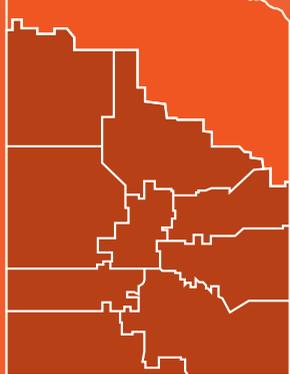
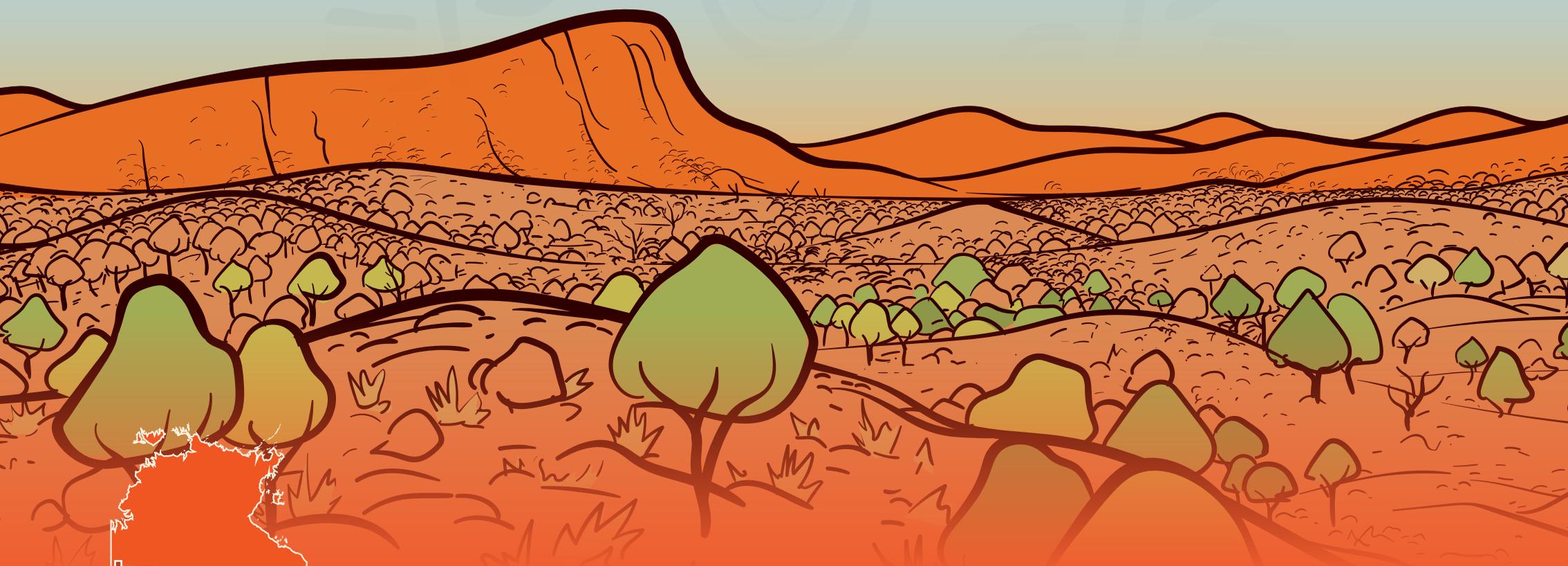




**CENTRAL  
LAND  
COUNCIL**



# **Governance at the Central Land Council**

**Your guide to being a council member**

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**CENTRAL LAND COUNCIL**

## **Congratulations on being chosen by your community to represent it on the Central Land Council.**

For more than 40 years, the CLC has worked with Aboriginal people in Central Australia to protect and manage their land and fight for their rights. When people become council members they learn about the laws and government policies that influence their lives. Council members also learn how they can change those laws and government policies. They can do this by sticking together and speaking with a strong and united voice.

Many Aboriginal people say the land council is a shield between them and governments and big business, such as mining companies.

This booklet is to help you do your job as a council member so that the CLC can continue to represent and speak up for the Aboriginal people of Central Australia.

## **What is governance?**

Governance means doing things the right way in organisations so that they can stay strong.

When Aboriginal people talk about governance they mean having the power to make decisions about how their organisations get things done.

## What is governance?

### Governance is:

- how you make things right so they stay on track
- doing business the proper way according to rules, culture and the law
- council members having the power to make decisions about how the council does its job and manages its business
- knowing your job and what you can and can't do
- building a strong council together.
- solving problems together
- working together to ensure the organisation performs well

We make decisions about how the land council works and makes policy.

### We do this by

- acting in the proper way according to culture
- keeping culture strong and listening to elders
- following Australian laws
- understanding your history
- having shared goals
- knowing your job
- following your CLC rules and code of conduct
- being a good leader and speaking up strong
- working well together
- spending money the proper way
- solving problems
- making good decisions for everyone
- speaking up in meetings

We are a council of 90 Aboriginal people.



*good governance*  
=  
*strong organisations*

All Aboriginal people in the CLC area can come to council meetings, but only council members can vote.

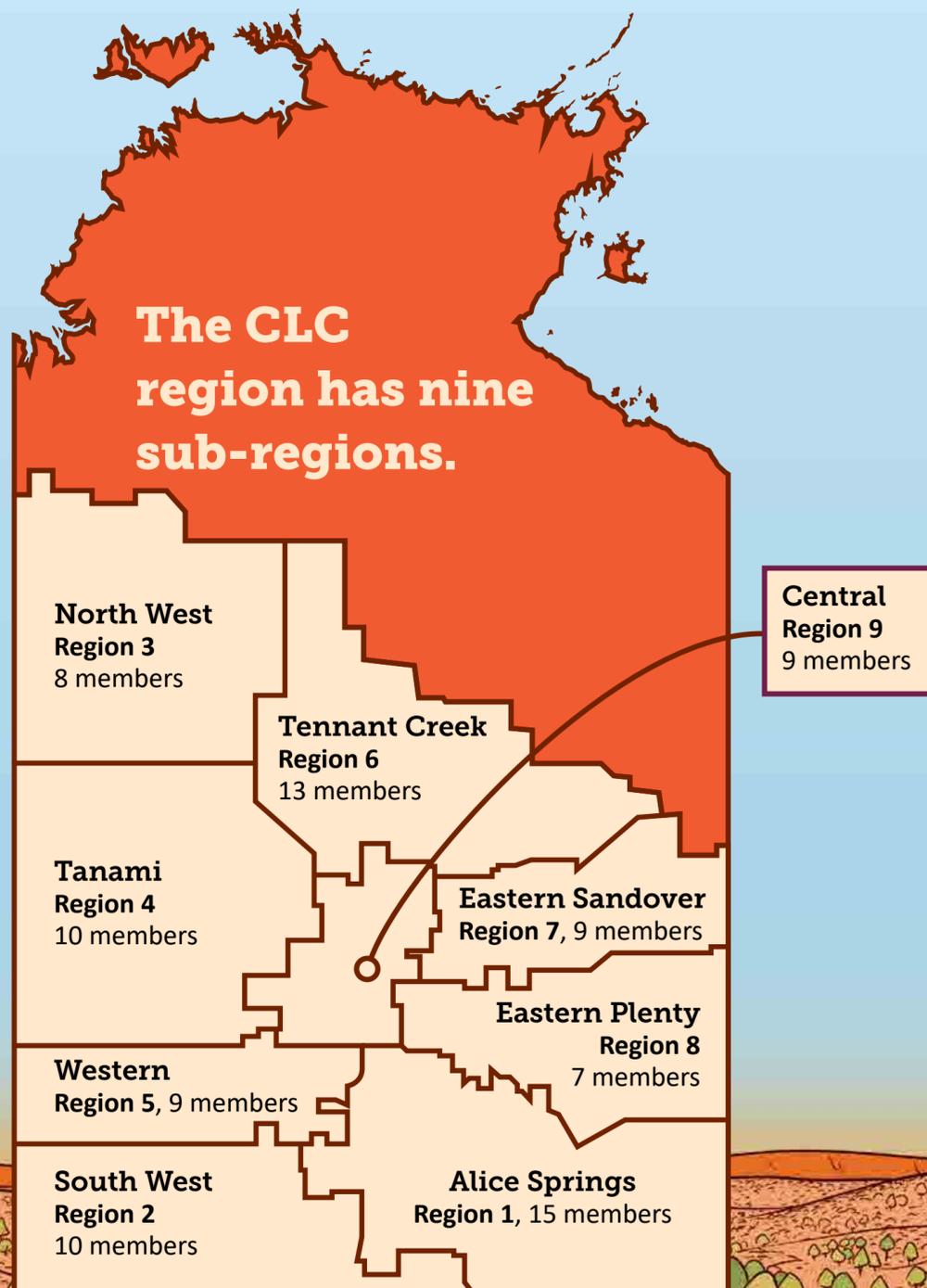
See page 37 for the rules we want visitors of council meetings to follow.

**The Central Land Council is a council of 90 Aboriginal people elected from communities in the southern half of the Northern Territory.**

The council is a representative body promoting Aboriginal rights and was set up under the *Aboriginal Land Rights (Northern Territory) Act 1976* (the Land Rights Act). The CLC is a Commonwealth corporate entity under the *Public Governance Performance and Accountability Act 2013* (the PGPA Act). It also has functions under the *Native Title Act 1993* and the *Pastoral Lands Act 1992*.

The council members elect a chair and a deputy chair. Its 11-member executive committee is made up of one member from each of the nine CLC sub-regions, the chair and the deputy chair. Council elections take place every three years.

The council can review its membership. Any changes to the membership need to be approved by the Minister for Indigenous Australians.



## The CLC's guiding principles:

- respect for people and traditional owners
- respect for country
- respect for culture and Aboriginal law
- achieving justice and equality
- respecting Australian law



## History

The CLC's history starts with the fight for Aboriginal land rights in the sixties and early seventies. In 1963 the Yolngu bark petition asked the Australian Parliament to recognise Yolngu rights to land. Three years later, Aboriginal workers walked off Wave Hill Station to protest the terrible conditions.

These events grew into a demand for land rights and the Tent Embassy was set up on the lawn of Parliament House in Canberra. Australians could no longer ignore that so many Aboriginal people had been dispossessed of their land and the Labor Party made recognition of land rights one of its policies.

In 1974, after consultations in the Northern Territory, Justice Woodward delivered a report that set out procedures for land claims. The report led to the development of the Land Rights Act that was finally passed by the Fraser Coalition government in 1976.

Today the Land Rights Act recognises more than half of the Northern Territory as inalienable Aboriginal freehold land.

## Our laws

The CLC follows these laws:

- Aboriginal law
- Land Rights Act
- Native Title Act
- PGPA Act



## The Land Rights Act

The Land Rights Act is the first Australian Government law that recognises Aboriginal systems of land ownership.

# Aboriginal Land Rights Act

The Land Rights Act is Australian Government law. It can only be changed by both houses of the Australian Parliament.

It deals with

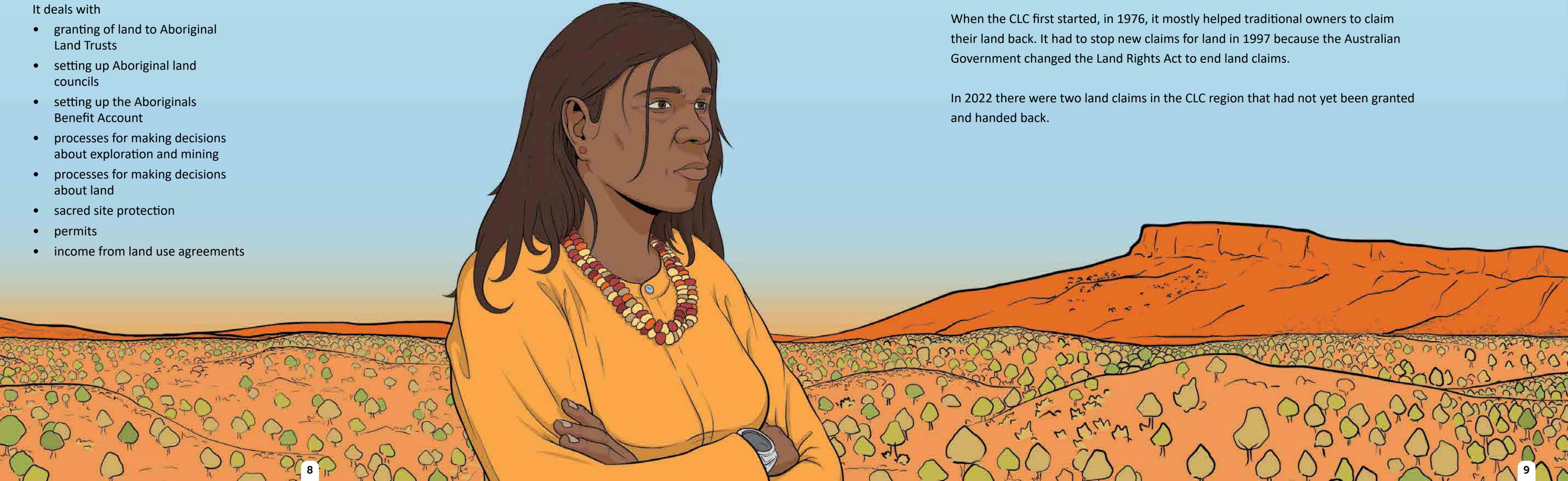
- granting of land to Aboriginal Land Trusts
- setting up Aboriginal land councils
- setting up the Aboriginals Benefit Account
- processes for making decisions about exploration and mining
- processes for making decisions about land
- sacred site protection
- permits
- income from land use agreements

# Land grants

The main purpose of the Land Rights Act is to allow traditional owners to win back, manage and use their land. The act gave them title to most of the Aboriginal reserves in the NT and allowed them to claim other land not owned, leased or being used by someone else.

When the CLC first started, in 1976, it mostly helped traditional owners to claim their land back. It had to stop new claims for land in 1997 because the Australian Government changed the Land Rights Act to end land claims.

In 2022 there were two land claims in the CLC region that had not yet been granted and handed back.



# Aboriginal land councils

The Land Rights Act gives functions and powers to the land councils.

The land councils

- help Aboriginal people get back their country
- help traditional owners to manage and look after country
- consult with and get decisions from traditional owners on mining, development and other land use proposals
- protect Aboriginal culture and sacred sites
- assist with economic projects on aboriginal land
- promote and implement community development programs
- fight for legal recognition of Aboriginal people's rights
- help resolve land disputes and native title claims
- protect native title rights and interests
- help Aboriginal people living on community living areas
- help administer Aboriginal corporations

A very important job of the CLC is to consult with traditional owners and residents when people or companies want to enter or do something on Aboriginal land.

The Land Rights Act says the CLC must

- explain the proposal to Aboriginal people
- consult with affected communities and listen to what residents are saying
- consult with traditional owners so they can make informed decisions
- make sure an agreement about a proposal is fair



# Decisions on Aboriginal land



## CLC staff

helps the right Aboriginal people to make informed decisions. This takes time. The staff does research, informs and consults with people.



## Traditional owners

decide about any proposal to use Aboriginal land. Residents of affected communities are also consulted.

## The council

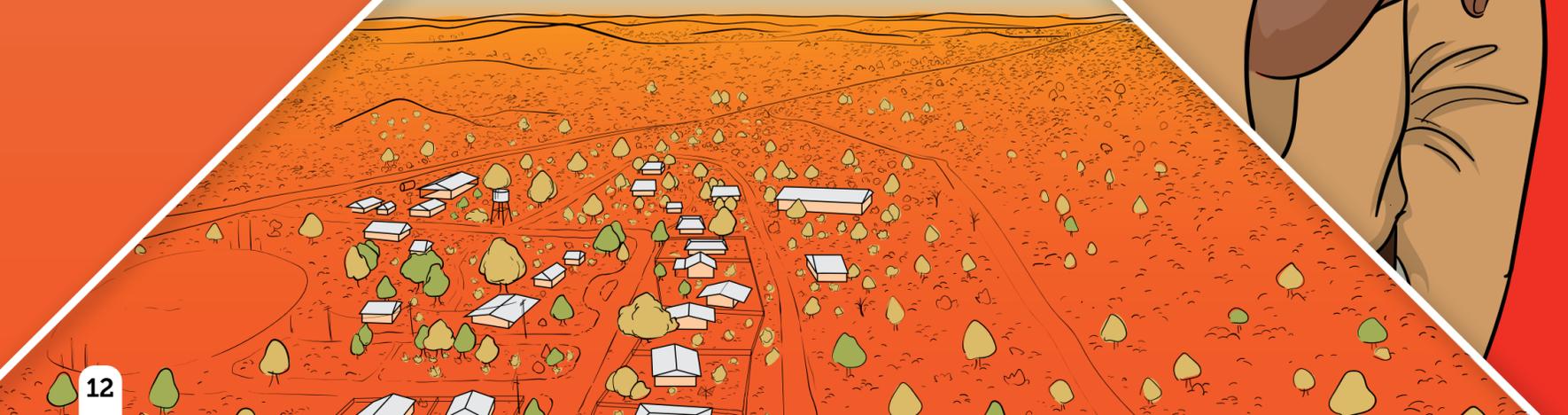
- checks if
- staff have properly consulted with the traditional owners and affected community residents
  - the right people have made the decisions
  - the agreement is fair and reasonable

It passes a resolution and directs the Aboriginal Land Trust to sign a land use agreement.

## Minister

Some proposals also need the consent of the Minister for Indigenous Australians.

## Communities have a say



## The Aboriginal Land Trust

signs the land use agreement, as directed by the council resolution.



## The Aboriginals Benefit Account

The Land Rights Act also set up the Aboriginals Benefit Account. The Australian Government pays money into the ABA. The amounts are the same as the royalties the mining companies operating on Aboriginal land in the Northern Territory pay to the NT Government.

The ABA funds

- the operation of the four NT land councils
- the operation and grants program of the NT Aboriginal Investment Fund
- affected areas (compensation) money

## The Northern Territory Aboriginal Investment Corporation

The Australian Government set up the NT Aboriginal Investment Corporation in 2021. This reform is the result of many years of advocacy by the land councils for more Aboriginal control over the ABA.

Before 2022 the Minister for Indigenous Australians alone used to decide which ABA grant applications to approve. The land council representatives on the ABA advisory committee were only able to make recommendations.

From 2022 the 12-member board of the NT Aboriginal Investment Corporation will make these decisions once it has been set up. The board will have two directors elected by each NT land council, two directors appointed by the government and two independent directors appointed by the board.



# The Native Title Act

The Native Title Act recognises the rights to land and interests in land Aboriginal people have through their traditional laws and customs.

These are rights to speak for and negotiate about land, but not to own that land. The Native Title Act does not give Aboriginal people the right to stop (“veto”) development proposals.

Native title can give them the right to

- protect sites
- go on country and hunt and gather
- camp or live on the land (in some cases)
- hold ceremonies and teach
- have a say about land management and development proposals

The Federal Court lists these rights in the native title determination.

The Native Title Act allows governments, companies and native title holders to make Indigenous Land Use Agreements (ILUA). These agreements are about future developments on the land and allow native title holders to negotiate about jobs, compensation, access to country and sacred site protection.

The CLC helps native title holders to negotiate these agreements. Council members check if the agreements are fair and reflect the views of the native title holders.

	LAND RIGHTS	NATIVE TITLE
	<b>Strong title for traditional owners</b>	<b>No title, but some rights</b>
<b>History</b>	Woodward Commission 1974	Mabo High Court 1992
<b>Law</b>	Aboriginal Land Rights (NT) 1976	Native Title Act 1993
<b>What</b>	Freehold title – ownership of land, right to control entry with permits*	Native title – recognition of traditional rights to access and hunt
<b>Where</b>	NT – vacant land and Aboriginal reserves	Australia – vacant, station or town land
<b>Who</b>	Traditional owners with “primary spiritual responsibility” for sites	Native title holders – Aboriginal people who have rights to land according to their traditional laws and customs
<b>Who decides</b>	Traditional owners (after hearing what people in affected communities said)	Native title holders can negotiate with proponents
<b>Who checks</b>	The CLC	Prescribed body corporate (can ask for CLC help)
<b>Proposal</b>	Traditional owners can say “no” to a proposal	Native title holders can negotiate about a proposal, but cannot say “no”
<b>Leasing</b>	Traditional owners can lease, sublease and licence their land	Native title holders cannot lease their land because they don’t have title
<b>How</b>	Land claim (only until 1997)	Native title claim – Federal Court
<b>Who decides</b>	Minister for Indigenous Australians agrees to grant Aboriginal freehold title	Federal Court hands down native title determination

\*permits do not apply to government workers and contractors, or to communal areas in communities.

# The Public Governance, Performance and Accountability Act

The PGPA Act sets the rules for good governance of corporate Commonwealth entities such as the CLC. The law holds the chair and the chief executive officer (also known as the accountable authority) responsible for the good governance of the organisation. It also describes what CLC members and staff (also known as the officials) must do.

## 1. Accountable authority

Together, the CLC's chair and the chief executive officer must manage how the CLC uses its money and resources.

The accountable authority must

- govern the CLC
- have systems to manage and control risks, for example procedures to keep workers safe
- work well with other organisations
- check if the CLC makes working with other organisations as easy and straightforward as possible (the risks and requirements imposed on others)
- keep the Australian Government informed

## 2. Officials

The PGPA Act calls all CLC members and staff "officials" and says they must

- be careful and diligent
- be true and honest ("act in good faith and for a proper purpose")
- not misuse their position or CLC information
- speak up ("declare") when they have a conflict of interest

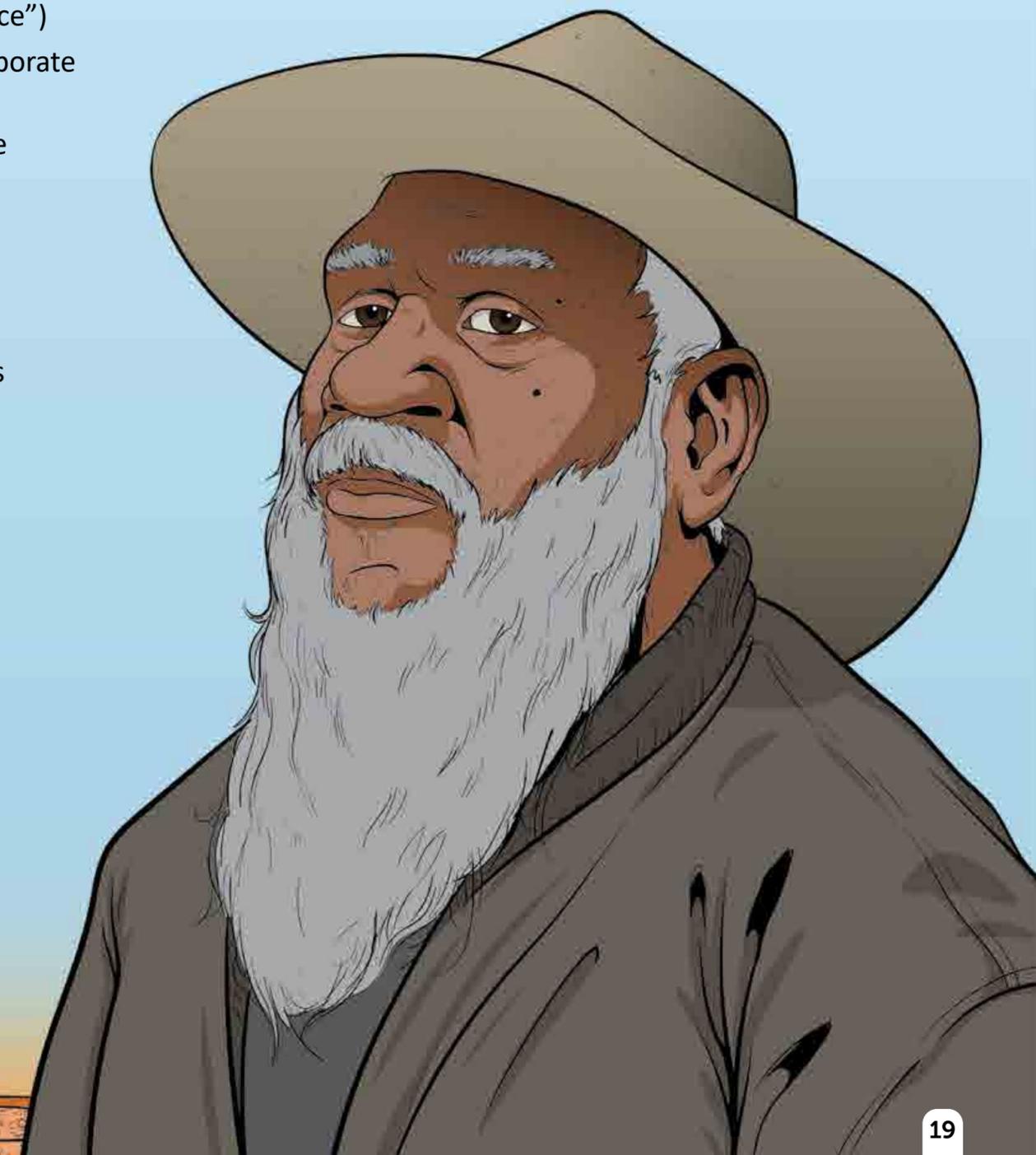
The code of conduct on page 28 says how officials must behave.

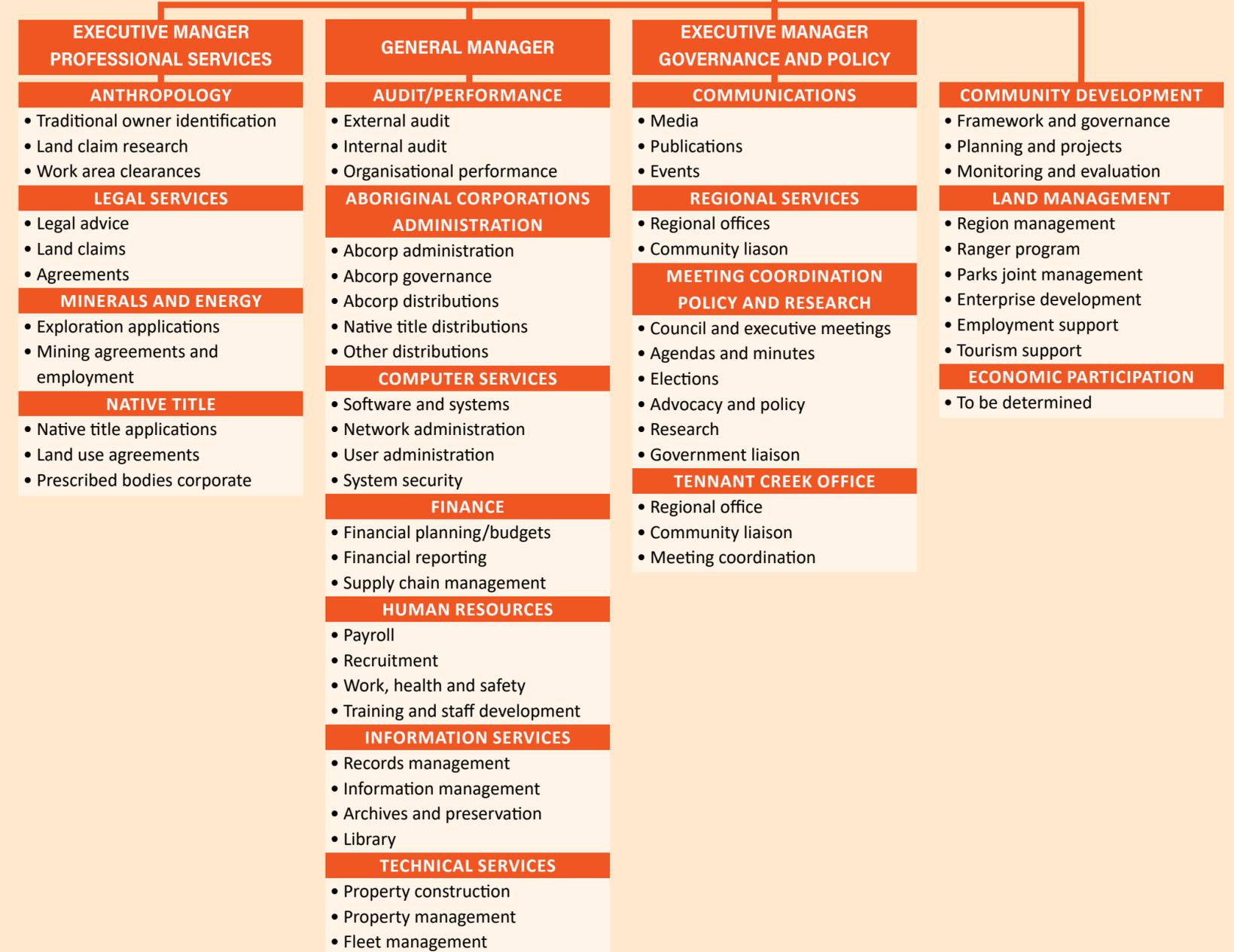
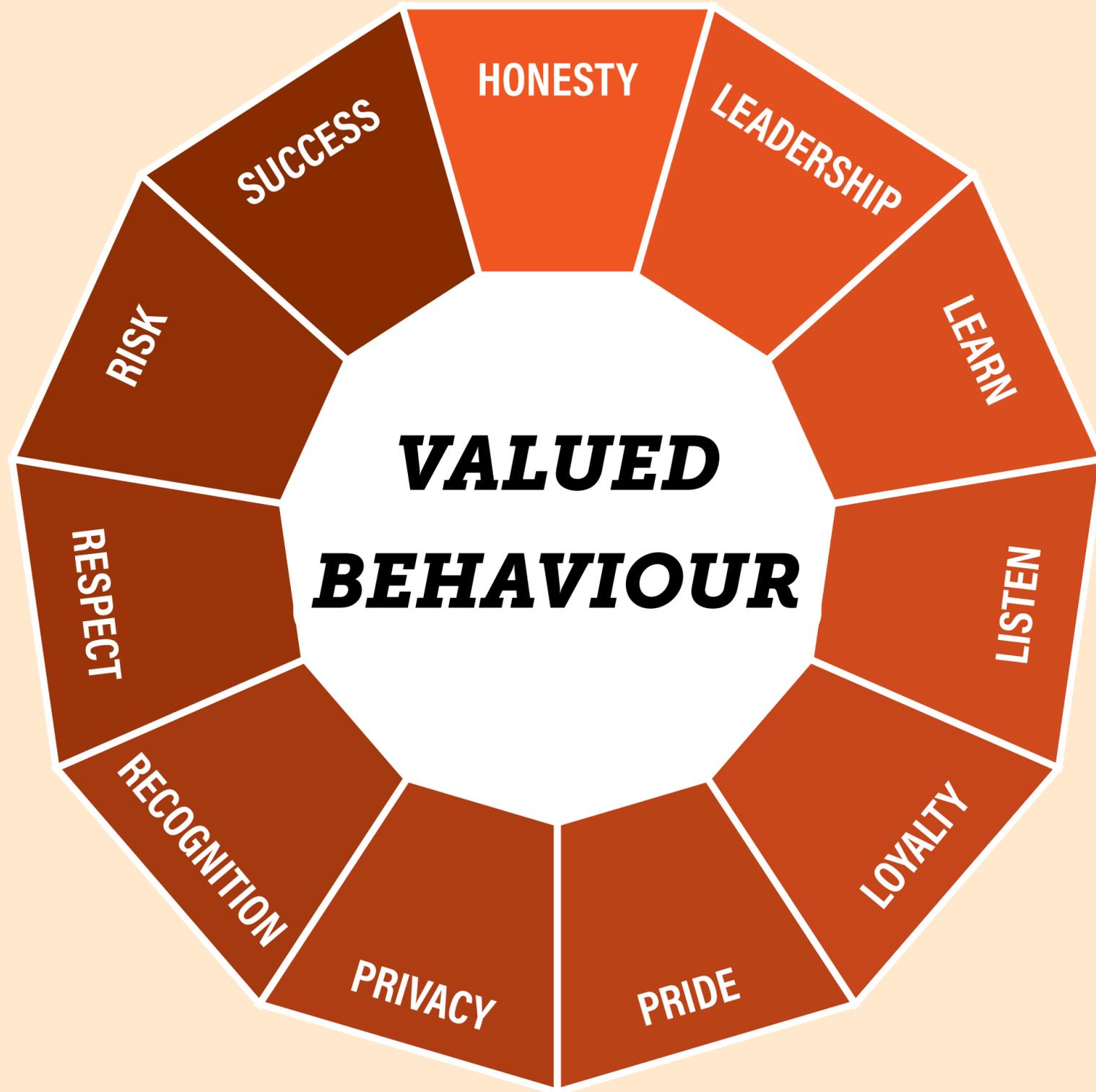
## 3. Planning and Reporting

The PGPA Act describes how the CLC must plan, do its work and account for what it does.

The CLC must

- keep records to show its money story ("financial position") and results ("performance")
- every year publish a corporate plan for four years
- have an audit committee
- give the Minister for Indigenous Australians an audited annual report every year that includes financial and performance statements
- every year publish the annual report





## The council

The council meets three times a year to

- develop and review policy and set directions for the organisation
- check the organisation is on track and being well managed
- advocate for the rights and interest of Aboriginal people and the CLC

Every three years, the council must

- elect a chair and a deputy chair
- nominate members to be appointed Aboriginal Areas Protection Authority (AAPA) board members

## Council members

Council members or their proxies attend three council meetings per year to

- contribute to council policy and the direction of the CLC
- select the executive member for their region
- provide a strong voice for their region and community

Council members also follow the CLC code of conduct, the council meeting rules and laws such as the Land Rights Act, Native Title Act and PGPA Act and advise regional officers and other staff on cultural matters.

After the meeting members report back to their communities. *Council News* is a good summary for reporting back. They can get copies from their regional officers or the CLC website at <https://www.clc.org.au/council-news/>.

## The chair and deputy chair

The chair runs council and executive meetings. They also

- approve the agenda for these meetings
- keep order and make sure everyone can have their say at these meetings
- make sure members follow the meeting rules and the CLC code of conduct
- represent and talk for the council at high level meetings and public events
- check Aboriginals Benefit Account funeral and ceremony funds are spent well
- help to keep communities informed about what the CLC does
- advise CLC staff on cultural matters and disputes
- help to make sure the land council is following relevant laws
- have the final say (casting vote) about a decision when the council is evenly split (equal numbers for and against)

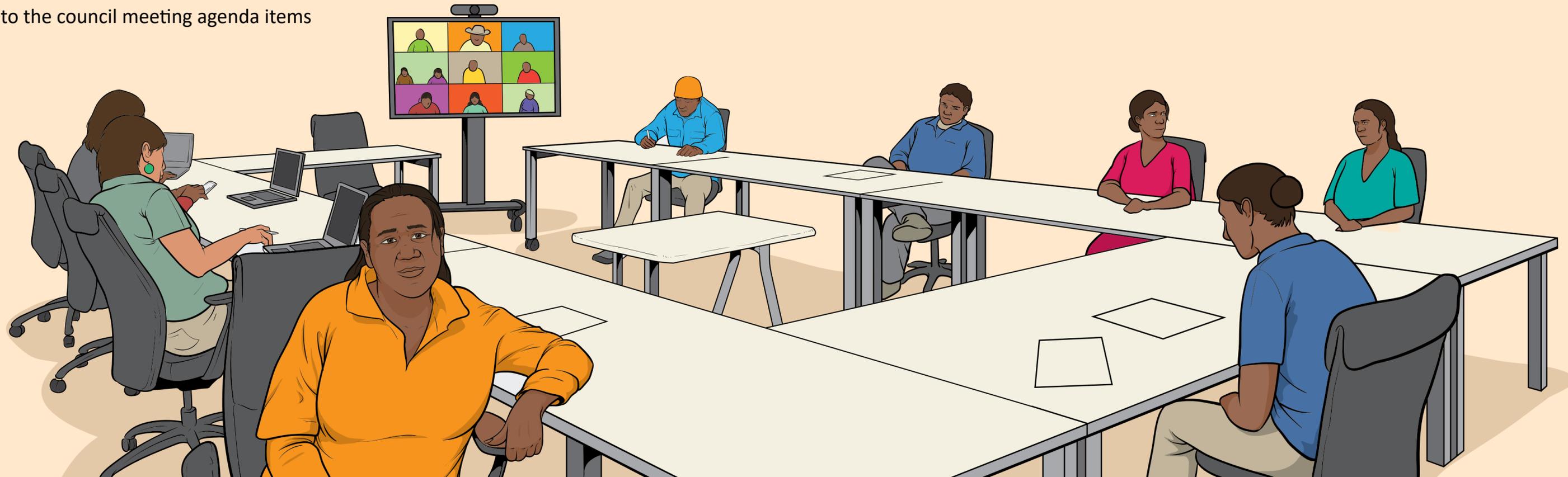
The deputy chair supports the chair and fills in when the chair is away.



## The executive committee

The executive committee carries out the functions the council has delegated to it. For example, it

- meets about six times per year to manage business in-between council meetings
- checks CLC activities and results (“performance”)
- endorses traditional owner decisions
- checks if staff have consulted with the right people in the proper way
- passes resolutions
- contributes to the CLC’s positions on government policy and the CLC’s political strategies
- reviews issues relating to the CLC code of conduct and takes action about serious and repeated breaches of the code
- hires and manages the chief executive officer
- checks and approves reports and other paperwork
- assists with legal issues, including some disputes
- reviews and helps to develop strategic plans and other guiding documents
- agrees to the council meeting agenda items



## The chief executive officer

- manages the day-to-day running of the CLC
- ensures that the CLC is in line with all legal and administrative duties (for example stays within budgets, publishes annual reports and grant performance reports, follows health and safety laws, negotiates an enterprise agreement)
- reports to and informs the council and executive committee
- advises the council and executive committee on policy, planning and compliance matters
- implements CLC policies
- hires and manages staff
- ensures that the CLC does what it must do under laws such as the Land Rights Act and the Native Title Act
- ensures that the CLC works towards the council’s goals

## Senior managers

The CLC has three senior managers who advise and follow the instructions of the chief executive officer (see page 31):

- The general manager is also the chief finance manager and acts for the chief executive officer when they are away
- The executive manager professional services is also the principal legal officer
- The executive manager governance and policy

## Section managers

- follow council policies and the instructions of their managers and the chief executive officer
- manage the staff of their section and help them to do a good job
- advise and report to the chief executive officer, the council and executive committee about their section's work
- help to keep the corporate plan, policies and procedures up to date
- help to prepare the annual report and budgets
- monitor and manage their section's budget

## Code of conduct

Council members are responsible for making decisions that are in the best interests of Aboriginal people in the CLC region and to keep the CLC strong.

The CLC's code of conduct has been developed with, and agreed to by, the council. The code sets out how CLC members are expected to behave and their duties as officials under the PGPA Act.



## The CLC code of conduct

### 1. Duty of care and diligence

Members must represent their region and communities to the best of their ability and make careful decisions.

### 2. Acting honestly and with integrity

All members are expected to act honestly and with integrity. This means acting “in good faith” (true and honest), making fair decisions and being open about, and accountable for, the decisions they make. It also means to use their powers in a responsible and proper way.



### 3. Proper use of the position

Members must not improperly use their position or seek to gain a benefit from their decisions as a council.

They must act in the best interests of the CLC and not harm the CLC or anyone.



### 4. Keeping information confidential

Council members may during meetings or CLC business hear confidential information. Confidential information is secret information that cannot be told to anyone other than council members.

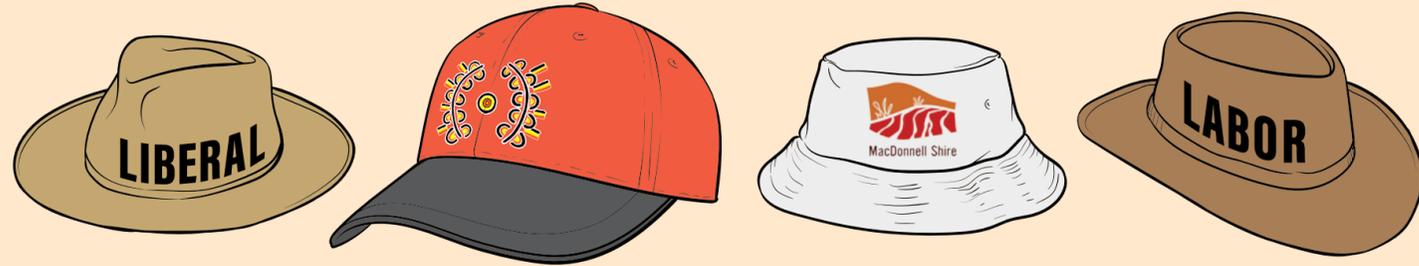
Members must not use information they hear as council members for their own benefit or the benefit of another person. They also must not use that information to harm the CLC or anyone.

Nobody is allowed to record, broadcast or transmit what happens at a council meeting without the permission of the chair and the council.



## 5. Declaring a conflict of interest

Council members have different roles in their communities, jobs or on other boards - they wear different hats. At a CLC meeting they must only wear their 'CLC hat' and speak and make decisions as a council member.



A conflict of interest occurs when a council member uses their position to benefit themselves or a family member. It can also occur when the council is making a decision that directly benefits the member, their family or friends.

If a member thinks they may have a conflict of interest they must declare the possible conflict before discussion starts, leave the meeting while discussion takes place and not vote on the matter.

The council can let a member take part in discussions about, but not vote on, a matter in which the member has a conflict of interest. When the council decides whether to let the member with the conflict take part in the discussion, the member concerned should not be present.

A member does not have to disclose a conflict of interest if the decision relates to land of which the member is a traditional owner. That is because it is not a conflict of interest that can result in a personal benefit.

## 6. Using CLC resources

CLC resources, such as cars, can only be used for CLC business.

Council members are not allowed to drive CLC cars unless there is an exceptional reason, such as a medical emergency.



## 7. Attendance

Council members are expected to attend all council meetings. If a member cannot come to a council meeting they should send a proxy.

The rules about proxies are in the CLC meeting rules on page 39.

## 8. Acceptable behaviour

Nobody must drink alcohol or use drugs in CLC cars or bring them to CLC meetings. People who are under the influence of drugs or alcohol will be asked to leave the meeting quietly.

Council members will be respectful and courteous to everyone at the meeting. They don't make personal demands of the staff or ask for their private phone numbers or details.



## 9. Leadership

All council members show leadership by listening to others, speaking up, caring for the community and letting people know what the CLC is doing.



## 10. Breaching the code of conduct

The council can take action if a member breaches the code of conduct. Actions can be non-payment of sitting fees, suspension or termination from the council or executive committee, not being allowed to stand for re-election for a period of time or forever. If a breach is less serious the council can give the member a warning before taking stronger action.

If a breach happens during a meeting the relevant executive committee member should take action during the meeting, in consultation with the chair and the deputy chair.

More serious or repeated breaches will be dealt with by the executive committee which is authorised to take any of the disciplinary actions listed above, including disqualifying a member.

## Rules for council meetings

The council made the rules for council meetings. The rules set out how to run council meetings.

### Holding meetings

There are three council meetings every year. The chair or deputy chair can call additional special meetings.

Members get written meeting notices with the main agenda items at least two weeks before the meeting.





## Number of members needed for a meeting to go ahead (quorum)

Before a meeting can start and make a decision, at least half of the council members (a quorum of members) must be present. If the council has 90 members at least 45 members must be present. Staff conduct a roll call at the beginning of each day and after lunch to check if there is a quorum. Staff also write down who is present at the end of the last meeting day, before sitting fees are paid. Members who have declared a conflict of interest are not counted when checking if there is a quorum for making a decision on the matter about which the conflict has been declared. They also cannot vote on the matter.

If the chair thinks there is no longer a quorum because members have left the meeting, the chair can ask for a roll call. The meeting has to stop until there is a quorum.

## Proxies

If a member can't attend a meeting, they can give their place to a proxy. The proxy should be an Aboriginal resident of the community the member represents, and must live in the same CLC sub-region as the member.

The member is responsible for selecting the proxy. The member must give the completed proxy form (including the reason for their absence) to the regional officer before the meeting.

Once the meeting has started, it is too late to accept or change proxies.

Proxies have the same voting rights and get the same pay and support as the member.

## Meeting attendance

If a member misses three meetings in a row without the chair's approval, the chair will send a notice to the community the member represents and ask the residents to nominate a new member. Any Aboriginal resident of the CLC region can come to the council meeting if they are with a member, unless the chair says no.

Non-members can attend non-confidential parts of the meeting with the permission of the chair or the council. They can speak with the permission of the chair, but they cannot vote.

If members are uncomfortable with a non-member's attendance at any time, they can call for a vote on whether non-members should be present. Non-members must leave the meeting during that vote. If the council votes that the non-member can't be present they can't return to the meeting.



## Talking at the meeting

Members help the chair to keep the meeting on track and follow the agenda.

The chair gives members a chance to speak up about things that are not on the agenda. These things need to have something to do with the functions of the CLC (see page 10).

The chair decides in which order and how often people speak and can hurry up members if they speak for too long. All members should listen while someone is speaking.

If members speak Aboriginal languages the chair and executive committee members ensure it is interpreted.

When someone speaks up about a problem or complaint the council will try to address the issue or ask a CLC manager to answer.

Mobile phones should be switched off or silenced.

## Council decisions

Members must put a motion, and move and second it, before every council decision.

The council makes decisions by a majority vote (more than half of the votes of the members and proxies who can vote at the meeting).

Members can vote by calling out, but if the chair thinks that there are some members who are not happy or do not agree then the vote will be done by a show of hands.

If the vote is tied (equal numbers of votes for and against) the chair will have the final say (casting vote).

## Conflict of interest

Members who have a conflict of interest must declare that conflict before the matter is discussed.

They must leave the meeting while the matter is discussed, if the chair asks them to leave.

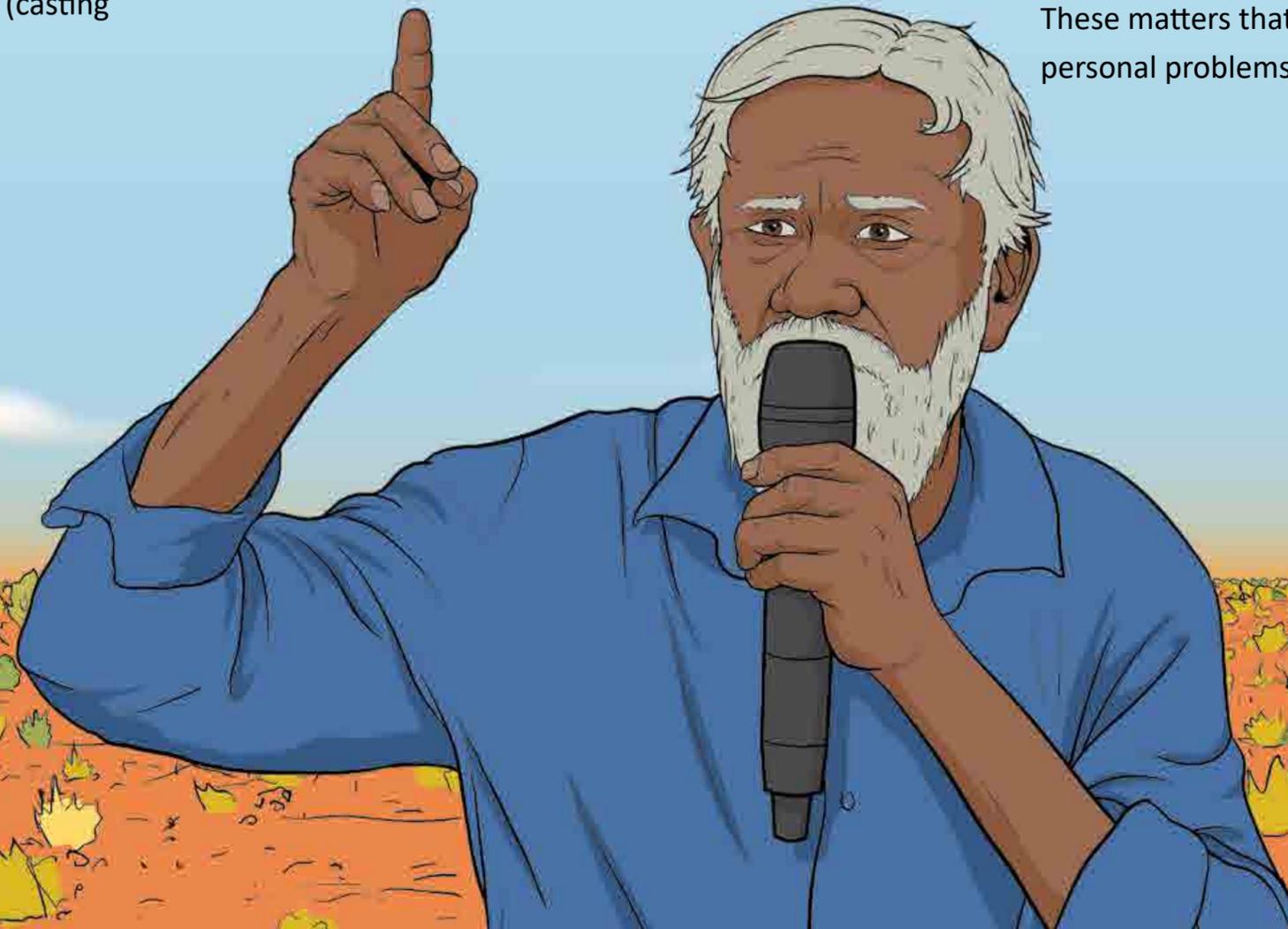
Council may pass a resolution to allow a member to take part in the discussion of a matter where a conflict of interest has been declared, but the member cannot vote.

## Media or public comment

Members may not make media or public comment on behalf of the CLC without being specifically authorised to do so.

## Minutes

CLC staff will keep minutes for each meeting, including resolutions and a record of attendance. All Aboriginal people in the CLC area are allowed to see the minutes at the CLC office and at no cost. They are not allowed to see excludable matters. These matters that can be kept private, such as personal problems or private business matters.



## Meeting places

At the end of every council meeting the council decides the next meeting location by voting. If that location is unavailable the chair decides on a new location after talking to the chief executive officer and the executive committee.

Meetings will be held throughout the CLC region and usually not in major towns.

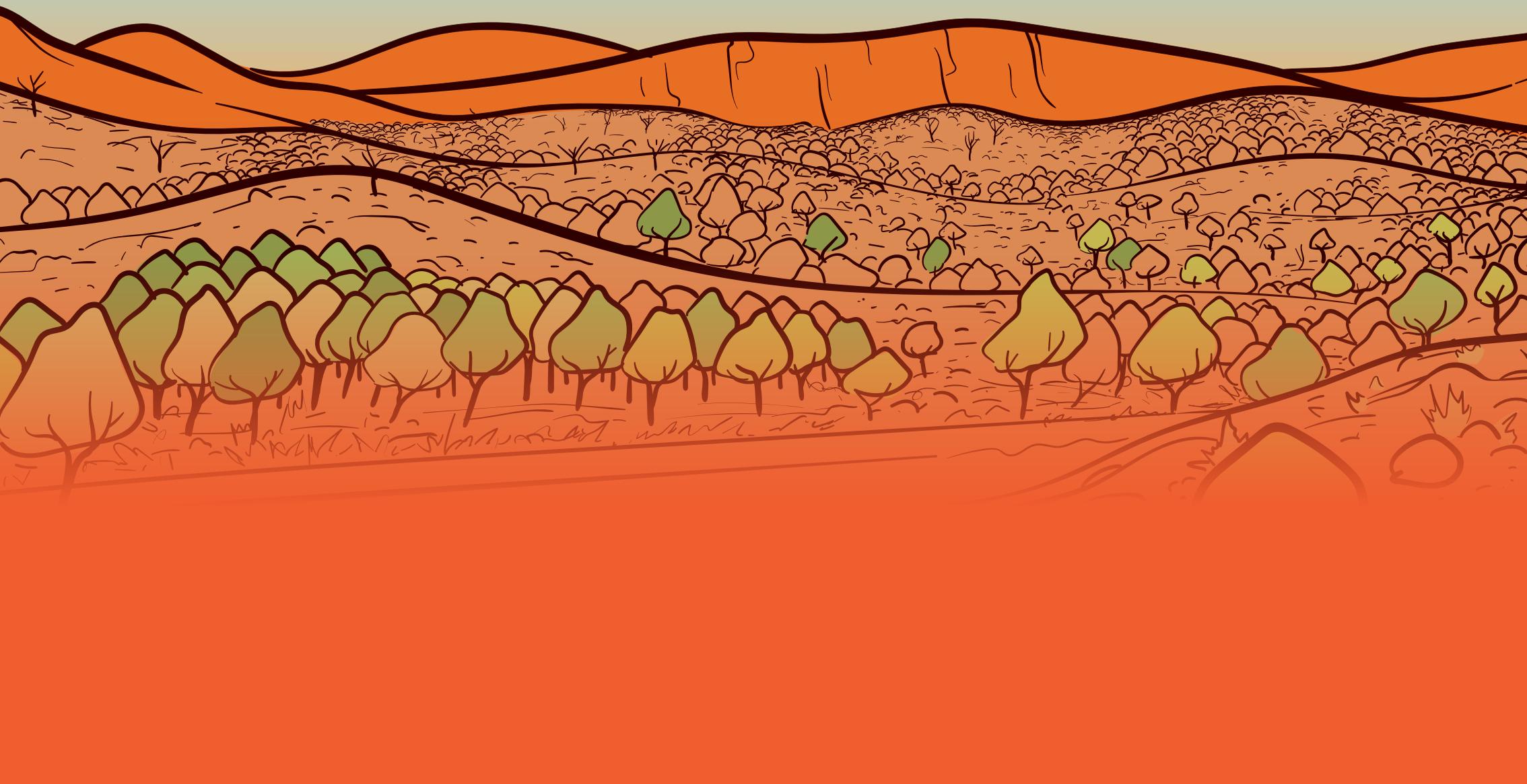
Every effort will be made to ensure that toilets, showers and medical care are available.

## Meeting expenses

Council members get travel allowance and mileage to cover their meeting costs. They also get sitting fees and the Australian Remuneration Tribunal says how much they can get.



# Good Governance = Strong Organisations



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