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Management Letter
For The Year Ended 30 June 2013

CH:RL

17 February 2014

PRIVATE AND CONFIDENTIAL

The Administrator
Gandangara Local Aboriginal Land Council
Level 1, 103 Moore Street
LIVERPOOL NSW 2170

Dear Mr Lombe,

RE: **AUDIT OF THE FINANCIAL REPORT FOR THE YEAR ENDED 30 JUNE 2013**

We have completed our audit of the financial report of Gandangara Local Aboriginal Land Council and its controlled entities (referred to as 'the LALC', or "the Group") for the year ended 30 June 2013 and have issued our audit opinion.

This Report to the Board includes all matters and issues arising from our audit that we consider appropriate for review by the Board and is intended solely for the use of the Board Members and Management.

We refer your attention to section 2 of the report headed *Ultra Vires considerations*. We advise that due to the nature of these matters, they will be reported to the Registrar and the NSWALC independently.

Should you have any queries, please do not hesitate to contact our office.

Yours sincerely,

LAWLER PARTNERS
Chartered Accountants

CLAYTON HICKEY
Partner

Lawler Partners Audit & Assurance
Sydney

Newcastle

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GENEVA GROUP INTERNATIONAL

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1.1 Introduction

This report summarises the results of our audit of the financial report of the LALC for the year ended 30 June 2013. We have discussed the matters raised herein with management and prepared this report to communicate a summary of the significant accounting and audit matters and other issues examined during our audit.

This report also reports on actual and potential Ultra Vires activity at Section 2, as is our obligation per our Instrument of Appointment with the NSW Local Aboriginal Land Council (NSWALC).

1.2 Audit Scope

Our audit has been conducted in accordance with the terms of engagement, to provide reasonable assurance that the financial report for the LALC for the year ended 30 June 2013:

- Presented a true and fair view of the financial position and performance;
- Complies with Australian Accounting Standards; and
- The Aboriginal Land Rights Act 1983 (ALRA) Section 41(B) of the Public Finance and Audit Act 1983 (NSW), to the extent required by the Australian Auditing Standards.

1.3 Judgemental Matters and Estimations, and Other Matters of Significance

The preparation of the LALC's financial report requires the use of accounting policies, management judgements and accounting estimates. Certain judgements and estimates are sensitive because of their significance to the financial report and the possibility that actual future events affecting them may differ from management's current expectations.

During our audit, we visited the accounting policies of the LALC and are satisfied that they have been appropriately applied. In addition, we are not aware of any significant unusual transactions in sensitive or emerging areas for which there is a lack of authoritative accounting guidance or consensus.

We have however identified a number of matters which are either or have the potential to be ultra vires at section 2.

1.4 Integrity, Objectivity and Independence

ASA 260 'Communication of Audit Matters to Those Charged with Governance' requires us to communicate with you on a timely basis on all significant facts and matters that bear upon our independence and objectivity.

We are not aware of any relationships between Lawler Partners and the LALC that, in our professional judgement, may reasonably be thought to bear on our independence or the objectivity of the audit engagement team.

We confirm that Lawler Partners continues to be independent within the meaning of regulatory and professional requirements and the objectivity of the audit engagement partner and audit staff has not been compromised.

We note that prior to commencement of the audit, the LALC attempted to have Lawler Partners removed as auditor via legal action instigated against the NSW Local Aboriginal Land Council (NSWALC) challenging the appointment, with Lawler Partners as "Second Respondent". This action was instigated on the basis of a perceived breakdown in relationship between the LALC and auditor, and questioning the validity of aspects of the 2012 audit, via a report prepared by BDO Brisbane. Lawler Partners defended its position on the basis that a decision to step down as auditor could be seen to be supporting a situation of "opinion shopping". For this, and other reasons, the position of the NSWALC and Lawler Partners was upheld by the Land and Environment Court, and the BDO Brisbane Report was deemed not suitable for submission in evidence.

1.5 Internal Control and Fraud Considerations

The Board Members and management of the LALC are responsible for maintaining adequate accounting records and a system of internal control to prevent, or detect and correct, material misstatement to the financial report arising from instances of fraud or error.

In accordance with Australian Auditing Standards we have reviewed the LALC's system of internal control and accounting procedures for the purpose of providing a basis for reliance thereon in designing our audit procedures. Our review has been carried out to assist us in expressing an opinion on the financial statements as a whole. This work is not primarily directed towards the discovery of weaknesses or the detection of fraud or other irregularities (other than those which would influence us in forming that opinion) and should not therefore be relied upon to show that no other weaknesses exist. Further, our audit was not designed to assess and we do not provide any assurance on, the effectiveness of internal controls.

While our statutory audit work is not primarily directed towards the detection of fraud, we have considered the likelihood of:

- misstatements arising from fraudulent financial reporting or omissions of amounts or disclosures designed to deceive financial statement users; and
- misstatements arising from misappropriation of assets involving theft and embezzlement of assets.

Please refer to sections 2 and 3 of this report for information on the results of our work.

1.6 Summary of Audit Differences

We have accumulated and discussed with Management the audit differences noted during our audit procedures. We have requested that certain audit differences be adjusted, on the basis that they have a material impact on the financial statements of the LALC. In addition to this we have identified additional audit differences that we have not requested be adjusted, on the basis that they do not, individually or in aggregate, have a material impact on the financial statements of the LALC. If you wish please feel free to request a breakdown of these.

In addition, management and the Administrator has represented that all uncorrected misstatements that they are aware of have been brought to our attention.

1.7 2013 Audit Opinion

The financial report has been adopted by the Administrator and we have issued our Independent Auditors Report for the year ended 30 June 2013.

1. Overview (cont'd)

1.10 Reportable matters

Section 2 of this report contains information on multiple transactions which are ultra vires or have the potential of being so. Per our Instrument of Appointment, these transactions will be reported to NSWALC. This will be done via the provision of this letter and a supplementary report which we will prepare specifically addressing these transactions. These matters will also be brought to the attention of the Registrar's Office. This was communicated to the Administrator on 17 February 2014.

Finally, as some of the transactions in question have been processed from company's limited by guarantee, consideration will also need to be given to the referral these matters to the Australian Securities and Investments Commission (ASIC) for investigation, to the extent the Corporations Act is considered to have jurisdiction. This is per our responsibility as appointed auditor of the subsidiary entities, pursuant to section 311 of the *Corporations Act 2001 (Cth)*.

These matters, including their nature, were disclosed in the financial statements and available to the users of the financial statements, accordingly an unqualified opinion was able to be rendered. However, these matters still represent a significant risk to the organisation as it relates to the quality of the internal control environment, and in particular governance/Board-level controls.

1.11 Restriction of Use

This Report is intended solely for the use of the Members of the Board and other members of Management. Lawler Partners does not take responsibility for any third party reliance placed on this report.

2. **NSW ICAC EXHIBIT** Ultra vires considerations

2.1 Considerations with respect to 2012

In our report to the Board with respect to the 2012 audit, Lawler Partners brought to the attention of Governance (i.e. the Board) and Management a number of serious matters for their immediate attention.

These matters included:

1. As at 30 June 2012, there were no documented agreements between entities within the Group to support service/Management charges, and to establish the commercial basis of the relationship between the Land Council and the Group entities. This matter has been addressed further at section 2.5 as it relates to the 2013 year.
2. Loans to Gandangara Future Fund (GFF): loans of \$4,826,550 had been provided from the Land Council to GFF during the 2012 financial year. These loans were not made in accordance with GLALC's own legal advice. A key requirement of the Land Council's own legal advice being that these loans should be secured and a corresponding charge registered. This matter has been addressed further at section 2.1 as it relates to the 2013 year.
3. Total payments of \$756,224 were paid to the Chief Executive Officer (CEO) and his related entities. This included payment of a bonus for \$316,736 for which Lawler Partners was unable to corroborate. Further, it was noted that the calculation had been prepared by the Land Council CFO and "independently" reviewed by the CEO as part of his delegations. The matter of the CEO's delegations has been addressed further at section 2.6.
4. Payments of \$49,802 paid to the Chairperson while in the employ of Gandangara Management Services (GMS). Although GMS is a separate legal entity, it is largely funded (via unlawful loans) by the Land Council and controlled by the Board of the Land Council. Therefore, concern was raised with respect to the substance of these transactions and, and whether the imposition of a corporate entity legitimized this employment arrangement. This matter has been addressed further at section 2.4.
5. Some \$1,200,000 was paid between Arden Management, Dixon Capital and Essential Media Communications during the 2012 year. Terms of engagement were unable to be produced. Rather these material contracts were running on a "month by month" basis, approved via the CEO under the Board-approved delegations. This matter has been addressed further at section 2.6 and 2.8.

It must be noted that an audit cannot be expected to uncover all potential or actual ultra vires payments, nor does it reduce management's responsibility to ensure an adequate monitoring system is in place to prevent and detect such payments.

2. Potential Ultra Vires Payments Identified During 2013 Audit (cont'd)

2.1 Ultra Vires transaction - Loans with subsidiary entities

Observation	Implication/Consideration	Management Response
<p>During the 2012 financial year, the following was identified:</p> <ul style="list-style-type: none"> a. \$4.83m had been advanced from the Land Council to the Gandangara Future Fund. \$1.03m was then further transferred on to other subsidiaries within the Group; b. The Land Council's own legal advice mandated that these loans be secured. This advice was not followed; c. We understand this was again brought to the LALC's attention by the Registrar, who also raised concerns in Compliance Directions dated 31 August 2012. In particular, requesting that the Land Council "show cause" with respect to the legality of these loans; and d. This matter was communicated to the Board a third time by Lawler Partners. Various concerns were raised with respect to these transactions. This included the Land Council Board and Management not abiding by its own legal advice. Our audit identified a failure by the Board and Management to register appropriate security to manage the risk of default. <p>During the 2013 financial year:</p> <ul style="list-style-type: none"> a. The Land Council continued to act in a manner inconsistent with its legal advice; b. Despite the Compliance Directions issued by the Registrar, the Land Council continued to engage in the movement of funds from GLALC to GFF. Our audit identified a further \$2.76m being loaned from the Land Council during 2013 to GFF, in defiance of the Compliance Direction; and c. We are unable to evidence the Land Council neither acknowledging or acting on the recommendations in our 2012 Board Report with respect to these transactions. <p>The Priestley, SC, advice:</p> <ul style="list-style-type: none"> a. To resolve the matter of the Compliance Directions, GLALC and the Registrar resolved to be bound by the outcome of independent advice from Priestley, SC. It was the view of Senior Counsel that the loans advanced from GLALC to GFF (and from GFF to other subsidiaries) were unlawful and that the Board had no jurisdiction to approve such amounts. 	<p>We note the following:</p> <ul style="list-style-type: none"> a. The advice of Priestley, SC, finally determined that these amounts had been transferred unlawfully. Therefore these loans are ultra vires. It follows that all transactions which have been funded by these transfers in other group entities may also be ultra vires; b. Given the extent of related party transactions and consulting fees paid from these unlawful transfers (refer 2.8), we have extreme concern with respect to the lack of action, and disregard for the Registrar's directions, by both the Board and CEO. <p>When considered in the context of what value this arrangement has added to the Land Council (refer 2.8), there is a significant risk that neither the Board nor the CEO has acted in the proper interests of the members; and</p> <ul style="list-style-type: none"> c. Given this issue was raised on three separate occasions with GLALC without action, and considering the legal qualifications of the CEO, it would appear that this advice was knowingly not followed, or not implemented due to the absence of basic governance-level controls and oversight. <p>This matter will be immediately referred to the Registrar and the NSWALC for further investigation.</p>	

2. Potential Ultra Vires Payments Identified During 2013 Audit (cont'd)

2.2 Depletion of members funds and section 176 of the ALRA

Observation	Implication/Consideration	Management Response
<p>A total of \$7.59M was loaned to GFF from GLALC over the 2012 and 2013 financial years. As at 30 June 2012, the net balance owing from GFF to GLALC was \$1,380,000.</p> <p>As noted at 2.1, despite the Compliance Directions issued by the Registrar, a further \$2,760,000 was transferred to GFF during 2013. A schedule of these transfers is included as Appendix One. It can be seen from this schedule that funds continued to be transferred to GMS from GFF up until 21 March 2013.</p> <p>This appears to have allowed for further payments to related parties and consultants.</p> <p>The transfer of \$2,760,000 was repaid to the Land Council by 30 June 2013 per the accounting system (therefore the purpose for transferring this money at all is not clear).</p> <p>However of the \$1,380,000 owing to the Land Council as at 30 June 2012, only \$449,485 was able to be repaid in cash. This meant that cash of \$930,415 was unable to be repaid to the Land Council.</p> <p>As the Board and CEO failed to follow external advice and secure these loans, this debt is unsecured, and accordingly \$930,415 is unlikely to be repaid to the members.</p> <p>We note that this amount was "repaid" in an accounting sense through a re-allocation of expenses from GMS to the Land Council. This has been disclosed in the financial statements.</p>	<p>The inability of GFF to return all cash loaned from the Land Council represents a depletion of member resources, amounting to \$930,415.</p> <p>This represents a fundamental breakdown in basic internal control and oversight by the Board and Management.</p> <p>We refer to section 176 of the ALRA which states:</p> <p><i>"Every councillor, Board member and member of staff of a LALC..., must:</i></p> <ul style="list-style-type: none"> <i>(a) Act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions under the ALRA, and</i> <i>(b) Act for a proper purpose in carrying out his or her functions under this or any other Act,</i> <i>(c) Not use his or her office or position for personal advantage, and</i> <i>(d) Not use his or her office or position to the detriment of an Aboriginal Land Council."</i> <p>Section 2.1 of this report demonstrates that the Board and CEO knowingly did not follow the advice of their own lawyers, the Registrar, or auditor. Prima facie, this has resulted in a depletion of member funds amounting to \$930,415.</p> <p>We consider this issue to be serious and a potential breach of the ALRA. The matter will be referred to the Registrar and the NSWALC for investigation.</p> 	

2. Potential Ultra Vires Payments Identified During 2013 Audit (cont'd)

2.3 Section 52D of the ALRA: payments to the CEO and Consultants

Observation	Implication/Consideration	Management Response
<p>Section 52D of the ALRA a LALC must ensure that:</p> <p><i>"no part of the income or property of the Council is transferred directly or indirectly by way of dividend or bonus or otherwise by way of profit to..., Board members or any member of staff of, or consultant to the Land Council."</i></p> <p>We note the following:</p> <ul style="list-style-type: none"> - The CEO is paid a bonus based on, amongst other things, growth of the GFF; - This growth is typically facilitated through the sale of land (i.e. <i>profit</i> on sale of land); - Waawidji, an entity related to the CEO, has a contract in place allowing for remuneration via commission; and - GLALC consultant, Dixon Capital, has part of its remuneration based on a "success fee", being a percentage of profit from the sale of land. <p>Prima facie, the CEO and Dixon Capital are paid bonuses contingent upon the level of profit generated from land sales.</p> <p>This could be in contravention of the ALRA.</p>	<p>We acknowledge that these funds have not been paid directly from the LALC, but rather GMS, a separate legal entity.</p> <p>However, we express concern with respect to whether the imposition of a corporate entity which has been largely funded by the Land Council (via unlawful transfers), and is controlled by the LALC Board, legitimizes transactions which would likely be otherwise illegal if paid from the LALC.</p> <p>This raises serious concerns with respect to the quality of governance and oversight.</p> <p>This matter will be immediately referred to the Registrar and the NSWALC for further investigation.</p>	

2. Potential Ultra Vires Payments Identified During 2013 Audit (cont'd)

2.4 Section 66(j) of the ALRA: payments to the Chairperson.

Observation	Implication/Consideration	Management Response
<p>Section 66(j) prohibits a director from being an employee of the LALC.</p> <p>We note that the Chairperson has been an employee of GMS and received payments of \$55,355 and \$9,880 over 2012 and 2013 financial years respectively.</p> <p>We note this matter was brought to the Board's attention by Lawler Partners in the 2012 Board Report.</p>	<p>We acknowledge that these payments came from GMS, a separate legal entity.</p> <p>However, we express concern with respect to whether the imposition of a corporate entity which has been largely funded by the Land Council (via unlawful transfers), and is controlled by the LALC Board, legitimises transactions which would likely be otherwise illegal if paid from the LALC.</p> <p>This raises serious concerns with respect to the quality of governance and oversight. In particular given this matter has been raised directly with the Board previously.</p> <p>This matter will be immediately referred to the Registrar and the NSWALC for further investigation.</p>	

2. Potential Ultra Vires Payments Identified During 2013 Audit (cont'd)

2.5 Section 78B: certain persons must not be employed as CEO

Observation	Implication/Consideration	Management Response
<p>Section 78B states that: "a person who has an interest in or is an employee of or concerned in the management of a Corporation which received a benefit from the LALC must not be employed as a CEO"</p> <p>The CEO currently has employment contracts with and receives an employment benefit from the following LALC connected entities:</p> <ul style="list-style-type: none"> - GLALC; - GMS; - Gandangara Health Services (GHS); - Gandangara Transport Services; - Marumali and - Gandangara Housing Services (GHS). <p>Due to the existence of these contracts, and management agreements documenting charges between entities, we understand it is the position of the LALC that there is no "benefit" provided by GLALC to these entities. Therefore the CEO's appointment is valid for the purposes of the ALRA.</p>	<p>We disagree with this position on the following basis:</p> <ul style="list-style-type: none"> - Management agreements between GLALC and group entities came into effect only during the 2013 financial year. As there were no agreements previously, there was no commercial basis for these charges during the entire 2012 financial year. In the absence of any binding agreement, it is not clear how a benefit was not provided in 2012. - In addition, we consider the current agreements are not clear with respect to the commerciality of management fee charges; and - Section 2.1 established that the Land Council did not follow its own legal advice to secure loans from GLALC to GFF, which were on-loaned from GFF to GMS. <p>We consider that the provision of loans from GLALC amounting to in excess of \$7,000,000 over two years, on an <u>unsecured basis</u>, is the provision of a benefit from GLALC.</p> <p>Therefore, prima facie, it appears that the CEO is concerned in the Management of a Corporation which receives a benefit from the Land Council.</p> <p>Accordingly, consideration should be given as to whether the CEO's appointment is lawful under the ALRA.</p> <p>This matter will be immediately referred to the Registrar and the NSWALC for further investigation.</p>	

2. Potential Ultra Vires Payments Identified During 2013 Audit (cont'd)

2.6 Section 72: delegations by the Board

Observation	Implication/Consideration	Management Response
<p>Section 72 states that: "A Board may delegate to any person or body any of the functions of the Board other than this power of delegation and any matter under the Act...that also requires the approval of NSWALC".</p> <p>The delegations of the CEO are wide-ranging and are attached as Appendix Two.</p> <p>Based on our experience, we consider that the extent of the CEO's delegations are too broad and that there is a significant risk of inappropriate behaviour and/or abuse of through these delegations.</p> <p>Additionally, due to the nature of the matters identified in this report, we consider that governance-level controls would be unlikely to identify a mis-use of these delegations.</p> <p>For example, the loss of Land Council funds amounting to \$930,415, and the payment of \$4,441,000 to consultants over 2012 and 2013 without value to the Land Council being clear, are indicative of an absence of oversight with respect to the exercise of these wide-ranging delegations.</p> <p>The matter noted at section 2.7 is could also be considered a failure in oversight by governance.</p>	<p>We consider that the delegations of the CEO are too broad.</p> <p>In addition, we do not consider that the existing level of governance based controls are adequate to detect mis-use, as is evidenced by the nature of the issues identified in this report.</p> <p>Consideration should be given as to whether the extent of the CEO's delegations is lawful under the ALRA.</p> <p>This matter will be immediately referred to the Registrar and the NSWALC for further investigation.</p>	

2. NSW ICAC EXHIBIT

2. Potential Ultra Vires Payments Identified During 2013 Audit (cont'd)

2.7 Loans with other LALC's – carried forward from 2012 and not actioned for the year ended 30 June 2013.

Observation	Implication/Consideration	Management Response
In the 2012 audit, a receivable of \$833,251 was identified, representing the payment of expenses by GLALC and GMS on behalf of Deerubbin LALC (DLALC) as part of the services provided by the Group to DLALC.	GLALC Group, prima facie, has no security or documented claim to the outstanding funds, or contractual right to charge interest.	
Due to a dispute which arose between GLALC and DLALC, GLALC raised a provision for impairment of this debt amounting to \$443,742.	Should the GLALC receive what it estimates it will receive (the unprovided amount of \$389,509) the Land Council will incur a further cash loss of \$443,742.	
We note that GLALC did not have any documented agreement in place with respect to the provision of this loan to DLALC. As a result, GLALC has been placed in a position of default risk should DLALC not pay the balance unprovided balance of \$389,509.	Accordingly the expected depletion of cash with respect to the findings in this report will be as follows:	
We note that no repayments have been received from DLALC for approximately 2 years.	Inability of GFF to repay all loans (2.2) \$930,451	
Interest is currently being charged, although there is no agreement establishing GLALC's right to do so.	Doubtful not expected to be collected \$443,742	
Mediation has been undertaken, which failed to achieve a result.	Total depletion \$1,374,193	
	This represents a fundamental breakdown in oversight.	
	In future arrangements such as these, the Board should ensure that the agreements are appropriately approved and documented.	

2. **NSW ICAC EXHIBIT** Potential Ultra Vires Payments Identified During 2013 Audit (cont'd)

2.8 Value for Money

Figure 2.6 Movements in key financial indicators: FY11-FY13.

Indicator	2011*	2012	2013	FY11-FY13 (A)	FY12-FY13 (B)
Land Council cash balance	10,620	6,596	3,627	3,627	3,627
Increase/(decrease) in cash	9,117	(4,024)	(2,969)	2,124	(6,993)
Land Council profit / (loss)	5,279	(1,409)	(2,126)	1,744	(3,535)
Land Council net assets	20,525	19,116	16,990	(3,535)	(2,126)
<u>Largest outflows represented by:</u>					
Legal fees	610	372	1,019	2,001	1,391
Dixon capital	221	169	108	498	277
Arben Management	320	402	300	1,022	703
EMC	230	621	437	1,288	1,058
Jack Johnson/Waawidji	346	687	325	1,358	1,012
Total "consultants"	1,726	2,252	2,189	6,167	4,441
Development costs	1,452	1,423	1,267	4,142	2,689
Aggregate largest outflows	3,179	3,674	3,456	10,308	7,130

*Lands disposed during FY11 resulting in increases to cash and profitability.

The establishment of the GLALC structure by the Board and Management has resulted in the payment of significant sums to the CEO and consultants. Analysis has been performed to determine whether the members have received "value for money" from this process.

The following is noted:

- During FY11, GLALC disposed of lands and increased its cash reserves by \$9,117,000 and generated a profit of \$5,279,000. Net assets were \$20,525,000
- Movements in key indicators and totals over the three years is shown in column A..
- After disposing of this land and buildings its cash reserves in 2011, over the next two years (i.e. FY12-FY13) depicted by column B, GLALC achieved the following results:
 - Experienced a reduction in cash of \$6,993,000;
 - Generated losses of \$3,535,000; and
 - Experienced a reduction in net assets (i.e. equity) of \$2,126,000.
- Over this same two year period, we note the following:
 - GLALC legal advisers paid \$1,391,000;
 - EMC paid \$1,058,000;
 - Dixon Capital paid \$277,000;
 - Arben Management \$703,000; and
 - The CEO and related entities were paid \$1,012,000.

It is not clear what value these consultants provided over this two year period given total consultants fees of \$4,441,000, and backdrop of a significant reduction in cash, operating losses and considerable decrease in net assets.

In addition, it is not clear why the Board considered it appropriate that the CEO be paid \$1,012,000 to oversee such a significant depletion in the Group's net wealth over the 2012 and 2013 financial years.

We understand from inspection of budgets and information provided by the Administrator that GLALC now has little working capital left and is almost entirely dependent upon the sale of lands to survive financially in the short-term.

During the three years, we are not aware of GLALC attempting to manage these costs or participate in better practice procurement by putting these consulting services to formal competitive tender, or, at a minimum, obtaining quotations.

Section 81(1) of the ALRA, requires that consultants be engaged on the basis of merit. Based on the above, it is not clear what merit based assessment has been performed.

These matters will be referred to the Registrar and the NSWALC for further investigation.

3. Final 30 June 2013 Considerations for Improvement

3.1 Responsibility for Internal Control

Management are responsible for maintaining adequate accounting records and a system of internal control to prevent fraud or error.

Consistent with the requirements of Australian Auditing Standards, an external audit process considers the control environment having regard to the risk of material misstatement in the financial statements of the LALC. As a result, an external audit process does not absolve Management of the responsibility to implement and maintain accounting and internal control systems that are designed to prevent and detect fraud or error.

In accordance with Australian Auditing Standards we have considered the LALC's system of internal control in assessing the risk of material misstatement in the financial report of the LALC for the year ended 30 June 2013. An external audit does not provide any assurance over the effectiveness of the internal control environment.

3.2 Considerations for Management

The considerations for Management as noted in this report consist of our observations arising from our consideration of the internal control environment. Although these considerations have been identified as being note-worthy to bring to the attention of Management, it is at the discretion of Management to determine whether they will be implemented and whether they will continue to be implemented into the future.

Our procedures include annually, enquiry to verify whether Management considerations from the previous year have been implemented. As an external audit process does not provide any assurance over the internal control environment, Management should not rely on this enquiry in isolation, and perform their own procedures with respect to oversight in ensuring that previous Management considerations have been actioned.

Management should ensure that an appropriate system of monitoring and oversight with respect to the effectiveness of the internal control environment is in place.

3.3 Risk Classification

Each matter identified in this report has been assigned a risk grading. A definition of each risk grading is as follows:

High	Medium	Low
<ul style="list-style-type: none"> The risk of material misstatement through fraud or error is high; Information reported to management is potentially adversely deficient; or The LALC may be at high risk of significant non-compliance. 	<ul style="list-style-type: none"> The risk of material misstatement through fraud or error is moderate; Information reported to management is potentially reasonably deficient; or The LALC may be at risk of possible non-compliance. 	<ul style="list-style-type: none"> The risk of material misstatement through fraud or error is low; Information reported to management is possibly deficient; or The LALC may be at insignificant risk of non-compliance.

3. **NSW ICAC EXHIBIT** Final 30 June 2013 Considerations for Improvement (cont'd)

3.4 Service Agreements

Observation	Implication/Consideration	Management Response								
<p>During the course of the audit we performed testing on related party transactions which occurred during the year. For the following related party transactions which occurred there were no service agreements in place.</p> <table><tr><th>Related Party</th><th>Total \$ 2013</th></tr><tr><td>Epands (related entity of the CEO)</td><td>103,550</td></tr><tr><td>Miri Holdings (related entity of the Mikael Smith)</td><td>34,338</td></tr><tr><td>Cinderella's Consulting (related entity of the Chairperson)</td><td>9,880</td></tr></table>	Related Party	Total \$ 2013	Epands (related entity of the CEO)	103,550	Miri Holdings (related entity of the Mikael Smith)	34,338	Cinderella's Consulting (related entity of the Chairperson)	9,880	<p>We noted that the terms of engagement for these related parties have been verbally discussed and mutually agreed upon, however the lack of formal documentation may leave either party exposed in future periods. This is particularly the case in instances where such transactions come under scrutiny by members and also third parties.</p> <p>In addition a written agreement will ensure that parties of the agreement are fairly remunerated given a change in scope of work or change in personnel.</p> <p>Given the requirements of the ALRA, this is not considered be effective governance.</p> <p>Management should consider formalising the terms of the agreement into a service agreement for future periods.</p>	
Related Party	Total \$ 2013									
Epands (related entity of the CEO)	103,550									
Miri Holdings (related entity of the Mikael Smith)	34,338									
Cinderella's Consulting (related entity of the Chairperson)	9,880									
Responsibility: CEO / Board	Timeframe: 6 months	Risk: Medium								

3. Final 30 June 2013 Considerations for Improvement (cont'd)

3.5 Leave Application Forms

Observation	Implication/Consideration	Management Response																														
<p>During the course of our audit we performed testing over employee entitlements provision. From our testing we noted that on occasions, employees would not complete an annual leave application form for leave taken per MYOB. A detailed list of entity, employee name and period of leave taken is detailed below for your convenience.</p> <table><tr><th>Employee</th><th>Leave period</th></tr><tr><td>Percy Dodd</td><td>22/07/12 to 25/07/12</td></tr><tr><td>Ronita Ruttlely</td><td>22/08/12 to 8/08/12</td></tr><tr><td>Gail Tobler</td><td>4/09/12 to 10/09/12</td></tr><tr><td>Gail Tobler</td><td>11/09/12 to 17/09/12</td></tr><tr><td>Gail Tobler</td><td>18/09/12 to 24/09/12</td></tr><tr><td>Gail Tobler</td><td>25/09/12 to 1/10/12</td></tr><tr><td>Gail Tobler</td><td>1/01/13 to 7/01/13</td></tr><tr><td>Gail Tobler</td><td>8/01/13 to 14/01/13</td></tr><tr><td>Gail Tobler</td><td>2/04/13 to 8/04/13</td></tr><tr><td>Jennifer Lindsay</td><td>12/02/13 to 25/02/13</td></tr><tr><td>James Robertson</td><td>20/11/12 to 3/12/12</td></tr><tr><td>James Robertson</td><td>4/12/12 to 17/12/12</td></tr><tr><td>Sheila Knowlden</td><td>15/01/2013</td></tr><tr><td>Elizabeth Hindmarsh</td><td>1/01/13 to 14/01/2013</td></tr></table>	Employee	Leave period	Percy Dodd	22/07/12 to 25/07/12	Ronita Ruttlely	22/08/12 to 8/08/12	Gail Tobler	4/09/12 to 10/09/12	Gail Tobler	11/09/12 to 17/09/12	Gail Tobler	18/09/12 to 24/09/12	Gail Tobler	25/09/12 to 1/10/12	Gail Tobler	1/01/13 to 7/01/13	Gail Tobler	8/01/13 to 14/01/13	Gail Tobler	2/04/13 to 8/04/13	Jennifer Lindsay	12/02/13 to 25/02/13	James Robertson	20/11/12 to 3/12/12	James Robertson	4/12/12 to 17/12/12	Sheila Knowlden	15/01/2013	Elizabeth Hindmarsh	1/01/13 to 14/01/2013	<p>Leave processed without supporting leave application forms could result in a dispute in the future regarding remaining leave balances.</p> <p>Management should consider the need for approved leave forms to be provided with each pay run.</p>	
Employee	Leave period																															
Percy Dodd	22/07/12 to 25/07/12																															
Ronita Ruttlely	22/08/12 to 8/08/12																															
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Elizabeth Hindmarsh	1/01/13 to 14/01/2013																															
Responsibility: Finance Manager	Timeframe: 6 months	Risk: Low																														

3. Final 30 June 2013 Considerations for Improvement (cont'd)

3.6 Land Register

Observation	Implication/Consideration	Management Response
A land title search was performed to identify all land owned by the LALC as at year end per records maintained by the Registrar General. This listing was compared to the record maintained internally by management. Folio 33/237861 and folio 1/8500 was identified as being on the internal register but did not appear on the listing obtained by the Registrar General.	<p>A separate land title was obtained for these folio numbers and it was noted that the land owners name was spelt incorrectly and reason for it not showing up on the original land title search.</p> <p>Management may consider amending the name in order to ensure the details maintained by the Registrar General is accurate.</p>	
Responsibility: Finance Manager	Timeframe: 6 months	Risk: Low

3.7 Impairment of Land Development Costs

Observation	Implication/Consideration	Management Response
Impairment of land development costs was a significant audit matter for this year's audit. From our work performed it was determined that for Sproule Rd the total costs per your records exceeded the sales price. Significant costs were incurred to realise the land sale as a development property. A sale agreement was entered into during the year to sell the property "as is". At year end an impairment write down was required of \$221k to bring the land value per your books down to the realisable value per the sales agreement.	<p>As a result of a large impairment expense not being taken up during the year, monthly management reports may be overstated and result in decisions being made based on inaccurate financial information.</p> <p>This writedown also suggests that Management's internal policy with respect to impairment assessment may also require revision.</p> <p>Management should consider performing a review of development costs on a 6 monthly basis and compare against budgeted project costs to identify early any potential impairment indicators.</p>	
Responsibility: Finance Manager / CEO	Timeframe: 6 months	Risk: Medium

3. Final 30 June 2013 Considerations for Improvement (cont'd)

3.8 Accurate Record Keeping

Observation	Implication/Consideration	Management Response
<p>From our audit procedures performed a large number of adjustments were noted which have ultimately effected the profit of the LALC, some of which are outlined below;</p> <ul style="list-style-type: none"> • Prior year audit adjustments not correctly taken up in MYOB; • Accounts receivable / payable ledger not properly reconciled to sub ledger; • Amounts owed between entities not correctly reconciled; • Assets Impairment write downs for receivables and PPE not taken up on a timely basis; • Repayment of CEO bonus not taken up; and • Legal and audit fee accruals not taken up. 	<p>As a result of not having processes in place to identify such issues, these adjustments may not get recognised until the completion of the audit, which in the instance of this year's financial statements is 5 months after 30 June.</p> <p>This may result in board reviewing inaccurate results of the LALC at each monthly board meeting.</p> <p>Management may consider creating a month end checklist which includes processes which will identify these types of adjustments. This checklist should be reviewed by top level management to ensure preparer of board reports have considered and taken up all necessary adjustments monthly.</p>	
Responsibility: Finance Manager / CEO	Timeframe: 6 months	Risk: Medium

3. **NSW ICAC EXHIBIT** Final 30 June 2013 Considerations for Improvement (cont'd)

3.9 LALC Strategic Direction

Observation	Implication/Consideration	Management Response
<p>Cash flows from operations of the Land Council have been in deficit for three consecutive years, with a deficit of \$1.8m being made this year. Significant legal and professional fees incurred this year, combined with what appears to be little to no value from these outgoings has meant the LALC has incurred negative operating cash flows for the third consecutive year.</p> <p>Should the LALC continue to exhaust its cash reserves at the rate realised it has previously, the LALC would likely run out of cash during the next financial year and would become heavily dependent on land sales to survive.</p>	<p>An absence of a strategic focus for the LALC on surplus generating activities to assist in funding loss making activities could jeopardise the medium term financial viability of the LALC.</p> <p>Management and the Board should consider reviewing the LALC's strategic direction and ensure the long term viability of their plan.</p>	
Responsibility: Board	Timeframe: 3 months	Risk: High

4. Breaches of Part 10 of the ALRA Identified During the 2013 Audit

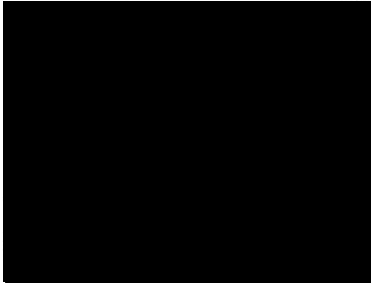
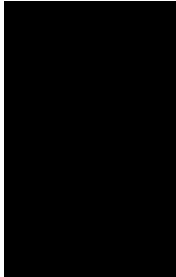
Please refer to section 2 of this report. It must also be noted that an audit is not designed to monitor and detect issues of non-compliance by the Land Council with legislation such as the Aboriginal Land Rights Act and its regulations.

5. Key Personnel and Contacts

Lawler Partners would like to take this opportunity to thank the following staff for their assistance during the 30 June 2013 audit:

Name	Position
Shalesh Gundar	Finance Manager
David Lombe	Administrator – Deloitte
Aaron Chamberlin	Administrator – Deloitte
Scott Allen	Administrator – Deloitte

The following Lawler Partners staff members were involved in the audit team of the 30 June 2013 audit:

Name	Position	Contact	Mobile
Clayton Hickey	Engagement Partner		
Bob Bell	Review Partner		
Scott Tobutt	Colleague Partner		
Damien Singh	Manager		
Robinson Lovell	Senior		

If you have any questions in relation to any of the matters raised in the management letter, please contact any of the above members of our team.