

**Submission
No 9**

**INQUIRY INTO ECONOMIC DEVELOPMENT IN
ABORIGINAL COMMUNITIES**

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Dear Committee Members

INQUIRY INTO ECONOMIC DEVELOPMENT IN ABORIGINAL COMMUNITIES

I am making this submission in a personal capacity.

Background

My experience informing this submission is:

- 17 years of providing legal services to, *inter alia*, Aboriginal people and organisations (mostly in an intellectual property context)
- 3 years as a youth education mentor in regional/rural NSW to improve education, training and/or employment prospects (supporting about 200 young people in that period, approx. 50% Aboriginal)
- 4 years as a community development officer in the Lismore office of Aboriginal Affairs NSW (implementing the Partnership Communities Program under the former Government's 'Two Ways Together' policy) and
- currently just under 2 years as the Chief Executive Officer of the Jubullum Local Aboriginal Land Council near Tabulam in north-eastern NSW.

In my current position as CEO of a Local Aboriginal Land Council ('LALC'), I have achieved the following:

- working with the largest discrete Aboriginal community in north-eastern NSW (a village with a population of about 250 people)
- achieving a Risk Assessment Score of 95% (against governance and financial stewardship indicators) from the NSW Aboriginal Land Council, moving the LALC from a medium-risk to a low-risk category in just over 12 months
- preventing the LALC from going into administration by reducing expenditure by over \$248,000 in FY2014-15 in comparison to the previous year and administration
- sponsoring the only all-Aboriginal 'Green Army' team in NSW on a river rehabilitation project adjoining Jubullum village
- currently developing the LALC's Housing Policy and preparing an economic development strategy for 2016 onwards

Submission

My submission on strategies to support economic development in Aboriginal communities in New South Wales now follows.

(a) Options for sustainability and capacity building of NSW Aboriginal communities into the future, utilising community networks and structures

In my role as CEO of a Local Aboriginal Land Council, I take a local-level approach to achieving economic sustainability and capacity. I will provide details of this approach below. It is important to develop this within a community governance framework suited to the community's own circumstances – described by the Social Justice Commissioner of the Australian Human Rights Commission in the following terms: 'community governance – how our people and our communities govern ourselves, through our traditional laws, customs, norms and values, as well as by contemporary methods' (see Mick Gooda, 'Social Justice and Native Title Report 2014', p. 134).

This understanding of community governance is contrasted in the Harvard Project's comparison (Gooda, 138) of an 'Indigenous Nation-building Approach' with the 'Standard Approach' to developing Indigenous governance:

Indigenous Nation-building Approach	Standard Approach
Indigenous Nations comprehensively assert decision-making power	Persons or organisations other than the Indigenous Nations set the development agenda
They back up decision-making with effective governing institutions	Development is primarily treated as an economic problem
Their governing institutions match their political culture	Indigenous culture is viewed as an obstacle to development
Decision-making is strategic	Decision-making is short term and non-strategic
Leaders serve as Nation builders and mobilisers	Elected leadership serves primarily as a distributor of resources

A Local Aboriginal Land Council ('LALC') is a statutory corporation established under the *Aboriginal Land Rights Act, 1983* (the 'ALRA') with prescribed functions to be carried out by an elected Board drawn from the LALC's membership. Day-to-day operations are carried out by the Chief Executive Officer and other staff.

In accordance with the Indigenous Nation-building Approach, the first step that I took following commencement as CEO was to ensure that the whole process going forward was under-pinned by the community's culture and heritage – in this case, the culture of the *Wahlabul* people. The Board established a Culture and Heritage Committee made up of 2 Board members (including 1 young woman) and a community Elder to oversee all cultural aspects of the organisation. Recently the Board adopted a *Wahlabul* Language and Culture policy to continue to embed local culture into the organisation, its activities and its dealings with others.

The next immediate step was to strengthen the LALC's governance and financial management. This was dealt with by providing more transparent information to the Board and members, helping Board members to develop a series of policies and procedures to confirm and clarify how things are carried out by the organisation and its officers, and developing the planning and financial capacity of the Board.

And the next stage, which many LALCs across NSW are going through in late 2015, is the finalisation of the policies and procedures for the local implementation of what was formerly called 'social housing', now a Community Benefits Scheme (Residential Accommodation). Provision of housing is a fundamental task of most if not all LALCs in NSW. The land held by LALCs is essentially a form of compensation for historical dispossession, and is now the principal platform for exerting cultural, social and economic life by Aboriginal people, particularly in non-urban discrete communities.

Apart from annual operational funding provided by the NSW Aboriginal Land Council, rent is one of the primary income sources for a LALC. Rent is used to fund rates and insurance, certain utilities, repairs and maintenance, and ideally should be provisioning for future housing stock. Amendments to the ALRA which took effect on 1 July 2015 require LALCs to work towards achieving 90% rental collection from 1 January 2016. This will impact on the social and economic activity of many Aboriginal people, as poverty, competing economic factors, and welfare dependency have meant that rent payments to LALCs are not always considered to be consistent or essential. In 2016-17, there will be a degree of social and economic upheaval as the CBS takes effect over time and people respond and/or adjust to it.

For a LALC to strengthen its foundations and provide stronger support and services, it must consider its options and opportunities for economic development from its asset base and human resources within the membership and community. The reason LALCs must look at economic growth is primarily due to the demographic expansion of young people aged under 25 now comprising 50% (and rising) of the Aboriginal population in NSW – the inverse of the non-Aboriginal population which is increasingly aging. In the near future, there will be rising demand for new housing for young families and single people, at the same time as there will be financial pressure on LALCs to maintain and repair existing housing stock for its current tenant base of established families and older people. The options and opportunities will therefore have to come from within the community, at the local level, established on the foundations of strong culture, governance and financial stewardship.

In a LALC, these economic options are developed through consultation and planning processes. Under the ALRA, a LALC is required to have a Community, Land & Business Plan (CLBP) which sets out the objectives and goals which are intended to be for the benefit of members and all Aboriginal people living within the LALC's area. The operation of the CLBP is intended to be overseen by the 10-person Board elected (now 4-yearly) from the membership, and its implementation on a day-to-day basis by the CEO and staff, reporting back to the Board monthly and to the members quarterly. The 2015 ALRA amendments require all LALCs in NSW to consult with members and review their CLBPs by 30 June 2016.

There is therefore considerable pressure on CEOs and LALC staff, and on the volunteer Board members, to achieve all of these compulsory statutory requirements. At the time of writing, I have been finalising the FY2014-15 audit, preparing for the AGM and Board election, finalising the Housing policy and procedures required by 31 October for the CBS, as well dealing with ordinary management and administration duties (payroll, staff management, monthly financial reports etc). The workload of at least 3 people is being carried out by a full-time CEO and Administration Officer – despite my experience and expertise, the demands are unrelenting, and often not well-understood or appreciated. I can look forward to next getting on with the overhaul of the CLBP to meet community needs for the next 5 years.

The CLBP will be built around the mandatory functions of a LALC (as required by the ALRA), together with those areas of 'interest' to an Aboriginal community – those from within as well as those 'interests' which come from without. In the Harvard Project comparison, these outside forces are coming from the 'Standard Approach', so a LALC has to go through a difficult balancing act to achieve the Indigenous Nation-building Approach while managing people and agencies who are well-ingrained in the Standard Approach.

When I began in the position in early 2014, the LALC did not have a current CLBP. I therefore had to craft a CLBP modelled on the factors applying to the community (with which I was already familiar from my work with this community during my time with Aboriginal Affairs NSW).

The planning structure I have been using is as follows:

1. LALC Governance
 - Staff and Administration
2. Financial Stewardship
3. Culture and Heritage
4. Housing

5. Health
6. Education
7. Training and Employment
8. Families and Community
9. Economic Development
10. Legal Services, Policing and Justice
11. Political Developments

The first 4 of these are mandatory or core functions drawn from the ALRA. Items 5-11 are the other community interests. All 11 areas are heavily impacted by outside forces – legal systems, compliance regimes, government programs, NGO projects and so forth. The order is influenced by the ALRA and also by the structure of the Australian Government’s ‘Closing The Gap’ strategy. This structure has been useful for organising all my work from project planning, to budget preparation and financial management, to reporting internally and externally.

The next CLBP structure is more likely to be as follows:

1. Culture and Heritage
2. LALC Governance
 - Staff and Administration
3. Financial Stewardship
4. Housing

5. Economic Development
6. Training and Employment
7. Education
8. Health
9. Families and Community
10. Legal Services, Policing and Justice
11. Political Developments

This ordering will present some challenges, as ‘families and community’ is at the heart of the community, health is the highest-level of ‘Closing The Gap’ priorities, and Constitutional reform is on the national agenda. On the other hand, the refreshed structure conforms to the Indigenous Nation-building Approach, and the list-order does not mean that prioritisation is inflexible across any of the areas. The CLBP is about planning for the future – drawing from the present realities and developing the ideas, objectives and goals which will address near-term and future realities. And economic development is an increasingly strong driver from within and without, which is why its position is elevated to the level immediately under the mandatory ALRA functions (which reflect key foundation elements for a LALC).

In order to develop the economic development component of the CLBP, it is critical to closely reflect the ‘local Aboriginal economy’. Most economic development programs proposed for Aboriginal people and communities are essentially *non-Aboriginal economic models that are unsuccessfully imposed on Aboriginal economic systems*. Non-Aboriginal economic models are based on certain assumptions that do not necessarily apply to, or do not apply with the same emphasis, for Aboriginal people and

communities – having an education or a job as a goal, earning money as a motivation, individual development and achievement, a nucleated family, and a home you own. Non-Aboriginal economic models work best (but not always) for people who share and/or benefit from these assumptions (and therefore does include a section of Aboriginal people).

The modern Aboriginal economic reality is a community with low to very low education levels and high to very high unemployment rates, combined with low to very low expectations and opportunities. The economic platform for many Aboriginal people and communities is based on welfare, principally Newstart and pensions, which can be supplemented by parenting and carer payments and allowances, kinship-care payments etc. Where these income sources are insufficient, economic needs may be supplemented or satisfied by self-help, group and/or barter strategies (big cook-ups, hunting and foraging, home mechanics, home haircuts) and at times employing strategies from the ‘criminal economy’ (stealing cars for transport, dealing in stolen goods or drugs).

In this economic world-view, having a job is an add-on, often unachievable and generally not long-term. Aspirations are necessarily short-term and even opportunistic. Interaction with the non-Aboriginal economic system is more likely to be dealing with Centrelink, renting furniture and appliances, pay-day borrowing, no interest loan schemes, and funeral insurance. This is not to say that people do not have dreams or aspirations – and people are certainly aware of the disadvantage – but it is this very disadvantage that impedes and obstructs future options and opportunities.

An economic system can only be framed around a social structure. So it is important to understand the local social structure and how it relates to the local economic system. There is a central emphasis on the extended family/clan group (over time and space), child-rearing by grandmothers, a limited role for men, little empowerment of teenagers, a relatively low proportion of seniors and Elders, and a rising demographic of young Aboriginal people aged under 25.

My approach has been to understand the Aboriginal socio-economic model at the local level (it necessarily varies from place to place, but will usually share the similar range of characteristics) and then build outwards from the local structure. *The plan – the CLBP - must be built around and from local circumstances and realities in order to having any meaning or potential to effect development.*

Under the current CLBP, I have developed a planning and reporting process for Economic Development by reviewing the Land Council’s property portfolio, other assets, infrastructure, utilities, human resources and capacity, and external threats to these assets. This analytical model is currently structured as follows:

1. Property portfolio	residential properties	
	commercial properties	
	vacant land	
	managed properties	
	properties to acquire	this includes but is not limited to Crown Land claims, but can also include arrangements under the new Aboriginal Land Agreements under the ALRA
2. Asset protection	Insurance	
	Fire safety and bushfire management	
3. Infrastructure	Water supply	
	Septic and sewer systems	
	Stormwater channels	
	Community roads	
	Signage	community, street and housing
4. Utilities	Electricity	
	Rubbish removal	
	Recycling	

	Mobile phone reception	the community is outside mobile reception area
	Internet	very little or no home-based access
	Television / Radio	limited radio reception
5. Business operations	Village maintenance	contract work with local Councils
	Other maintenance work and contract or tender opportunities	
	Agriculture/horticulture	
	Commercial uses of commercial buildings	
	Forestry plantation and firewood	
	Solar energy	
	Carbon farming	
	Cultural induction/awareness/activities	
6. Potential threats	Gold mining	upstream heavy metal risks associated with recent gold mining operations
	Coal seam gas	PEL 445

This structured analysis allows planning to take place at each level, with priorities determined locally according to need, and often enough by externally imposed factors. Implementation will take place over a 5-year period, allowing the plan to be staged in conjunction with available assets, human resources, financial means and external collaboration. The LALC's reviewed Community, Land & Business Plan under the ALRA will be projecting from 2017 to 2022.

In each of those years, the LALC is required to prepare a budget that links to the implementation of the CLB. LALCs receive core annual funding from the NSW Aboriginal Land Council, but are otherwise reliant on rent received from Community Benefits Schemes (Residential Accommodation), and any other available revenue sources – which is where economic development considerations come in. Some of my predecessors appear to have used grant funds as an income stream, but in my view grants are generally budget-neutral, in that the funds are tied to specified projects and expenditure and so do not derive a financial benefit to the LALC (this is not intended to ignore grants funding, as it is a way of providing essential social services and projects).

So to refresh. The Indigenous Nation-building approach is more relevant to Aboriginal ways. The *Aboriginal Land Rights Act, 1983* prescribes certain requirements that are now well underway across NSW – a Community Benefits Scheme (Residential Accommodation) operational from 1 January 2016, and refreshed Community, Land & Business Plans for the next 5 years operational from 1 January 2017. These processes are derived from the Standard Approach (even though based on a consultation process that depends on what is meant by 'consultation'). These actions may be 'compliant' at the local level, but are not necessarily accepted or implemented in a meaningful way. How can these existing situations be brought around to connect with the Indigenous Nation-building Approach so that economic development will be more acceptable, and more likely to succeed?

Firstly there is a need to understand the existing asset base of the organisation. Within a LALC, these should be recorded in a form of an Asset Register and valued/measured on a Balance Sheet. In the previous and current audit, I have been improving the recording and valuation of assets, gaining a better understanding of, and managerial control over, revenue streams and expenditure, and writing off unrecoverable debts so as not to inadvertently over-value the organisation.

Secondly has been on-the-job training of the Administration Officer in financial recording and reporting processes. This has been very important to improving control of expenditure, and highlighting the importance of identifying new income sources and opportunities. It has also contributed to the skills and capacity building of the Administration Officer (and in due course will be supported by more formal

learning). As a result of this process, the Administration Officer has been able to identify and take on more responsibilities for financial administration and contribute to financial decision-making, for example formulating budgets, monitoring income and expenditure against the budget, and making plans consistent with the budget.

Third has been to provide monthly financial reports to the Board, and quarterly reports to the members. In 2014, I organised a Senior Finance Officer from the NSWALC to facilitate the Board to develop the 2014-15 budget. This was the first time the Board had done this for itself. In June 2015, the incoming budget for FY2015-16 was displayed and explained to the members at a quarterly meeting. This was the first time members had seen the LALC's budget, let alone know what it was intending to do. The budget remains displayed in the LALC office as we refer to it on a regular basis

Fourth has been to identify strengths, interests and ideas within the community. The LALC has some part-time maintenance workers, and I am working with them to develop some new work ideas. There are now some opportunities arising which could see a progressive increase in their working hours, as well as improved revenue streams for the LALC. This development is important for the men and their families, the provision of ground-keeping and maintenance services to the community, and for the LALC's financial interest - as this 'business unit' currently operates at a loss (although manageable within the overall budget). A similar process is going on with members of the 'Green Army' team.

The 'Green Army' is a Federal Government program to develop the work skills and experience of 17-24 year olds. The Jubullum Village Green Army team was the first and possibly only all-Aboriginal crew in NSW. It is currently funded to the end of February 2016, and now supports about 6 young men and women and a team leader. I am looking for opportunities to support them post-Green Army. The group has been developing skills in weed control, riverbank management, fencing, and native nursery development. The LALC's main property base is land suited for beef cattle grazing and some forms of agriculture. Several of the young people have expressed interest in working on a farm development plan aimed at providing some community-based employment, using and developing their new skills, providing low-cost food to community members, and selling excess to provide income for the LALC. If all goes well, the additional income will allow the LALC to strengthen its foundations and provide improved services to members and other Aboriginal people in the LALC's area.

These methods of working with the Board, members, staff, workers and the Green Army crew have all been consistent with the Indigenous Nation-building Approach. The next steps in these processes will be to provide certain human resource development (education, training, skills development), locate relevant funding streams, and negotiate additional work and contract opportunities. At the local level, these are already becoming apparent through positive relationships with NSW Local Land Services – Northern Tablelands, Tenterfield Shire Council and Kyogle Council.

There remain two risks with this constructive forward progress. One is a weakness - of reverting to long-developed previously-held habits, and the second is a threat - in the form of the influence of outside agencies making use of the Standard Approach. An example of the first is that Board members do not like and are not much interested in the monthly financial reports beyond the current bank balance. An example of the second is agencies which offer services and/or projects which 'they' have identified as something which the community 'needs' - perhaps based on 'consultation' with a small number of community members, who agree that the proposal is 'a good idea'. Low-level financial capacity combined with offers from well-meaning outsiders means there is little direct connection with the community and a high risk of limited engagement or even project failure. It also means there is little skill or capacity development, as 'solutions' mostly come from outside. It is really only another form of dependency.

The approach I have been taking is helping to identify the skills and capacity areas requiring support and development so that the LALC as a representative body and service provider can take better and more meaningful advantage of economic development within its local cultural context. From observation and experience of attending forums and having meetings and various dealings with CEOs and Board

members from LALCs in north-eastern, north-western, and mid-North Coast LALCs, similar issues appear to be shared with them.

The following suggestions are derived from this wider input as much as from my immediate experience, and do not necessarily apply to or reflect upon the LALC that I work for or the individuals involved in various capacities. This is because I understand and appreciate that skills, abilities, interests and capacity vary from person to person, and over time.

<i>Focal point</i>	<i>Weakness</i>	<i>Capacity building needs</i>
LALC Chairperson	Opportunity for presidentialism No training in the purpose or function of the role	Experiential training in Chairperson's role as leader, and facilitator for the other Board members
LALC Board members	Inertia Intervention in management and administration Lack of understanding of or experience with governance and financial stewardship Unsuitable governance training (lecture-style)	Experiential training in the oversight role of the Board in relation to the implementation of the CLBP in accordance with the ALRA and other laws, the Budget, and approved policies and procedures Also training in the scope and limits of the role and duties of a Board member
LALC CEOs	Isolated at the coal-face Extensive responsibilities Under-resourced and genuinely under-paid (and under-valued)	Support from an Economic Development Officer to facilitate the development of the Economic Development section of the CLBP
LALC employees	Lack of experience and opportunity	Assistance with development of policies and procedures, project management and reporting processes
LALC members	Lack of experience and opportunity	
Young adults (18-40yo)	Lack of experience and opportunity Deference to more senior family and community members	Access to young leadership programs Facilitated participation in planning processes Experiential training and mentoring support in budgeting and financial management (personal and organisational) Experiential training and mentoring in project planning and management

In my opinion, the NSW Aboriginal Land Council established under the *Aboriginal Land Rights Act, 1983* (NSW) is the most efficient and effective network and structure for the purpose of providing sustainable economic development support to Aboriginal communities across NSW. There are few to no other State-wide Aboriginal networks. Aboriginal Affairs NSW has few officers based in only a few centres with limited resources and limited capacity to provide advice or information on economic development. Other State-wide Aboriginal networks such as the Aboriginal Education Consultative Group have a focus on education and are not established for or resourced to provide economic development.

The Local Aboriginal Land Council network has LALC offices placed in or very near to all Aboriginal communities in metropolitan, regional, rural and remote contexts across the State of NSW, which has the largest number of Aboriginal people in Australia. The LALCs (and therefore the members and other Aboriginal people in the LALC's area) would benefit from capacity building to ensure economic development at the local level, where it will be most relevant and effective.

A proposed solution is the engagement of an Economic Development Officer in each NSWALC Zone office to work with the CEO and Board of each LALC within each NSWALC Region. Engagement should be for at least 3 years and preferably up to 5 years – this coordinates with the 5-year component of the

CLBPs. The EDO should have qualifications and experience in management, financial management, facilitation and a demonstrated understanding of the Aboriginal socio-economic system. Their role would be to work with the CEO and Board on:

- preparation of an accurate Asset Register and Balance Sheet
- identification of available resources
- facilitation to identify strengths, interests and opportunities, particularly for the 18-40yo demographic
- facilitation of the Economic Development section of the LALC's CLBP
- support with appropriate policies and procedures, and reporting processes
- monitoring and review on at least an annual basis
- review and refresh after 3 years

(b) Leveraging economic development support, including provided by the Commonwealth Government and the private sector

The Commonwealth Government currently coordinates Indigenous affairs through the Department of Prime Minister & Cabinet.

Relevant national organisations include Indigenous Business Australia and the Indigenous Land Corporation.

There should be encouragement for stronger support from the private sector. Some examples are mentoring of LALC Board members by the Boards of larger organisations or the Institute of Company Directors.

Also experiential training in leadership, governance and financial stewardship for young adults aged 18-40. I am currently looking for an accounting firm to sponsor the further training of the LALC's Administration Officer in order to develop his financial and management skills.

(c) Establishment and sustainability of Aboriginal owned enterprises

Aboriginal entrepreneurialism has already occurred in the modern Aboriginal creative industries (Aboriginal artists, performers, musicians, and film-makers).

The 18-40yo demographic cohort now has more people with improved education and training, and aspirations for improvement and leadership. This is the group that will define the future for themselves, their families, and their communities. This demographic must have enhanced access to leadership opportunities and training and experience in management, business management, financial management, human resources, and project planning and management.

It has been identified that Aboriginal people of all ages benefit from group training, team-based training (where each member of the team makes a particular contribution), and experiential training. It is recommended that Aboriginal training be conducted in accordance with the '8 Ways of Aboriginal Learning' proposed by Tyson Yunkaporta – see:

<http://researchonline.jcu.edu.au/10974/4/04Bookchapter.pdf>

OWEN TREMBATH

11 October 2015