

QUESTIONS AND ANSWERS ARISING OUT OF THE ABORIGINAL
AFFAIRS BUDGET ESTIMATES HEARING OF 28 AUGUST, 2006

The provision of an outline as to what leads to the appointment of administrators in major circumstances to Local Aboriginal Land Councils (LALC's).

ANSWER:

I have received advice from the NSW Aboriginal Land Council (NSWALC) regarding the issues raised by the Hon Robyn Parker with Mr Murray Chapman, Administrator of NSWALC, a witness at the Estimates Hearing of 28 August, 2006.

Section 222 of the Aboriginal Land Rights Act 1983 (ALRA) authorises the Minister for Aboriginal Affairs to appoint an Administrator to Local Aboriginal Land Councils, with the approval of the NSW Aboriginal Land Council.

The process associated with the appointment of an administrator under the ALRA always involves communication and advice from NSWALC and ultimately approval from that organisation.

In its role of considering whether to approve the appointment of an administrator to a LALC, NSWALC will consider whether it is satisfied that at least one of the jurisdictional facts in s.222(1) of the ALRA exist and also whether, as a matter of discretion, the appointment of an administrator would be desirable.

The exercise of discretion in relation to the appointment of an administrator to a LALC in this context is wide, but limited by the scope and purpose of the Act.

As a result of NSWALC's regulatory and supervisory role under the ALRA, NSWALC is usually in possession of the information which would support one of the grounds set out in s.222(1) to appoint an administrator to a LALC, as well as other matters which may be relevant to the exercise of discretion.

In circumstances where only NSWALC is privy to such information, NSWALC may initiate the process by approaching the Minister to recommend that the Minister exercise the power to appoint an Administrator.

NSWALC will consider the merits of recommending and/or approving the appointment of an Administrator to a LALC on a case by case basis.

The guiding principles followed by NSWALC in considering any appointment are detailed in NSWALC's internal policy on the Appointment of Administrators to Aboriginal Land Councils.