

The Hon. Don Harwin, MLC
Special Minister of State
Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts
GPO Box 5341
SYDNEY NSW 2001



**New South Wales
Aboriginal Land Council**
ABN 82 726 507 500
alc.org.au

Dear Minister,

Review of the *Aboriginal Land Rights Act 1983*

The NSW Aboriginal Land Council (**NSWALC**) welcomes the review of the *Aboriginal Land Rights Act 1983* (NSW) (**ALRA**).

Delivering Aboriginal Land Rights

The NSW Aboriginal Land Rights network is the key vehicle to delivering social, cultural and economic outcomes to Aboriginal communities, and is the framework for achieving self-determination in NSW.

Our vision for Aboriginal Land Rights continues to build on the aims of NSWALC when it was established in 1977 – land acquisition and activation, building on the strengths our communities, protecting and promoting our culture and heritage, and securing our future.

Over many decades, the Aboriginal Land Rights network has, and continues, to achieve significant outcomes - building on our strong foundations, supporting our people, growing our economic prosperity, including in the regions, and protecting and promoting our culture and heritage.

We have much more to achieve and deliver to support our people to flourish and deliver community, cultural and economic outcomes. While the objectives of the ALRA remain valid, and the ALRA is working to deliver its intended outcomes, there are opportunities for practical and meaningful improvements to strengthen, future proof, and consolidate the successes to date.

The NSW Government has an important role to create more enabling environments to facilitate the delivery of Aboriginal land rights, remove barriers to innovation and productivity, and invest in the long-term financial security of the network. This can be achieved through:

- Accelerating the return of lands,
- Supporting the activation of lands to achieve economic, community and cultural outcomes,
- Removing regulatory burdens,
- Empowering us to protect and promote our culture and heritage, and
- Increasing, sustaining and better targeting investment into the Aboriginal Land Rights network.

Key reform proposals are further outlined below. We would welcome the opportunity to work with the NSW Government to design and realise these reforms.

ALWAYS WAS ALWAYS WILL BE ABORIGINAL LAND

Head office	Western Zone	Northern Zone	Northern Zone (Tamworth)	Eastern Zone	Southern Zone	Far Western Zone
Level 5, 33 Argyle Street Parramatta NSW 2150	2/36 Darling Street Dubbo NSW 2830	Suite 5, Level 1 66-90 Harbour Drive Coffs Harbour NSW 2450	2/158 Marius Street Tamworth NSW 2340	Suite 23, 207 Albany Street North Gosford NSW 2250	Unit 22, 2 Yallourn Street Fyshwick ACT 2609	Ground Floor Suite 49 Oxide Street Broken Hill NSW 2880
PO Box 1125 Parramatta NSW 2124	PO Box 1196 Dubbo NSW 2830	PO Box 1912 Coffs Harbour NSW 2450	PO Box 890 Tamworth NSW 2340	PO Box 670 Gosford NSW 2250	PO Box 619 Queanbeyan NSW 2620	Ph: 08 8087 7909 Fax: 08 8087 3851
Ph: 02 9689 4444 Fax: 02 9687 1234	Ph: 02 6885 7000 Fax: 02 6881 6268	Ph: 02 6659 1200 Fax: 02 6650 0420	Ph: 02 6766 4468 Fax: 02 6766 4469	Ph: 02 4337 4700 Fax: 02 4337 4710	Ph: 02 6124 3555 Fax: 02 6280 5650	

Community engagement

Throughout July 2021 we undertook network consultations, within COVID-19 and time constraints. The feedback supports the above goals.

Key themes included:

- Self-determination remains a key priority and is a key principle that needs to underpin the ALRA and any reforms
- NSWALC and LALCs need to be empowered and better supported to continue to deliver for our communities
- Land acquisition activation and Aboriginal cultural heritage (**ACH**) remain high priorities, and there needs to be reforms and investment to better facilitate land and ACH outcomes
- The regulatory environment of the network remains a concern. Regulatory burdens placed on the network need to be fit for purpose and should not exceed burdens placed on similar organisations.
- The ALRA needs to be flexible and recognise the diversity of the network and our communities. There were concerns about any reforms that would introduce more prescription in the ALRA
- There are opportunities to improve through enhanced collaboration, investing in human capital and better systems, and providing enhanced guidance, support, and training
- Investment and better targeted supports for Aboriginal Land Council are needed to facilitate the delivery of a wide range of economic, social, and cultural outcomes across NSW
- Aboriginal Land Rights continues to be of significance and importance to our communities.

While there are opportunities to make some operational improvements, many issues do not necessarily require legislative amendment, but enhanced collaboration, ensuring existing mechanisms are appropriately implemented, and increased and more strategic supports, resourcing, and guidance. This includes, for example, improved and clearer guidance in relation to membership and Aboriginality. The development of such guidance should be led by NSWALC in consultation and collaboration with the Aboriginal Land Rights network and the Office of the Registrar, ALRA.

However, legislative reforms are needed to deliver broader reforms, including to enhance Aboriginal cultural heritage protection and promotion.

Strengthening land rights

The ALRA was enacted by the NSW Parliament to facilitate the return of land in NSW to Aboriginal people to go some way to redress the injustices of dispossession. In the Second Reading Speech for the ALRA, the then Minister for Aboriginal Affairs, stated:

'...that land rights for Aboriginal people is the most fundamental initiative to be taken for the regeneration of Aboriginal culture and dignity, and at the same time it lays the basis for a self-reliant and more secure economic future for our continent's Aboriginal custodians...'

To support this self-reliant economic future, the Keane Committee (1980) recommended that a fixed rate of 7.5% of State land tax revenue annually be adopted, and that the policy underlying funding should be based on the following principles:

- *"Certainty of funding*
- *Adequate level of funding*

- *The adoption of the policy of self-determination*¹

It was envisioned that the funding would be used primarily to acquire lands that could not be claimed. However, the initial funding has not been sufficient to achieve this, in addition to delivering community outcomes and funding the day-to-day operations of the network. Nor can it be seen as adequate compensation, or sufficient to deliver direct social, cultural and economic outcomes for communities across the state.

Since 1998 the NSW Government has not contributed funding to the Statutory account or the operations of the Aboriginal Land Rights network. The network has been self-funded since this time, funding the operations of 120 LALCs and NSWALC each year to achieve a wide and growing range of community, cultural and economic outcomes. Despite the challenges, NSWALC continues to maintain and grow the Statutory account through prudential investment above the prescribed \$485,340,000 benchmark², today standing at approximately \$660 million.

NSWALC and LALCs are the key delivery authority for Aboriginal communities on land, culture, jobs and economic and cultural enrichment. Increased investment and support in Aboriginal Land Councils is needed to ensure our communities flourish. In ceasing contributions into the account, the future and growing needs have not adequately been factored in and the existing funding available to the Aboriginal Land Rights network is not sufficient. Since the ALRA was passed, the NSW Aboriginal population has grown, and is expected to reach over 350,000 by 2031. Our communities are diverse and geographically spread.

Further contributions to the statutory account would be a practical measure to support:

- a modernised and sustainable network to deliver increased social, cultural and economic outcomes for Aboriginal communities, including land activation and management,
- increased investment into local and regional economies,
- boosting housing,
- supporting aspirations of Aboriginal community-controlled organisation, including assisting native title groups to realise the full potential of their rights,
- strengthening the Network's long-term financial position.

Re-instating the compensatory mechanism via an ongoing percentage of annual commercial land tax, and an initial lump sum investment would ensure the direct and sustainable delivery of outcomes now, as well as for future generations.

Furthermore, we note that the NSW land mass has been valued at \$1.8T and the Crown land estate at over \$12B. This reinforces that the amount provided to the Aboriginal Land rights network to date as compensation is grossly inadequate.

The land tax mechanism remains a reliable, and growing income source, with an estimated \$4.8B for the 2021/22 financial year – up 4.7% and expected to increase by an average 5.2% p/a to \$5.7B in the 2024/25 financial year.

The Aboriginal Land Rights network is already delivering innovative and successful initiatives across NSW including:

- education programs, including working with our partners on the Premier's Priorities initiative,

¹ Keane Report, 1980, page 94

² s150, ALRA

- employment programs, including working on Country, ranger programs and recidivism programs,
- boosting affordable and social housing,
- health initiatives, including covid response initiatives, and mental health process
- cultural centres, keeping places and protecting ACH
- tourism enterprises,
- food security,
- disability supports,
- social, family and child supports, including after school

The evidence base has been building for decades, within Australia and internationally³

- that Aboriginal people have better life outcomes when self-determination is exercised and when there is genuine partnership and shared decision making with governments
- connection to culture is key
- positive contributions to economy
- strengths based
- greater innovation, increased investment in new and existing initiatives

There are substantial economic benefits to be gained, for Aboriginal and non-Aboriginal communities, from a stable and sustained policy of Aboriginal self-determination and investment into the NSW Aboriginal Land Rights network. These include:

- Increased health, wellbeing, social and cultural outcomes
- Increased Aboriginal employment and enterprises
- Broadening the tax base through increased employment, economic activity and consumption, and growing the NSW economy overall
- Lower government expenditure over time

Recommendations

Re-instate the compensatory mechanism to support the NSW Aboriginal Land Council Account to reach \$5 billion to ensure the direct delivery of economic, social and cultural outcomes now, and for future generations via:

- Re-instating an ongoing percentage of annual commercial land tax, and
- An initial lump sum investment to meet immediate delivery needs.

Land acquisition and activation

Accelerating the return of land

The preamble of the ALRA recognises that 'land is of spiritual, social, cultural and economic importance' to Aboriginal peoples, and the ALRA was established to facilitate the return of land in NSW to Aboriginal peoples through a process of lodging Aboriginal land claims over claimable Crown land.

A key intention of the land rights system was to enable 'Vast tracks of Crown land (to) be available for claim (to) go some way to redress the injustices of dispossession...'.⁴

³ See for example, <https://www2.deloitte.com/au/en/pages/economics/articles/economic-benefits-closing-gap-in-indigenous-employment-outcomes.html/#download> and <https://www.pwc.com.au/indigenous-consulting/assets/indigenous-incarceration-may17.pdf>

⁴ New South Wales, *Parliamentary Debates*, Legislative Assembly, 24 March 1983, p.5089 (The Hon. Frank Walker)

In his Second Reading Speech the then Minister for Aboriginal Affairs Frank Walker stated:

'In recognising prior ownership, the Government thereby recognises Aboriginal rights to obtain land. The Government believes the essential task is to ensure an equitable and viable amount of land is returned...'⁵

However successive audits and reviews⁶ have highlighted the ongoing lack of progress by governments in delivering land outcomes to Aboriginal people. They have signalled the need for significant improvements and for governments to work with Aboriginal peoples to deliver Aboriginal land rights outcomes.

Utilising the existing land claims and Aboriginal Land Agreement (**ALA**) mechanisms are key to realising the full potential of land rights.

In addition to the land claims and ALA mechanisms, NSWALC is seeking a strategic investment into the Aboriginal Land Rights network as the primary land management authority for NSW, and the transfer of all 'public' lands to Aboriginal Land Councils. Currently, the NSW Government funds several disparate entities ostensibly to manage lands, including Crown lands, forestry, national parks and local land services, with mixed outcomes.

A 5-year program to build the capacity of Aboriginal Land Councils, transfer systems, and transition is needed.

It is important to note that in advocating for the return of public lands to Aboriginal Land Councils, NSWALC is not seeking to restrict public access to lands. Rather, there are major benefits to this approach including:

- Prioritising Aboriginal ownership of public lands will achieve significant land rights outcomes
- Significant benefits for Aboriginal people in terms of access to Country and culture, as well as increased employment and prosperity
- Consolidating and streamlining the management of all public lands into a single Aboriginal land management authority will bring added benefits
- The single tenure arrangements would bring added benefits
- Building on existing, well established, inclusive Aboriginal land councils minimises disjointed approaches, and would promote greater outcomes and efficiencies, rather than dissipating limited resources

This transfer could be achieved through the existing ALA mechanism in the ALRA.

Funds currently directed to existing entities, for example, the nearly \$200 million per annum to Local Land Services, could be re-directed to Aboriginal Land Councils to deliver land management and Aboriginal culture and heritage functions.

More broadly, Aboriginal Land Rights must be seen as a public outcome itself and a way to deliver broader public benefits, including jobs growth, sustainable economic progress, stronger community connections and climate change resilience, to name a few. There are opportunities for government to better recognise and support Aboriginal land councils to help to deliver on priority areas. For example, returning land to Aboriginal peoples:

- supports economic development and tourism initiatives, stimulating local and regional economies and provide jobs and training opportunities
- enables residential housing developments, strengthening communities

⁵ New South Wales, *Parliamentary Debates*, Legislative Assembly, 24 March 1983, p.5089 (The Hon. Frank Walker)

⁶ See for example, Auditor General reports since 2007, and the Land Negotiation Program review report

- addresses food supply and food security issues in remote towns
- contributes to sustainable land management and improved quality of life
- provides environmental protection and climate change resilience

In addition to broader reforms, we have provided suggestions to Aboriginal Affairs NSW for operational improvements to existing Aboriginal land claims and ALA mechanisms. In addition, we advocate for the following existing initiatives to continue to be built on:

- Reforms to improve outcomes delivered by the land claim and ALA mechanisms; including a redesign of the Land Negotiation Program in response to the Ronald's Report with stronger linkages to land claims and land activation.
- Accelerating the determination of Aboriginal land claims (including the 'LALC priority 20' project), including lands for economic and cultural outcomes
- Accelerating the transfer of lands to Aboriginal land councils via ALA negotiations (including better supports for Aboriginal Land Councils)
- Designing, in partnership, the action plan for roll out of Crown land strategic plan priority relating to land rights and native title
- Better resourcing Aboriginal Land Councils to utilise lands

Recommendations

- Prioritise and transfer title of all 'public lands', including National Parks, Forests, and Crown lands, to Aboriginal Land Councils
- Develop a 5-year transition program to transfer 'public use' tenures & instruments, including capacity building for land rights network
- Resource Aboriginal Land Councils as the primary land management network/authority with Aboriginal cultural heritage functions
- Review public purposes of s36, ALRA and large-scale transfer of categories of 'public lands' by Aboriginal Land Agreements

Land activation

NSWALC and the Aboriginal Land Rights network have long called for reform to land use and planning laws and policies to facilitate the delivery of spiritual, social, cultural and economic outcomes for Aboriginal people and support Aboriginal self-determination.

The disproportionate impact experienced by Aboriginal Land Councils in respect to planning decisions is not a new problem. It was recognised as early as 1980 when the NSW Legislative Assembly Select Committee on Aboriginal people stated:

"the Aboriginal people of New South Wales suffer discrimination from various Government decision-makers in relation to land development and planning".

In recognising this situation, the Committee recommended that:

"land owned by Aboriginal communities should be governed by special planning provisions... which would permit Aboriginal communities to develop projects that might otherwise be contrary to local planning ordinances," and that "there should be a positive requirement on local and State government authorities to consult with Aboriginal communities where their land or its immediate surrounds are likely to be affected by zoning or development changes"

Several more recent government reviews and parliamentary inquiries have recommended similar reforms. The 2016 NSW Parliamentary inquiry into Economic Development in Aboriginal communities recommended:

“That the Department of Planning and Environment review planning legislation to better accommodate the aspirations envisaged in the Aboriginal Land Rights Act 1983.”⁷

Similarly, the NSW Parliamentary Inquiry into Regional Planning Processes recommended reforms in planning processes to ensure better engagement with, and provision for, the unique circumstances of Aboriginal Land Councils.⁸

Planning systems are increasingly recognised as important mechanisms in promoting and facilitating improved outcomes for Aboriginal peoples, including in delivering land justice and a range of community goals.⁹

However, there is currently a disconnect in planning and land use laws, and the delivery of Aboriginal land rights. Additionally, despite the widely recognised significance of Aboriginal culture and heritage, the NSW Government on numerous occasions has acknowledged that the current system for protecting Aboriginal culture and heritage is inadequate.

Planning laws, as a key mechanism for regulating and controlling the use of land in NSW, must expressly incorporate and facilitate the objectives Aboriginal economic development and protection of Aboriginal Culture and Heritage. Additional recommendations related ACH are below.

Recommendations

To achieve many of the goals envisioned by the NSW Parliament in passing the *Aboriginal Land Rights Act*:

- Aboriginal economic development and protection of Aboriginal Culture and Heritage should be express objectives of the *Environmental Planning and Assessment Act 1979*
- The *Aboriginal Lands State Environmental Planning Policy* should be reviewed and redesigned in partnership with NSWALC and LALCs
- A broader Aboriginal Land Planning Framework should be designed and delivered in partnership with NSWALC and LALCs
- A review and reform of related planning, environmental and land use laws to better facilitate the objects of the ALRA should be undertaken in partnership

⁷ Recommendation 34, NSW Parliamentary Inquiry into Economic Development in Aboriginal Communities, <https://www.parliament.nsw.gov.au/lcdocs/inquiries/1691/Final%20report%20-%2030%20September%202016.pdf>

⁸ Page 66, <https://www.parliament.nsw.gov.au/lcdocs/inquiries/2180/Report.pdf>

⁹ For example, see Lane MB. 2006. *The Role of Planning in Achieving Indigenous Land Justice and Community Goals*. Land Use Policy, 23(4): 385-394; Berke, Phillip. R. Ericksen, Neil. Crawford, Jan. and Dixon, Jenny. 2002, “Planning and Indigenous People: Human Rights and Environmental Protection in New Zealand”, *Journal of Planning Education and Research*, Vol.22 No.2, pp.115-134, Accessed 20th February 2012, <http://jpe.sagepub.com/content/22/2/115>; Australian Institute of Health and Welfare (2011) ‘What works to overcome Indigenous Disadvantage’, available at: http://www.aihw.gov.au/closingthegap/documents/annual_papers/what_works_to_overcome_disadvantage.pdf; and Janet Hunt (2010) ‘Looking after Country in New South Wales: Two case studies of socio-economic benefits for Aboriginal people’ available at: <http://caepn.anu.edu.au/publications/working.php>.

- Aboriginal Land Council lands should be exempt from the obligations of the *Biodiversity Conservation Act 2016*

In addition to planning reforms, there has long been recognition that there needs to be simplified, less expensive and clearer interactions between land rights and native title to achieve better outcomes for Aboriginal people.

Recommendations

- Reforms are needed to that ensure Aboriginal Land Councils have more options to deal with land to facilitate the social, cultural, economic intent of the ALRA, while respecting native title

Additional reforms are needed to support Aboriginal people's natural resource and cultural landscape rights and management. This includes increased water rights and water resource management, cultural burning, joint management and other arrangements for National Parks, Aboriginal involvement and employment in the management of natural resources and landscapes.

While the ALRA is facilitating the return of lands to Aboriginal peoples in NSW, mechanisms to support our ownership of, and decision making in relation to water, are not similarly recognised. Our ownership of water is miniscule and has been going backwards. For example, while Aboriginal people in the Murray Darling Basin constitute nearly 10% of the total population, Aboriginal organisations hold only 0.2 % of the available surface water¹⁰ in the Basin and 0.1% across the state. Aboriginal water holdings between 2009 and 2018 indicate a new wave of dispossession. Almost one fifth of Aboriginal water holdings by volume were lost during this time.¹¹

The National Agreement on Closing the Gap Agreement provides an important framework for governments to work in partnership with us to ensure Aboriginal people maintain distinctive cultural, spiritual, physical and economic relationships with water, and advance Aboriginal people's rights and interests in water.

Recommendations

- Reforms to better support Aboriginal Land Councils and Aboriginal people's rights and management in natural resource and cultural landscape are needed – including water rights, cultural burning, and joint management of National Parks

Aboriginal cultural heritage reforms

ACH reforms remain a key priority for Aboriginal people in NSW. In 1980 the first report to Parliament by the *NSW Legislative Assembly Committee* (the Keane Committee),¹² spoke of an independent

¹⁰ Trends in Aboriginal water ownership in New South Wales, Australia: The continuities between colonial and neoliberal forms of dispossession Lana D. Hartwig, Sue Jackson, Natalie Osborne 2020

¹¹ Trends in Aboriginal water ownership in New South Wales, Australia: The continuities between colonial and neoliberal forms of dispossession Lana D. Hartwig, Sue Jackson, Natalie Osborne 2020

¹² In 1978 the NSW Government established the cross-party *Select Committee of the Legislative Assembly upon Aborigines*, chaired by Labour Member for Woronora, Maurice Keane. The Committee produced two reports (1980 and 1981) referred to as the Keane Committee Reports, which made wide ranging findings on land rights and the protection of sacred and significant sites based on evidence and submissions made during the inquiry process, including the establishment of the land rights system and an Aboriginal Heritage Commission.

Aboriginal Heritage Commission to return control over Aboriginal sites to Aboriginal people.

The Keane reports also expressed the view that the Government had no role to play in determining the continuing significance of Aboriginal sites for Aboriginal people, and that the identification and protection of sacred and significant sites should be regarded solely as the responsibility of Aboriginal people. It proposed the establishment of an Aboriginal Heritage Commission to protect and maintain sites and anticipated the Commission would gradually take over the roles of the then National Parks and Wildlife Service in relation to sites. This has been long promised, and not yet delivered.

This sentiment was echoed when the then Minister for Aboriginal Affairs, the Hon. Frank Walker, introduced the ALRA into Parliament outlining that land rights was the first step in Government recognition and rectification of past dispossession, with the establishment Aboriginal Heritage Commission to be the second step.

There have been several reviews and inquiries into ACH laws in NSW since the Keane Committee reported in 1978, all of which have supported Aboriginal ownership and the right of Aboriginal people to control our culture and heritage.

NSWALC has developed a reform model that has significant merits and benefits for both Aboriginal communities and Government. Our model enhances ACH protection, empowers Aboriginal people, builds on the land rights infrastructure and respects native title.

Our model proposes to:

- a. Establish an independent and autonomous ACH State-level body, supported by Aboriginal Land Rights network infrastructure and administration, to make key State-level decisions.
- b. Empower the independent ACH State level body to make policies and procedures about appropriate local level arrangements. Such policies would be based on Aboriginal community consultation following the establishment of the State-level body. It is not appropriate for the legislature or government to prescribe who speaks for Country. These are complex and sensitive cultural and community matters. We are also concerned government is seeking to use ACH laws as a proxy to contract into ILUAs.
- c. Transfer the Aboriginal Owners mechanism to the ACH State-level body and resource its rollout as the basis for specific local-level ACH functions, working with the architecture of the land rights network.
- d. ACH State-level body appointments to be made by NSWALC, rather than the Minister, to increase self-determination. Appointments would be based on criteria (mix of skills to run a regulatory regime, and community, gender and cultural considerations), compositional requirements (including Aboriginal Owner, native title holder and LALC members), application process, and recommendations of a nomination panel.
- e. Retain elements of the draft ACH Bill, with improvements and increased self-determination
 - a. Decision making, administration, compliance and enforcement by Aboriginal people
 - b. Direct interactions with the planning system
 - c. Broadening the definition of ACH
 - d. Providing for intangible ACH
 - e. New investigation powers, enforcement provisions and stronger penalties
- f. Resourced by government

This model has the added benefits of direct alignment with the above proposal to support Aboriginal Land Councils as the primary land management authority, bringing increased coordination, collaboration and streamlining on land management and ACH matters across NSW.

Recommendations

We seek to work in partnership to design and deliver new ACH laws that meet NSWALC's reform principles and model centered on:

- increasing self-determination,
- building on existing structures of land rights and native title,
- strengthening linkages with the planning system and other legislative & policy levers, and
- improving other elements including regulatory processes.

Sector reforms

A key and consistent message from Aboriginal Land Councils and Aboriginal communities is that disjointed government approaches in Aboriginal Affairs continues to be of significant concern. Communities want less fragmentation, more government accountability, and for government to support empowerment and self-determination. Improving coordination of Government processes and engagement with Aboriginal peoples when setting policy agendas will greatly assist in facilitating the objectives of the ALRA.

The priority reforms embedded in the National Agreement on Closing the Gap are important step in further recognising the foundations of partnership and shared decision-making, and building the Aboriginal community-controlled sector, and transforming government.

There must be recognition that key elements of the *Uluru Statement from the Heart* are embedded in the ALRA, and the NSWALC and LALCs are key vehicles for delivering Aboriginal community outcomes as well as representation.

There needs to be recognition that Aboriginal Land Rights is multi-faceted and that Aboriginal Land Councils provide representative, inclusive, state-wide infrastructure for community planning, decision making and development. Aboriginal Land Councils are also a principal point for community consultation and coordination.

The democratically inclusive framework of the ALRA and the many achievements it has delivered to date, provide a good basis for codifying this relationship. However, it is incumbent on us all to reimagine and then reshape this relationship; to deliver the social, cultural and economic outcomes for Aboriginal peoples and for all NSW.

NSWALC strongly believes that the ALRA provides us with the opportunities and foundations for delivering social, cultural and economic outcomes and addressing the challenges we face. However, the Government needs to demonstrate political will and commit resourcing to support the centrality and capacity of the ALRA to deliver for our peoples.

Recommendations

The NSW Government should facilitate, empower and invest in Aboriginal Land Councils as the key delivery mechanism supporting, representing and delivering for Aboriginal communities.

Operational reforms

Alongside the above proposals, there are opportunities to strike a better balance in the land rights network regulatory environment, while enhancing business flexibility, maintaining strong accountabilities to our members, and delivering for our communities. Recognising the maturity of the state-wide Aboriginal Land Rights network, more strategically targeted supports and reduced compliance burdens would maximise investment directly in community led initiatives and outcomes.

We are committed to continuing to manage uncertainty and risk, promoting good governance, and ensuring we have a strong network accountable to our members. However, there are opportunities to support more modernized, outcomes-focused, and efficient regulation to empower our network and support our communities to flourish. Ensuring flexible, fit-for-purpose systems will encourage increased participation, and enable a network that can respond to the changing needs of the community.

Simplifying regulatory touchpoints and processes, streamlining compliance requirements, and improving collaboration, will help to create a more efficient regulatory environment, consistent with the goals of empowerment.

The COVID-19 pandemic has demonstrated how rapidly circumstances can change, along with social, technological and economic changes. It has presented significant and unprecedented challenges. We have all had to quickly respond with more flexible regulation to address the health, social and economic impacts of the pandemic.

Recommendations

Any reforms to the ALRA must be designed and delivered in partnership with NSWALC and LALCs to support self-determination and empowerment.

In the lead up to the 40-year anniversary since the passing of the ALRA, we have reflected on the many challenges we have overcome to build what we have today. Together, we now have an important opportunity to continue to strengthen and enhance the Aboriginal Land Rights network and all Aboriginal people across the State.

Thank you for your time in considering our positions. We would welcome the opportunity to further discuss and refine broader reform proposals and operational improvements.

Should you require further information please contact Yuseph Deen, Chief Executive Officer at yuseph.deen@alc.org.au or 02 9689 4444.

Sincerely,



Anne Dennis

Chairperson and Councillor for the North Western Region
NSW Aboriginal Land Council

Date: 13 September 2021