

Introductory Remarks to *Introduction to the Aboriginal Land Rights Act 1983 in New South Wales*¹

Acknowledgment of Country

1. I wish to acknowledge that we are meeting on the land of the Gadigal People of the Eora Nation.
2. I pay my deepest respect to their elders both past and present and extend that respect to other Indigenous persons here today.
3. I acknowledge and respect the continuing contribution the Gadigal people make to the city and to this region.
4. I acknowledge and respect the continuing culture, beliefs and relationship the Gadigal people, and other Aboriginal and Torres Strait Islanders have with the land.
5. Always was; always will be - Aboriginal land.

Aboriginal Land Rights Act 1983

6. In her poem *Songlines*, Ms Nola Gregory makes explicit the reciprocal connection between Aboriginal land and country and culture and heritage:

They are for us a legacy
Our connection to our land
They are seen through our existence
As we walk upon ochre and sand.²

7. They are inexorably intertwined.
8. Prior to the introduction of the *Aboriginal Land Rights Act 1983* (NSW) (“ALRA”), the political debates leading up to that Act’s promulgation can perhaps be summarised by one question - how could the New South Wales government meaningfully redress the effects of two hundred years of colonisation, dispossession and exclusion in the most densely populated State in Australia?³

¹ Introductory remarks given on 18 and 25 September 2018, to Ngara Yura Committee seminar, Sydney, *Introduction to the Aboriginal Land Rights Act 1983 (NSW)*, by Nicole Courtman, Registrar of the *Aboriginal Land Rights Act 1983* and Chris Ingrey, Chief Executive Officer of the La Perouse Local Aboriginal Land Council.

² N Gregory, “Songlines” (2017) 7(1) *Australia Poetry Journal* 27.

³ H Norman, *What Do We Want? A Political History of Aboriginal Land Rights in New South Wales* (Aboriginal Studies Press, 2015).

9. "What do we want?" was the rallying cry for land rights activists in the 1970s. But, as has been observed by one commentator in this space, "in order for change to happen, the time has to be right."⁴
10. At a Commonwealth level, by the early 1970s steps towards the recognition of Aboriginal lands rights had already begun. There was the *Gove Island Land Rights* land claim case,⁵ which although unsuccessful, resulted in the establishment of the Aboriginal tent embassy in 1972, the Woodward Royal Commission in 1973, the introduction of the *Racial Discrimination Act 1975* (Cth) in 1975 and paved the way for the first Aboriginal land rights legislation in 1976 – the Commonwealth's *Aboriginal Land Rights (Northern Territory) Act 1976*.⁶
11. In 1973, NSW, prior to the promulgation of the ALRA, established the Aboriginal Lands Trust. The Trust operated to place Aboriginal reserves "under control of an all Aboriginal authority in a scheme of collective ownership",⁷ but no more.
12. However, in 1978 a NSW Select Committee (chaired by Maurice Keane MP) was set up to inquire and make recommendations on, amongst other things, land rights for Aboriginal people in NSW ("the 1978 Inquiry").⁸
13. The 1978 Inquiry recommended recognition of Aboriginal rights of ownership, Aboriginal sovereignty and the right to self-determination.⁹ Two key reforms were made: first, the granting of land rights; and second, the protection of sacred and significant sites for Aboriginal people.¹⁰
14. In 1983 the *Aboriginal Land Rights Act 1983* (NSW) was promulgated: "its time had come". In a pre *Mabo* era,¹¹ its passage was a significant achievement for both government and community.
15. The 1978 land rights inquiry and the subsequent enactment of the ALRA brought Aboriginal people and the State into new unparalleled and uncharted (at least at the State level) relationships of power.

⁴ H Norman, *What Do We Want? A Political History of Aboriginal Land Rights in New South Wales* (Aboriginal Studies Press, 2015) at 1, quoting F Bandler, *Turning the tide: a personal history of the Federal Council for the Advancement of Aborigines and Torres Strait Islanders*, Aboriginal Studies Press, Canberra, 1989.

⁵ *Milirrpum v Nabalco Pty Ltd* (1971) 17 FLR 141.

⁶ National Native Title Tribunal, *25 years of Native Title Recognition* (2017) <<http://www.nntt.gov.au/Documents/Road%20to%20native%20title.pdf>>.

⁷ NSW Aboriginal Land Council, *Our Story...Our Rights...Our Future* (2015) <http://alc.org.au/media/96549/Our%20Storie..._web.pdf>.

⁸ H Norman, "From Assimilation to Self-Determination: The Report of the Select Committee Upon Aborigines" (2007) 7 *Journal of Indigenous Policy* 69, 77.

⁹ NSW Aboriginal Land Council, *Our Story...Our Rights...Our Future* (2015) <http://alc.org.au/media/96549/Our%20Storie..._web.pdf>.

¹⁰ *Ibid.*

¹¹ *Mabo v Queensland (No 2)* (1992) 175 CLR 1.

16. Over the next 35 years these relationships have, however, often been a source of contest. But there can be no doubt that for the first inhabitants of this State, the passage of the ALRA has allowed involvement in governing and in government, by Aboriginal people in NSW.
17. Thirty five years later, with over a billion dollars in land assets and investments and with over 120 local Aboriginal land councils (the largest network of Aboriginal representation in the country) with 23,000 members, it cannot be said that the Act has not enjoyed a meaningful level of legislative success.¹²
18. That said, Indigenous people, without doubt, still continue to suffer chronic disadvantage and marginalisation and there is considerably more work to do.

The Hon Justice Rachel Pepper
Land and Environment Court of New South Wales

¹² NSW Aboriginal Land Council, *Our Story...Our Rights...Our Future* (2015) <http://alc.org.au/media/96549/Our%20Storie..._web.pdf>.