

Governance at the Central Land Council



**CENTRAL
LAND
COUNCIL**

A guide to being a Council member

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Welcome to the CENTRAL LAND COUNCIL

Congratulations on being chosen by your community to represent them on the Central Land Council.

For 40 years, Aboriginal people have been working hard to protect and manage Aboriginal land and fight for Aboriginal people's rights. By becoming Council members, people learn a lot about laws that have a big influence on Aboriginal people's lives in the bush. Council members can influence government laws and policies by sticking together and having a strong voice.

Many Aboriginal people say the Land Council is their shield, that it provides a shield between them and governments and big businesses, such as mining companies.

This booklet is to help you do your job as a Council member so that Land Council stays as a shield and strong voice for Aboriginal people of Central Australia.

What is governance?

There is lots of talk about governance but really it just means doing things the right way in organisations so that they can stay strong.

When Aboriginal people talk about governance it means that they have power to make decisions about how their organisations do their job.

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.

**Good
Governance**
=
**Strong
Organisations**

- 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.
- Making meetings work by being active.



We are a Council of **90** Aboriginal people who make decisions about how the Land Council works and sets policy.

All Aboriginal people living in the **CLC area** can visit Council meetings, but **only Council members** can vote.

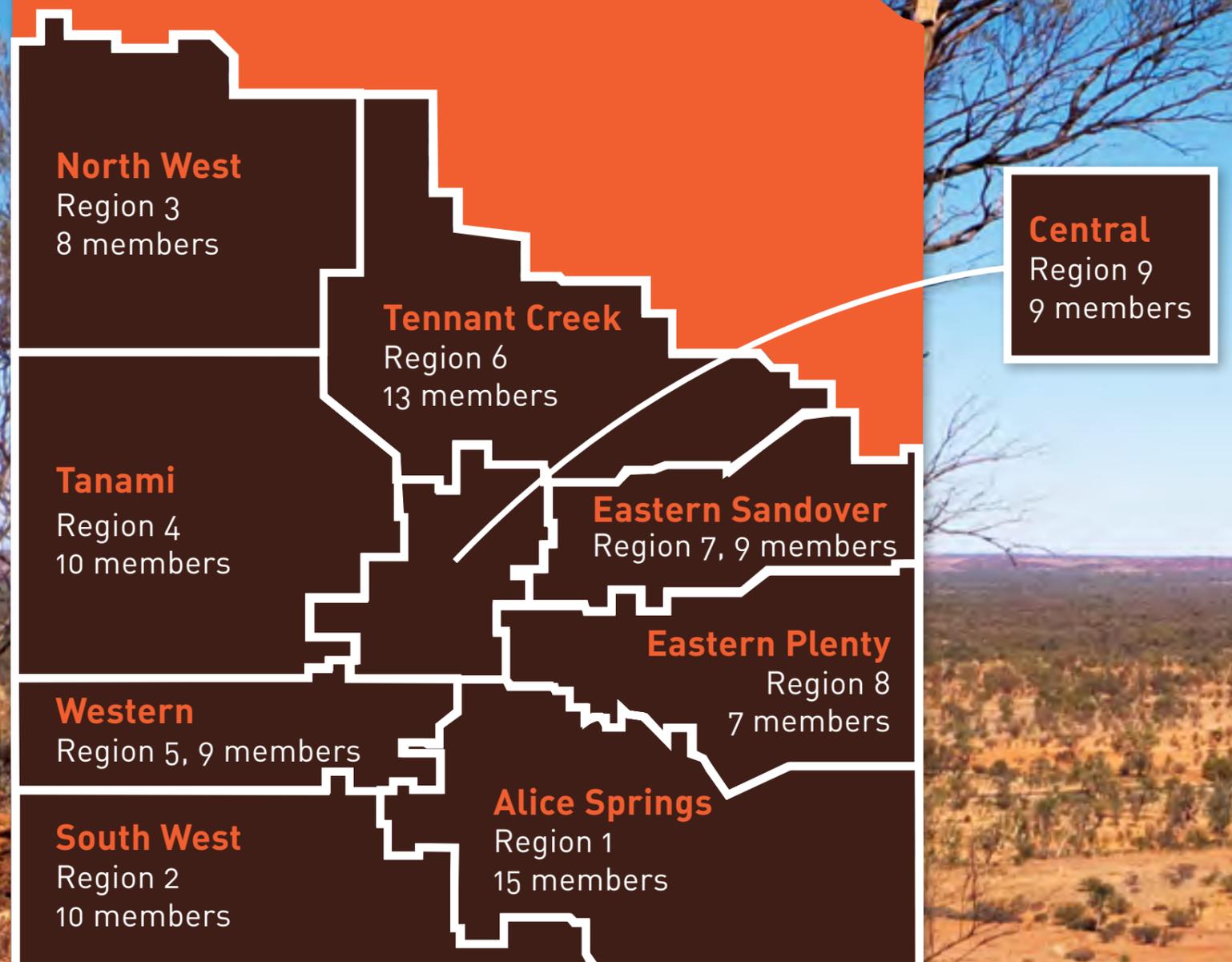
The Central Land Council is a Council of 90 Aboriginal people elected from communities in the southern half of the Northern Territory.

The Council is a representative body promoting Aboriginal rights and is a Commonwealth statutory authority under the Aboriginal Land Rights (Northern Territory) Act 1976 and a Commonwealth corporate entity under the Public Governance Performance and Accountability Act 2013 (PGPA). 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. The Executive Committee is made up of a member from each of the nine CLC regions plus the Chair and Deputy. Elections for the Council take place every three years.

The Council membership can be reviewed by Council. Any changes to the membership need to be approved by the Australian Government Minister for Indigenous Affairs.

The Central Land Council area has nine regions based around language groups.



The CLC's guiding principles are:

- 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 is linked with the fight for Aboriginal land rights, which started to gain momentum in the sixties and early seventies. In **1963** the Yolngu people submitted a bark petition to the Australian Parliament asking for recognition of their traditional rights to land and three years later, in **1966**, the Gurindji walked off Wave Hill Station in protest at the terrible conditions they endured as pastoral workers.

This grew into a demand for land rights and the Tent Embassy was set up on the lawn outside Parliament House in Canberra. Australians could no longer ignore the reality that so many Aboriginal people had been so unfairly dispossessed of their land and recognition of land rights became a Labor Party policy.

In **1974** Justice Woodward delivered his second report setting out procedures for land claims which resulted in the development of the **NT Land Rights Act** that was finally passed by the Fraser Coalition Government in 1976.

Now more than half of the Northern Territory is Aboriginal land under the Aboriginal Land Rights Act.

Our laws

The CLC follows these laws:

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

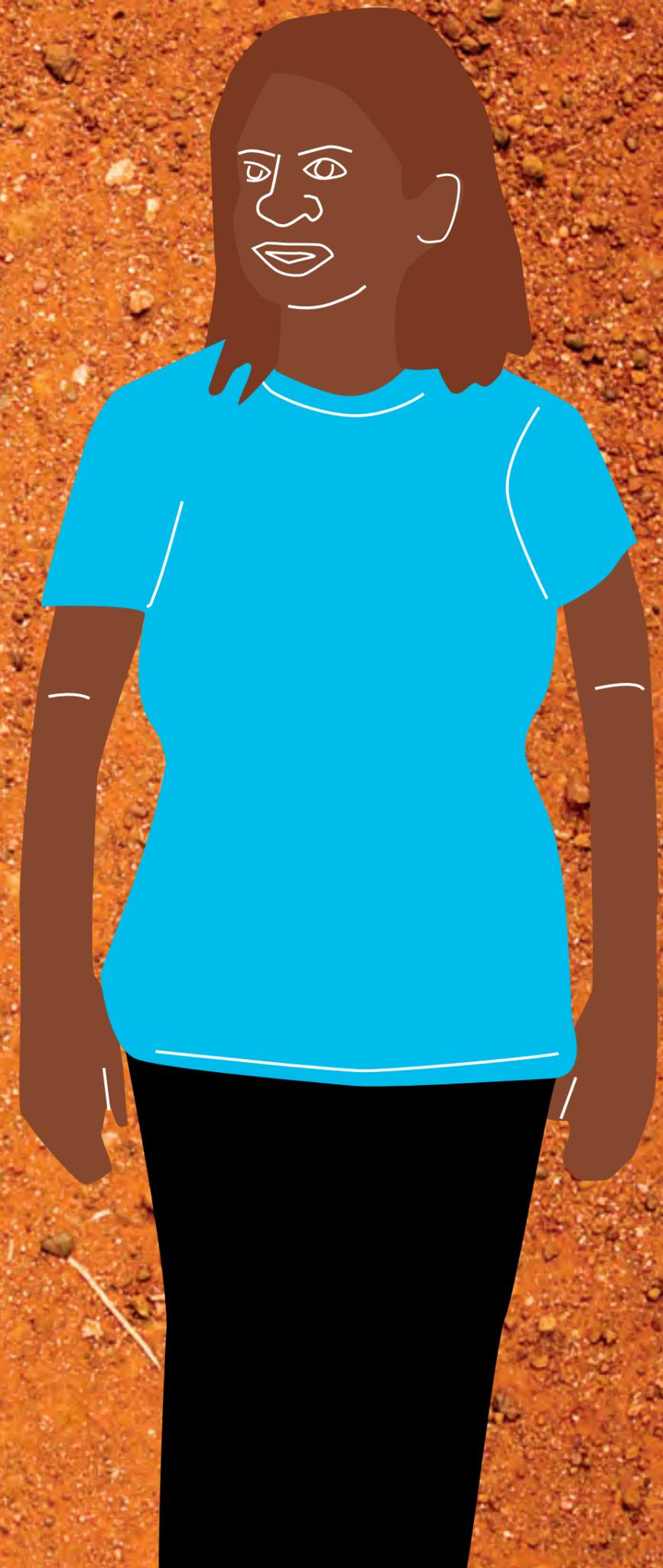
The Aboriginal Land Rights Act

The Aboriginal Land Rights (Northern Territory) Act 1976 was the first attempt by an Australian government to legally recognise the Aboriginal system of land ownership.

The Aboriginal Land Rights Act is Commonwealth law and any changes must be passed by both houses of the Australian Parliament.

The Land Councils are usually consulted before any changes are made to the Act. The main parts of the Land Rights Act are:

- **Granting of land to Aboriginal Land Trusts.**
- **Setting up Aboriginal Land Councils.**
- **Aboriginals Benefit Account.**
- **Processes for making decisions about exploration and mining.**
- **Processes for making decisions about land.**
- **Sacred site protection.**
- **Permits.**
- **Dealing with income from land use agreements.**



Granting of land

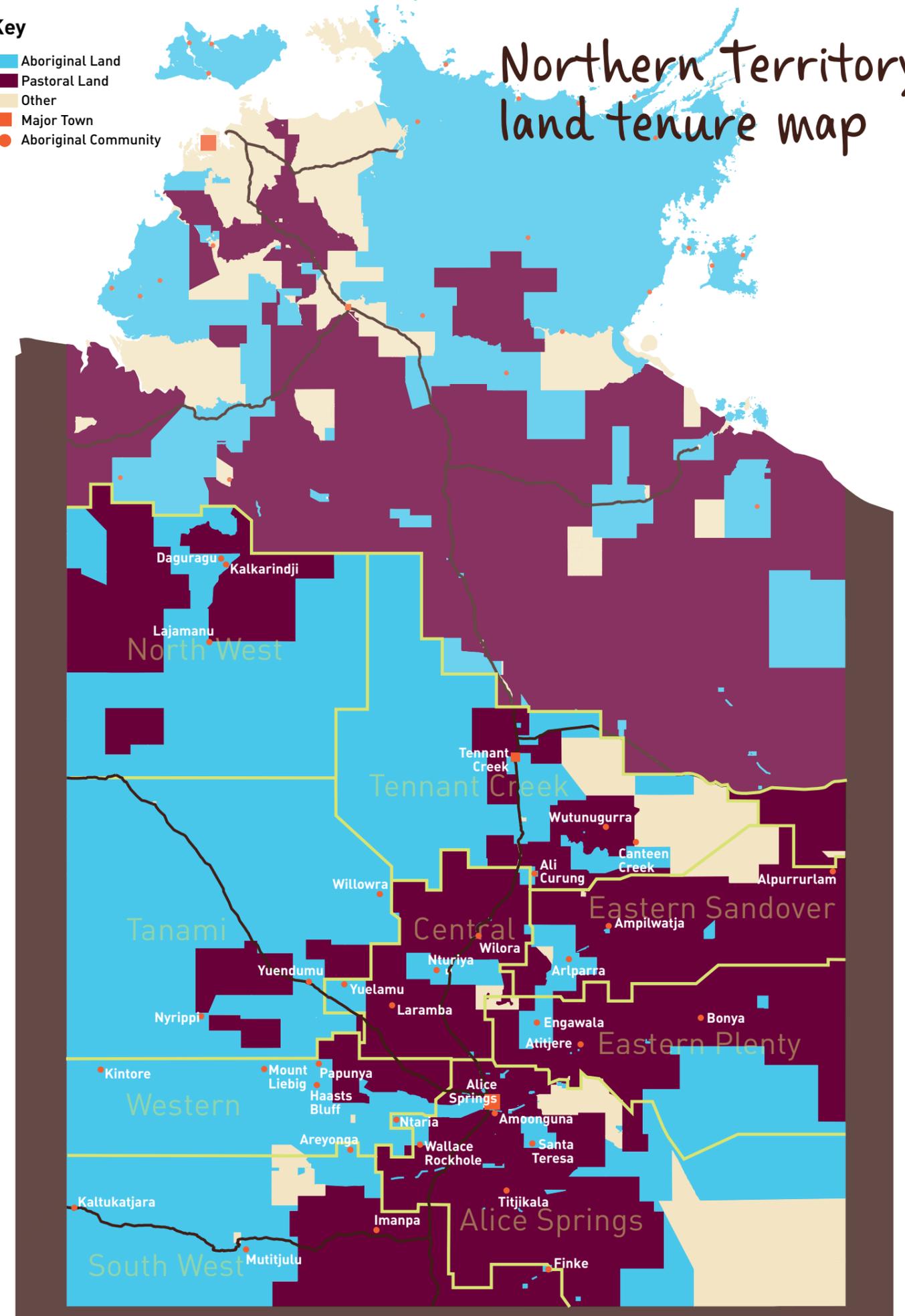
The main purpose of the Land Rights Act is to enable land to be handed back to traditional Aboriginal owners. It also ensures that traditional owners are the main decision-makers about the management and use of that land. The Land Rights Act gave Aboriginal people title to most of the Aboriginal reserves in the NT and gave Aboriginal people the opportunity to claim other land not owned, leased or being used by someone.

When the Land Council first started in the 1970s, employees (including lawyers and anthropologists) spent a lot of time helping traditional owners fight for their land. Decisions about the grant of Aboriginal land are made by the Aboriginal Land Commissioner and granted by the Australian Government Minister for Indigenous Affairs.

Key

- Aboriginal Land
- Pastoral Land
- Other
- Major Town
- Aboriginal Community

Northern Territory land tenure map

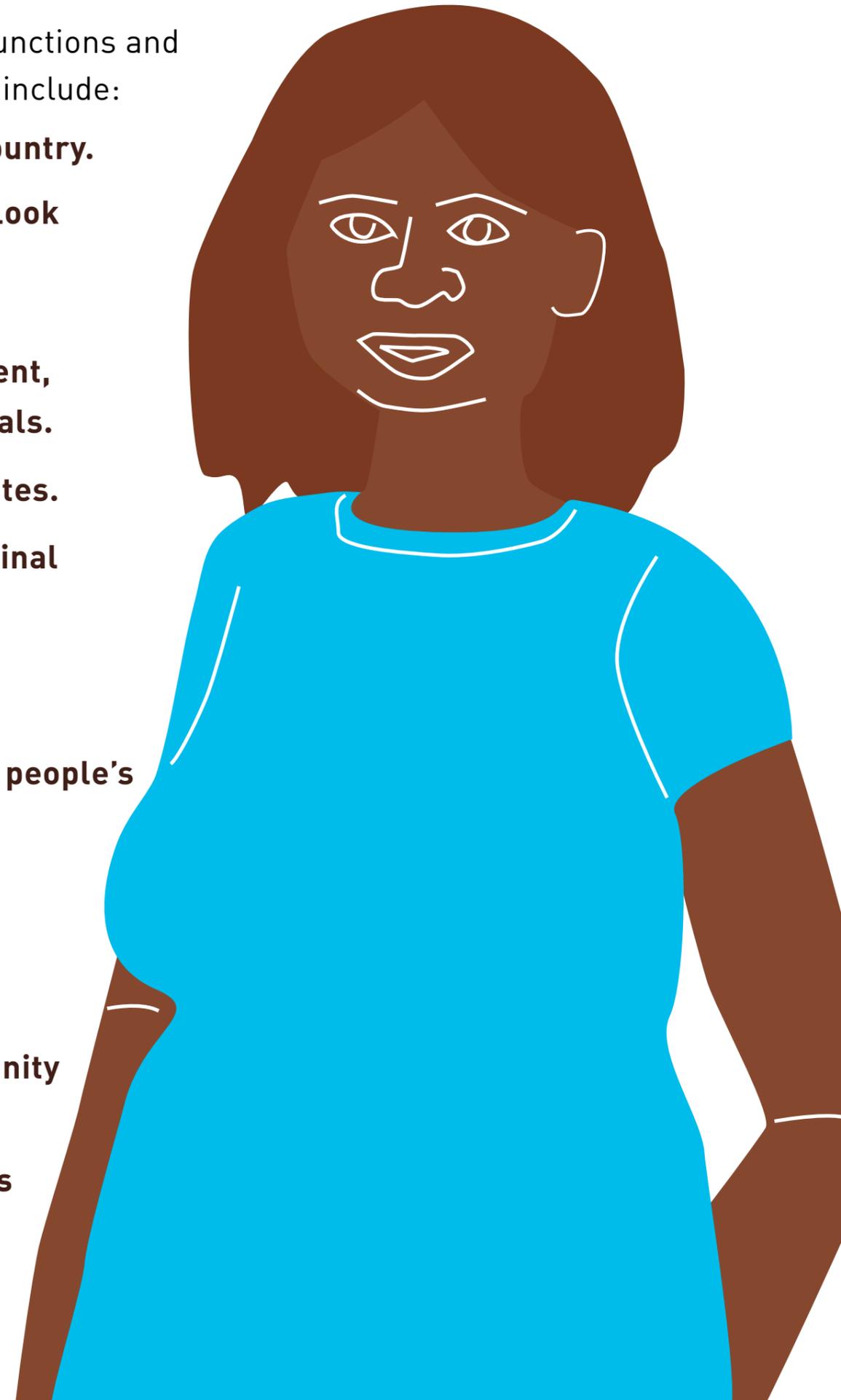




Aboriginal Land Councils

The Land Rights Act also set up and gives functions and powers to the Land Councils. The functions include:

- **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, employment, 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 (CATSI)**





All the work of the Land Council is important, but one of the jobs that you will frequently encounter as a Council member is the consultation process when people or companies want to access or do something on Aboriginal land.

The Aboriginal Land Rights Act says that the CLC must:

- Explain the proposal to Aboriginal people.
- Consult with Aboriginal communities affected and listen to what they have to say.
- Consult with traditional owners so they can make an informed decision.
- Make sure an agreement is fair.

Decisions on Aboriginal land

CLC staff



Research • Inform • Consult

The CLC's job is to get informed consent. This can take many meetings with the right people.

Traditional owners (TOs)



Decide

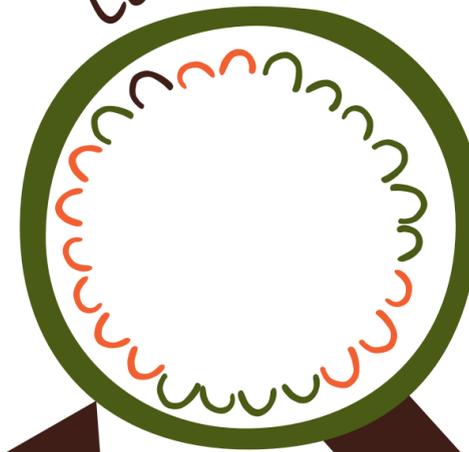
Traditional owners make the decision on any proposal to use Aboriginal land. People living in affected communities are consulted and get to have a say.

Communities

Have a Say



Council



Checks & Directs

The Council (or Executive) check:

- The consultations with TOs and affected communities.
- The agreement is fair and reasonable.
- The right people have made a decision.

The Council pass a resolution.



Signs

The Council resolution directs the ALT to sign the paperwork about the proposal.

Approves

Some proposals also need the consent of the Minister.

Minister





Aboriginals Benefit Account (ABA)

The Aboriginal Land Rights Act establishes the ABA.

The ABA money is paid by the Commonwealth government but comes from the taxes collected from mining companies operating on Aboriginal land. Taxes are paid to the NT Government (except for taxes on uranium which are paid to the Commonwealth). The equivalent of the total of those taxes is then paid into the ABA.

The ABA pays for the operations of:

- **The Land Councils.**
- **The ABA grants program.**
- **Administration of the ABA.**
- **Affected areas money.**

ABA money

Affected Areas Money

This money must be paid to Aboriginal corporations whose members live in areas affected by mining.



Land Councils in NT

The Minister checks and approves the Land Council budgets annually. This is where the largest part of the CLC's running costs come from.

ABA Grants Program & Administration

The grants program is by application. Projects must benefit Aboriginal people in the NT.

ABA Advisory Committee

The ABA Advisory Committee's job is to advise the Minister on applications made to the ABA grants program. The program funds projects that benefit Aboriginal people living in the NT. The Committee meets three times per year.

The committee has:

- A **chair** appointed by the Federal Minister for Indigenous Affairs.
- **5** members from the CLC.
- **7** members from the NLC.
- **1** member each from Tiwi and Anindilyakwa Land Councils.
- The Minister also has the power to appoint **2** other specialist members but has not done so to date.

Native Title Act

The Native Title Act recognises Aboriginal people's rights and interests in their land through their traditional laws and customs.

The Native Title Act recognises that Aboriginal and Torres Strait Islander people have rights to speak for land, but native title does not provide ownership of the land or stop development proposals.

Native title rights include the right to:

- **Protect sites.**
- **Access country or hunt.**
- **Camp or live on the land (in some cases).**
- **Hold ceremony.**
- **Have a say on land management or development proposals.**

The Native Title Act allows government, companies and native title holders to negotiate agreements about future developments on the land. They are called Indigenous Land Use Agreements (ILUAs). An ILUA gives opportunity for native title holders to negotiate employment opportunities, compensation, access to country and protection of sacred sites.

Land Council staff are involved in helping native title holders negotiate ILUAs. Your job as Council member is to review ILUAs to ensure the agreements are fair and native title holders' views are heard in the negotiations.

	Land Rights	Native Title
	Strong title for traditional owners	Recognises some rights but does not give title
History	Woodward Commission 1974	Mabo High Court 1992
Law	Aboriginal Land Rights (NT) 1976 (Cth)	Native Title Act 1993 (Cth)
What	Freehold title – ownership of land, right to control entry with permits*	Native title – recognition of traditional rights to access and hunt
Where	NT – Aboriginal reserves, vacant land	Australia – vacant, pastoral or town land
Who	Traditional owners – ‘primary spiritual responsibility’ for sites	Native title holders – right holders in land according to traditional law and custom
Decision Making	Consent of traditional owners Consult with affected communities	Native title holders negotiate with proponents
Check	The Central Land Council	Prescribed body corporate (with help of CLC)
Proposals	Right to refuse proposal	Right to negotiate, cannot refuse
Leasing	Leasing, subleasing & licensing	Cannot lease because no title to land
How – Fight	Land claim – Land Commissioner	Native title claim – Federal court
How - Agree	Commonwealth Minister agrees to grant freehold title	Consent determination of Native title with NT Government

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

Summary of Public Governance, Performance and Accountability Act 2013

Under the Public Governance, Performance and Accountability Act (PGPA Act) statutory authorities, such as the CLC, are now called corporate Commonwealth entities.

Many rules under the PGPA Act are similar to the previous law (CAC Act).

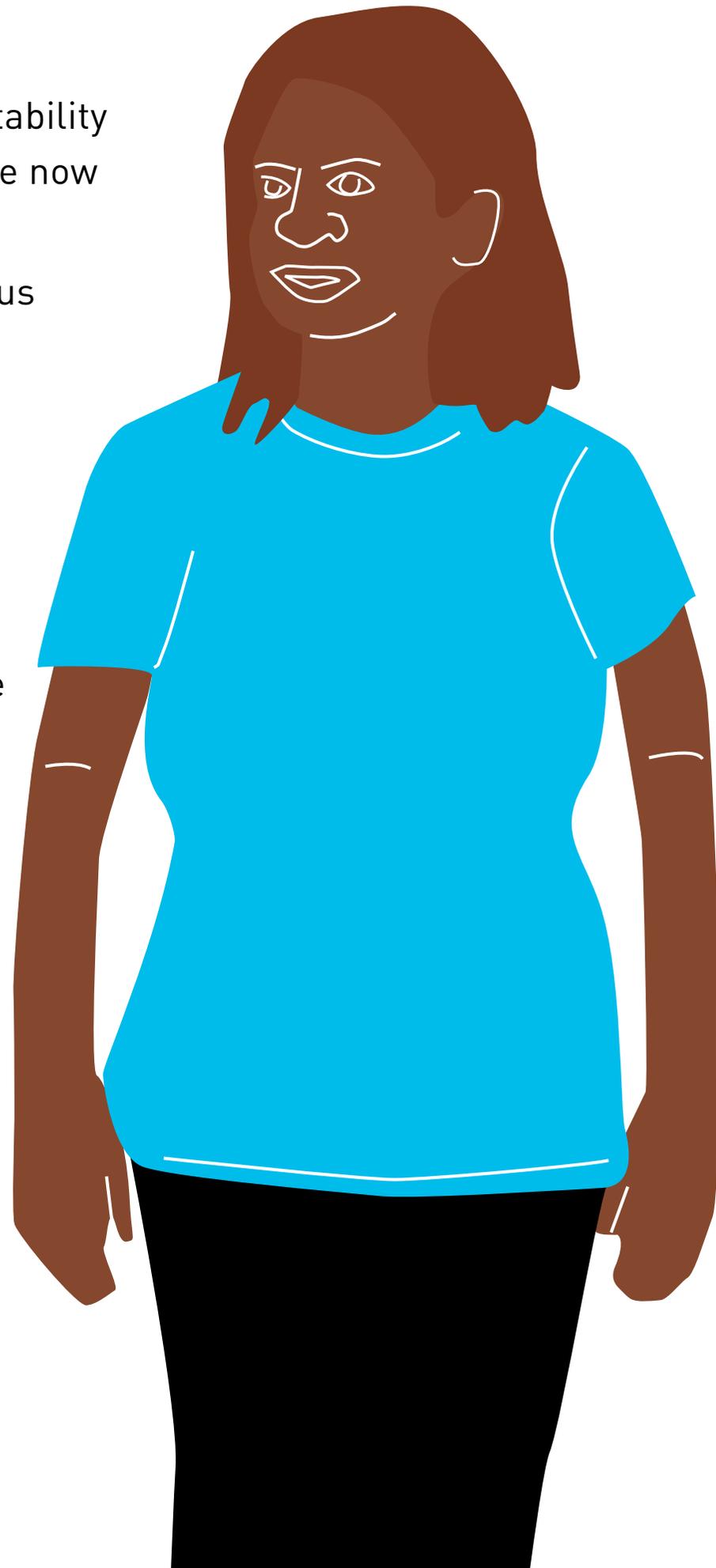
The PGPA Act sets out principles of good governance through 'accountable authority' and general duties of 'officials' and new planning and reporting requirements.

1. Accountable Authority

The CLC now has an '**accountable authority**' – this is the Chair and the CEO. They must work together to manage our obligations and duties when using and working with the public funds and resources provided to the CLC.

The PGPA Act sets out general duties that apply to the CEO and the Chair. These duties are to:

- **Govern the CLC.**
- **Have systems to manage and control risk.**
- **Encourage cooperation with others.**
- **Check the requirements imposed on others (reduce red tape).**
- **Keep responsible Minister and Finance Minister informed.**



2. Officials

The PGPA also says all staff and members of the Council are '**officials**'. Council members are no longer considered to be 'directors' as they were under the CAC Act. There are five general duties of all officials under the PGPA Act are:

- **Exercise care and diligence.**
- **To act honestly, in good faith and for a proper purpose.**
- **Not misuse your position.**
- **Not misuse information that comes from Council.**
- **Disclose interests.**

3. Planning and Reporting

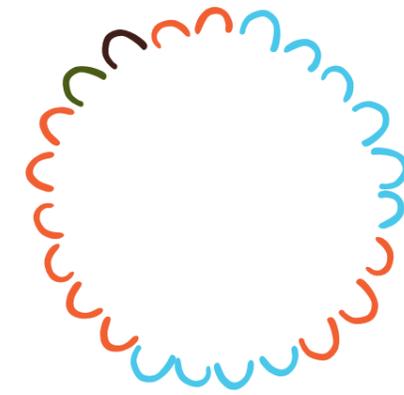
The PGPA sets out the planning, performance & accountability requirements for all Commonwealth entities. The CLC is required to:

- **Keep records to assess and explain the financial position and performance of the organisation.**
- **Prepare a multi-year corporate plan.**
- **Prepare annual financial and performance statements.**
- **Maintain an audit committee in accordance with the rules.**
- **Provide the Minister with an audited annual report.**

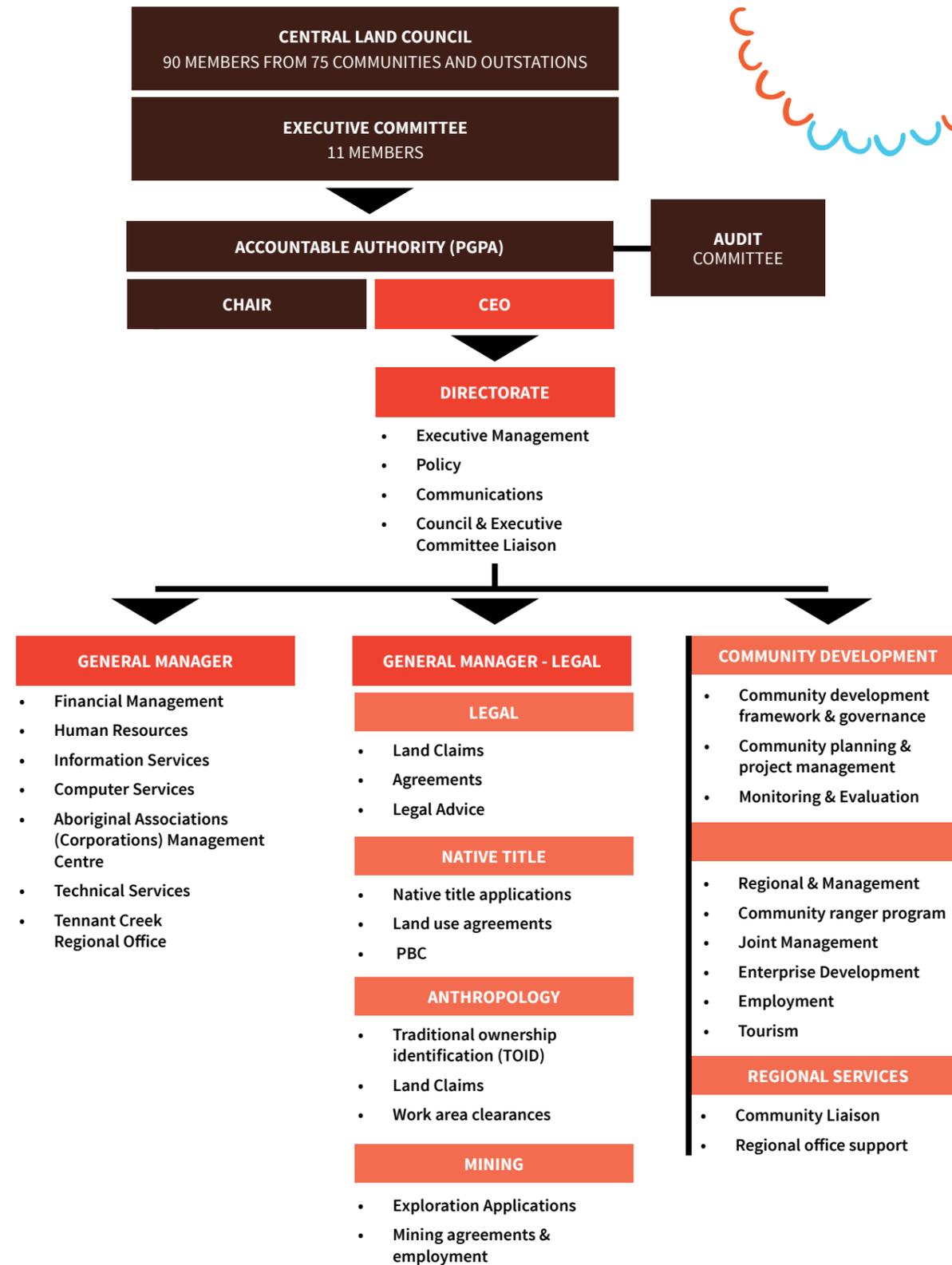
Central Land
Council's structure



The Central Land Council Organisation Structure



MANAGEMENT GOVERNANCE





Council

Role

Council generally meets **three** times a year and has the following roles:

- **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 interests of Aboriginal people and the CLC.
- **Elect** Chair, Deputy Chair and 5 ABA members.
- **Delegate** functions to any committees of Council and decide on the rules for those committees (eg the Executive Committee).

Council members

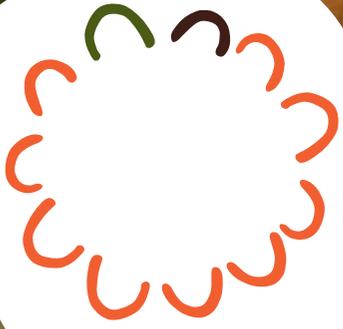
Responsibilities

- **Attend** three Council meetings per year, or organise a proxy.
- **Contribute** to Council work that sets the policy and direction for the CLC.
- **Select** the Executive member for their region.
- **Provide** a strong voice for their region and community.
- **Report** back to their community from Council meetings.
- **Advise** Regional Coordinators and staff on cultural matters.
- **Follow** the CLC Code of Conduct and the Rules for Council Meetings.
- **Follow laws:** Aboriginal Land Rights Act, Native Title Act, and PGPA Act.

Chair and Deputy Chair

Responsibilities

- **Chair** Council and Executive meetings and keep order.
- **Set** agenda for Council and Executive meetings.
- **Make sure** everyone has a chance to have their say at Council and Executive meetings.
- **Check** that members follow the Rules for Council and Executive meetings and the CLC Code of Conduct.
- **Represent** and talk for the Council at high level meetings and public events.
- **Check** funeral and ceremony funds are spent correctly.
- **Promote** the activities of the Land Council and help to keep communities informed.
- **Advise** the CEO and section managers on cultural matters and disputes.
- **Help** to make sure the Land Council is following relevant legislation.
- **Has** the **casting vote** on decisions of Council.
- **Deputy Chair supports** the chair and fills this role when the Chair is unavailable.



Executive Committee

Role

- **Carry** out functions delegated by Council.
- **Meet** about 6 times per year to manage business in between Council meetings.
- **Check** CLC projects and results.
- **Endorse** traditional owner decisions and check things have been done the proper way (resolutions).
- **Develop** political strategies and policy.
- **Review** issues relating to the CLC Code of Conduct for Council members.
- **Pass** project funding applications.
- **Appoint** the CEO.
- **Check and approve** other compliance paperwork like reports and financial statements.
- **Assist** in legal issues, including some disputes.
- **Review** and help develop strategic and operational plans.
- **Set** the Council agenda.

(EO

Responsibilities

- **Manage** the day to day running of the organisation.
- **Ensure** the CLC is complying with all legal and administrative duties (e.g. budgets, annual report, grant performance reports, health and safety procedures, Enterprise Agreement).
- **Report** and **provide** clear information to the Council and Executive.
- **Advise** the Council and Executive on policy, planning and compliance matters.
- **Help** to implement the Council's policies.
- **Hire** and **fire** staff.
- **Hold** managers and staff accountable.
- **Ensure** the CLC is within budget.
- **Ensure** the CLC is achieving its aims and objectives.

General Managers

Responsibilities

- **One** General Manager has authority to act in the absence of the CEO and is also the Chief Financial Officer.
- **One** General Manager has overall responsibility for Anthropology and Mining and is the Principal Legal Officer, including advising Council on legal matters.

Section Managers

Responsibilities

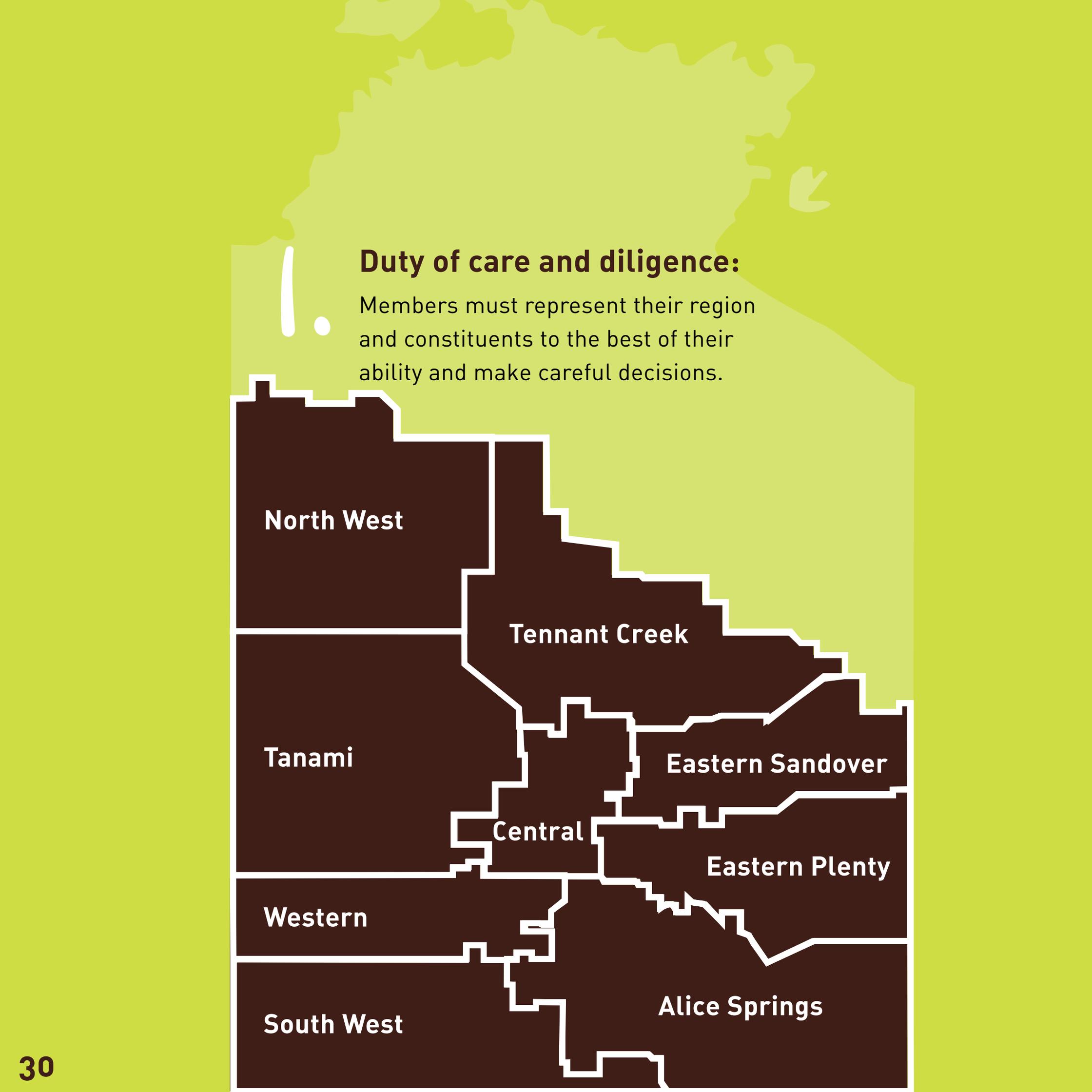
- **Follow** Council policies and Director's instructions.
- **Manage** their section in the CLC.
- **Check** staff in their section are doing their work.
- **Report** to CEO, Council and Executive on their section's activities and results.
- **Help keep** the corporate plan, policies and procedures up to date.
- **Help to prepare** the annual report and annual budgets.
- **Monitor** and **manage** the budget for their section.



Code of Conduct

The CLC Code of Conduct has been developed and agreed to by members as rules for how CLC members are expected to behave.

It includes important obligations that we have as officials under the PGPA Act. The general rules in the PGPA Act apply to both Council members and staff.



Duty of care and diligence:

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

North West

Tennant Creek

Tanami

Eastern Sandover

Central

Eastern Plenty

Western

South West

Alice Springs



2.

Acting honestly and with integrity:

All members are expected to act honestly and with integrity. This means acting in good faith, making fair decisions and being open and accountable for decisions made.

Acting with integrity also means that all members agree 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 in Council.

Members must act in the best interests of the Land Council and not seek to cause harm to the CLC or any person.





4.

Keeping information confidential:

Members may during meetings, or at any other times during Land Council business, be told information is confidential. Confidential information is secret information that cannot be told to anyone other than members.

Members must not use information they get from being a Council member for their own benefit or the benefit of another person. They also cannot use that information to cause harm to the Land Council or to any other person.



5.

Declaring a conflict of interest:

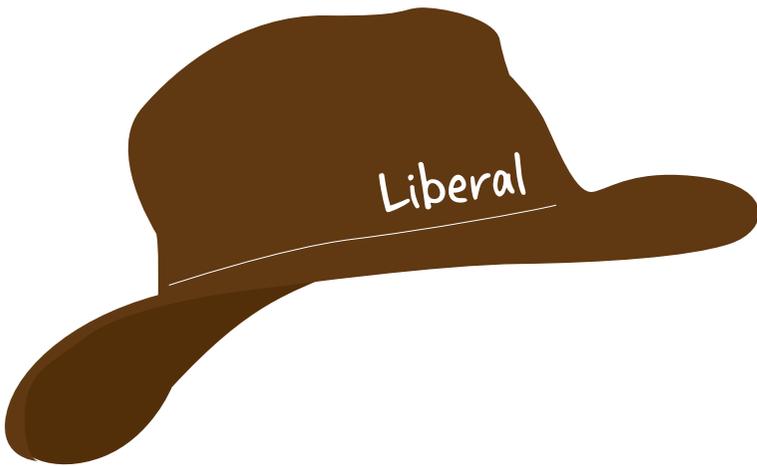
A conflict of interest is where a Council member uses their position to benefit themselves or a family member. A conflict of interest can also occur when the Council is making a decision that directly benefits you, your family, or your friends.

If there is a conflict with other interests and a matter being considered by Council a member should:

- declare the possible conflict straight away and before discussion starts;
- leave the meeting while discussion takes place;
- not participate in voting on the matter.

Council can let a member participate in discussions (not voting) on the matter. When deciding whether to let the member with the conflict participate in 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 over where the member is a traditional owner. This is not deemed to be a conflict of interest that can result in personal benefit.



6.

Using CLC resources:

The resources of the CLC, including cars, can only be used for CLC business. Council members are not allowed to drive CLC vehicles unless it is an exceptional reason.





7

Attendance:

Council members are expected to attend all meetings of the Council. If a member cannot come to a Council meeting they may send a proxy and the rules about proxies are set out in the 'Rules for Council Meetings' page 41.

8

Acceptable standards of behaviour:

Alcohol is not to be carried or consumed in CLC vehicles or during meetings, and no alcohol is to be brought to the meeting place by any member. If anyone is drunk at a Council meeting they will be asked to leave.

Council members will be respectful and courteous in dealings with staff, other members, and any family members or other people attending a meeting. Council members do not have the right to make personal demands of the CLC staff or request private phone numbers or details. Leave children home.



9.

Leadership:

All Council members should show leadership. Being a good leader means listening, speaking up, caring for the community and people, and letting people know what Land Council is doing.



10.

Breaking the code of conduct:

If a Council member breaches the Code of Conduct then action can be taken. This can include: non-payment of sitting fees, suspension or termination from Council or Executive Committee, being disqualified from re-election for a period of time or permanently.

With **less serious** offences, members may be given a warning before action is taken.

Breaches that occur during a meeting should be dealt with at the meeting by the relevant Executive Committee member from the region in consultation with the Chair and Deputy Chair.

More serious or **repeated** breaches will be dealt with by Executive Committee who are authorised to take any of the disciplinary actions listed above, including disqualifying a member.



Rules for Council meetings

The rules for Council meetings were decided on by the Council. They set out the rules for conduct of Council meetings.



Holding meetings

- There will be 3 Council meetings every year but special meetings can be called by the Chair or Deputy Chair.
- Written notice of the meeting, and the draft agenda, will be given to members at least three weeks before the meeting.



Right number of members to make decisions

- Before a decision can be made you must have at least half of the members of Council present (that is called reaching 'quorum'). [Note: The current membership on the Council is 90 so 45 members need to be present.]
- A roll call will be conducted at the beginning of each day, and again after lunch, to check attendance and establish a quorum.
- The roll call will be kept in writing.
- If a member has a 'conflict of interest' the member must declare it and then cannot be included in the vote on that matter and cannot be counted to establish if quorum has been reached.
- If members leave the meeting and the Chair thinks there is no longer a quorum, then the Chair can call for a new roll call. The business of the meeting has to wait until there is quorum.

**quorum =
half of the Council**

Proxies

- If a member can't attend the meeting they can give their place to a proxy.
The preference is for the proxy to be an Aboriginal resident in the community or outstation that the appointing member represents, but in any event the proxy must be an Aboriginal resident in the same region as the appointing member.
- The member is responsible for selecting the proxy from their community or outstation.
- The member must make sure the proxy form is filled out, including providing a reason for their absence, and given to the regional coordinator before the Council meeting starts.
- Proxies have full voting rights and get the same pay and support as the member.
- No proxies will be accepted, **nor will they be revoked**, once the meeting has started.

Attendance

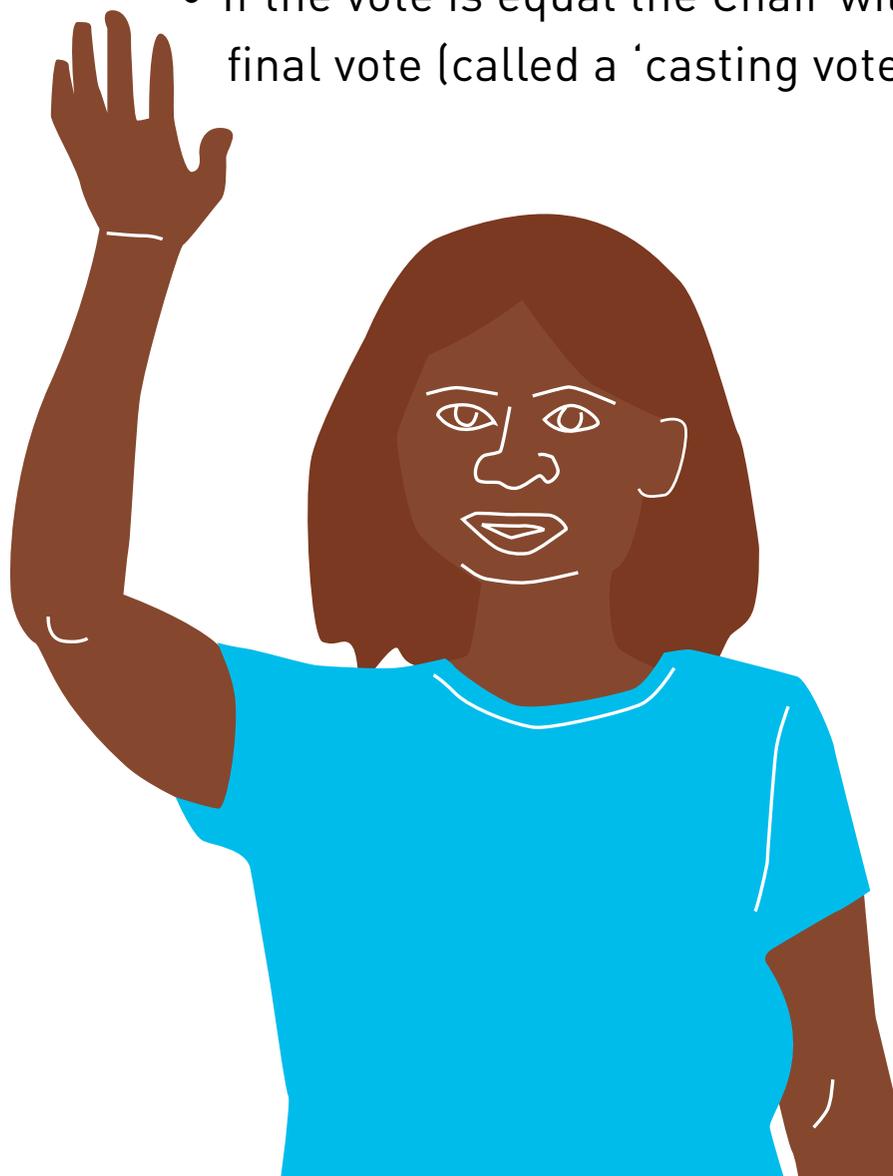
- If a member misses 3 meetings in a row without giving a good reason the Chair will write to the community or outstation they represent and ask them to nominate a new person to the Council.
- Unless the Chair says no, any Aboriginal people living in the CLC region can come to the Council meeting if they are with a member, but they cannot vote.
- Non-members may speak at the Council meeting at the discretion of the Chair.
- Non-members may come to a meeting, or part of a meeting, with the permission of the Chair, but if members are uncomfortable with their attendance at any time they can call for a vote on whether non-members should be present. Non-members are not to be present during the vote. If Council votes no – non-members must leave the meeting.

Talking at the meeting

- Members will assist the Chair and the Deputy Chair to stay on track and follow the agenda.
- Members will be given a chance to talk up and raise new issues that are not on the agenda.
- The Chair will point out who is next in line to speak.
- Members should not speak for too long, and may be asked to hurry up by the Chair.
- All members should be quiet while someone is speaking.
- Members can speak in language and the Chair and Executive will ensure there is interpreting if needed.
- Members are encouraged to think of solutions, or possible resolutions, to any problems that they raise.
- Mobile phones should be turned to 'silent' or turned off during the meeting.

Decisions of the Council

- When a decision needs to be made a formal motion will be put and it must be moved and seconded.
- Decisions will be made by a majority (more than half) of votes of the members (or **appointed** proxies) present.
- The voting can be done by 'voices' (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 equal the Chair will have the final vote (called a 'casting vote').



Conflict of Interest

- Members who have a conflict of interest must declare that conflict before the matter is discussed, and must remove themselves from the meeting while the matter is discussed.
- Council may pass a resolution to allow a member to participate in discussion of a matter where a conflict of interest has been declared but the member cannot vote.
- When deciding whether to allow a member with a conflict to participate in discussions (not voting) the member concerned should not be present.



Media and Public Comment

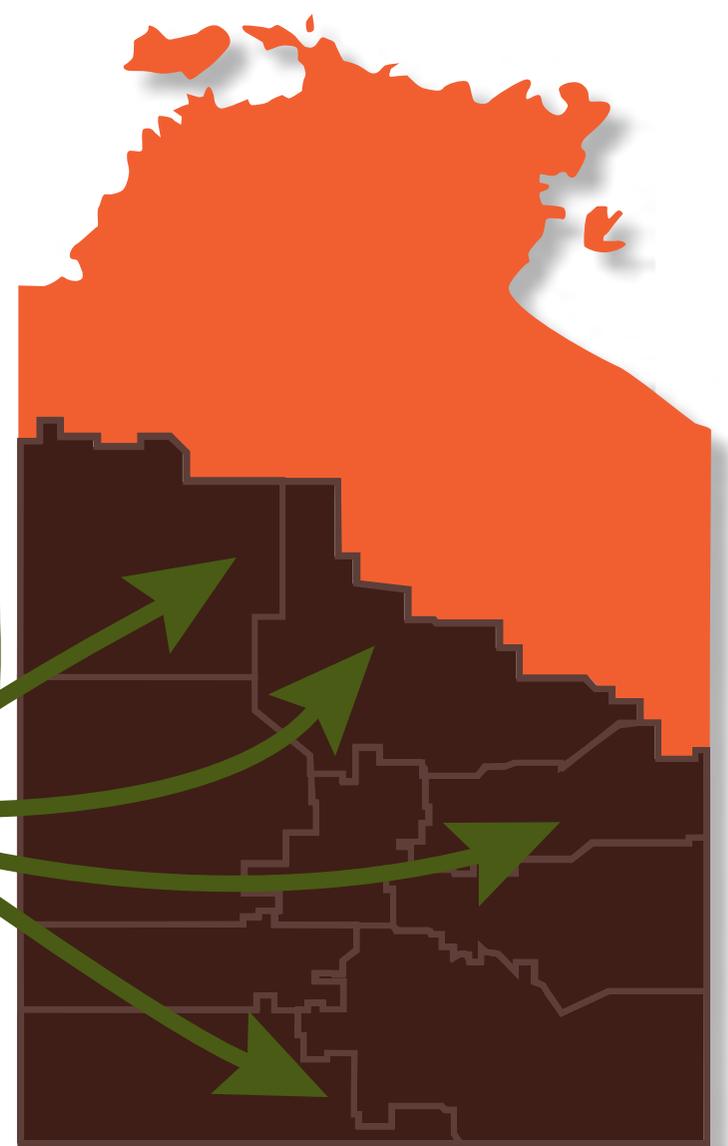
- Members may not make media or public comment on behalf of the CLC unless specifically authorised to do so.

Minutes

- Staff will keep minutes for each meeting.
- All Aboriginal people living in the CLC area are allowed to see the minutes at the CLC office (except for excludable matters) and at no cost.
- Staff will record and keep safe all the resolutions of Council.
- A record of attendance will be kept for all meetings.

Location of meetings

- At the end of every meeting Council will decide on the next meeting location by voting. If that location is unavailable the Chair will decide on a location after talking to the CEO and the Executive.
- Meetings will be held throughout the CLC region and usually not in the major towns.
- Every effort will be made to ensure that basic services (toilets, showers, clinic) are available at meeting locations.



Alcohol

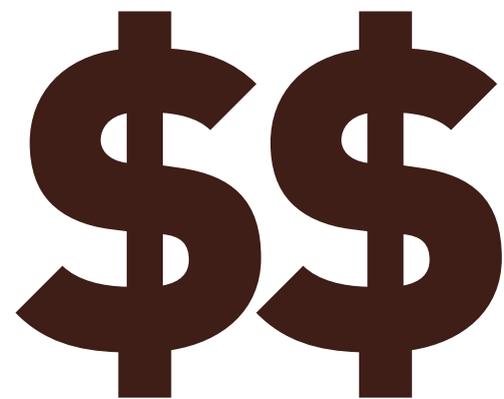
- Alcohol and illicit drugs must not be carried or drunk in CLC vehicles or during meetings. Members must not bring alcohol or illicit drugs to any CLC meeting place.

Expenses

- Members of the council are paid a sitting fee*, travel allowance and mileage to cover travelling expenses.

Code of conduct

- Members must follow the Code of Conduct (adopted by the Council in 2015).





Good Governance



Strong Organisations



**CENTRAL
LAND
COUNCIL**

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