37.

realistic business plan that creates accountabilities and a regulator that is truly responsive.<sup>226</sup>

**3.48** Dr Waldersee continued ‘At the pointy end of regulation, people go to jail; at the bottom end, where most people should be, is primarily a facilitation role for NSWALC. The incentive is for LALCs to move into that area where they are facilitated and there is a light touch.’<sup>227</sup>

**3.49** As noted in the discussion paper, certain issues may arise from the composition of the board of a local Aboriginal land council. Dr Waldersee noted that the NSWALC provides training to boards, however felt that this may not be adequate:

... the idea that you can train people to that sort of requisite level is not necessarily realistic, so we are looking at how to close the gap between the regulatory burden placed on the board and the capability of the board other than simply by trying to train people up.<sup>228</sup>

**3.50** Dr Waldersee advised that there are options available to help alleviate some of these issues for local Aboriginal land councils, including the use of a risk assessment system that is tied to the council’s financial system members and links to training:

The best model we saw in the various zones—because the zones have variation across them—is where the risk assessment system [RAS], which acts a bit as a surrogate internal audit for the LALCs, is tied to the financial system that the board members use and that financial templates are linked to the training that is provided to the board. So you end up with an integrated capability that is built up and tied to the audit—effectively what becomes the audit function of the LALC.<sup>229</sup>

**3.51** Other options canvassed by Dr Waldersee included:

- not burdening the NSWALC with the financial risk of local Aboriginal land councils
- encouraging local Aboriginal land councils to coordinate administrative hubs, shared services or some other kind of joint back-of-office arrangement to pool resources and share expertise, in a similar fashion as the North-West Land Trust
- providing training and support for members of local Aboriginal land councils to ensure they can hold the board to account for its actions.<sup>230</sup>

**3.52** The ICAC is producing a resource that encourages the integrity of local Aboriginal land council governance structures to assist effective functioning of the network.<sup>231</sup>

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<sup>226</sup> Evidence, Dr Waldersee, 18 August 2016, p 37.

<sup>227</sup> Evidence, Dr Waldersee, 18 August 2016, p 37.

<sup>228</sup> Evidence, Dr Robert Waldersee, 18 August 2016, p 37.

<sup>229</sup> Evidence, Dr Robert Waldersee, 18 August 2016, p 37.

<sup>230</sup> Evidence, Dr Robert Waldersee, 18 August 2016, p 37.

<sup>231</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 47.

*Increasingly complex activities*

- 3.53** The committee heard that certain governance issues may arise from the increasingly complex nature of the activities that Aboriginal organisations are engaged in. The Registrar advised ‘The legal issues surrounding the proper stewardship and use of those [local Aboriginal land council’s] assets becomes important, and governance becomes more complex.’<sup>232</sup>
- 3.54** The Registrar emphasised the challenges of governing member-driven organisations, such as local Aboriginal land councils, especially when they are in control of significant assets:
- There can be no doubt that land councils particularly remain member-driven organisations. One of the old anecdotes that used to be used or can be used is that the difficulty arises when a member-driven organisation looks like a local dysfunctional parents and citizens [P & C] governance model or a local tennis club model, but may in fact have extremely valuable assets under care, control and ownership. Those issues need to be carefully responded to. There is no doubt in my mind, particularly for Aboriginal land councils, that governance will become more complex because their engagement will become more complex with the economy.<sup>233</sup>
- 3.55** The Registrar concluded ‘I think what is important is that it is recognised that the structures in the Land Rights Act will continue to evolve and will continue to address issues as they arise, but they will never be a perfect remedy to governance issues.’<sup>234</sup>

*Committee comment*

- 3.56** The committee notes the NSWALC faces challenges as the regulator, bearing the potentially substantial financial risks of local Aboriginal land councils.
- 3.57** We note that the local Aboriginal land council network has a number of the key elements in place for good governance including clear accountability mechanisms. Further assistance is required to ensure the boards and members of local Aboriginal land councils understand their responsibilities under the *Aboriginal Land Rights Act 1983*. Additionally, it may be desirable to pool the capacity and resources of land councils to ensure their economic potential is harnessed more effectively. The committee recommends that the advisory board ensure the government agency or body identified in recommendation 17 facilitate training, skills development, networking opportunities, and other services to enhance the governance capacity of Aboriginal organisations.
- 3.58** We note that, as previously mentioned, the land council network is involved in increasingly complex activities including the establishment of corporations and other business entities. In turn, there is increased potential for challenging governance issues to arise. The committee anticipates that the increased governance training and other services it has recommended will assist in addressing these concerns.

<sup>232</sup> Evidence, Mr Stephen Wright, Registrar, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), 18 August 2016, p 28.

<sup>233</sup> Evidence, Mr Wright, 18 August 2016, p 29.

<sup>234</sup> Evidence, Mr Wright, Registrar, 18 August 2016, p 29.



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## Recommendation 20

That the advisory board on Aboriginal economic development ensure the government agency or body identified in recommendation 17 facilitate training, skills development, networking opportunities, and other services to enhance the governance capacity of Aboriginal organisations.

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### *Potential conflicts of interest*

**3.59** Certain stakeholders were concerned with the conflict of interest issues arising in local Aboriginal land councils. The NSWALC pointed out that there are systems in place to address potential conflicts of interest:

There are mechanisms within the ALRA, including section 184 and Regulations, for managing potential conflicts of interest as well procedures with Office of the Registrar ALRA and the NSW Civil and Administrative Tribunal (NCAT).<sup>235</sup>

**3.60** The NSWALC and local Aboriginal land councils also have their own policies and procedures to provide guidance in these matters.<sup>236</sup>

**3.61** Inquiry participants expressed particular concern about local Aboriginal land council board members being both the manager and the tenant of housing on council property.<sup>237</sup> The Registrar proposed local Aboriginal land councils could mitigate this potential conflict of interest by either:

- delegating responsibility for the management of social housing to the chief executive officer of the local Aboriginal land council if the chief executive officer does not have a direct or indirect conflict of interest
- outsourcing the responsibility for social housing management ensuring that the local Aboriginal land council maintains proper oversight of the performance of their housing manager.<sup>238</sup>

**3.62** The Registrar noted that the issue was complicated by other issues including Aboriginal peoples' engagement with social housing and the demands of familial relationships.<sup>239</sup>

### *Committee comment*

**3.63** The committee acknowledges that there is community concern about potential conflicts of interest arising from local Aboriginal land councils particularly around issues of board members being both the manager and the tenant of housing on council property. We note

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<sup>235</sup> Discussion paper response – Submission 43, NSWALC, p 11.

<sup>236</sup> Discussion paper response – Submission 43, NSWALC, p 11.

<sup>237</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 47.

<sup>238</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 5.

<sup>239</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 5.

that there are legislative systems in place to deal with these concerns, as well as policies and procedures that have been adopted by the local land council network. However, we consider this an important issue and recommend that the NSW Government commence a review of local Aboriginal land council governance, and as part of this review, investigate how to minimise potential conflicts of interests.

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### **Recommendation 21**

That the NSW Government commence a review of local Aboriginal land council governance, and as part of this review, investigate how to minimise potential conflicts of interests.

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### **Staff and training**

**3.64** The lack of adequately trained staff was identified as a significant issue for Aboriginal organisations especially local Aboriginal land councils.<sup>240</sup> The committee heard that certain land councils are addressing this issue by providing training to staff. However, their efforts are undermined by their inability to retain employees due to the insecurity of the jobs available at their organisations.<sup>241</sup>

**3.65** As noted in the previous section, stakeholders called for increased training opportunities for local Aboriginal land council chairs and members to increase understanding of business practices including developing policies and procedures, project management and reporting processes.<sup>242</sup>

**3.66** Inquiry participants emphasised the need for tailored capacity building initiatives.<sup>243</sup> Ms Debbie Barwick, Chair of the NSW Indigenous Chamber of Commerce, advocated for a tailored-approach to capacity building:

There needs to be an investment in the capacity of organisations that are out there doing good things to create opportunities in their communities. There is not a one-size-fits-all for everybody.<sup>244</sup>

**3.67** Similarly, the Registrar advised that Aboriginal organisations require targeted capacity building that incorporates their individual training requirements:

Capacity building and development for Aboriginal organisations often means training for the members, governing group and employees of the organisation in relation to the particular governance and administrative requirements of their organisation. It is

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<sup>240</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 48.

<sup>241</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 48.

<sup>242</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 50.

<sup>243</sup> See for example, Discussion paper response – Submission 43, NSWALC, p 3.

<sup>244</sup> Evidence, Ms Debbie Barwick, Chair, NSW Indigenous Chamber of Commerce, 18 August 2016, p 43.

therefore critical that Aboriginal organisations be provided with assistance to understand the requirements they must meet. This will often include a mix of legislative, corporate governance and managerial considerations.<sup>245</sup>

**3.68** The Registrar also emphasised the need to consider ‘... how Aboriginal cultural authority and governance interact with matters of legislation, corporate governance and management must be properly considered.’<sup>246</sup>

**3.69** As noted earlier, stakeholders argued that either the NSW Government should fund and provide training for capacity development, or that the government should fund the NSWALC to provide these services. The committee has instead earlier recommended that the advisory board on Aboriginal economic development investigate and identify the most appropriate agency or body to provide these initiatives.

### **Supportive environments**

**3.70** Stakeholders argued it is essential that Aboriginal organisations facilitate the development of environments that encourage capacity building. Key features of supportive environments include those that:

- use a relationship-based approach to capacity building such as mentoring, coaching, secondments or institutional partnerships
- encourage competence in cross-cultural communication and knowledge sharing
- have policies, legislation and procedures that foster building capacity.<sup>247</sup>

**3.71** It was suggested that the government facilitate partnerships with the private sector. For example, the Registrar proposed that the NSW Government ‘broker and facilitate’ partnerships between local Aboriginal land councils, other Aboriginal corporations and relevant private sector parties to assist with business and financial capacity.<sup>248</sup> Mr Wright contended that in his experience, the private sector is eager to engage with local Aboriginal land councils. However, he added that ‘... there is a role for government in ensuring such engagement is legitimate and of direct benefit to LALCs.’<sup>249</sup>

### ***Mentoring***

**3.72** Inquiry participants considered that mentoring may be helpful at every stage of an Aboriginal person’s life, and particularly so for Aboriginal entrepreneurs. As noted in the discussion

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<sup>245</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 3.

<sup>246</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 3.

<sup>247</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 50-51.

<sup>248</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 6.

<sup>249</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 6.

paper Ms Barwick described mentoring as ‘what means success or failure with the businesses that we work with.’<sup>250</sup>

- 3.73** The discussion paper noted that Aboriginal organisations can take a number of different approaches to mentoring. For example, the Banbai Enterprise Development Aboriginal Corporation uses succession planning to expand its workforce<sup>251</sup> and encourages mentoring relationships with community elders.<sup>252</sup> Ms Tanya Elone, Manager of Banbai Enterprise Development Aboriginal Corporation, also encourages and supports employees to undertake meaningful training that supports their employment:

We do not get support so it is left up to us, as elders and community members, to help the Aboriginal people build up a skill level whether they are able to get employment—either with us or in whatever town they want to move to. We have trained people to certificate 4 level through TAFE in conservation and land management. Many of the skills that we have provided for them, or nurtured them in, they have taken on to other areas. Some went into nursing, some went into civil construction and some have gone into various areas.<sup>253</sup>

- 3.74** The committee heard that Banbai also promotes education through its ranger program which encourages a connection to country and includes mentoring opportunities.<sup>254</sup> Additionally, Ms Elone informed the committee that Banbai supports women in its workforce by providing flexible working conditions.<sup>255</sup>
- 3.75** Alternatively, Darkinjung Local Aboriginal Land Council encouraged the development of formal mentoring programs that link Aboriginal entrepreneurs and organisations to industry experts such as the Jawun program.<sup>256</sup>

#### *Committee comment*

- 3.76** The committee restates that staff of Aboriginal organisations must be adequately supported and trained. Our recommendations earlier in the chapter concerning funding and delivery of capacity building initiatives cater to these concerns.
- 3.77** We note that it is essential to provide tailored capacity building programs to support Aboriginal organisations. Again, this is an opportunity for the NSW Government and other service providers to consult with local Indigenous communities to provide place-based solutions.

<sup>250</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 52 quoting Evidence, Ms Barwick, 26 February 2016, p 42.

<sup>251</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 52.

<sup>252</sup> Evidence, Ms Tanya Elone, Manager, Banbai Enterprise Development Aboriginal Corporation, 18 August 2016, p 43.

<sup>253</sup> Evidence, Ms Elone, 18 August 2016, p 43.

<sup>254</sup> Evidence, Ms Elone, 18 August 2016, p 33.

<sup>255</sup> Evidence, Ms Elone, 18 August 2016, p 43.

<sup>256</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 53.

- 3.78** The committee acknowledges that the private sector should be an active participant in encouraging supportive environments. The committee supports the Registrar's proposal and recommends that the agency or body identified in recommendation 17 should also be responsible for brokering and facilitating partnerships between local Aboriginal land councils, other Aboriginal corporations and relevant private sector parties to assist with business and financial capacity.
- 3.79** The committee notes that a high proportion of Aboriginal people live in urban areas of New South Wales, as such, in an effort to support staff in land council's, the committee recommends that the NSW Government investigate whether UrbanGrowth NSW may be a suitable government body to support local Aboriginal land councils with land claims. Leveraging land for economic opportunity is discussed in detail in chapter 4.
- 3.80** The committee recognises that supportive environments foster and support the capacity of Aboriginal organisations. Stakeholders have repeatedly spoken of the need for mentoring. We commend Banbai Enterprise Development Aboriginal Corporation for its foresight and innovation in this area and applaud the organisation's commitment to mentoring school students and supporting women in the workforce. Again, we note that Darkinjung Local Aboriginal Land Council has successfully participated in, and promotes, the use of the Jawun program.

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**Recommendation 22**

That the agency or body identified in recommendation 17 be responsible for brokering and facilitating partnerships between local Aboriginal land councils, other Aboriginal corporations and relevant private sector parties to assist with business and financial capacity.

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**Recommendation 23**

That the NSW Government investigate whether UrbanGrowth NSW may be a suitable government body to support local Aboriginal land councils with land claims.

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**Entrepreneurship**

- 3.81** The discussion paper outlined some of the difficulties associated with establishing and maintaining an Aboriginal business, particularly stakeholders' concerns about a lack of government support, business capacity and funding.<sup>257</sup>
- 3.82** The discussion paper noted that inquiry participants encouraged the NSW Government to provide pragmatic assistance to Aboriginal business including:
- facilitating their access to initial commercial feasibility assessments such as business support to test the commercial viability of business ideas, business planning, business coaching and mentoring

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<sup>257</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 54.

- establishing an enterprise assistance centre for Aboriginal-owned businesses
- enabling access to capital, marketing, training and infrastructure
- providing tax incentives and concessions
- offering targeted government procurement in remote and rural regions.<sup>258</sup>

**3.83** Later in the inquiry, stakeholders supported other assistance measures including family financial literacy and planning programs, and creating opportunities to incubate business ideas.<sup>259</sup>

**3.84** Stakeholders highlighted the importance of developing economic opportunities in regional areas for Aboriginal businesses. For example, Ms Barwick noted that establishing and fostering enterprises in regional areas may address social issues:

A big part of our work is to try to get more happening in regional communities. Our core business is business, but we are trying to see the creation of enterprises that could be running communities and creating opportunities for young people coming through. As I said, not everybody wants to service a Commonwealth contract. They want to stay local; that want to live local. We need to be able to support that. The reality is that the unemployment and incarceration rates are unacceptable. There are diverse ways for it to be addressed. Education is number one but we also need to create opportunities and localise those opportunities so that young people can see all that positive stuff going on around them.<sup>260</sup>

**3.85** Ms Barwick noted that other states are considering working with specific industries to advance economic development in regional areas:

We need to make sure we find a way to support localised economic development. There are models out there that we are trialling that are working with other States with, say, the resource sector, and it is creating great employment opportunities in communities where unemployment is crippling.<sup>261</sup>

**3.86** The committee heard that Wonnarua Nation Aboriginal Land Corporation is successfully operating in a regional area. Mr Laurie Perry, Chief Executive Officer of Wonnarua, said that Wonnarua has established a number of hubs sites for various enterprises on claimed land—that it hopes will encourage the prosperity and sustainability of Aboriginal people in local area.<sup>262</sup> Leveraging land for economic development is discussed in more detail in Chapter 4.

<sup>258</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 59-60.

<sup>259</sup> Discussion paper response – Submission 40, Supply Nation, p 5; Evidence, Mr Warren Mundine AO, Chair, Prime Minister’s Indigenous Advisory Council., p 11.

<sup>260</sup> Evidence, Ms Barwick, 18 August 2016, p 42.

<sup>261</sup> Evidence, Ms Barwick, 18 August 2016, p 40.

<sup>262</sup> Evidence, Mr Laurie Perry, Chief Executive Officer, Wonnarua Nation Aboriginal Land Corporation, 18 August 2016, p 16.

- 3.87** The discussion paper noted that the NSW Government provides programs and services to support Aboriginal entrepreneurship including the Aboriginal Enterprise Development Officer Program which helps ‘scaffold’ the development of Aboriginal businesses.<sup>263</sup>

***Support for entrepreneurs***

- 3.88** The discussion paper observed that Aboriginal entrepreneurs, depending on the size and nature of their business, can receive support from the NSW Government, the NSW Indigenous Chamber of Commerce, Indigenous Business Australia, the Indigenous Land Corporation and the Commonwealth Government.<sup>264</sup>

- 3.89** As mentioned earlier, Mr Raghu Venkat, Senior Manager, Business and Product Development at Indigenous Business Australia, described the ‘biggest hurdle’ to capacity building as the lack of a coordinating mechanism around the provision of wraparound services, such as initial feasibility assessments, business planning, mentoring and access to capital, marketing, training and infrastructure, for organisations.<sup>265</sup> Mr Venkat elaborated on his concern:

I think that is one of the biggest hurdles if you have to point to anything. It is what is the organisation of human beings that we can go to—it can be the Clontarf equivalent—in the business space. They are the connector to advice, relationships, mentoring, et cetera. I suppose it is bringing that together.

The challenge is at what levels does that coordinating mechanism operate? Do you have one for LALCs? Do you have one for mum and dad businesses? Do you have one for businesses which are seeking to procure from government in tender? The second thing is how tailored it is to the New South Wales context.<sup>266</sup>

- 3.90** Mr Venkat ventured that:

From an IBA perspective we would like to coordinate better with the New South Wales Government and the other agencies and groups like the NSW Indigenous Chamber of Commerce that are doing some great work in this space to come up with a better answer which is more tailored.<sup>267</sup>

- 3.91** A similar point was raised by Supply Nation, which identified that ‘... [there is] a lack of knowledge about where to access appropriate business support and services is a key inhibitor for Indigenous business owners and entrepreneurs.’<sup>268</sup> Likewise, Ms Barwick suggested that there was a need to resource a body—be it a regulator or an advocacy service—to build capacity in Aboriginal businesses.<sup>269</sup>

<sup>263</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 58.

<sup>264</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 60-63.

<sup>265</sup> Evidence, Mr Venkat, 18 August 2016, p 39.

<sup>266</sup> Evidence, Mr Venkat, 18 August 2016, p 39.

<sup>267</sup> Evidence, Mr Venkat, 18 August 2016, pp 39-40.

<sup>268</sup> Discussion paper response – Submission 40, Supply Nation, p 5.

<sup>269</sup> Evidence, Ms Barwick, 18 August 2016, p 40.

**3.92** Other inquiry participants suggested that Indigenous Business Australia could better facilitate the development of Aboriginal enterprises by changing its approach to funding and providing programs that encourage business skills development.<sup>270</sup>

**3.93** Alternatively, Supply Nation suggested that the government collaborate with stakeholders to identify gaps in wraparound services, and to deliver these services:

... the NSW Government Agencies work collaboratively with the NSW Indigenous Business Chamber, Supply Nation, Many Rivers and local governments to audit current services, identify gaps in current offerings and collaborate to deliver appropriate services as part of a collective approach to these ‘wrap around services’.<sup>271</sup>

**3.94** Supply Nation also supported a review of local, state and federal government programs and services to encourage the inclusion of Aboriginal businesses:

It is also important to review all the existing local, state and federal government programs and services, in order that they may be streamlined to specific stages of business growth and to make them more inclusive, welcoming and specific to Aboriginal businesses.<sup>272</sup>

**3.95** Further, Supply Nation advocated making existing enterprise assistance centres ‘more culturally sensitive and appropriate for Aboriginal and Torres Strait Islander clients.’<sup>273</sup> In addition, Supply Nation considered that existing organisations such as the local Aboriginal land council network, ‘... could be leveraged as delivery agencies or partners for such enterprise assistance. This would fast-track community acceptance, and utilise the established entity’s influence.’<sup>274</sup>

### ***NSW Indigenous Chamber of Commerce***

**3.96** Stakeholders praised the NSW Indigenous Chamber of Commerce—the peak body for Aboriginal business—for fostering the development of businesses and providing a network of support and contacts for Indigenous entrepreneurs.<sup>275</sup>

**3.97** The committee received evidence that the NSW Indigenous Chamber of Commerce tries to be a ‘one-stop shop’ for Aboriginal entrepreneurs that focuses on ‘regulation, advocacy and capacity building.’<sup>276</sup> The chamber does not receive government funding.<sup>277</sup> Ms Barwick explained that the chamber works with other organisations to support and facilitate Aboriginal businesses:

<sup>270</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 61.

<sup>271</sup> Discussion paper response – Submission 40, Supply Nation, p 5.

<sup>272</sup> Discussion paper response – Submission 40, Supply Nation, p 5.

<sup>273</sup> Discussion paper response – Submission 40, Supply Nation, p 6.

<sup>274</sup> Discussion paper response – Submission 40, Supply Nation, p 6.

<sup>275</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 60.

<sup>276</sup> Evidence, Ms Barwick, 18 August 2016, p 40.

<sup>277</sup> Evidence, Ms Barwick, 18 August 2016, p 41.



We have worked with IBA [Indigenous Business Australia] for about 10 years now. We have worked with Supply Nation so when a business is ready we make sure that they go and get themselves registered on that directory, that they are registered for government tenders if that is what they want to do and the like.<sup>278</sup>

**3.98** The chamber also works with other stakeholders to build the capacity of its members:

We have partnerships with stakeholders like the Law Society of New South Wales and they bring legal advice capacity around contract law and all that sort of thing, and then we have other partners that will bring in management programs and systems and financial management programs and systems. We work with those partners so that we can provide those supports to our businesses to develop up their capacity until they can afford those things ongoing.<sup>279</sup>

**3.99** Ms Barwick noted that the chamber supports entrepreneurs to achieve their individual aspirations, and provides role modelling and mentoring opportunities.<sup>280</sup>

**3.100** The NSW Indigenous Chamber of Commerce is also increasingly offering capacity building assistance to community organisations.<sup>281</sup> Ms Barwick contended that developing the capacity of community organisations will help address employment problems.<sup>282</sup>

**3.101** The NSW Indigenous Chamber of Commerce informed the committee that it is also working with members to address compliance issues concerning the Commonwealth's Indigenous Procurement Strategy:

It is probably the biggest area of demand right now. If we are going to continually feed that pipeline, we need to do a lot more work in that space. The other issue is that we are seeing at the grassroots level is that, since the policy and an acceptance of the statutory declaration by Aboriginal partners of the business, the 50 per cent business, there are some concerns out there across communities.<sup>283</sup>

### *Committee comment*

**3.102** The committee applauds the success of Aboriginal enterprises and highlights the important role these organisations play in building the capacity of Indigenous individuals as well as the employment opportunities they provide. We note that the NSW Government provides certain programs, some specifically catering to Aboriginal entrepreneurs that scaffold the development of Aboriginal businesses. However, there is an overwhelming need to provide more 'wraparound' services to ensure the viability and success of Indigenous organisations.

**3.103** We are particularly interested in the need for a 'coordinating mechanism' targeting Indigenous enterprises that provides wraparound services, such as mentoring, business plans and building business networks. It is our observation that the NSW Indigenous Chamber of Commerce already effectively facilitates the development of Aboriginal enterprises. Further, the chamber

<sup>278</sup> Evidence, Ms Barwick, 18 August 2016, p 40.

<sup>279</sup> Evidence, Ms Barwick, 18 August 2016, p 41.

<sup>280</sup> Evidence, Ms Barwick, 18 August 2016, p 40.

<sup>281</sup> Evidence, Ms Barwick, 18 August 2016, pp 40-41

<sup>282</sup> Evidence, Ms Barwick, 18 August 2016, pp 40-41.

<sup>283</sup> Evidence, Ms Barwick, 18 August 2016, p 41.

works across a range of industries and has established partnerships with a number of bodies including Indigenous Business Australia and the Law Society of New South Wales to help facilitate the development and capacity of enterprises. Significantly, the chamber also provides critical mentoring and facilitates engagements with Indigenous business and supply networks. We recommend that the NSW Government ensure resources are targeted at wraparound services for Aboriginal businesses to enhance the development of Indigenous enterprises across the state.

- 3.104** The committee notes that there are funding sources available to Aboriginal enterprises and local Aboriginal land councils. However, we are concerned about the impediments some Aboriginal enterprises and land councils face in attempting to access funding. The committee recommends the NSW Government develop alternative pathways for Aboriginal enterprises and local Aboriginal land councils to access funding sources.

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**Recommendation 24**

That the NSW Government ensure resources are targeted at wraparound services for Aboriginal businesses to enhance the development of Indigenous enterprises across the State.

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**Recommendation 25**

That the NSW Government develop alternative pathways for Aboriginal enterprises and local Aboriginal land councils to access funding sources.

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## Chapter 4 Leveraging economic opportunities from land and water

There is a significant advantage for Aboriginal communities in New South Wales to leverage their land and water into economic opportunities. As previously discussed, Indigenous people have a deep and enduring connection to place—both land and water—and it is fitting that, if they so choose, they can use this as a springboard to support economic development in their communities.

This chapter considers options to ensure that the economic prosperity and development opportunities envisaged by the returning of land to Aboriginal communities under the *Aboriginal Land Rights Act 1983* are realised. The chapter addresses concerns about land claims, the relationship between native title and land claims, and the proposal for joint ventures between local Aboriginal land councils and local councils. It also discusses leveraging water for economic advantage.

### Land claims under the *Aboriginal Land Rights Act 1983*

- 4.1 Pursuant to the *Aboriginal Land Rights Act 1983*, the NSWALC and local Aboriginal land councils may make claim(s) to claimable Crown land. Land claims are lodged with the Registrar of the *Aboriginal Land Rights Act 1983* and referred to the Minister for Crown Lands for investigation and determination. The land claim is either granted or refused. Granted land is transferred to the land council in freehold or limited title and ceases to be the property of the Crown.<sup>284</sup>
- 4.2 The discussion paper noted that, where appropriate, the system of land ownership for Aboriginal communities in New South Wales could be used to leverage significant economic opportunities.<sup>285</sup> This view was expressed by Ms Anne Dennis, Deputy Chairperson of the New South Wales Aboriginal Land Council (NSWALC), who asserted that land, with oversight from the NSWALC, could provide an economic base for Aboriginal people:

We need to start to look at how we build an economic base for Aboriginal people where Aboriginal people are in control and making decisions around what is best for their future. The mechanism to me is already here with the New South Wales Aboriginal Land Council around land claims. It allows us to facilitate through economic development and planning laws and there is an accountability. It allows for Aboriginal people to have a voice.<sup>286</sup>

<sup>284</sup> Standing Committee on State Development, NSW Legislative Council, *Discussion Paper: Economic development in Aboriginal communities* (2016), 65-66.

<sup>285</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p viii.

<sup>286</sup> Evidence, Ms Anne Dennis, Deputy Chairperson, NSWALC, 18 August 2016, p 8.

## Concerns about land claims under the *Aboriginal Land Rights Act 1983*

- 4.3 The key concerns identified by stakeholders regarding land claims under the *Aboriginal Land Rights Act 1983* are:
- the significant backlog and delay in the determination of claims
  - economic development opportunities are being impacted by the transfer of land with limited title
  - the transfer of land with particular zonings, limits how land can be used<sup>287</sup>
  - the lack of recognition of land claims in the Crown lands legislation.<sup>288</sup>
- 4.4 Ms Dennis summarised the issues ‘The legislation was supposed to be simple, inexpensive and give Aboriginal people the right to claim land, yet 28,000 land claims are still sitting in the system.’<sup>289</sup> Ms Dennis also identified other complexities within the land claims system including the interaction of *Aboriginal Land Rights Act 1983* with other legislation concerning local government, Crown lands, and culture and heritage.<sup>290</sup>
- 4.5 Inquiry participants encouraged the NSW Government to make the land claims system more user-friendly to assist Aboriginal communities to better leverage land for economic opportunity.<sup>291</sup> Mr Warren Mundine AO, Chair of the Prime Minister’s Indigenous Advisory Council, encouraged the government to ‘lift the shackles on Indigenous assets’—that is, remove unnecessary and burdensome regulations:

... the Government must lift the shackles on Indigenous assets. We looked at a number of assets across Australia that are controlled by Indigenous people. Something like 22 per cent of Australia’s land mass is owned by Indigenous people, yet there are all these shackles—all these regulatory issues—that they have to deal with. That makes it impossible to do things.<sup>292</sup>

### Delay and backlog in assessing land claims

- 4.6 The discussion paper highlighted the concerns of stakeholders that the significant backlog and delay in the determination of land claims under the *Aboriginal Land Rights Act 1983* unduly affects the economic prosperity in Aboriginal communities.<sup>293</sup> These concerns were reiterated in certain responses to the discussion paper. Nambucca Shire Council observed that as land is a key asset for development, the reported backlog is a significant barrier to economic

<sup>287</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 67.

<sup>288</sup> See for example, Evidence, Ms Dennis, 18 August 2016, p 29; Evidence, Mr Sean Gordon, Chief Executive Officer, Darkinjung Local Aboriginal Land Council, 18 August 2016, p 19.

<sup>289</sup> Evidence, Ms Dennis, 18 August 2016, p 21.

<sup>290</sup> Evidence, Ms Dennis, 18 August 2016, p 5.

<sup>291</sup> Evidence, Ms Dennis, 18 August 2016, p 30.

<sup>292</sup> Evidence, Warren Mundine AO, Chair, Prime Minister’s Indigenous Advisory Council, 18 August 2016, p 7.

<sup>293</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, pp 67-68.

development in Aboriginal communities.<sup>294</sup> The council added ‘And importantly, it is within the control of the NSW Government to expedite these claims.’<sup>295</sup>

**4.7** The NSW Government acknowledged that the determination of a land claim requires complex investigations to ascertain whether the statutory criteria under the Act have been established. In response to the Inquiry into Crown land, the Minister for Primary Industry, and Minister for Lands and Water, the Hon Niall Blair MLC, advised that ‘Currently all land claims have to be individually assessed by the Minister for Lands and Water as to whether they meet specific statutory criteria relating to the use and purpose as at the date of the lodgement of the claim.’<sup>296</sup> Additionally, it was noted that there is no discretion to take into account the government’s current intentions for that land, nor the strategic aims of the Aboriginal land council network.<sup>297</sup>

**4.8** Indeed, the Minister stated that ‘[t]he current process for determining Aboriginal land claims under the *Aboriginal Land Rights Act* is lengthy and costly.’<sup>298</sup>

**4.9** The committee heard the government is working to improve its processes and systems.<sup>299</sup> Mr Jason Brouff, Manager of Aboriginal Land Claims, Aboriginal Lands Unit, Crown Lands at the Department of Industry-Land, reiterated the Minister’s statement that the primary challenge is that there is very little discretion available when investigating a land claim:

I suppose the challenge for us is that it is a statutory requirement and very little discretion is applicable. It is sometimes hard and occasionally you will get an outcome that probably is not the best for the land council but we are restricted by the legislation and how we can apply it. And the courts have fortunately provided some clear guidance and case law about how we apply and interpret things as well too.<sup>300</sup>

**4.10** Mr Brouff said that the process was further complicated by the need to consult with other agencies.<sup>301</sup>

**4.11** The committee heard that the Department of Industry–Land uses a chronological approach to processing claims and is currently determining the oldest 1,000 claims.<sup>302</sup> However, inquiry participants were eager to develop a system that would allow the prioritisation of certain land claims. For example, the Registrar stated that the government and the land council network needed to take a proactive approach to prioritising claims:

There is also need for a continued focus on identifying undetermined land claims that are a priority for both the NSW Government and Aboriginal Land Councils, and

<sup>294</sup> Discussion paper response – Submission 39, Nambucca Shire Council, p 2.

<sup>295</sup> Discussion paper response – Submission 39, Nambucca Shire Council, p 2.

<sup>296</sup> Evidence, Hon Niall Blair MLC, Minister for Primary Industries, Minister for Lands and Waters, 29 July 2016, p 35 (Inquiry into Crown land).

<sup>297</sup> Submission 128, NSW Government, p 12 (Inquiry into Crown land).

<sup>298</sup> Evidence, Hon Niall Blair MLC, 29 July 2016, p 34 (Inquiry into Crown land).

<sup>299</sup> Evidence, Mr Jason Brouff, Manager of Aboriginal Land Claims, Aboriginal Lands Unit, Crown Lands at the Department of Industry–Land, 18 August 2016, p 27.

<sup>300</sup> Evidence, Mr Brouff, 18 August 2016, p 27.

<sup>301</sup> Evidence, Mr Brouff, 18 August 2016, p 27.

<sup>302</sup> Evidence, Mr Brouff, 18 August 2016, p 27.

attending to the determination of these claims. I suggest a proactive approach to identifying determination priorities will greatly reduce tensions in the land claims process.<sup>303</sup>

**4.12** Likewise, it was proposed that the NSW Government ‘Prioritise the resolution of land claims under the ALRA [*Aboriginal Land Right Act 1983*], including clarification of the processes and protocols for the negotiated settlement of claims as defined in the 2014 amendments to create voluntary Aboriginal Land Agreements.’<sup>304</sup>

**4.13** Mr Brouff observed that prioritising claims would be difficult ‘One of the other challenges for us obviously with so many undetermined lands claims is where do you start? Which one do you determine at the end of the day?’<sup>305</sup> He advised that the department collaborates with other agencies, government bodies, the NSWALC and local Aboriginal land councils to prioritise claims on case-by-case basis:

There are times where agencies and other government bodies seek prioritisation of land claims, which we do. We have a regular meeting with the NSW Aboriginal Land Council Land rights unit. We certainly encourage if any land council has specific land claims they are interested in prioritising for assessment that they raise it with us. We certainly would be more than happy to prioritise it because it makes sense for us to be working on things that will provide some benefit factor to land councils.<sup>306</sup>

**4.14** There was a suggestion that the NSW Government provide additional resources to the land claims division of Crown Lands to address the backlog of claims and the surveying of land.<sup>307</sup>

**4.15** The discussion paper highlighted the concerns of inquiry participants that there was a backlog in the transfer of approved land claims, that is, claims where a determination had already been made but where the deed had not been transferred.<sup>308</sup> The Law Society of New South Wales advocated that the NSW Government ensure that all ‘claimable Crown land’ be transferred promptly.<sup>309</sup>

### ***Aboriginal Land Agreements***

**4.16** As noted in the discussion paper, the *Aboriginal Land Rights Act 1983* was amended in 2014 to allow the government and local Aboriginal land councils to enter into Aboriginal Land

<sup>303</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 7.

<sup>304</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 67 quoting Submission 30, The Greens, p 4.

<sup>305</sup> Evidence, Mr Brouff, 18 August 2016, p 27.

<sup>306</sup> Evidence, Mr Brouff, 18 August 2016, p 27.

<sup>307</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 67 quoting Submission 30, The Greens, p 4.

<sup>308</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 67.

<sup>309</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 68 quoting Submission 13, The Law Society of NSW, p 8.

Agreements (ALAs).<sup>310</sup> The amendments came into force on 1 July 2015. The Minister explained how ALAs operate:

ALAs are negotiated agreements which allow for the strategic settlement of multiple land claims. ALAs also provide for a broad set of issues, including alternative or additional outcomes to the transfer of Crown land to be considered and agreed to in these settlements.<sup>311</sup>

**4.17** In August 2016 the Minister advised of the numerous advantages of ALAs:

... ALAs have been designed to speed up the processing of outstanding New South Wales land claims by encouraging the simultaneous settlement of multiple claims; allow parties to agree on a range of alternative additional outcomes to the transfer of Crown land with freehold title; integrate opportunities for sustainable social, cultural and economic benefits for Aboriginal people with the settlement of land claims; and provide greater certainty to all parties over Crown land.<sup>312</sup>

**4.18** Further, the Minister advised that a framework had been implemented to ensure negotiations concerning ALAs are fair, voluntary and likely to succeed.<sup>313</sup>

**4.19** There is currently one ALA being negotiated at Eden on the far South Coast of New South Wales involving the Eden Local Aboriginal Land Council and the NSWALC.<sup>314</sup>

**4.20** Certain inquiry participants encouraged the use of ALAs. For example, the Registrar said he would 'urge' the government and the land council network to use ALAs to the fullest extent.<sup>315</sup>

### *Committee comment*

**4.21** The committee acknowledges the economic potential of land owned by local Aboriginal land councils. We are disappointed that this opportunity is being dampened by the significant backlog in the determination of land claims. The *Aboriginal Land Right Act 1983* envisaged that the land claims process would ensure the development and prosperity of Indigenous communities, and at this point in time, this potential is not being realised.

**4.22** The committee notes the important role that ALAs can play in addressing the backlog of claims. ALAs are relatively new and compliment the land claim system. Significantly, the process can simultaneously address multiple claims and encourages negotiations between the local Aboriginal land council network and the NSW Government to settle claims. We recommend that the Department of Industry–Land promote the use of the Aboriginal Land Agreement system to encourage local Aboriginal land councils to engage with this process. In addition, the committee recommends that the NSW Government provide

<sup>310</sup> *Aboriginal Land Rights Act 1983*, s 36AA.

<sup>311</sup> Evidence, Hon Niall Blair MLC, 29 July 2016, p 35 (Inquiry into Crown land).

<sup>312</sup> *LC Hansard*, Hon Niall Blair MLC, Minister for Primary Industries, Minister for Lands and Water, 23 August 2016, p 20.

<sup>313</sup> *LC Hansard*, Hon Niall Blair MLC, Minister for Primary Industries, Minister for Lands and Water, 23 August 2016, p 20.

<sup>314</sup> Evidence, Hon Niall Blair MLC, 29 July 2016, p 35 (Inquiry into Crown land).

<sup>315</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 7.

resources for preparation and negotiation, for a period of five years, to ensure the best outcomes for Indigenous participants.

- 4.23** We contend that the land claims process must be further reformed to consider opportunities to prioritise ALAs on sites with significant potential for economic development. The committee recognises the good work and dedication of the staff at the Department of Primary Industry-Lands. However, its chronological approach to assessing land claims is clearly inadequate and exacerbated by the highly prescriptive provisions regarding the settlement of claims in the *Aboriginal Land Rights Act 1983*. The committee recommends that the NSW Government amend the processing system for land claims and ALAs to allow the prioritisation of sites with significant potential for economic development.
- 4.24** Further, we recommend that the NSW Government allocate additional resources, for at least five years, to reduce the backlog of claims, and allow private solicitors to prepare and submit land claim applications to the Department of Industry-Land. We also see value in enhancing the coordination and collaboration between agencies involved in the land claims system, and recommend that the NSW Government establish a ‘one-stop-shop’ that includes representatives from the appropriate agencies to facilitate the claims process.

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**Recommendation 26**

That the Department of Industry-Lands promote the use of the Aboriginal Land Agreement process to encourage local Aboriginal land councils to engage with this process.

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**Recommendation 27**

That the NSW Government provide resources for preparation and negotiation, for a period of five years, to ensure the best outcomes for Indigenous participants in the Aboriginal Land Agreements process.

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**Recommendation 28**

That the NSW Government amend the processing system for Aboriginal land claims and Aboriginal Land Agreements to allow the prioritisation of sites with significant potential for economic development.

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**Recommendation 29**

That the NSW Government allocate additional resources, for at least five years, to reduce the backlog of Aboriginal land claims, and allow private solicitors to prepare and submit land claim applications to the Department of Industry-Lands.

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### Recommendation 30

That the NSW Government establish a ‘one-stop-shop’ that includes representatives from the appropriate agencies to facilitate the Aboriginal land claims and Aboriginal Land Agreement processes.

### Issuing of land with limited title

- 4.25** The discussion paper explored the concerns of stakeholders about land claims being granted with limited, as opposed to freehold title, and the suggestion that this impacts negatively on the capacity of local Aboriginal land councils to utilise the land for economic opportunity and development. These concerns were reflected in some responses to the discussion paper.<sup>316</sup>
- 4.26** Certain inquiry participants were concerned that transferring claims with limited tile does not align with the objectives of the *Aboriginal Land Rights Act 1983*. The Registrar stated that, in his view, the *Aboriginal Land Rights Act 1983* requires all land claims should be granted and transferred with unqualified title.<sup>317</sup> This argument was reflected by the NSWALC ‘NSWALC reiterates that transferring land with limited title is contrary to the statutory intention of the ALRA ...’<sup>318</sup>
- 4.27** It was noted that in some cases, issuing of land with limited title was a significant concern as it imposed substantial costs on land councils for additional surveying work to be performed prior to the land being developed, sold or otherwise dealt with.<sup>319</sup> During evidence to the committee, Ms Dennis restated concerns about the limited resources land councils have to negotiate local government and planning laws when a land claim is approved with limited title.<sup>320</sup> Further, the NSWALC stated transferring land with limited title ‘... results in cost-shifting a responsibility of the State Government to LALCs which are already resource and capacity strained.’<sup>321</sup>
- 4.28** The NSWALC was also concerned that transferring land with limited title places local Aboriginal land councils at a disadvantage should they choose to enter into a joint venture.<sup>322</sup>
- 4.29** A discussion paper commissioned by Darkinjung Local Aboriginal Land Council argued that limited title grants may benefit local Aboriginal land councils and Crown lands in certain circumstances.<sup>323</sup> The Registrar responded to the issues raised in Darkinjung’s discussion

<sup>316</sup> See for example, Discussion paper response – Submission 39, Nambucca Shire Council, p 2.

<sup>317</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 7.

<sup>318</sup> Discussion paper response – Submission 43, NSWALC, pp 12-13.

<sup>319</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 69.

<sup>320</sup> Evidence, Ms Dennis, 18 August 2016, p 8.

<sup>321</sup> Discussion paper response – Submission 43, NSWALC, pp 12-13.

<sup>322</sup> Discussion paper response– Submission 43, NSWALC, pp 12-13.

<sup>323</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 69 quoting Tabled document, *Discussion Paper – The New South Wales Aboriginal Land Claim Process*, pp 19-20.

paper, stating that a local Aboriginal land council may be satisfied with limited title.<sup>324</sup> However, he argued that this must be a matter of ‘explicit consent’ when the land is granted, as limited title will burden the local Aboriginal land council should they wish to deal in the land.<sup>325</sup>

**4.30** The NSWALC said that it did not wish to ‘normalise’ the transfer of land with limited title.<sup>326</sup>

***Committee comment***

**4.31** The committee acknowledges that transferring land with limited title may place unfair strain on the resources and capacity of the land council network where the local Aboriginal land councils are required to fund surveying work on land that may developed or sold in order to potentially realise economic opportunities. However, limited title may be appropriate in some circumstances with the consent of the relevant land council particularly where the primary use of the land is not likely to be for development. We recommend that the NSW Government should explore these issues further with land council representatives with the aim of processing land claims expeditiously.

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**Recommendation 31**

That the NSW Government explore issues of limited title with land council representatives with the aim of processing land claims expeditiously.

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**Zoning of land**

**4.32** The discussion paper highlighted stakeholders’ concern that when land granted under *Aboriginal Land Rights Act 1983* is zoned for conservation use or environmental protection it can significantly affect a land council’s capacity to utilise the land for economic development.<sup>327</sup> Mr Sean Gordon, Chief Executive Officer of the Darkinjung Local Aboriginal Land Council, admonished the state’s planning framework for not adequately addressing the aspirations of the *Aboriginal Land Rights Act 1983*:

... planning policy, planning legislation, just does not build in the *Aboriginal Land Rights Act* and the purposes it was set up for. The Office of Environment and Heritage policies, native vegetation policies—it absolutely frustrates me that as an Aboriginal land council trying to undertake economic development in our community, the one thing that pulls us up is a powerful owl or the native vegetation Act.<sup>328</sup>

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<sup>324</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 7.

<sup>325</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 7.

<sup>326</sup> Discussion paper response – Submission 43, NSWALC, pp 12-13.

<sup>327</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 72.

<sup>328</sup> Evidence, Mr Gordon, 18 August 2016, p 20.

**4.33** The NSWALC raised similar concerns submitting that ‘... planning processes need to be improved in order to facilitate both the objectives of the ALRA and the economic development of LALCs as well as local and regional economies.’<sup>329</sup>

**4.34** Certain inquiry participants suggested that local Aboriginal land councils do not have the capacity to deal with planning issues. For example, Mr Gordon expressed concern that most local Aboriginal land councils were not adequately resourced to challenge zoning issues:

Our land councils are so busy just trying day-to-day to provide a service to the community that we are not resourced and we are not in a position that we can continually respond to growth plans, regional plans, strategies, conservation corridors and so on.<sup>330</sup>

**4.35** Likewise, Ms Dennis said that despite the *Aboriginal Land Rights Act 1983* being established to compensate Indigenous people for the dispossession of their land, land councils do not have the capacity to contest planning policies and procedures.<sup>331</sup>

**4.36** Another issue that concerned Mr Gordon was that Aboriginal Impact Statements for major developments only consider impacts on culture and heritage and neglect consequences for economic development.<sup>332</sup>

**4.37** The Registrar described zoning issues as arising from ‘ignorance’ concerning the provisions under the *Aboriginal Land Rights Act 1983* rather than ‘malevolence’ on the part of planning consent authorities.<sup>333</sup>

**4.38** The committee received a number of proposals to overcome zoning issues. Mr Gordon advocated that Aboriginal people should be able to determine the environmental attributes of claimed land:

We should be able to determine what they [environmental attributes] are based on, what the Land Rights Act was set up for. It was set up to give Aboriginal people land back for dispossession and to build an economic base.<sup>334</sup>

**4.39** However, Professor Paul Martin, A/Head of the Law School, University of New England, stated that research suggests there would be significant issues with this proposal:

... unless the granting of land or land management rights is accompanied by a plan to ensure that the land steward has sufficient resources to do what is required of them the outcome is likely to be both environmentally and socially counterproductive.<sup>335</sup>

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<sup>329</sup> Discussion paper response – Submission 43, NSWALC, pp 13-14.

<sup>330</sup> Evidence, Mr Gordon, 18 August 2016, p 25.

<sup>331</sup> Evidence, Ms Dennis, 18 August 2016, p 25.

<sup>332</sup> Evidence, Mr Gordon, 18 August 2016, p 24.

<sup>333</sup> Evidence, Mr Stephen Wright, Registrar, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), 18 August 2016, p 28.

<sup>334</sup> Evidence, Mr Gordon, 18 August 2016, p 25.

<sup>335</sup> Discussion paper response – Submission 47, Professor Paul Martin, p 1.

**4.40** The NSWALC proposed a raft of changes to planning law, policy, regulation and administration, and capacity building and education opportunities to facilitate economic development from local Aboriginal land council landholdings:

Central to addressing these issues is taking a multi-pronged approach which recognise the entrenched nature of these barriers. This involves:

- Law, policy and regulation changes: Amending planning processes to ensure that local government and planning authorities take into account the statutory functions of LALCs and the presence of land claims when planning instruments are being drafted;
- Administrative and technical changes: Ensuring that planners and local government are able to access up-to-date information regarding determined and pending land claims for the purpose of drafting planning instruments;
- Capacity-building and education: To improve the awareness and understanding of local government and planning authorities regarding the ALRA and the statutory responsibilities of LALCs, as well as the capacity of LALCs to engage in planning processes.<sup>336</sup>

**4.41** The NSW Government advised that it is addressing zoning concerns. Ms Alison Frame, Deputy Secretary of Policy and Strategy at the Department of Planning and Environment, told the committee that the department is progressing various activities that may alter how the planning system responds to Aboriginal land issues including:

- changing regional planning process to include consultation with local Aboriginal land councils and Aboriginal groups in the formation of regional plans, and new requirements concerning local environmental plans
- developing a solutions brokerage project focused on Aboriginal community lands and infrastructure
- developing capacity building activities to encourage Aboriginal individuals and organisations to have a better understanding of the state's planning system including working with the University of Sydney to customise its Planning for Non-Planners course, potential cadetship positions and mentoring opportunities.<sup>337</sup>

**4.42** The government also stated that it is committed to reforming the regulations for Aboriginal cultural heritage and is creating a system that enables Aboriginal cultural heritage to be considered upfront in land-use planning and development processes.<sup>338</sup> The government noted it is drafting stand-alone legislation for heritage protection and development approvals.<sup>339</sup>

**4.43** Mr Gordon encouraged the Department of Planning and Environment to engage with local Aboriginal land councils from the outset of projects:

<sup>336</sup> Discussion paper response – Submission 43, NSWALC, pp 13-14.

<sup>337</sup> Evidence, Ms Alison Frame, Deputy Secretary, Policy and Strategy, Department of Planning and Environment, 18 August 2016, p 22.

<sup>338</sup> Answers to questions on notice, NSW Department of Planning, 10 May 2016, p 1 (Inquiry into regional planning processes).

<sup>339</sup> Answers to questions on notice, NSW Department of Planning, 10 May 2016, p 1 (Inquiry into regional planning processes).

... there is the concept of doing things for us and not doing things with us, bringing the group together in regards to a pilot and talking about opportunities with land councils and opportunities on land, but not engaging with land councils and those bodies that own the land.<sup>340</sup>

**4.44** Mr Gordon emphasised the need to include land owners—local Aboriginal land councils—in consultation rather than the NSWALC.<sup>341</sup>

**4.45** The discussion paper canvassed the proposal of inquiry participants that a specific State Environmental Planning Policy (SEPP) be developed for Aboriginal land council land.<sup>342</sup> Stakeholders had a mixed response to the potential development of an Aboriginal SEPP. For example, the Registrar viewed an Aboriginal SEPP as critical saying:

Putting the interests of Aboriginal land councils in land, either by way of holdings or land claims, foremost in the minds of NSW Government and local planning authorities will greatly improve the NSW land use planning system.<sup>343</sup>

**4.46** The NSWALC stated that a SEPP could be useful in certain circumstances.<sup>344</sup> However, the NSWALC argued that funding initiatives to improve land councils' understanding of planning processes was preferable:

... we see improved consultation with and communication between LALCs, local councils and planning authorities as central to addressing these issues. The foundation of this work will involve targeted and long-term investment in LALCs to assist in building capacity to engage in complex planning processes. Building capacity of local councils and planning authorities in understanding the context within which LALCs operate (in terms of their statutory responsibilities and cultural and social motivators) and ensuring local councils are equipped to support LALCs.<sup>345</sup>

**4.47** Mr Gordon suggested that there were certain amendments to existing legislation that could benefit Aboriginal land owners if developing an Aboriginal SEPP is too difficult:

A major review of existing policies to support Aboriginal development—we have looked at the development of an Aboriginal SEPP. If an Aboriginal SEPP is too difficult there are minor amendments that you can make to seven pieces of legislation that already exist—seven pieces of policy that already exist—that would give you the same benefits an Aboriginal SEPP would give. But all of those policies, again, need to build in the purpose of the *Aboriginal Land Rights Act* to allow for those things to flow.<sup>346</sup>

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<sup>340</sup> Evidence, Mr Gordon, 18 August 2016, p 23.

<sup>341</sup> Evidence, Mr Gordon, 18 August 2016, p 23.

<sup>342</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 75.

<sup>343</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 7.

<sup>344</sup> Discussion paper response – Submission 43, NSWALC, p 14.

<sup>345</sup> Discussion paper response – Submission 43, NSWALC, p 14.

<sup>346</sup> Evidence, Mr Gordon, 18 August 2016, p 20.

*Committee comment*

- 4.48** The committee acknowledges the concerns about the zoning of land granted under the *Aboriginal Land Rights Act 1983*. We believe that zoning restrictions unduly impact the strained resources of local Aboriginal land councils, hamper economic development opportunities and fail to adequately address the aspirations of the *Aboriginal Land Rights Act 1983*.
- 4.49** The committee is unwilling to support the proposal that all claimed land be returned with no zoning restrictions as the Crown estate is too large and varied for such an all-encompassing directive. Nor, do we consider an Aboriginal SEPP to be the most appropriate option to address planning concerns. Rather, we see significant merit in the NSWALC proposal for capacity building initiatives to educate local councils, planning authorities, and Aboriginal land owners about the *Aboriginal Land Rights Act 1983* and planning processes.
- 4.50** In addition, we recommend that the Department of Planning and Environment continue to:
- amend the regional planning processes to include consultation with local Aboriginal land councils and Aboriginal groups in the formation of regional plans, and establish new requirements concerning local environmental plans
  - develop a solutions brokerage project focusing on Aboriginal community lands and infrastructure, and
  - develop capacity building activities to encourage Aboriginal individuals and organisations to have a better understanding of the state's planning system including working with the University of Sydney to customise its Planning for Non-Planners course, potential cadetship positions and mentoring opportunities.
- 4.51** Further, we believe there is greater scope for capacity building initiatives and recommend that the NSW Government use the advisory board on Aboriginal economic development to develop and implement workshops for Aboriginal individuals and organisations that explain how to leverage land and water as an economic asset, and the impact of key planning legislation on this process.
- 4.52** The committee believes that there should be a review of planning legislation to ensure it properly addresses the aspirations of the *Aboriginal Land Rights Act 1983*. Amongst other considerations, the review should consider amending planning processes to ensure that local government and planning authorities take into account the statutory functions of local Aboriginal land councils and the presence of land claims when planning instruments are being drafted. The committee recommends that the Department of Planning and Environment review planning legislation to better accommodate the aspirations envisaged in the *Aboriginal Land Rights Act 1983*.

**Recommendation 32**

That the Department of Planning and Environment continue to:

- amend the regional planning processes to include consultation with local Aboriginal land councils and Aboriginal groups in the formation of regional plans, and establish new requirements concerning local environmental plans
- develop a solutions brokerage project focusing on Aboriginal community lands and infrastructure
- develop capacity building activities to encourage Aboriginal individuals and organisations to have a better understanding of the state's planning system including working with the University of Sydney to customise its Planning for Non-Planners course, potential cadetship positions and mentoring opportunities.

**Recommendation 33**

That the NSW Government use the advisory board on Aboriginal economic development to develop and implement workshops for Aboriginal individuals and organisations that explain how to leverage land and water as an economic asset, and the impact of key planning legislation on this process.

**Recommendation 34**

That the Department of Planning and Environment review planning legislation to better accommodate the aspirations envisaged in the *Aboriginal Land Rights Act 1983*.

***Crown land legislation and the Aboriginal Land Rights Act***

- 4.53** The Crown land estate in New South Wales is principally governed by the *Crown Lands Act 1989*. However, as Mr David Clarke, Group Director Governance and Strategy at the Department of Industry–Lands, advised ‘There is a very strong nexus between Crown lands and the *Aboriginal Land Rights Act 1983*, through the land rights mechanism.’<sup>347</sup>
- 4.54** The Department of Primary Industry–Lands released the Crown Lands Legislation White Paper in 2014. Amongst other proposals, the paper canvassed opinions concerning the development of new Crown land legislation.<sup>348</sup> The NSW Government advised that the new *Crown Lands Management Act* promoted Aboriginal involvement in Crown land:

The proposed objects of the new *Crown Lands Management Act* will provide for Aboriginal use and co-management of Crown reserves, embedding Aboriginal involvement in the management of Crown land. In addition, under the new legislation

<sup>347</sup> Evidence, Mr David Clarke, Group Director Governance and Strategy, Department of Industry–Lands, 18 August 2016, p 20.

<sup>348</sup> Department of Primary Industry–Land, Crown Lands Legislation White Paper, accessed 29 August 2016, [http://www.crownland.nsw.gov.au/crown\\_land/comprehensive\\_review\\_of\\_nsw\\_crown\\_land\\_management/crown\\_land\\_legislation\\_white\\_paper](http://www.crownland.nsw.gov.au/crown_land/comprehensive_review_of_nsw_crown_land_management/crown_land_legislation_white_paper).

it will be possible for Aboriginal groups such as Aboriginal Land Councils to be appointed as managers of Crown reserves.<sup>349</sup>

**4.55** Significantly, Mr Clarke acknowledged that under proposed amendments to the Crown lands legislation, if land is transferred by agreement from the Crown estate to local councils, the land will cease to be claimable land for the purposes of section 36 of the *Aboriginal Land Rights Act 1983*.<sup>350</sup> Mr Clarke added ‘However, much of Crown land has existing land claims on it and the State is unable to transfer that land until that land claim is determined.’<sup>351</sup>

**4.56** Mr Clarke explained that negotiations concerning the transfer of Crown land to local councils would include the NSWALC and local Aboriginal land councils:

The proposal is that local Aboriginal land councils and New South Wales Aboriginal land councils are involved in those discussions and negotiations with the State and with local councils about any transfer, and that implies that those Aboriginal land councils firstly have the ability or requirement or power to agree to any transfers and also to put forward the outcomes that they would like through those negotiations to come to the question about the provision of information to those Aboriginal land councils.<sup>352</sup>

**4.57** Mr Clarke said that the Department of Industry–Lands is working to ensure the local Aboriginal land council network have full visibility of Crown land in their area to allow them to make an ‘informed assessment’ about potential land claims on Crown land:

We understand that is an issue and we are working through a process to enable information to be provided to those local Aboriginal land councils so they have full visibility of Crown land in their area and then they can make an informed assessment and do their own planning in their community to determine which Crown land is of importance to them, which Crown land might be of interest to a local council and, thirdly and importantly, which Crown land is still important to the State.<sup>353</sup>

**4.58** Mr Clarke highlighted the voluntary nature of these negotiations and said that land will not be transferred if an agreement cannot be reached.<sup>354</sup>

**4.59** Inquiry participants were concerned that the Crown land legislation does not reference the *Aboriginal Land Rights Act 1983*.<sup>355</sup> For example, Ms Dennis stated:

... there is no mention of the *Aboriginal Land Rights Act* in the Crown lands legislation. It needs to go in there; it needs to be a part of it. If we are excluded from the Crown lands review then we will continue to be having this discussion in the next 20 years.<sup>356</sup>

<sup>349</sup> Submission 128, NSW Government, p 13 (Inquiry into Crown land).

<sup>350</sup> Evidence, Mr David Clarke, Group Director Governance and Strategy, Department of Industry–Lands, 29 July 2016, p 42 (Inquiry into Crown land).

<sup>351</sup> Evidence, Mr Clarke, 29 July 2016, p 42 (Inquiry into Crown land).

<sup>352</sup> Evidence, Mr Clarke, 29 July 2016, p 42 (Inquiry into Crown land).

<sup>353</sup> Evidence, Mr Clarke, 29 July 2016, p 42 (Inquiry into Crown land).

<sup>354</sup> Evidence, Mr Clarke, 29 July 2016, p 42 (Inquiry into Crown land).

<sup>355</sup> See for example, Evidence, Ms Dennis, 18 August 2016, p 29; Evidence, Mr Gordon, 18 August 2016, p 19.

<sup>356</sup> Evidence, Ms Dennis, 18 August 2016, p 29.



- 4.60 Mr Gordon argued that failing to recognise the *Aboriginal Land Rights Act 1983* in the Crown lands legislation exemplified the government's approach to 'bolting on' Indigenous policies rather than incorporating them into existing policies which is detrimental to the empowerment of Aboriginal communities:

Unfortunately, Aboriginal policies are bolted on. They are not built into existing policies. I can give you examples of that. There is nothing that reflects the New South Wales *Aboriginal Land Rights Act* in the Crown lands legislation. So there is a disconnect immediately, and a competing interest. The New South Wales Aboriginal Land Rights Act should be recognised at the very front of the Crown lands Act. It should say, "Here is a piece of legislation that has been implemented to empower Aboriginal people to build an economic base and to move their people forward." The one vehicle that we are able to claim land from does not recognise that piece of legislation as being critical to how we move forward.<sup>357</sup>

- 4.61 The Registrar encouraged the NSW Government to more broadly re-consider its approach to Crown lands and the land claims system.<sup>358</sup>

- 4.62 The Minister advised that the objects of the new Crown land legislation will recognise Aboriginal people and their association with Crown land, and read:

To provide for the ownership, use and management of Crown land in NSW so as:

...

d) To facilitate the use of Crown land by the Aboriginal people of NSW and, where appropriate, to enable the co-management of dedicated or reserved Crown land.<sup>359</sup>

- 4.63 However, the Minister noted that 'A number of submissions suggested the objects should make stronger statements about the protection of Aboriginal interests.'<sup>360</sup>

#### ***Committee comment***

- 4.64 The committee notes concerns about the interaction of Crown land legislation and the *Aboriginal Land Rights Act 1983*. It seems counterintuitive to the aspirations of the *Aboriginal Land Rights Act 1983* not to recognise and promote its provisions in Crown land legislation. The committee notes that the objects of the new Crown land legislation will recognise Aboriginal people and facilitate their connection to Crown land. However, we encourage the government to consider strengthening this statement.

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<sup>357</sup> Evidence, Mr Gordon, 18 August 2016, p 19.

<sup>358</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 7.

<sup>359</sup> Answers to questions on notice, Hon Niall Blair MLC, Minister for Primary Industries, Minister for Lands and Water, New Crown Lands Legislation overview, received 23 August 2016, p 3 (Inquiry into Crown land).

<sup>360</sup> Answers to questions on notice, Hon Niall Blair, Minister for Primary Industries, Minister for Lands and Water, New Crown Lands Legislation overview, received 23 August 2016, p 3 (Inquiry into Crown land).

- 4.65** The committee expects that any negotiation and agreement to transfer Crown land to local councils include representatives from the local Aboriginal land council network. During the inquiry the committee heard about the strained relationships between local Aboriginal land councils and local governments. The committee anticipates this frustration may be exacerbated during discussions about these matters and encourages the Department of Industry–Lands to ensure there is genuine and meaningful consultation. Clearly, land councils will need resources and support to engage thoroughly in all of these negotiations and to support timely outcomes. The committee would not like to see a repeat of the delays and backlog experienced in relation to land claims.

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### Recommendation 35

That the NSW Government provide resources to local Aboriginal land councils to support their participation in negotiations concerning the transfer of Crown land to local councils.

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## Native Title

- 4.66** The discussion paper summarised native title as:

... the recognition of pre-existing rights and interests of Aboriginal people and Torres Strait Islanders in relation to land and waters, and finds its source in a body of law and custom acknowledged and observed by the claimant's ancestors at European colonisation. There is a requirement that native title is acknowledged and observed in a '*substantially uninterrupted*' way from that time until the present.<sup>361</sup>

- 4.67** Native title applications are made to the Federal Court under the *Native Title Act 1993* (Cth). The court determines what native title rights and interests exist in an area. Further, native title exists alongside and is subject to the rights of other people in the same area, for example people holding leases, licences or a right of public access will continue to have those rights and native title must give way to people exercising those rights.<sup>362</sup>
- 4.68** There have been eight native title determinations in New South Wales, each taking 10-15 years to be concluded.<sup>363</sup> Ms Mishka Holt, Principal Solicitor at NTSCORP, observed that despite the small number of determinations, there has been 'a large number' of mining agreements, agreements with developers and Indigenous land use agreements.<sup>364</sup>
- 4.69** Registered Native Title Bodies Corporate, also known as Prescribed Bodies Corporate, act as a trustee and manage native title rights on behalf of traditional owners.<sup>365</sup> NTSCORP submitted that Prescribed Bodies Corporate require additional funding to assist their facilitation of engagement between native title owners and the planning system, particularly in relation to the

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<sup>361</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 66.

<sup>362</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 66.

<sup>363</sup> Evidence, Ms Holt, 18 August 2016, p 25.

<sup>364</sup> Evidence, Ms Holt, 18 August 2016, p 26.

<sup>365</sup> Discussion paper response - Submission 45, NTSCORP, p 8.

management of their natural resources.<sup>366</sup> Ms Holt said that unlike in other jurisdictions, the NSW Government does not provide funding to Prescribed Bodies Corporate:

... Prescribed Bodies Corporate Native Title currently receive no support funding from the State Government. In some other States they receive hundreds or thousands of dollars in support. That can be for both set up of those corporations and for their operation for their governance.<sup>367</sup>

**4.70** NTSCORP advised that are provisions under the *Native Title Act 1993* (Cth) for a native title holder to conduct future acts on a parcel of land:

Under Part 2 Division 3 of the NTA [Native Title Act], Traditional Owners who are registered native title claimants or determined to be native title holders are afforded a number of procedural rights in relation to ‘future acts’. A future act is a proposed act on land or waters that affects native title rights and interests.<sup>368</sup>

**4.71** Further, the procedural rights of a native title owner are dependent on the type of proposed future acts:

The type of procedural right which the native title claim group may exercise will vary, depending on the type of future act that is being proposed, but can include the right to be notified, the right to comment, the right to object, or the right to negotiate with the developer.<sup>369</sup>

**4.72** NTSCORP explained how the future acts regime can empower native title holders to harness economic opportunities from their land including the extraction of natural resources:

The future acts regime provides Traditional Owners with an ongoing voice in the future management of their land. This can and should facilitate the ongoing development and empowerment of Aboriginal Communities. Native title can provide a range of economic development opportunities that are unique to each community. Where traditional lands encompass resource extraction projects or mining ventures, native title groups may be able to generate economic opportunity from agreements, future acts and associated enterprise development opportunities.<sup>370</sup>

**4.73** Ms Holt suggested that there are two key opportunities for native title to provide economic development—engagement with development proponents and settlement of claims with the NSW Government:

... native title outcomes have the potential to provide economic development. There are probably two phases to that: one is engagement with proponents, a mining company or a developer where there might be a specific deal to be done in relation to being able to deal with the native title and get on with their development itself; and

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<sup>366</sup> Discussion paper response - Submission 45, NTSCORP, p 8. Also see Evidence, Ms Holt, 18 August 2016, p 25.

<sup>367</sup> Evidence, Ms Holt, 18 August 2016, p 26.

<sup>368</sup> Discussion paper response - Submission 45, NTSCORP, p 8.

<sup>369</sup> Discussion paper response - Submission 45, NTSCORP, p 8.

<sup>370</sup> Discussion paper response - Submission 45, NTSCORP, p 11 quoting Deloitte, *Review of the Roles and Functions of Native Title Organisations*, 2014, p 21.

the second is in relation to the settlement of native title claims with the State Government.<sup>371</sup>

**4.74** NTSCORP also remarked that native title groups may choose not to develop their land but instead undertake other income generating activities such as caring for country and cultural monitoring.<sup>372</sup>

**4.75** The committee received evidence about challenges native title groups can face in regards to leveraging economic opportunities from land. For example, Ms Holt remarked that it was a tragedy when a native title claim is successful but an Aboriginal community does not have the capacity to implement the agreement:

... one of the things that I think is a tragedy—is that in some cases an agreement has been successfully negotiated with a proponent and a community has not had the capacity to implement that agreement. So there are opportunities there that are going to waste and some of that has to do with capacity—for example, if a corporation does not have at least some seed funding to operate, even basic compliance can be an issue, or all of their available resources go to basic compliance but are not able to then turn to building capacity or leveraging opportunities or in fact ensuring that agreement provisions are enforced. I think that is really, really important.<sup>373</sup>

**4.76** The relationship between native title and land rights is complex. However, NTSCORP was adamant that native title and the land claims regime can co-exist:

In principle, land rights and native title rights and interests can successfully co-exist. Amendments to the ALRA [*Aboriginal Land Rights Act 1983*] in 1994 to make provision for the newly enacted NTA [*Native Title Act 1993* (Cth)] included the insertion of section 36(9) providing that transfer of lands to an Aboriginal Land Council under that section be for an estate in fee simple but shall be subject to any native title rights and interests existing in relation to the lands immediately before the transfer.<sup>374</sup>

**4.77** NTSCORP advocated that the NSW Government educate the community about how the regimes interact to ensure Aboriginal communities are able to leverage the most potential from both mechanisms.<sup>375</sup> Ms Hema Hariharan, Manager of Strategic Development at NTSCORP, also encouraged early engagement between the stakeholders and government departments to alleviate concerns that native title claims will negatively impact on economic development opportunities.<sup>376</sup>

**4.78** Finally, NTSCORP concluded that ‘Native title and land rights must be recognised as two independent but equally important and viable mechanisms to promote economic development

<sup>371</sup> Evidence, Ms Holt, 18 August 2016, p 23.

<sup>372</sup> Discussion paper response - Submission 45, NTSCORP, p 12.

<sup>373</sup> Evidence, Ms Holt, 18 August 2016, p 24.

<sup>374</sup> Discussion paper response - Submission 45, NTSCORP, p 4.

<sup>375</sup> Discussion paper response - Submission 45, NTSCORP, p 14.

<sup>376</sup> Evidence, Ms Hema Hariharan, Manager Strategic Development, NTSCORP, 18 August 2016, p 23.

opportunities in NSW.<sup>377</sup> NTSCORP suggested that failing to do so will ‘perpetuate and entrench’ economic disadvantage for Aboriginal communities.<sup>378</sup>

- 4.79** The discussion paper noted the time consuming processes associated with extinguishing native title that may apply on a successful land claim, should a land council want to ‘deal’ with the land. The Law Society on New South Wales proposed that the NSW Government liaise with the Commonwealth and the Federal Court to develop a procedure that would simplify and accelerate this process.<sup>379</sup>

### ***Committee comment***

- 4.80** The committee notes that significant economic potential can be leveraged from land subject to native title. However, it is critical land owners understand how to best use this opportunity to their benefit, and that Prescribed Bodies Corporate are adequately resourced to support this work. The committee encourages the NSW Government to recognise that native title and land rights as independent but equally important and viable mechanisms for promoting economic development for Indigenous communities. We recommend that the NSW Government develop and implement an awareness raising campaign targeting Aboriginal communities about their entitlements under the *Aboriginal Land Rights Act 1983* and the *Native Title Act 1998* (Cth). Further, to assist the work for NTSORP, the committee recommends that the NSW Government consider adequately funding Prescribed Bodies Corporate, as is the case in other states.

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### **Recommendation 36**

That the NSW Government develop and implement an awareness raising campaign targeting Aboriginal communities about their entitlements under the *Aboriginal Land Rights Act 1983* and the *Native Title Act 1998* (Cth).

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### **Recommendation 37**

That the NSW Government consider adequately funding Prescribed Bodies Corporate, as is the case in other states.

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### **Partnerships between local Aboriginal land councils and local councils**

- 4.81** The discussion paper noted the importance of the relationship between local Aboriginal land councils and local councils. Evidence presented during the inquiry suggested that strong, positive relationships between the two organisations can help enhance the prosperity of Aboriginal communities.

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<sup>377</sup> Discussion paper response - Submission 45, NTSCORP, p 3.

<sup>378</sup> Discussion paper response - Submission 45, NTSCORP, p 3.

<sup>379</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 66.

**4.82** However, there were some concerns about the interactions between local Aboriginal land councils and local government. Mr Gordon explained that Darkinjung struggles to effectively engage with local councils and was particularly concerned about competition between the two organisations for parcels of Crown land.<sup>380</sup>

**4.83** There was a suggestion during the inquiry that local Aboriginal land councils can draw on the expertise within local governments to realise the economic potential of their land. Shoalhaven Council proposed that local councils partner with land councils to develop projects such as community housing and land sales.<sup>381</sup> Shoalhaven Council observed that the proposal could be mutually beneficial:

Council can bring to a JV [joint venture] project management skills as well as expertise in construction, both civil and structural. A local Aboriginal land council can bring land and community requirements to the table. Both organisations can benefit by way of the facilitation of communal benefit, supportive profile, jobs and profitable outcomes.<sup>382</sup>

**4.84** The council further noted that these projects may potentially build capacity in Aboriginal communities through trade training and professional development opportunities.<sup>383</sup>

**4.85** Shoalhaven Council acknowledged there are significant complexities associated with the proposal and submitted that an independent registrar should be established to oversee any joint venture agreement.<sup>384</sup> Shoalhaven Council explained that a joint venture agreement should be accompanied by a detailed business plan which both parties must agree to before moving forward.<sup>385</sup> The council noted that legislation may need to be amended to enable joint venturing between local Aboriginal land councils and other parties such as local government, government agencies and private enterprises.<sup>386</sup>

**4.86** The discussion paper noted that the committee believed that Shoalhaven Council's suggestion has the potential to address capacity issues within local Aboriginal land councils and can be applied across the state. However, the NSWALC expressed some concern about the proposal:

LALCs are autonomous organisations who make decisions according to their membership and local contexts. In some circumstances, partnerships with local government may be appropriate and beneficial, whereas in others, they may not.<sup>387</sup>

**4.87** Despite this, the NSWALC agreed that there could be positive outcomes from an improved working relationship between local Aboriginal land councils and local government:

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<sup>380</sup> Evidence, Mr Gordon, 18 August 2016, p 20.

<sup>381</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 76.

<sup>382</sup> Discussion paper response – Submission 44, Shoalhaven City Council, p 4.

<sup>383</sup> Discussion paper response – Submission 44, Shoalhaven City Council, p 6.

<sup>384</sup> Discussion paper response – Submission 44, Shoalhaven City Council, pp 3-4 and p 6.

<sup>385</sup> Discussion paper response – Submission 44, Shoalhaven City Council, p 4.

<sup>386</sup> Discussion paper response – Submission 44, Shoalhaven City Council, pp 3-4 and p 6.

<sup>387</sup> Discussion paper response – Submission 43, NSWALC, pp 15-16.

NSWALC see a range of potential opportunities arising from improved working relationships and communication between Aboriginal Land Councils and local government, ranging from shared initiatives to increase public awareness about local Aboriginal communities', cross-promotion of programs as well as joint ventures in economic development.<sup>388</sup>

- 4.88** Likewise, the Registrar stated 'There is no doubt that a good relationship between an Aboriginal Land Council and the local government(s) authority will benefit both parties and much can be done on a case by case basis to improve this relationship.'<sup>389</sup> The Registrar was concerned about the 'power imbalances and access to information' between parties that may be signatories to a joint venture—namely, local Aboriginal land councils and local government.<sup>390</sup>

#### *Committee comment*

- 4.89** The committee recognises that due to a range of shared interests, it is vital for local Aboriginal land councils and local councils to have strong, positive working relationships. We believe there is significant merit in the proposal by Shoalhaven Council for joint venture projects between the two parties. The council has given the concept much thought and consideration.
- 4.90** We appreciate that a joint venture may not be appropriate in all situations. However, it may be a viable solution in certain circumstances, particularly if the agreement provides support and guidance for local Aboriginal land councils. Further, joint ventures are an opportunity to build capacity within local Aboriginal land councils. We recommend that the Department of Planning and Environment investigate opportunities to develop a template for joint ventures between local Aboriginal land councils and local government.

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#### **Recommendation 38**

That the Department of Planning and Environment investigate opportunities to develop a template for joint ventures between local Aboriginal land councils and local government.

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### **Leveraging economic opportunities from water**

- 4.91** The discussion paper acknowledged the deep connection with land and sea that Aboriginal people experience. The paper highlighted the experience of the Yuin people of the South Coast who felt that the prosecution of Aboriginal fishers and the creation of marine sanctuaries around the coast impeded their capacity to obtain gainful employment in a traditional industry.<sup>391</sup>

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<sup>388</sup> Discussion paper response – Submission 43, NSWALC, pp 15-16.

<sup>389</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 8.

<sup>390</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 8.

<sup>391</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 78.

**4.92** The Registrar observed that sections 47 and 48 of the *Aboriginal Land Rights Act* provide for Aboriginal people to request access to any land for the purposes of hunting, fishing and gathering, and that it can be a matter determined by the court:

Section 47 provides that Aboriginal people can request access to any land for the purposes of hunting, fishing and gathering. That can be the Crown estate or it can be the private estate, it does not matter—it can be other Aboriginal estate for that matter. That right to apply for access is a statutory right and if refused section 48 provides it can be a matter determined by the court. So there is a very strong emphasis that access should be granted on fair terms; if not, the courts can consider whether it should have been granted—again, very underutilised.<sup>392</sup>

**4.93** It was noted that the amendments proposed to section 21AA of the *Fisheries Management Act 1994*, relating to the recognition of Aboriginal cultural and traditional fishing needs of Aboriginal people, are yet to be proclaimed.<sup>393</sup>

**4.94** The NSWALC suggested that there were a range of options for Aboriginal communities to leverage economic opportunities from their cultural connection to water including the development of horticulture and aquaculture, such as niche bush tucker products and cultural tourism or place-based recreational opportunities.<sup>394</sup> Further, the NSWALC stated:

The NSW Government needs to urgently acknowledge the rights of the Aboriginal community to cultural flows, which include allocations of water for cultural, social, environmental and economic purposes, and legislate for them immediately.<sup>395</sup>

**4.95** This was reiterated by Ms Dennis in her evidence ‘It is urgent that the New South Wales Government acknowledge the rights of Aboriginal communities to cultural flows, which include allocations of water for cultural, social, environmental and economic purposes.’<sup>396</sup>

**4.96** Indeed, the Registrar was similarly concerned about this issue:

... water, and in fact all natural resources, can form part of Aboriginal peoples’ Native Title rights and interest in land and water. In this way, the NSW Government should continue to appreciate, acknowledge and respect Aboriginal peoples’ cultural rights to coastal and inland waters and accept that such rights are an integral part of the states’ natural resource management regimes.<sup>397</sup>

**4.97** The NSWALC also noted the recent establishment of the Aboriginal Fishing Trust and suggested it could be ‘... a key vehicle to drive investment in Aboriginal owned enterprises in

<sup>392</sup> Evidence, Mr Stephen Wright, Registrar, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), 29 July 2016, p 4 (Inquiry into Crown land).

<sup>393</sup> Standing Committee on State Development, *Discussion Paper: Economic development in Aboriginal communities*, p 79.

<sup>394</sup> Discussion paper response – Submission 43, NSWALC, pp 15-16.

<sup>395</sup> Discussion paper response – Submission 43, NSWALC, pp 15-16.

<sup>396</sup> Evidence, Ms Dennis, 18 August 2016, pp 18-19.

<sup>397</sup> Discussion paper response – Submission 37, Office of the Registrar of the *Aboriginal Land Rights Act 1983* (NSW), p 8.



the fishing sector including commercial enterprises, charter enterprises and tourism enterprises.<sup>398</sup>

***Committee comment***

- 4.98** The committee acknowledges that Indigenous people have a profound connection to water. We understand concerns that the government does not adequately appreciate Aboriginal peoples' connection to water. In an effort to overcome this perception, we recommend that the NSW Government proclaim section 21AA of the *Fisberies Management Act 1994*. This action may assist individuals to support economic development in their communities.
- 4.99** Further, as previously discussed, the NSW Government should discuss developing and presenting water-based projects in any future workshops outlined in recommendation 32.

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**Recommendation 39**

That the NSW Government proclaim section 21AA of the *Fisberies Management Act 1994*.

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<sup>398</sup> Discussion paper response – Submission 43, NSWALC, pp 15-16.



## Appendix 1 Submissions

No	Author
1	Confidential
2	Tamworth Regional Council
3	Dr Janet Hunt
4	Nambucca Shire Council
5	Australian Research Council
6	Greater Taree City Council
7	Mr Jeremy Smith
8	Dr Kirrily Jordan
9	Mr Owen Trembath
10	Mr Dominic WY Kanak
11	Darkinjung Local Aboriginal Land Council
12	Eurobodalla Shire Council
13	The Law Society of New South Wales
14	Wonnarua Nation Aboriginal Corporation
14a	Wonnarua Nation Aboriginal Corporation
14b	Wonnarua Nation Aboriginal Corporation
15	Wollondilly Shire Council
16	Shoalhaven City Council - Economic Development Office
17	Local Decision Making Regional Chairpersons Group (LDMRG)
18	The Centre for Independent Studies
19	NSW Ombudsman
20	NSW Aboriginal Land Council
21	Just Reinvest NSW
22	Professor Dennis Foley
23	KC Consultancy Services
24	Harry Nanya Tours
25	NTSCorp Ltd
26	Clontarf Foundation - Partially confidential
27	Paradigm Resources
28	NSW Government
29	NSW Minerals Council

<b>No</b>	<b>Author</b>
29	NSW Minerals Council – Attachment 1
30	The Greens
31	Indigenous Land Corporation
31a	Indigenous Land Corporation
32	Department of Prime Minister and Cabinet
33	Department of Planning and Environment
34	Banbai Enterprise Development Aboriginal Corporation
35	Murdi Paaki Regional enterprise Corporation Ltd (MPREC)
36	Office of the Registrar <i>Aboriginal Land Rights Act 1983</i> (NSW)
37	Discussion paper response - Office of the Registrar <i>Aboriginal Land Rights Act 1983</i> (NSW)
38	Discussion paper response - Confidential
39	Discussion paper response - Nambucca Shire Council
40	Discussion paper response - Supply Nation
41	Discussion paper response - NSW Minerals Council
42	Discussion paper response - Role Models & Leaders Australia (RMLA) Girls Academy
43	Discussion paper response - NSW Aboriginal Land Council
44	Discussion paper response - Shoalhaven City Council
45	Discussion paper response - NTSCORP Limited
46	Discussion paper response - Tamworth Regional Council
47	Discussion paper response - Professor Paul Martin
48	Discussion paper response - Banbai Enterprise Development Aboriginal Corporation
49	Discussion paper response - Mr Murray Ings
50	Discussion paper response - Ms Roxanne Smith
51	Confidential

## Appendix 2 Witnesses

Date	Name	Position and Organisation
Friday 26 February 2016 Parliament House	Mr Jason Ardler	Head, Aboriginal Affairs
	Ms Amity Durham	Executive Director, Social Policy, Department of Premier and Cabinet
	Mr Jason Brouff	Manager, Aboriginal Land Claims, Aboriginal Lands Unit, Crown Lands, Department of Primary Industry–Lands
	Mr Gary Barnes	Deputy Secretary, Economic, Skills and Regional Development, NSW Department of Industry
	Ms Louisa Mamouny	Acting Executive Director, Industry Policy, Economic and Regional Development, NSW Department of Industry
	Ms Heather McGregor	Director, Aboriginal Learning, North Coast Institute, TAFE NSW
	Mr Mervyn Donovan	Leader, Aboriginal Education Unit, TAFE NSW
	Mr Raghu Venkat	Senior Manager, Business and Product Development, Indigenous Business Australia
	Mr Roy Ah-See	Chairperson, NSW Aboriginal Land Council
	Mr Craig North	Executive Director, Indigenous Land Corporation
	Ms Tricia Button	Eastern Divisional Manager, Indigenous Land Corporation
	Mr Tri Nguyen	Legal Counsel, Indigenous Land Corporation
	Mr Shane Phillips	Chairman and Chief Executive Officer, Tribal Warrior
	Dr Janet Hunt	Associate Professor, Centre for Aboriginal Economic Research, Australian National University
Ms Debbie Barwick	Chairperson, NSW Indigenous Chamber of Commerce	

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
<b>Tuesday 5 April 2016</b> <b>Western Plains Cultural Centre</b> <b>Dubbo</b>	Mr Darren Toomey	Chief Executive Officer, Dubbo Local Aboriginal Land Council
	Ms Rene Wykes	A/Chief Executive Officer, Murdi Paaki Regional Enterprise Corporation
<b>Wednesday 27 April 2016</b> <b>West Tamworth Leagues Club</b> <b>Tamworth</b>	Ms Fiona Snape	Chief Executive Officer, Tamworth Local Aboriginal Land Council
<b>Thursday 26 May 2016</b> <b>Narooma Golf Club</b> <b>Narooma</b>	Mr John Brierly	NSW Aboriginal Fishing Rights Group
	Mr Wally Stewart	NSW Aboriginal Fishing Rights Group
	Mr Danny Chapman	NSW Aboriginal Fishing Rights Group
	Mr Robert Chewying	NSW Aboriginal Fishing Rights Group
	Ms Sarah Cooper	Business Assistance Manager, Eurobodalla Shire Council
<b>Thursday 18 August 2016</b> <b>Parliament House</b>	Mr Warren Mundine AO	Chair, Prime Minister's Indigenous Advisory Council
	Mr Daniel Lester	Deputy Ombudsman, NSW Ombudsman
	Ms Anne Dennis	Deputy Chairperson, NSW Aboriginal Land Council
	Mr Sam Jeffries	Convenor, Local Decision Making Regional Chairpersons Group
	Mr Jason Ardler	Head, Aboriginal Affairs
	Mr Stephen Wright	Registrar, Office of the Registrar of the <i>Aboriginal Land Rights Act 1983</i> (NSW)
	Mr Sean Gordon	Chief Executive Officer, Darkinjung Local Aboriginal Land Council
	Mr Laurie Perry	Chief Executive Officer, Wonnarua Nation Aboriginal Corporation
	Ms Hema Hariharan	Manager, Strategic Development, NTSCORP
	Ms Mishka Holt	Principal Solicitor, NTSCORP
Mr David Clarke	Group Director, Governance and Strategy, Department of Primary Industry-Lands	

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<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
	Mr Jason Brouff	Manager, Aboriginal Land Claims, Aboriginal Lands Unit, Crown Lands, Department of Primary Industry-Lands
	Ms Alison Frame	Deputy Secretary, Policy and Strategy, Department of Planning and Environment

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## Appendix 3 Minutes

### Minutes no. 2

Thursday 13 August 2015

Standing Committee on State Development

Office of the Clerk's meeting room, Parliament House, Sydney, at 1.00 pm

#### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Ms Cotsis

Mrs Maclaren-Jones

#### 2. Apologies

Mr Green

#### 3. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 1 be confirmed.

#### 4. Correspondence

The Committee noted the following items of correspondence received:

- 4 August 2015 – Letter to Chair from Hon Leslie Williams MP, Minister for Aboriginal Affairs, requesting the committee to consider terms of reference for an inquiry into strategies to support economic development in Aboriginal communities.

#### 5. Consideration of terms of reference

The Chair tabled the following terms of reference received from the Hon Leslie Williams MP, Minister for Aboriginal Affairs, on 4 August 2015:

1. That the Standing Committee on State Development inquire into and report on strategies to support economic development in Aboriginal communities in New South Wales, including but not limited to:
  - a. Options for sustainability and capacity building of NSW Aboriginal communities into the future, utilising existing community networks and structures.
  - b. Leveraging economic development support, including provided by the Commonwealth Government and the private sector.
  - c. Establishment and sustainability of Aboriginal owned enterprises.
2. That the committee report by 30 September 2016.

Resolved, on the motion of Mrs Maclaren-Jones: That the committee adopt the terms of reference.

#### 6. Inquiry into economic development in Aboriginal communities

##### 6.1 Proposed timeline

Resolved, on the motion of Mrs Maclaren-Jones: That the committee adopt the following timeline for the administration of the inquiry:

- Sunday 11 October 2015 – submission closing date
- Friday 13 November – public hearing (Sydney)
- February 2016 – site visit and hearing
- April 2016 – site visit and hearing
- April/May 2016 – second round of submissions, closing date before final hearing



- May 2016 – public hearing (Sydney)
- August 2016– report deliberative.

## 6.2 Stakeholder list

Resolved, on the motion of Mr Veitch: That the committee write to the following stakeholders to invite them to make a submission to the inquiry:

- Department of Premier and Cabinet
- Public Service Commission
- NSW Aboriginal Land Council
- Department of the Prime Minister and Cabinet (Indigenous Affairs)
- Department of Employment
- Australian Research Council
- Local Government NSW
- All local governments in NSW
- Aboriginal Child, Family & Community Care State Secretariat (ABSEC)
- Aboriginal Disability Network
- Aboriginal Employment Strategy (AES)
- Aboriginal Enterprises in Mining, Exploration and Energy Ltd (AEMEE)
- AIME (Australian Indigenous Mentoring Experience)
- Australian Indigenous Education Foundation
- Australian Indigenous Governance Institute
- Australian Indigenous Leadership Centre
- Australian Institute of Aboriginal and Torres Strait Islander Studies
- Centre for Aboriginal Economic Policy Research
- Clontarf Foundation
- Council of Social Service of New South Wales (NCOSS)
- Generation One
- Mission Australia
- National Indigenous Youth Leadership Group
- Public Interest Advocacy Centre
- Reconciliation Australia
- Social Ventures Australia (Indigenous Social Enterprise Fund)
- Wesley Uniting Aboriginal Employment Services
- Aboriginal Health and Medical Research Council
- Centre for Aboriginal Economic Policy Research, Australian National University
- Centre for Citizenship and Public Policy, University of Western Sydney
- Centre for Research on Social Inclusion, Macquarie University
- Institute for Land, Water and Society, Charles Sturt University
- Jumbanna. University of Technology, Sydney
- Nulungu Research Institute, The University of Notre Dame
- Social Policy Research Centre, The University of New South Wales
- Social Policy Research Network, University of Sydney
- ANZ
- Australia Post
- BHP Billiton
- Brierty
- CocaCola
- Crown Resorts
- Downer

- Fortescue Metals
- NAB
- Rio Tinto
- Sodexo
- Westpac
- Woodside
- Aboriginal Justice Centre
- Aboriginal Legal Service
- Australia Institute
- Australian Chamber of Commerce and Industry
- Centre for Independent Studies
- Centre for Policy Development
- Eidos Institute
- Grattan Institute
- Indigenous Business Australia
- Indigenous Land Corporation
- Institute for Aboriginal Development Inc.
- Minerals Council of Australia
- NSW Mining
- NTSCorp
- Sydney Institute.

### 6.3 Advertising

The committee noted that all inquiries are advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

## 7. Other business

Mr Colless tabled the following terms of reference received from the Hon Troy Grant MP, Deputy Premier, on 13 August 2015:

That the Standing Committee on State Development inquire into and report on regional planning processes in New South Wales, and in particular:

- a. opportunities to stimulate regional development under the planning framework including through legislation, policy, strategy and governance;
- b. constraints to regional development imposed by the planning framework and opportunities for the framework to better respond to regional planning issues;
- c. the suitability of a stand-alone regional planning Act;
- d. the effectiveness of environmental planning instruments including State Environmental Planning Policies and Local Environmental Plans (including zoning) to stimulate regional development, and opportunities to improve their effectiveness;
- e. opportunities to increase delegations for regional councils in regard to planning processes;
- f. opportunities for strategic planning to assist in responding to challenges faced by communities in regional areas, including through Regional Plans;
- g. opportunities for government-led incentives that promote regional development
- h. pathways to improve decision making processes for regional development proposals, including increasing the use of complying development, improving the negotiation process for voluntary planning agreements, and reducing costs associated with assessment;
- i. any other related matter.

Resolved, on the motion of Mr Colless: That the committee adopt the terms of reference.

Resolved, on the motion of Mr Colless: That the committee defer consideration of the timeline and stakeholder list for the inquiry into regional planning process in New South Wales until the next meeting of the committee.

## 8. Adjournment

The Committee adjourned at 1.10 pm *sine die*.

Cathryn Cummins

**Clerk to the Committee**

## Minutes no. 3

Thursday 27 August 2015

Standing Committee on State Development

Members' Lounge, Parliament House, Sydney, at 1.04 pm

### 1. Members present

Mr Pearce, *Chair*

Mr Colless

Ms Cotsis

### 2. Apologies

Mr Green

Mrs Maclaren-Jones

Mr Veitch, *Deputy Chair*

### 3. Previous minutes

Resolved, on the motion of Mr Colless: That draft minutes no. 2 be confirmed.

### 4. Correspondence

The committee noted the following item of correspondence received:

- 13 August 2015 – Letter to Chair from the Hon Troy Grant MP, requesting the committee to consider terms of reference for an inquiry into regional planning processes.

### 5. Conduct of the inquiry into regional planning processes in NSW

#### 5.1 Proposed timeline

Resolved, on the motion of Mr Colless: That the committee adopt the following timeline for the administration of the inquiry:

- Friday 11 December 2015 – submission closing date
- Friday 4 March 2016 – public hearing (Sydney)
- Site visits and hearings to be determined following the release of the 2016 parliamentary sitting calendar.

#### 5.2 Stakeholder list

Resolved, on the motion of Mr Colless: That members have until COB Monday 31 August 2015 to amend the Chairs' proposed list of stakeholders or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

### 5.3 Advertising

The committee noted that all inquiries are advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

## 6. Conduct of the inquiry into economic development in Aboriginal communities

### 6.1 Aboriginal culture and communication workshop

The committee noted that GPSC No. 3 is considering attending a workshop on different communication and consultation methods for Aboriginal communities. The committee will consider participating in the workshop once more details become available.

## 7. Adjournment

The committee adjourned at 1.07 pm *sine die*.

Samuel Griffith

**Clerk to the Committee**

## Minutes no. 4

Friday 16 October 2015

Standing Committee on State Development

Members' Lounge, Parliament House, Sydney at 9:45 am

### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Ms Cotsis (*at 9.50am, until 11.05am*)

Mr Green (*until 11.45am*)

### 2. Apologies

Mrs Maclaren-Jones

### 3. Previous minutes

Resolved, on the motion of Mr Colless: That draft minutes no. 3 be confirmed.

### 4. Correspondence

The committee noted the following items of correspondence received:

- 19 August 2015 – From Dr Iris Kirkpatrick, Assistant Director, Corruption Prevention Division, Independent Commission Against Corruption, requesting a meeting to discuss a project related to the Local Aboriginal Land Council Boards.

The Chair advised that he and the secretariat would be meeting with Dr Kirkpatrick on Wednesday 28 October 2015 and undertook to advise the committee of the outcome of the meeting.

## 5. Inquiry into economic development in Aboriginal communities

### 5.1 Public submissions

The committee noted that submission nos. 3-11 were published by the committee clerk under the authorisation of an earlier resolution.

### 5.2 Partially confidential submissions

The committee noted that the committee clerk is liaising with the author of submission no. 2 to omit certain identifying details of the author, which are to remain confidential.

### 5.3 Confidential submissions

Resolved, on the motion of Mr Colless: That the committee keep submission no. 1 confidential, as per the request of the author.

### 5.4 Request for extensions

The committee noted that extensions have been granted for making a submission to the following organisations:

- NSW Ombudsman Office
- NTSCORP
- NSW Premier and Cabinet
- NSW Aboriginal Land Council
- Eurobodalla Shire Council
- Prime Minister and Cabinet.

### 5.5 Aboriginal cultural awareness and inter-cultural communication training

Resolved, on the motion of Mr Veitch: That Aboriginal cultural awareness and inter-cultural communication training be held for the committee on Friday 16 October from 10am to 12pm, facilitated by Professor Diana Eades and Mr Dave Widders, and that the total cost of \$3960.42 for this training be shared with General Purpose Standing Committee No. 3.

Ms Cotsis joined the meeting.

### 5.6 Public hearing 13 November 2015

Resolved, on the motion of Mr Colless: That the committee defer the scheduled public hearing on 13 November 2015 until the first half of 2016.

### 5.7 Aboriginal cultural awareness and inter-cultural communication training

The committee moved to the Waratah Room.

Professor Diana Eades and Dave Widders provided the committee with Aboriginal cultural awareness and inter-cultural communication training. Members of General Purpose Standing Committee No. 3 also attended the training.

Ms Cotsis left the meeting at 11.05 am.

Mr Green left the meeting at 11.45 am.

## 6. Adjournment

The committee adjourned at 12:15 pm *sine die*.

Cathryn Cummins

**Clerk to the Committee**

**Minutes no. 5**

18 November 2015

Standing Committee on State Development

Members' Lounge, Parliament House, Sydney, at 2.00 pm

**1. Members present**

Mr Pearce, *Chair*

Mr Colless

Ms Cotsis

**2. Apologies**

Mr Veitch, *Deputy Chair*

Mr Green

Mrs Maclaren-Jones

**3. Previous minutes**

Resolved, on the motion of Mr Colless: That draft minutes no. 4 be confirmed.

**4. Inquiry into economic development in Aboriginal communities**

**4.1 Public submissions**

The committee noted that submission nos. 12-14 were published by the committee clerk under the authorisation of the resolution appointing the committee.

**5. Inquiry activity for 2016**

Resolved, on the motion of Ms Cotsis: That the draft proposal for inquiry activity for 2016 be agreed to, subject to members confirming their availability.

**6. Adjournment**

The committee adjourned at 2.05 pm, *sine die*.

Rebecca Main

**Clerk to the Committee**

**Minutes no. 6**

Friday 26 February 2016

Standing Committee on State Development

Macquarie Room, Parliament House, Sydney, at 9.20 am

**1. Members present**

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Ms Cotsis (left at 12.10 pm)

Mr Green

Mr Mallard (*substituting for Mrs Maclaren-Jones*)

**2. Previous minutes**

Resolved, on the motion of Mr Veitch: That draft minutes no. 5 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence were received:

- 13 December 2015 – Email from Mr Bernard Grinberg to the committee requesting to appear as a witness for the inquiry into regional planning processes in NSW and providing information about his background
- 19 February 2016 – Email from Ms Cerin Loane, Nature Conservation Council of NSW to the committee declining to attend public hearing for the inquiry into regional planning processes in NSW
- 23 February 2016 – Email from Ms Hema Hariharan, NTSCorp declining to attend public hearing for the inquiry into economic development in Aboriginal communities and offering to provide further information to their submission if needed
- 23 February 2016 – Email from Mr Tim Archer, Department of Planning and Environment declining to attend public hearing for the inquiry into economic development in Aboriginal communities and offering to provide a written submission.

#### **4. Inquiry into regional planning processes**

##### **4.1 Public submissions**

The committee noted that submission nos. 2-12 and 14-46 were published by the committee clerk under the authorisation of the resolution appointing the committee.

##### **4.2 Partially confidential submissions**

Resolved, on the motion of Mr Green:

- That the committee keep the following information confidential, as per the request of the secretariat: adverse mention in submission no. 1
- That the committee keep the following information confidential, as per the request of the author: name and identifying information in submission no. 13.

#### **5. Inquiry into economic development in Aboriginal communities**

##### **5.1 Public submissions**

The committee noted that submission nos. 2 and 15-28 were published by the committee clerk under the authorisation of the resolution appointing the committee.

##### **5.2 Partially confidential submissions**

Resolved on the motion of Mr Veitch: That the committee keep the following information confidential, as per the request of the author: identifying information of third parties in the attachment to submission no. 26.

#### **6. Future inquiry activity – site visits**

##### **6.1 Travel by charter plane**

Resolved on the motion of Mr Colless: That the committee authorise the use of a charter plane for the site visit to Dubbo and Brewarrina in April 2016.

#### **7. Public hearing – Inquiry into economic development in Aboriginal communities**

##### **7.1 Public hearing**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Jason Ardler, Head, Aboriginal Affairs
- Ms Amity Durham, Executive Director, Social Policy, Department of Premier and Cabinet
- Mr Jason Brouff, Manager, Aboriginal Land Claims, Aboriginal Lands Unit, Crown Lands, Department of Primary Industry – Land.

The evidence concluded and the witnesses withdrew.

The following witnesses was sworn and examined:

- Mr Gary Barnes, Deputy Secretary, Economic, Skills and Regional Development, NSW Department of Industry
- Ms Louisa Mamouney, A/Executive Director, Industry Policy, Economic and Regional Development, NSW Department of Industry
- Ms Heather McGregor, Director, Aboriginal Learning Circle, North Coast Institute, TAFE NSW
- Mr Mervyn Donovan, Team Leader, Aboriginal Education Unit, TAFE Strategy and Finance, TAFE NSW
- Mr Raghu Venkat, Senior Manager, Business and Product Development, Indigenous Business Australia.

The evidence concluded and the witnesses withdrew.

The following witnesses was sworn and examined:

- Mr Roy Ah-See, Chairperson, NSW Aboriginal Land Council
- Mr Craig North, Executive Director, Indigenous Land Corporation
- Mr Tri Nguyen, General Counsel, Indigenous Land Corporation
- Ms Trish Button, Eastern Divisional Manager, Indigenous Land Corporation.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Shane Phillips, Chairman and Chief Executive Officer, Tribal Warrior.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Dr Janet Hunt, Associate Professor, Centre for Aboriginal Economic Policy Research, Australian National University.

Dr Hunt tendered the following documents:

- Working Paper No 75/2010 entitled “Looking after Country in New South Wales: Two Case Studies of Socioeconomic Benefits for Aboriginal People” by J Hunt, Centre for Aboriginal Economic Policy Research, The Australian National University
- Working Paper No 90/2013 entitled “Looking after Country in New South Wales: Implementing a Land & Sea Country Plan on the far south coast”, Centre for Aboriginal Economic Policy Research, ANU College of Arts & Social Sciences.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Ms Debbie Barwick, Chairperson, NSW Indigenous Chamber of Commerce.

Ms Barwick tendered the following documents:

- Package of materials about the New South Wales Indigenous Chamber of Commerce including a Memorandum of Understanding with the NSW Government and pamphlets.

The evidence concluded and the witness withdrew.

## 8. **Tendered documents**

Resolved on the motion of Mr Veitch: That the committee accept the following documents tendered during the public hearing:

- Looking after Country in New South Wales: Two Case Studies of Socioeconomic Benefits for Aboriginal People
- Looking after Country in New South Wales: Implementing a Land & Sea Country Plan on the far south coast



- Package of materials about the New South Wales Indigenous Chamber of Commerce.

## 9. Adjournment

The committee adjourned at 2.50 pm until Friday 11 March 2016 (*public hearing for regional planning processes*).

Rebecca Main

**Clerk to the Committee**

## Minutes no. 7

Friday 11 March 2016

Standing Committee on State Development

Macquarie Room, Parliament House, Sydney, at 9.17 am

### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones

Mr Wong

### 2. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 6 be confirmed.

### 3. Correspondence

The committee noted the following items of correspondence were received:

- 26 February 2016 – Email from Mr Alex MacDonald, Media, restofnsw to the secretariat requesting that restofnsw be invited by the committee to give evidence at a hearing for the inquiry into regional planning processes in NSW.
- 2 March 2016 – Email from Doug Gordon of Yarnteen Ltd. advising that Yarnteen is not in a position to meet with the committee during its Central Coast site visit on 14 March 2016.

### 4. Inquiry into economic development in Aboriginal communities

#### 4.1 Public submissions

The committee noted that submission nos. 29-31 were published by the committee clerk under the authorisation of the resolution appointing the committee.

#### 4.2 Late submissions

The committee noted that late submissions were expected from the following organisations:

- Department of Prime Minister and Cabinet
- Gandangara LALC
- NSW Indigenous Chamber of Commerce
- NSW Department of Planning and Environment
- Office of the Registrar, Aboriginal Land Rights Act.

## 5. Inquiry into regional planning processes

### 5.1 Public submissions

The committee noted that submission no. 47 was published by the committee clerk under the authorisation of the resolution appointing the committee.

### 5.2 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Shaun McBride, Senior Strategy Manager, Local Government NSW
- Ms Jennifer Dennis, Senior Policy Officer, Local Government NSW

Mr Green MLC tendered the following document:

- Alex Druce 'Council land grab scare, Green zones threat to farmland', The Land, Sydney, 10 March 2016, p 3.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr David Broyd, Vice President, Planning Institute of Australia (NSW)
- Mr Darren Holloway, Committee Member, Planning Institute of Australia (NSW)

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Clare McHugh, Executive Director, Policy and Programs, NSW Aboriginal Land Council.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Steve Murray, Acting Executive Director, Regions, Department of Planning and the Environment
- Mr Gary Barnes, Deputy Secretary Skills & Industry, Department of Industry, Skills and Regional Development
- Mr Chris Hanger, Director Regional Development, Skills and Industry Policy, Department of Industry, Skills and Regional Development
- Mr Mitchell Isaacs, Director Planning Policy and Assessment Advice, Department of Primary Industry
- Mr Derek Rutherford, Director South, Regional Operations Group, Office of Environment and Heritage

The evidence concluded and the witness withdrew.

## 6. Tendered documents

Resolved on the motion of Mr Wong: That the committee accept and publish the following document tendered during the public hearing:

- Alex Druce 'Council land grab scare, Green zones threat to farmland', The Land, Sydney, 10 March 2016, p 3.

## 7. Adjournment

The committee adjourned at 3.00 pm until Monday 14 March 2016 (*site visit for economic development in Aboriginal communities*).

Rebecca Main

**Clerk to the Committee**

## Minutes no. 8

Monday 14 March 2016

Standing Committee on State Development

Hospital Road, Parliament House, 8.00 am

### 1. Members present

Mr Pearce, *Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones (11.00 am – 5.30 pm)

### 2. Apologies

Mr Veitch

Mr Wong

### 3. Inquiry into economic development in Aboriginal communities

#### 3.1 Site visit – Singleton/Williamstown/Watanobbi

The committee travelled to Wonnarua Nation Aboriginal Corporation, Singleton.

The committee was briefed by the following people on the multi-hubs project operated by the Wonnarua Nation Aboriginal Corporation:

- Mr Laurie Perry, Chief Executive Officer, Wonnarua Nation Aboriginal Corporation
- Ms Tracey Skene, Chairperson, Wonnarua Nation Aboriginal Corporation
- Mr Arthur Fletcher, Director, Wonnarua Nation Aboriginal Corporation
- Mr Cordell Skaiffe World Vision Australia

Mr Perry tendered the following documents:

- Booklet entitled 'Wonnarua A sense of belonging'
- Document entitled 'Wonnarua Nation Aboriginal Corporation Strategic Plan 2014/15 – 2017/18'
- Document entitled 'Wonnarua Nation Aboriginal Corporation Newsletter, September 2015'.

The committee travelled to Murrook Culture Centre, Williamstown.

The committee was briefed by the following people from the Worimi Local Aboriginal Land Council on economic development in their community:

- Mr Andrew Smith, Chief Executive Officer
- Aunty Valerie Merrick, Board Member
- Uncle Neville Lilley, Board Member
- Uncle Allan Anderson, Board Member
- Mr Justin Ridgeway, Board Member

The committee travelled to the Darkinjung Local Aboriginal Land Council, Watanobbi.

The committee was briefed by the following people on projects undertaken by the Darkinjung Local Aboriginal Land Council to enhance economic development for Aboriginal communities in the local area:

- Mr Sean Gordon, Chief Executive Officer, Darkinjung Local Aboriginal Land Council
- Ms Lynne Hamilton, Planning and Development Manager, Darkinjung Local Aboriginal Land Council
- Mr Tony Simpson, Legal Counsel, Darkinjung Local Aboriginal Land Council
- Mr Chris Smith, ADW Johnson Consultants

Mr Gordon tendered the following documents:

- Document entitled 'Discussion paper: The New South Wales Aboriginal Land Claims Process', ADW Johnson Pty Ltd, 2012
- Submission from Darkinjung Local Aboriginal Land Council to the Standing Committee on State Development for the inquiry into regional planning processes in New South Wales
- Darkinjung case studies – Halekulani
- Darkinjung case studies – North Wyong Development Plans
- Document entitled 'Sustainable Lands Strategy'
- Document entitled 'Darkinjung Local Aboriginal Land Council Performance Report July-Dec 2015', Jawun
- Document entitled 'Barang Regional Alliance Prospectus 2016',
- Document entitled 'Empowered communities: Empowered Peoples'.

#### 4. **Adjournment**

The committee adjourned at 6.55 pm until 7.45 am, Tuesday 5 April 2016, Bankstown Airport, (*site visit to Dubbo/Brewarrina*).

Rebecca Main  
**Clerk to the Committee**

#### **Minutes no. 9**

Tuesday 5 April 2016

Standing Committee on State Development

Bankstown Airport, Sydney, 8.18 am

#### 1. **Members present**

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mrs Maclaren-Jones

Mrs Houssos (substituting for Mr Wong)

#### 2. **Apologies**

Mr Green

#### 3. **Draft minutes**

Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes nos 7 and 8 be confirmed.

#### 4. **Correspondence**

The committee noted the following items of correspondence:

***Received***

- 22 March 2016 – letter from Mr Michael Keys, Director Planning & Environment, Albury City Council, to the Chair, requesting that the committee conduct a public hearing in Albury for the inquiry into regional planning processes in NSW.

**Sent**

- 22 March 2016 – letter from the Chair, to the Hon Troy Grant, Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing, and Member for Dubbo, advising of the site visit to Dubbo on Tuesday 5 April
- 22 March 2016 – letter from the Chair, to Mr Kevin Humphries, Member for Barwon, advising of the site visit to Merriman Shearing School on Wednesday 6 April
- 22 March 2016 – letter from the Chair, to Mr Sean Gordon, Chief Executive Officer, Darkinjung Local Aboriginal Land Council, thanking him for the site visit briefing the committee attended on 14 March 2016
- 22 March 2016 – letter from the Chair, to Mr Andrew Smith, Chief Executive Officer, Worimi Local Aboriginal Land Council, thanking him for the site visit briefing the committee attended on 14 March 2016
- 22 March 2016 – letter from the Chair, to Mr Laurie Perry, Chief Executive Officer, Wonnarua Nation Aboriginal Corporation, thanking him for the site visit briefing the committee attended on 14 March 2016
- 23 March 2016 – letter from the Chair, to the Hon Robert Brown MLC Chair of GPSC No. 5 informing him of the committee's 2013 inquiry into the adequacy of water storages in NSW.

## 5. Inquiry into economic development of Aboriginal communities

### 5.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 32, 33, 34.

### 5.2 Tended documents

Resolved, on the motion of Mr Colless: That the committee accept the following documents tendered during the site visit to Wonnarua but keep them confidential at the request of the author:

- Booklet entitled 'Wonnarua A sense of belonging'
- Document entitled 'Wonnarua Nation Aboriginal Corporation Strategic Plan 2014/15 – 2017/18'
- Document entitled 'Wonnarua Nation Aboriginal Corporation Newsletter, September 2015'.

Resolved, on the motion of Mrs Maclaren-Jones: That the committee accept and publish the following documents tendered during the site visit to Darkinjung:

- Document entitled 'Discussion paper: The New South Wales Aboriginal Land Claims Process, ADW Johnson Pty Ltd, 2012'
- Submission from Darkinjung Local Aboriginal Land Council to the Standing Committee on State Development for the inquiry into regional planning processes in New South Wales
- Darkinjung case studies – Halekulani
- Darkinjung case studies – North Wyong Development Plans
- Document entitled 'Sustainable Lands Strategy'
- Document entitled 'Darkinjung Local Aboriginal Land Council Performance Report July-Dec 2015', Jawun
- Document entitled 'Barang Regional Alliance Prospectus 2016',
- Document entitled 'Empowered communities: Empowered Peoples'.

### 5.3 Answers to questions on notice

The committee noted that the answers to questions on notice provided by the following witnesses were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Dr Janet Hunt, Associate Professor, Centre for Aboriginal Economic Research, Australian National University
- Mr Roy Ah See, Chair, NSW Aboriginal Land Council
- Ms Tricia Button, Eastern Divisional Manager, Indigenous Land Corporation.

The committee noted that the NSW Government witnesses requested an extension for their answers to questions on notice till 5 April 2016.

**6. Site visit – Inquiry into regional planning processes in NSW and the Inquiry into economic development of Aboriginal communities – Dubbo**

The committee travelled to Dubbo College, South Campus.

The committee was briefed by the following people on the work of the Clontarf Foundation:

- Mr Brendan Maher, Community Partnerships Manager,
- Chris McDonald, Regional Manager
- Charlie Maher, Dubbo South Director
- Nick O’Sullivan, NSW Employment Officer
- Ged Winterton, Dubbo South Operations Officer
- Mr Ian Neubauer, Executive Principal, Dubbo South College
- Mr Ross Gorrie, Principal, Dubbo South College
- Ms Di Baker, Deputy Principal, Dubbo South College
- School students participating in the Clontarf Foundation program.

Mr Maher tended the following documents:

- Document entitled ‘Impact of the Clontarf Academies’, Acil Allen Consulting
- Document entitled ‘Assessment of Offending by Participants of the Clontarf Foundation Programme, Curtin University
- Document entitled ‘Clontarf Foundation Annual Report 2014’, Clontarf Foundation.

**7. Public hearing – Inquiry into regional planning processes in NSW and the Inquiry into economic development of Aboriginal communities – Dubbo**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness were sworn and examined:

- Mr Darren Toomey, CEO, Dubbo Local Aboriginal Land Council

Mr Toomey tendered the following documents:

- Document entitled ‘Economic Development Policy’, NSW Aboriginal Land Council
- Document entitled ‘Community and Business Plan’, Dubbo Local Aboriginal Land Council.

The evidence concluded and the witnesses withdrew.

Resolved, on the motion of Mr Veitch: That the committee accept and publish the following documents tendered by Mr Toomey:

- Document entitled ‘Economic Development Policy’, NSW Aboriginal Land Council
- Document entitled ‘Community and Business Plan’, Dubbo Local Aboriginal Land Council.

The following witness were sworn and examined:

- Ms Rene Wykes, Acting CEO, Murdi Paaki Regional Enterprise Corporation

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Steven Jennings, Manager, City Strategy Services, Dubbo City Council
- Ms Melissa Watkins, Director, Environmental Services, Dubbo City Council

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Michael Keys, Director of Planning and Environment, Albury City Council

The following witness appeared on a former oath:

- Ms Melissa Watkins, Convener, Local Government Planning Directors Group

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Belinda Barlow, Executive Officer, Orana Regional Organisation of Councils
- Mr Bill McAnally, Chair, Orana Regional Organisation of Councils, and Mayor, Narromine Shire Council
- Mr Ashley Wielinga, General Manager, Warren Shire Council

The evidence concluded and the witnesses withdrew.

## 8. Adjournment

The committee adjourned at 4.00 pm until Thursday 6 April (*site visit to Brewarrina*).

Rebecca Main

**Clerk to the Committee**

## Minutes no. 10

Wednesday 6 April 2016

Standing Committee on State Development

Dubbo Airport, Dubbo, 8.25 am

### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mrs Maclaren-Jones

Mrs Houssos (substituting for Mr Wong)

### 2. Apologies

Mr Green

### 3. Site visit –Inquiry into economic development of Aboriginal communities – Brewarrina

The committee travelled to Merriman Shearing School, Brewarrina.

The committee was briefed by the following people on the programs available at the Merriman Shearing School:

- Mr Rory Lynch, Project Adviser, Eastern Division, Indigenous Land Corporation
- Ms Tricia Button, Eastern Divisional Manager, Indigenous Land Corporation
- Mr Ian 'Boof' Bateman, Head Trainer, Merriman Shearing School
- Ms Kathleen 'Tup' Bateman, Wool Classer / Trainer, Merriman Shearing School
- Mr Michael Nancarrow, Trainer, Merriman Shearing School
- Mr Graham Thurlow, Trainer / Mentor, Merriman Shearing School
- Ms Susan Taylor, Cook, Merriman Shearing School

- Mr Angelo Pippas, Mayor of Brewarrina
- Mr Mark Brown, Councillor, Brewarrina Shire Council
- Mr Mike Pora, AWI Training, Australian Wool Innovation
- Students participating in the Merriman Shearing School program.

The committee travelled to Brewarrina Business Cooperative, Brewarrina.

The committee was briefed by the following people on the programs operated by the Brewarrina Business Cooperative:

- Ms Catherine Edwards-Bott, CEO, Brewarrina Business Cooperative
- Mr William Barker, Chairperson Brewarrina Business Cooperative Board
- Mr Angelo Pippas, Deputy Chair Brewarrina Business Cooperative Board, Mayor of Brewarrina
- Ms Lily Shearer, Director Brewarrina Business Cooperative Board, Moogahlin Performing Arts Creative Producer
- Mr Gary Peterson, Director Brewarrina Business Cooperative Board, Mission Australia, Men's coordinator
- Mr Robbie Dungay, Moogahlin Performing Arts Inc.
- Ms Frayne Barker, Director Gainmara Birrilee Preschool, Brewarrina
- Ms Annette Pascoe, Children's Services Coordinator, Brewarrina Business Cooperative

#### 4. **Adjournment**

The committee adjourned at 3.15 pm until Wednesday 27 April 2016 (*site visit to Guyra/Tamworth*).

Rebecca Main

**Clerk to the Committee**

#### **Minutes no. 11**

Wednesday 27 April 2016

Standing Committee on State Development

Armidale, at 10.00 am

#### 1. **Members present**

Mr Pearce, *Chair*

Mr Veitch, Deputy Chair

Mr Colless

Mr Green

Mrs Maclaren-Jones

#### 2. **Apologies**

Mr Wong

#### 3. **Site visit –Inquiry into economic development of Aboriginal communities – Wattlebridge IPA**

The committee travelled to Wattlebridge Indigenous Protection Area.

The committee was briefed by the following people on the work of Banbai Enterprise:

- Ms Tanya Elone (Manager)
- Mr Tremane Patterson (Head Supervisor)
- Mr Cody Patterson (Head Supervisor)
- Mr Dominic Cutmore (Ranger)
- Mr Clive Ahoy (Chairperson of BEDAC)



- Ms Bridgett Ahoy (Assisting Manager)

#### 4. Previous minutes

Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes nos. 9 and 10 be confirmed.

#### 5. Correspondence

The committee noted the following items of correspondence:

##### *Received*

- 19 April 2016 – email from Mr Brendan Maher, Clontarf Foundation, to the secretariat requesting that the two documents provided to the committee remain confidential (Item 5.2).

##### *Sent*

- 14 April 2016 - letter from the Chair, to Mr Adam Marshall, Member for Northern Tablelands, advising of the site visit to Wattleridge Indigenous Protected Area on Wednesday 27 April 2016
- 14 April 2016 - letter from the Chair, to Mr Kevin Anderson, Member for Tamworth, advising of the public hearing in Tamworth on Wednesday 27 April 2016
- 14 April 2016 - letter from the Chair, to Mr Kevin Humphries, Member for Barwon, advising of the site visit to Whitehaven Maules Creek Mine on Thursday 28 April 2016
- 14 April 2016 - letter from the Chair, to Mr Brendan Maher, Clontarf Foundation, thanking him for the site visit briefing the committee attended on 5 April 2016
- 14 April 2016 - letter from the Chair, to Mr Ross Gorrie, Dubbo College, South Campus, thanking him for the site visit briefing the committee attended on 5 April 2016
- 14 April 2016 - letter from the Chair, to Mr Ian Bateman, Merriman Shearing School, thanking him for the site visit briefing the committee attended on 6 April 2016
- 14 April 2016 - letter from the Chair, to Mr Rory Lynch, Indigenous Land Corporation, thanking him for the site visit briefing the committee attended on 6 April 2016
- 14 April 2016 - letter from the Chair, to Ms Catherine Edwards-Bott, Brewarrina Business Cooperative, thanking her for the site visit briefing the committee attended on 6 April 2016.

#### 6. Inquiry into economic development of Aboriginal communities

##### 6.1 Public submissions

The committee noted submissions published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 14a, 14b, 31a and 35.

##### 6.2 Tended documents

Resolved, on the motion of Mr Green: that the committee accept the following documents tendered by Mr Brendan Maher, Community Partnership Manager, Clontarf Foundation, during the site visit to Dubbo South College and keep them confidential at the request of the Clontarf Foundation:

- Document entitled 'Impact of the Clontarf Academies', Acil Allen Consulting and Clontarf Foundation
- Document entitled 'Assessment of Offending by Participants of the Clontarf Foundation Programme, Curtin University.

Resolved, on the motion of Mr Green: that the committee accept and publish the following document tendered by Mr Brendan Maher, Community Partnership Manager, Clontarf Foundation:

- Document entitled 'Clontarf Foundation Annual Report 2014', Clontarf Foundation.

### **6.3 Answers to questions on notice**

#### **6.3.1 Public answers to questions taken on notice**

The committee noted the answers to questions on notice provided by the following witnesses, published by the committee clerk under the authorisation of the resolution appointing the committee.

- TAFE NSW
- Tribal Warrior.

#### **6.3.2 Partially confidential answers to questions taken on notice**

Resolved, on the motion of Mr Colless: that the committee publish the NSW Government response, omitting the answer to question two and the document referred to in question seven entitled 'NSW Department of Aboriginal Affairs Environmental Health & Community Infrastructure Project of 62 existing Aboriginal Communities NSW Final Report' which are to remain confidential at the recommendation of the secretariat; and at the request of the NSW Government respectively.

### **6.4 Site visit report**

Resolved, on the motion of Mrs Maclaren-Jones: that the committee accept and publish the report for the site visit to Wonnarua Nation Aboriginal Corporation, Worimi LALC and Darkinjung LALC.

## **7. Inquiry into regional planning processes in NSW**

### **7.1 Public submissions**

The following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 2a, 12a, 48 and 49.

### **7.2 Answers to questions on notice**

The following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- NSW Aboriginal Land Council
- Planning Institute Australia, NSW Division
- Department of Planning and Environment
- Local Government NSW.

## **8. Public hearing – Inquiry into regional planning processes in NSW and the Inquiry into economic development of Aboriginal communities – Tamworth**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Ms Fiona Snape, CEO, Tamworth Local Aboriginal Land Council.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Cr Col Murray, Chairperson of Namoi Councils Joint Organisation and Mayor of Tamworth Regional Council
- Cr Owen Hasler, Namoi Councils Joint Organisation Board Member and Mayor of Gunnedah Shire Council

- Mr Angus Witherby, Director Planning & Environment, Moree Plains Shire Council.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Daniel Bryant, CEO, ProTen Ltd
- Ms Eryn Bath, Principal Consultant, Environmental Management, Planning and Approvals, SLR Consulting
- Ms Elaine Dickson, Chief Risk Officer, Baiada
- Mr David Ireland, Director, PSA Consulting

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Lia Mahony, Tamworth Business Chamber

The evidence concluded and the witness withdrew.

#### 9. Next meeting

The committee adjourned at 5.30 pm until 8.00 am, Thursday 28 April 2016, Tamworth, (*site visit to Whitehaven Coal Mine, Maules Creek*).

Rebecca Main

**Clerk to the Committee**

#### Minutes no. 12

Thursday 28 April 2016

Standing Committee on State Development

Quality Hotel Powerhouse, Tamworth, at 8.00 am

#### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones

#### 2. Apologies

Mr Wong

#### 3. Site visit – Inquiry into economic development of Aboriginal communities

##### 3.1 Site visit - Whitehaven Mine, Maules Creek

The committee travelled to Whitehaven Mine, Maules Creek

The committee was briefed by the following people on Whitehaven's approach to indigenous employment and engagement, as well as the Maules Creek project:

- Mr Peter Wilkinson, General Manager
- Mr Matt Sparks, Operations Manager
- Mr Tim Muldoon, Group Manager Community Relations and Property
- Mr Steve Burgess, Senior Trainer
- Mr Bob Sutherland, Aboriginal Community Relations Officer

- Mr Darren Trindall, Plant operator

### 3.2 Tendered documents

Mr Muldoon tendered the following documents:

- Whitehaven Coal Corporate Profile
- Reconciliation Action Plan 2015-2017
- Maules Creek Coal Project – About Maules Creek
- Aboriginal and Torres Strait Islander Community Relations
- Committed to the Narrabri Community.

## 4. Adjournment

The committee adjourned at 12:30pm until 8.00 am, Wednesday 25 May 2016, Sydney Airport, (*site visit to South Coast*).

Rebecca Main

**Clerk to the Committee**

### Minutes no. 13

Wednesday 25 May 2016

Standing Committee on State Development

Merimbula, at 10.45 am

#### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones

Mr Wong

#### 2. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes nos. 11 and 12 be confirmed.

#### 3. Correspondence

The committee noted the following items of correspondence:

##### *Received*

- 12 May 2016 – Email from Deputy Ombudsman (Aboriginal Programs), Daniel Lester, to the Chair, inviting members of the State Development Committee to the 1 June 2016 launch of the NSW Ombudsman’s ‘Special Report Parliament on Economic Development for Aboriginal people in NSW’.

##### *Sent*

- 12 May 2016 – Letter from the Chair to the Hon. Andrew Constance MP, Member for Bega, Minister for Transport and Infrastructure, advising him that the committee will be conducting a site visit and hearing in the far South Coast on 25 and 26 May, 2016
- 12 May 2016 – Letter from the Chair to the Hon Adrian Piccoli MP, Minister for Education, regarding funding and the Clontarf Foundation
- 12 May 2016 – Letter from the Chair to Mr Tim Muldoon, Group Manager Community Relations and Property, Whitehaven Coal Limited, thanking him for the site visit briefing and tour of the coal mine the Committee attended on 28 April 2016.

## 4. Inquiry into economic development of Aboriginal communities

### 4.1 Tendered documents

Resolved, on the motion of Mr Green: That the committee accept and publish the following documents tendered by Mr Tim Muldoon, Group Manager Community Relations and Property, Whitehaven Coal Limited:

- Whitehaven Coal Corporate Profile
- Reconciliation Action Plan 2015-2017
- Maules Creek Coal Project – About Maules Creek
- Aboriginal and Torres Strait Islander Community Relations
- Committed to the Narrabri Community.

#### **5. Site visit reports**

Resolved, on the motion of Mrs Maclaren-Jones: That the committee accept and publish the:

- Report for the Dubbo and Brewarrina site visits to the Clontarf Foundation project operating from Dubbo College South Campus, Merriman Shearing School, and the Brewarrina Business Cooperative site visits to Guyra and Tamworth.
- Report for the Guyra and Tamworth site visits to the Wattleridge Protected Area and the Whitehaven Coal Mine at Maules Creek.

#### **6. Inquiry into regional planning processes in NSW**

##### **6.1 Answers to questions on notice**

The committee noted that the answers to questions on notice provided by the following witnesses were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Ms Melissa Watkins, Director Environmental Services, Dubbo City Council
- Ms Melissa Watkins, Convenor, Local Government Planning Directors
- Ms Carolyn McNally, Secretary, Department of Planning and Environment.

#### **7. Australian Regional Development Conference**

Resolved, on the motion of Mr Green: That the Chair attend and present at the Australian Regional Development Conference on 5 and 6 September 2016 in Canberra about the progress of the inquiry into regional planning processes in NSW and that Mr Veitch also attend the conference.

#### **8. Attendance of Ms Shauna Jarratt at site visit to Jigamy Farm**

Resolved, on the motion of Mr Veitch: That the committee authorise Ms Jarratt to accompany the committee and attend the private meeting at the site visit to Jigamy Farm.

#### **9. Site visits –Inquiry into economic development of Aboriginal communities – Bundian Way walk and Jigamy Farm with Eden LALC and Twofold Aboriginal Corporation, and Narooma with Wagonga LALC**

The committee travelled to and walked the Bundian Way Story Trail and then travelled on to Jigamy Farm.

The committee was briefed by the following people from the Eden LALC and Twofold Aboriginal Corporation:

- Mr Les Kosez, Acting CEO, Eden Local Aboriginal Land Council and Chairperson of the Twofold Aboriginal Corporation
- Mr Chris Bird, CEO, Twofold Aboriginal Corporation
- Mr Ben Cruse, Chairperson, Eden Local Aboriginal Land Council, Deputy Chair, Twofold Aboriginal Corporation
- Noel Whitem, Bundian Way Project Manager, Eden Local Aboriginal Land Council.

The committee then travelled to Narooma and was briefed by the following people from the Wagonga LALC:

- Ronald J Mason, Board member, Wagonga LALC
- Victoria Moore, Community Member, Wagonga LALC.

**10. Next meeting**

The committee adjourned at 4.45pm until 10.00 am, Thursday 26 May 2016, Narooma Golf Club (*public hearing*).

Rebecca Main  
**Clerk to the Committee**

**Minutes no. 14**

Thursday 26 May 2016  
Standing Committee on State Development  
Narooma Golf Club, Narooma, 10.45 am

**1. Members present**

Mr Pearce, *Chair*  
Mr Colless  
Mr Green  
Mrs Maclaren-Jones  
Mr Wong

**2. Apologies**

Mr Veitch, *Deputy Chair*

**3. Public hearing – Inquiry into regional planning processes in NSW and the Inquiry into economic development of Aboriginal communities – Narooma**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Mr John Brierly, NSW Aboriginal Fishing Rights Group
- Mr Wally Stewart, NSW Aboriginal Fishing Rights Group
- Mr Danny Chapman, NSW Aboriginal Fishing Rights Group
- Mr Robert Chewying, NSW Aboriginal Fishing Rights Group.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Jeff Morgan, Divisional Manager, Strategic Services, Eurobodalla Shire Council
- Ms Sarah Cooper, Business Assistance Manager, Eurobodalla Shire Council.

Ms Cooper tendered the following document:

- *Wallaga Dreaming*, Wallaga Lake Community, June 2014.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Greg Pullen, Economic Development Manager, Shoalhaven City Council.

The evidence concluded and the witness withdrew.

#### 4. **Adjournment**

The committee adjourned at 1:45pm, until Friday 24 June 2016.

Rebecca Main

**Clerk to the Committee**

#### **Minutes no. 15**

Friday 24 June 2016

Standing Committee on State Development

Room 1136, Parliament House, Sydney 10.31 am

#### 1. **Members present**

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones (*via teleconference*)

Mr Wong

#### 2. **Previous minutes**

Resolved, on the motion of Mr Veitch: That draft minutes nos. 13 and 14 be confirmed.

#### 3. **Correspondence**

The committee noted the following items of correspondence:

##### ***Received***

- 27 May 2016 – Email from the Hon. Adrian Piccoli MP, Minister for Education, providing information regarding the Clontarf Foundation as requested by the Chair (*previously circulated*).
- 16 June 2016 – Email to committee from Mr Laurie Perry, Chief Executive Officer, Wonnarua Nation Aboriginal Corporation, providing an update on progress for his organisation (*attached*).
- 23 June 2016 – Email to committee from Mr Laurie Perry, Chief Executive Officer, Wonnarua Nation Aboriginal Corporation, providing additional information and an article from the Koori Mail.
- 23 June 2016 – Email to Senior Council Officer from Ms Loretta Price, Advisor – Indigenous Employment and Training, Voyages, providing information about the organisation's residential enterprise based training and employment strategy.

##### ***Sent***

- 31 May 2016 – Letter from the Chair to Mr Les Kosek, A/Chief Executive Officer, Eden Local Aboriginal Land Council, thanking him for the site visit briefing and tour of the Bundian Way on 25 May 2016.
- 31 May 2016 – Letter from the Chair to Ms Cheryl Moreton, Chief Executive Officer, Wagonga Local Aboriginal Land Council, thanking her for the site visit briefing on 25 May 2016.

#### 4. **Inquiry planning for the remainder of 2016**

Resolved, on the motion of Mr Veitch: That the updated schedule for the remainder of 2016 for the inquiries into economic development of Aboriginal communities and regional planning processes be agreed to.

**5. Inquiry into regional planning processes in NSW**

**5.1 Answers to questions taken on notice**

Resolved on the motion of Mr Green: That the answers to questions on notice provided by the following witnesses, be published by the committee clerk under the authorisation of the resolution appointing the committee:

- Eurobodalla Shire Council
- Tamworth Regional Council.

**6. Inquiry into economic development in Aboriginal communities.**

**6.1 Tended documents**

Resolved, on the motion of Mr Wong: That the committee accept the following document tendered by Ms Sarah Cooper, Business Assistance Manager, Eurobodalla Shire Council, during the hearing at Narooma:

- Wallaga Dreaming, Wallaga Lake Community, June 2014.

**6.2 Site visit report**

Resolved, on the motion of Mr Veitch: That the committee accept and publish the report for the site visit to the Bundian Way and Jigamy Farm with Eden LALC and Wagonga Local Aboriginal Land Council, Narooma.

The committee noted that all of the site visit reports will be published on the committee's website.

**6.3 Consideration of Chair's draft discussion paper**

The Chair submitted his draft discussion paper, entitled 'Economic development in Aboriginal communities: Discussion paper', which, having been previously circulated, was taken as being read.

Chapter 1 read.

Resolved, on the motion of Mr Veitch: That chapter 1 be adopted.

Chapter 2 read.

Resolved, on the motion of Mr Colless: That chapter 2 be adopted.

Chapter 3 read.

Resolved, on the motion of Mr Green: That chapter 3 be adopted.

Chapter 4 read.

Resolved, on the motion of Mr Veitch that paragraph 4.51 be omitted and insert instead: Voyages was established in 2011 to own and manage the Ayres Rock Resort in the Northern Territory, in addition to some of the Indigenous Land Corporation's other tourism assets in the area. Voyages provides a best practice model in Indigenous employment and training and includes:

- a residential employment-based training program
- accredited training and on-the-job experience
- trainees are employed while training and a guaranteed job on completion
- support by an Indigenous Engagement team encouraging continual skills development and greater retention
- rolling trainee intake to build numbers and experience
- cultural education for all staff
- access to health and wellbeing programs.

Resolved, on the motion of Mrs Maclaren-Jones: That chapter 4 be adopted.

Chapter 5 read.



Resolved, on the motion of Mr Green: That a case study on Eden Local Aboriginal Land Council – Bundian Way project be inserted after paragraph 5.33.

Resolved, on the motion of Mr Green: That chapter 5 be adopted.

Chapter 6 read.

Resolved, on the motion of Mr Colless: That chapter 6 be adopted.

Resolved, on the motion of Mr Veitch: That the draft discussion paper, as amended, be adopted by the committee and published in accordance with standing order 226(4) on 7 July 2016.

Resolved, on the motion of Mr Colless: following publication, the discussion paper be sent to inquiry participants and interested parties with a letter inviting submissions on the paper.

Resolved, on the motion of Mrs Maclaren-Jones: That the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling.

Resolved, on the motion of Mr Green: That the discussion paper be launched at an event on Thursday 7 July 2016, with inquiry participants and key stakeholders invited to attend.

Resolved, on the motion of Mr Colless: That the committee authorise the secretariat to provide the case studies to organisations in order to seek their permission for use of their logos as background.

## 7. Next meeting

The committee adjourned at 10:43 am, until Thursday 7 July 2016, Jubilee Room, 10.00 am (TBC) – *Launch of the Economic development in Aboriginal communities: Discussion paper.*

Rebecca Main

**Clerk to the Committee**

## Minutes no. 16

Wednesday 18 March 2016

Standing Committee on State Development

Macquarie Room, Parliament House, Sydney, at 9.12 am

### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones

Mr Wong

### 2. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 15 be confirmed.

### 3. Correspondence

The committee noted the following items of correspondence were received:

- 15 July 2016 – email Mr Mark Denning, Operations Manager, Indigenous Land Corporation, providing information regarding the Merriman Shearing School graduates' results
- 15 July 2016 – email Mr Laurie Perry, Chief Executive Officer, Wonnarua Nation Aboriginal Corporation, providing information regarding the 3rd National Indigenous Economic Development Forum to be held in Darwin, 19- 21 October 2016
- 20 July 2016 – email Mr Greg Pullen, Shoalhaven Council, unable to attend roundtable for the inquiry into economic development in Aboriginal communities

- 4 August 2016 – email Mr David McNamara, Director Secretariat, NSW Planning Assessment Commission, advising that due to prior commitments he cannot attend to give evidence for the regional planning hearing on 17 August but is willing to provide a written response to any questions the committee may have.
- 10 August 2016 – email Mr Nathan Martin, Department of Premier and Cabinet, the department will not be proving a submission to the inquiry
- 11 August 2016 - email Mr Nathan Martin, Department of Premier and Cabinet, declining the committee’s invitation for the Department of Premier and Cabinet to attend the roundtable.

#### 4. **Australian Regional Development Conference**

The Chair informed the committee that he was not selected to present at the Australian Regional Development Conference on 5 and 6 September 2016 in Canberra about the progress of the inquiry into regional planning processes in NSW and that he will therefore not be attending. Mr Veitch will still be attending.

#### 5. **Inquiry into regional planning processes**

##### 5.1 **Confidential submission**

Resolved on the motion of Mrs Maclaren-Jones: That the committee keep submission no. 50 confidential, as per the request of the author as it contains sensitive information.

##### 5.2 **Public hearing**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Ms Rebecca Walmsley, Policy and Law Reform Director, EDO NSW
- Mr Nari Sahukar, Senior Policy and Law reform Solicitor, EDO NSW

Ms Walmsley tendered the following document:

- EDO NSW Report, *Merits Review in Planning in NSW*, July 2016.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Jeanette Brokman, Co-Convenor, Better Planning Network

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Michael Toby, Corporate Affairs Manager, Costa Group.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Craig Jennion, Regional Director (Hunter Region) NSW Housing Industry Association
- Mr Troy Loveday, Assistant Director Residential Development and Planning, NSW Housing Industry Association.

The evidence concluded and the witnesses withdrew.

The Chair noted that Mr Stephen Murray, Acting Executive Director, Regions, Department of Planning and the Environment, did not need to be sworn as he had already sworn an oath at an earlier hearing for this inquiry.

Mr Stephen Murrery was admitted.

The following witness was sworn and examined:

- Mr Brett Whitworth, Executive Director, Local Planning Liaison, Department of Planning and Environment.

The evidence concluded and the witnesses withdrew.

The public and media withdrew.

#### 6. **Tendered documents**

Resolved on the motion of Mrs Maclaren-Jones: That the committee accept and publish the following document tendered during the public hearing:

- EDO NSW Report, *Merits Review in Planning in NSW*, July 2016.

#### 7. **Adjournment**

The committee adjourned at 2.36 pm until Thursday 18 August 2016 (*roundtable for economic development in Aboriginal communities*).

Rebecca Main

**Clerk to the Committee**

#### **Minutes no. 17**

Thursday 18 March 2016

Standing Committee on State Development

Macquarie Room, Parliament House, Sydney, at 9.30 am

#### 1. **Members present**

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Green

Mrs Maclaren-Jones

Mr Wong

#### 2. **Apologies**

Mr Colless

#### 3. **Inquiry into economic development in Aboriginal communities**

##### 3.1 **Discussion paper - Public submissions**

The committee noted that submission nos. 39, 40, 41, 42, 43, 44 and 45 were published by the committee clerk under the authorisation of an earlier resolution.

##### 3.2 **Discussion paper - Confidential submission**

Resolved on the motion of Mr Veitch: That the committee keep submission no. 38 confidential, as per the request of the author as it contains sensitive information.

##### 3.3 **Public roundtable**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The Chair noted that Mr Jason Ardler, Head, Aboriginal Affairs, did not need to be sworn as he had already been sworn at an earlier hearing for this inquiry.

Mr Ardler was admitted.

The following witnesses were sworn and examined:

- Mr Warren Mundine AO, Chair, Prime Minister's Indigenous Advisory Council
- Mr Daniel Lester, Deputy Ombudsman, Aboriginal Programs, NSW Ombudsman
- Ms Anne Dennis, Deputy Chairperson, NSW Aboriginal Land Council
- Mr Sam Jeffries, Convenor, Local Decision Making Regional Chairpersons Group

The evidence concluded and the witnesses withdrew.

The Chair noted that Mr Jason Brouff, Manager, Aboriginal Land Claims, Aboriginal Lands Unit, Crown Lands, Department of Industry - Land and Ms Anne Dennis, Deputy Chairperson, NSW Aboriginal Land Council, did not need to be sworn as they had already been sworn at an earlier hearing and earlier today for this inquiry.

Mr Brouff and Ms Dennis were admitted.

The following witnesses were sworn and examined:

- Mr Stephen Wright, Registrar, Office of the Registrar *Aboriginal Land Rights Act 1983* (NSW)
- Mr Sean Gordon, Chief Executive Officer, Darkinjung Local Aboriginal Land Council
- Mr Laurie Perry, Chief Executive Officer, Wonnarua Nation Aboriginal Corporation
- Ms Hema Hariharan, Manager, Strategic Development, NTSCORP
- Ms Mishka Holt, Principal Solicitor, NTSCORP
- Mr David Clarke, Group Director, Governance and Strategy, Department of Industry – Lands
- Alison Frame, Deputy Secretary, Policy and Strategy, Department of Planning and Environment

The evidence concluded and the witnesses withdrew.

The Chair noted that Mr Raghu Venkat, Senior Manager Business and Product Development, Indigenous Business Australia and Ms Debbie Barwick, Chief Executive Officer, NSW Indigenous Chamber of Commerce, did not need to be sworn as they had already been sworn at an earlier hearing for this inquiry.

Mr Venkat and Ms Barwick were admitted.

The following witnesses were sworn and examined:

- Mr David Collins, Executive Director, Training Services NSW
- Dr Robert Waldersee, Executive Director, Corruption Prevention Division, Independent Commission Against Corruption
- Mr Gerard Neesham, Chief Executive Officer, Clontarf Foundation
- Ms Laura Berry, Chief Executive Officer, Supply Nation
- Ms Tanya Elone, Manager, Banbai Enterprise Development Aboriginal Corporation

Ms Berry tendered the following documents:

- Robin Burton and Emma Tomkinson, *The Sleeping Giant - A Social Return on Investment Report on Supply Nation Certified Suppliers*
- Inside Policy for Supply Nation, *More than business. How corporate and government buyers can make it easier for Indigenous suppliers to do business with them*, 10 May 2016.

The evidence concluded and the witness withdrew.

The public and media withdrew.

#### **4. Tendered documents**

Resolved on the motion of Mrs Maclaren-Jones: That the committee accept and publish the following documents tendered by Ms Laura Berry, Chief Executive Officer, Supply Nation, during the public hearing:

- *The Sleeping Giant - A Social Return on Investment Report on Supply Nation Certified Suppliers*
- *More than business. How corporate and government buyers can make it easier for Indigenous suppliers to do business with them.*

## 5. Adjournment

The committee adjourned at 3.06 pm until Monday 12 September 2016 (*Albury hearing, Inquiry into regional planning processes in NSW*).

Rebecca Main

**Clerk to the Committee**

## Minutes no. 18

Monday 12 September 2016

Standing Committee on State Development

Elizabeth Room, Albury Entertainment Centre, Albury at 10.37 am

### 1. Members present

Mr Pearce, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Green

Mr Wong

### 2. Apologies

Mrs Maclaren-Jones

### 3. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 16 be confirmed.

### 4. Correspondence

The committee noted the following items of correspondence were received:

#### *Received*

- 23 August 2016 – email from Mr Tim Archer, Department of Planning and Environment, declining the committee's invitation to make a submission in response to the discussion paper to the inquiry into economic development in Aboriginal Communities
- 26 August 2016 – email from Mr Laurie Perry, Wonnarua Nation Aboriginal Corporation, advising of additional projects being undertaken regarding the inquiry into economic development in Aboriginal communities
- 1 September 2016, email from Mr Laurie Perry, Wonnarua Nation Aboriginal Corporation, advising the newly elected Northern Territory Government made a pre-election commitment to support the work of Indigenous rangers with \$14 million over four years.

### 5. Inquiry into economic development in Aboriginal communities

#### 5.1 Discussion paper – public submissions

The committee to note submissions published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 37, 46, 47, 48 and 49.

## **6. Inquiry into regional planning processes in New South Wales**

### **6.1 Answers to questions on notice**

The committee noted that the answers to questions on notice provided by the following witness were published by the committee clerk under the authorisation of the resolution appointing the committee:

- EDO NSW, received 2 September 2016.

### **6.2 Public hearing**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Ms Julie Briggs, Riverina Eastern Regional Organisation of Councils (REROC)
- Mr Tony Donoghue, Executive Member, REROC and General Manager, Coolamon Shire Council.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr James McTavish, NSW Cross Border Commissioner.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Frank Zaknich, General Manager, Albury City Council
- Mr Michael Keys, Director Planning and Environment, Albury City Council
- Mr John Sidgwick, Manager Planning and Building, City of Wodonga.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Bob Wheeldon, Rest of NSW.

The evidence concluded and the witness withdrew.

## **7. Adjournment**

The committee adjourned at 2.36 pm until Monday 19 September 2016 (Ballina hearing, regional planning processes inquiry).

Samuel Griffith  
**Clerk to the Committee**

**Draft Minutes no. 19**

Monday 19 September 2016

Standing Committee on State Development

Ramada Hotel, Ballina at 9.49 am

**1. Members present**Mr Pearce, *Chair*

Mr Colless

Mr Green

Mrs Maclaren-Jones

Mr Wong

**2. Apologies**

Mr Veitch

**3. Previous minutes**

Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes nos 17 and 18 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence were sent:

***Sent***

- 9 September 2016 – letter from the Chair to Mr Gregory Aplin MP, Member for Albury, advising of the committee's hearing in Albury for the regional planning processes inquiry
- 14 September 2016 – letter from the Chair to Ms Tamara Smith MP, Member for Ballina, advising of the committee's hearing in Ballina for the regional planning processes inquiry.

**5. Inquiry into regional planning processes in New South Wales****5.1 Public submission**

The committee noted the following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no. 51.

**5.2 Public hearing**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Tony McAteer, Coordinator of Strategic Planning and Environment, Richmond Valley Council
- Ms Paula Newman, Strategic Planning Coordinator, Lismore City Council
- Ms Shannon Burt, Director Sustainable Environment and Economy, Byron Shire Council
- Mr Manfred Boldy, Director Planning and Environmental Services, Kyogle Council
- Mr Vince Connell, Director Planning and Regulation, Tweed Shire Council

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Alex Smith, Chief Executive Officer, Regional Development Australia Northern Rivers
- Ms Kerry Grace, Chief Executive Officer, Regional Development Australia Mid North Coast (RDAMNC)
- Ms Lorraine Gordon, Former Chief Executive Officer, RDAMNC and currently Program Director, Farm Co-operatives and Collaboration Pilot Program, Southern Cross University.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Bernard Grinberg, Director, Ballina Beach Village

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Bill Payne, Principal, Ardill Payne and Partners

The evidence concluded and the witness withdrew.

## 6. **Adjournment**

The committee adjourned at 2.30 pm until Friday 23 September 2016 (Report deliberative economic development in Aboriginal communities).

Samuel Griffith

**Clerk to the Committee**

### **Draft Minutes no. 20**

Friday 23 September 2016

Standing Committee on State Development

Room 1043 at 10.02 am

#### 1. **Members present**

Mr Pearce, *Chair*

Mr Colless

Mrs Maclaren-Jones

Mr Veitch

Mr Wong

#### 2. **Apologies**

Mr Green

#### 3. **Inquiry into economic development in Aboriginal communities**

##### 3.1 **Correspondence**

The committee noted the following item of correspondence:

##### ***Received***

- 23 September 2016 – Email Mr Laurie Perry, Wonnarua Nation Aboriginal Corporation, Wonnarua All Business Aboriginal Academy.

##### 3.2 **Discussion paper - Public submission**

The committee noted that submission no. 50 was published by the committee clerk under the authorisation of an earlier resolution.

##### 3.3 **Confidential submission**

Resolved on the motion of Mr Wong: That the committee keep submission no. 51 confidential, as per the request of the author, as it contains commercially sensitive information.

##### 3.4 **Answers to question on notice**

Resolved on the motion of Mr Veitch: That the answers to questions on notice provided by the following witnesses, be published by the committee clerk under the authorisation of the resolution appointing the committee:

- NSW Aboriginal Land Council.



### 3.5 Consideration of Chair's draft report entitled '*Economic development in Aboriginal communities*' (previously circulated)

The committee considered the Chair's draft report.

Resolved on, on the motion of Mr Veitch: That:

- The draft report be the report of the committee and that the committee present the report to the House;
- The transcripts of evidence, submissions, tabled documents, answers to questions on notice, correspondence, site visit reports and discussion paper relating to the inquiry be tabled in the House with the report;
- Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice, correspondence site visit reports and discussion paper relating to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee;
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- That the report be tabled on Friday 30 September 2016.

#### 4. Recommendation 4 of the Report on regional aviation

Resolved, on the motion of Mr Colless: That the Chair write to the Minister for Transport to follow up on recommendation 4 of the Report on regional aviation concerning whether the NSW Government wrote to the Federal Minister for Infrastructure and Regional Development about regional slots into Sydney Airport.

#### 5. Adjournment

The committee adjourned at 10.08 am until Monday 21 November 2016 (Report deliberative regional planning processes in New South Wales).

Rebecca Main  
Clerk to the Committee

