



Local Land
Services
Hunter

Aboriginal Community - Advisory Group -

Report -

ACAG Meeting 1st and 2nd of March 2017



Report of the Aboriginal Community Advisory Group Meeting

Lower Hunter District

1 March 2017 - Swansea RSL

Attendees: Kerrie Brauer (Community Representative), Noel Downs (Wanaruah LALC), Michael Green (Bahtabah LALC), John Clarke (TIDE, Community Representative), Warranha Ngumbaay (Community Representative), Rob Russell (Awabakal LALC), Tara Dever (Mindaribba LALC), Tony Hegarty (Hunter LLS Board Member), Brett Miners (Hunter LLS General Manager), Toby Whaleboat (Hunter LLS), Karen Fitzherbert (Hunter LLS),

Apologies: Mick Leon (ACAG Co-Chair), Arthur Fletcher (Community Representative), Suzie Worth (Community Representative)

1. Introduction

The 7th meeting of the Aboriginal Community Advisory Group (ACAG) was held in Swansea on the 1st and 2nd March 2017. The meeting commenced at 8.45am with a half hour closed session during this time no Hunter LLS representatives were present.

2. Welcome - Tony Hegarty (Hunter LLS Board member)

The meeting was opened by Welcome to Country performed by Kerrie Brauer. -

All members were welcomed to the meeting by Tony Hegarty whilst acknowledging new members - Awabakal LALC CEO, Rob Russell and Mindaribba LALC CEO, Tara Dever. -

Tony Hegarty acknowledged the contribution from Jess Wegnar (previous Biriaban LALC CEO) as the - Co-chair who stepped down following her new appointment as Economic Development Officer for - the NSW Aboriginal Land Council. Tony requested that Jess be acknowledged in person when in - attendance later in the meeting. -

Tony Hegarty acknowledged the work of Toby Whaleboat and Karen Fitzherbert in preparing for and - coordinating the ACAG meeting. -

3. Report back from closed session

Noel Downs (Wanaruah LALC) reported back from the closed session as the Community Co-Chair was not present. The election of a LALC Co-Chair to replace Jessica Wegner from Biriaban LALC was deferred until 4pm – General Business. Noel Downs was nominated as a temporary Chair for the duration of the ACAG meeting.

4. - Terms of Reference Review

ACAG members reviewed the Terms of Reference and requested the following amendments:

- Meeting dates to be scheduled for the first week in March and first week in September on a yearly basis. Additional meeting to be called “Out of Session” at the request of the ACAG.
- Membership list to be attached to the Terms of Reference.
- Application form for the Community Membership placed on the Hunter LLS Website
- Community Membership remains open until all positions full.
- Community Membership open to a maximum of 5 community members per district that is:
 - 4 community members from Manning Great Lakes district (Mid Coast Council area),
 - 4 community members form Lower Hunter district (Maitland, Port Stephens, Newcastle, Lake Macquarie, Dungog or Cessnock local government areas) and
 - 4 community members from the Upper Hunter District (Singleton, Upper Hunter and Muswellbrook council areas)
 - Community members will either reside or have a strong connection to the district.
- Community members approved for a two year term from the date of appointment.
- Code of Conduct referred to in the ToR as the standard for conduct at the ACAG meeting (Code of Conduct to be developed based on CMA ASN Code of Conduct and issued at next meeting for review/ adoption).
- Code of Conduct to include details about grievance procedure/ process.
- Accommodation and travel costs covered for all ACAG members. Update noting that no sitting fees are provided to members.
- Guests of members will not be reimbursed for accommodation and travel costs but will be provided with meals at the meeting and field trip.
- Election of Chair to change to Election of Co-Chairs with one Chair representing a LALC member i.e LALC Chair and the other Chair representing a community i.e. Community Chair.
- Update ToR sections 10, 11 and 12 to refer to Co-Chair.
- Co-Chairs to be approved for a two year term from the date of appointment.
- When no Chairs are present at the commencement of an ACAG meeting a temporary Chair is to be nominated at the Closed Session prior to the meeting.

5. - Report on Actions

Action	Status	When
1. LLS to invite OEH to next meeting to explain roles and benefits of becoming a RAP and provide an overview of Due Diligence Code of Practice. -	Complete - OEH Archaeologist, Peter Saad invited to attend meeting 1/03/2017.	March 2017
2. Prepare Draft Brochure on Community access to Travelling Stock Reserves (TSR). -	Ongoing	May 2017
3. Investigate the option of setting up grants assessment panel with OEH/ LALC representatives. For example would LALCs like to participate in the assessment panel. -	Complete Participant from OEH invited to join assessment panel.	1st of June 2017
4. Invite OEH to talk on Save Our Species grant opportunities at next meeting.	Invitation extended to upcoming meeting.	September 2017
5. EOI to ALMT Diploma students to attend the Indigenous Fire Knowledge Conference Cape York	Complete Diploma students attended August 2016.	August 2016
6. Hunter LLS to prepare Cultural Heritage/Due diligence guidelines and training for staff -	Ongoing Scheduled for July / August 2017	August 2017
7. Write a letter to Department of Planning and Office of Environment and Heritage about draft Economic Assessment Guidelines status and consultation -	Ongoing	May 2017

6. - Overview of 2016-2017 Aboriginal Program

- Indigenous Fire Knowledge planning and on-ground management, workshop and training (Manning Great/Lakes)
- Indigenous Fire Management Assessment Team Training course and workshop - Lower Hunter
- Conservation Land Management Diploma Capacity Building –Manning/Great Lakes
- Due Diligence Cultural Heritage Training for HLLS staff
- Travelling Stock Routes Cultural Assessments Workshop and on-ground assessment - Upper Hunter
- Aboriginal Cultural landscapes video production training
- Aboriginal Land Management Teams Capacity Building Grants Program; Training and - employment of ALMT s -
- HLLS Aboriginal Community Advisory Group Meetings – 2 per year
- Aboriginal Program Communication materials promoting HLLS – display banner, brochures, media

- Capacity building Aboriginal education HLLS Aboriginal Scholarship 3 Aboriginal students University of Newcastle

7. - Draft Aboriginal Engagement Plan

A copy of the draft Aboriginal Engagement Plan was provided to all members prior to the meeting.

The following points were raised by members:

- Include section Aboriginal cultural lore and Aboriginal cultural knowledge
- What triggers an additional investigation

The following ACAG members nominated to form a working group to further contribute to the development of the Plan:

- Kerri Brauer
- Rob Russell
- Mike Green
- Noel Downs

Action: Working Group meeting to be convened in the next 6 months to further develop the Plan.

8. - Presentation – Regional Strategic Weed Management Plan – Cal Cotter

Hunter LLS Land Services Manager gave a presentation on the draft Regional Weed Management Plan on public exhibition. Copies of the draft Plan can be obtained from the LLS Open website at: <http://open.lls.nsw.gov.au/Hunter>

9. - Presentation – Marine Estate Threat and Risk Assessment Report – Cal Cotter

Cal advised members that the draft statewide Threat and Risk Assessment Report (TARA) has been undertaken for the NSW Marine Estate. The draft statewide TARA identifies and assesses threats and risks to:

- environmental assets - the natural attributes, components and living resources of the marine estate such as fish stocks, saltmarsh and subtidal reefs individually in 'estuaries' and 'coastal and marine' areas.
- social and economic benefits (community benefits) - the NSW community derives from the NSW marine estate, such as going to the beach, running a scuba diving business or the peace of mind from knowing we have healthy marine life. This also includes Aboriginal cultural heritage and use benefits.

More information about the assessment process can be found here:

<http://www.marine.nsw.gov.au/key-initiatives/threat-and-risk-assessment><http://www.m>

10. OEH and LLS Staff Forum

The intention of the Forum held in September 2016 was to bring together relevant regional staff from Local Land Services (LLS) and the Office of Environment & Heritage (OEH) who are involved in

current and future planning of Aboriginal cultural heritage projects across northern New South Wales to:

- Enhance understanding of roles and functions of OEH Regional Operations Group & Heritage Division and Local Land Services across north coast and north west NSW
- Enhance understanding of Aboriginal cultural heritage projects that deliver environmental outcomes alongside Aboriginal cultural heritage outcomes
- Improve planning, engagement and implementation of projects by OEH Regional Operations Group & Heritage Division and Local Land Services
- Establish whole of government approach to cultural heritage service delivery by OEH Regional Operations Group & Heritage Division and Local Land Services

At the Forum staff from Hunter LLS and Hunter Central Coast OEH Regional Operations Group agreed to further develop partnership opportunities by inviting OEH representative/s to attend ACAG meetings.

The members were asked if they would support an OEH representative being a permanent member on the ACAG. Members requested that various OEH representatives be invited to attend ACAG meetings depending on the topics nominated for discussion. The next topic requested is Save Our Species.

11. Due Diligence Process Overview – Peter Saad OEH Regional Operations Group

ACAG members requested OEHs participation at the meeting to discuss some long term issues with the DECCW 2010 *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (the Code).

Discussion:

The main issue raised by the ACAG/LALCs was the lack of consultation with/participation of the local Aboriginal community in Aboriginal cultural heritage due diligence assessments.

OEH noted that a due diligence assessment undertaken in accordance with the requirements of the NPW Regulation is considered to be a voluntary risk assessment process, undertaken (by proponents) to establish a defence to a possible prosecution. It was additionally noted that: (1) Regional Operations do not have a role in regulating the veracity of these assessments; and (2), that consultation with Aboriginal parties (such as LALCs) was not a formal requirement of the Code.

The discussion subsequently led to other planning mechanisms that may provide for LALC/community input into preliminary Aboriginal cultural heritage assessments. The requirement to protect Aboriginal cultural heritage in planning proposals is stated in Local Planning (section 117) *Direction 2.3 Heritage Conservation*:

Direction 2.3 – Heritage Conservation includes the following clause:

“A planning proposal must contain provisions that facilitate the conservation of:

- (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,*
- (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and*
- (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.” (Emphasis added).*

Point C (above) was of particular interest to the LALCs, noting that a number of LGAs within NSW have already managed to formalise their Aboriginal cultural heritage requirements under their respective LEPs/DCPs, and in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act). LGAs such as Lake Macquarie and Eurobodalla Shire have implemented this planning clause by developing Aboriginal cultural sensitivity mapping and associated prescriptive measures. Some of these measures include mandatory due diligence assessments within identified sensitive locations and a requirement for formal consultation with relevant Aboriginal stakeholders. OEH briefly discussed a similar project that is currently in development with the Darkinjung LALC.

The ACAG briefly discussed the proposed mapping products that would underpin the upcoming Aboriginal cultural heritage legislative reform, but most of the LALCs were quite sceptical about the timing/implementation/intent of the reform process. The ACAG members requested OEH assistance to identify any opportunities (including funding/in-kind assistance) for individual LALCs to develop LALC based cultural heritage survey/mapping.

Representatives from OEH Science Division will be invited to the next meeting to scope the development of the mapping products in consultation with the ACAG and LALCs. The methodology utilised for the Darkinjung LALC mapping project could be rolled out to all the LALCs within the Hunter LLS region, primarily to meet the requirements of DP&Es Direction 2.3 – *Heritage Conservation*.

3.15pm Afternoon session 2:

12. Opportunity for sharing/learning: Presentation on Lower Hunter Projects (Bahtabah and Biraban LALC team)

Representatives from Bahtabah LALC Aboriginal land management team shared the results of their Lake Keepers Video prepared through video training delivered by Hunter LLS. To view the video visit: [Bahtabah Lake Keepers Video](#)

13. Report back / presentation on Cape York Fire Conference (Diploma Students)

Seven Conservation Land Management Diploma Students from Bahtabah LALC, Biraban LALC and Worimi LALC attend the Cape York NRM Fire Conference in August 2016. A presentation was given to ACAG members by 4 students on the outcomes of the conference.

14. NSW Aboriginal Land Council Presentation – Economic Development Officer Jess Wagner

A presentation was given to ACAG members about upcoming Early Stage Investment Loan opportunities for LALCs. The opportunities are for LALCs with an approved Community land and Business Plan. Other opportunities are:

- Business Development Grants – up to \$50,000 for feasibility studies.
- Equity Investment – NSW ALC taking a management position to establish a LALC business. -

More information can be found at: <http://www.alc.org.au/about-nswalc/economic-development.aspx> -

4pm: General Business

Jess Wagner was acknowledged for her contribution to the ACAG as a Co-Chair by Tony Hegaty. -
Noel Downs advised that the nomination of Chairs for the ACAG are to be deferred until the Closed - Session at the next meeting. -

Date of Next Meeting – 6th & 7th September 2017 (TBC)

Location – Upper Hunter District

4.30pm: Meeting Close

6.30pm All invited for Dinner and Informal Discussions

Swansea RSL Club, Bridge Street, Swansea

15. Summary of new actions from the meeting -

Action arising from ACAG Meeting 1 March 2017

1. Write letter to Department of Planning requesting an update on the status of the Economic Assessment Guidelines
2. Provide Data Use Agreement Form to all members to complete and submit to Hunter LLS to request GIS data (specifically Travelling Stock Reserves and LALC Boundaries)
3. Invite an OEH representative to present on the Save Our Species program at the next meeting.
4. Invite representatives from OEH Science Division to attend the next meeting to scope the development of the mapping products in consultation with the ACAG and LALCs.

Meeting Close: 4.30pm -

Field Trip – 2 March 2017 -

Day 2: Field Trip -

Departs from: Hotel/Motel (Please inform Toby Whaleboat of any dietary requirements) -

8.45am meet at bus for a 9.00am departure: -

- 9.15 - 10.30 am BLALC Serpent Trail and Keeping place
- 11.00 – 12.00 am Swansea Heads burial site and Crabs beach midden site
- 12.30 – 1.00 pm (Lunch) Morisset Biraban LALC 556 property
- 1.00 pm – 2.00 pm Morisset Biraban LALC 556 property
- 2.30 pm finish return to hotel car park

The 2nd day of the ACAG meeting the members visited the Bahtabah LALC Serpent trail at Blacksmiths and the Aboriginal Burial site at Swansea Headland.

The afternoon session would have included a visit to the Indigenous Fire Knowledge demonstration burn area at Morisset on Biraban LALC owned land. However, we were unable to visit the burn area as conditions were too wet to access, therefore the afternoon field visit was cancelled and the field session finished at 13.00 pm.

Hunter Local Land Services would like to give a special thankyou to the Michael Green (CEO) and the Aboriginal land management team from Bahtabah LALC for their hospitality.