



New South Wales
Aboriginal Land Council



30.07.2026

The Hon. Steve Kamper MP
Minister for Lands and Property
Parliament House
Sydney NSW 2000

Dear Minister Kamper,

Please find the below submission from the NSW Aboriginal Land Council (NSWALC) on the *Crown Land Management Amendment (Statutory Review) Bill 2026*.

Introduction

NSWALC welcomes the opportunity to provide this submission in response to the NSW Government's proposed amendments to the *Crown Land Management Amendment (Statutory Review) Bill 2026*.

NSWALC is the peak representative body for the Aboriginal Land Rights Network in NSW, representing 121 Local Aboriginal Land Councils (LALCs) established under the *Aboriginal Land Rights Act 1983*. Together, the Network is responsible for protecting Aboriginal land rights, supporting economic development, managing significant land holdings and advancing self-determination for Aboriginal communities across the State.

NSWALC and the Aboriginal Land Rights Network have consistently engaged constructively with the NSW Government throughout the consultation process on the Bill. While NSWALC appreciates the Government's willingness to reconsider several provisions following sustained advocacy by the Network, the proposed amendments do not resolve the fundamental concerns with the Bill. Accordingly, NSWALC continues to oppose the Bill in its current form.

This submission recognises the improvements that have been secured through consultation, identifies the significant issues that remain unresolved and outlines the further amendments required should the Government continue to progress the Bill.

Executive summary

NSWALC acknowledges that the Government has responded to some of the concerns raised by NSWALC and the Aboriginal Land Rights Network by proposing some amendments to the Bill.

Most significantly, the Government has agreed to remove proposed section 5.20B(4), which would have deemed the grant of a Crown land lease to constitute lawful use for the purposes of the *Aboriginal Land Rights Act*. NSWALC welcomes this amendment as an important outcome achieved through coordinated advocacy by Aboriginal Land Councils across NSW.

The Government has also introduced additional procedural safeguards, including consultation requirements, minimum consultation timeframes, reporting obligations and requirements for the Minister to consider impacts on Aboriginal land claims. While these changes represent genuine improvements, they do not address the Bill's central concerns.

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However, the Bill continues to provide broad retrospective validation powers capable of defeating existing Aboriginal land claims, confers significant discretionary powers on the Minister without adequate safeguards, weakens long-standing public interest protections applying to Crown land and permits decisions that may adversely affect accrued statutory rights.

NSWALC remains concerned that the Bill continues to undermine principles of legal certainty, procedural fairness and the rule of law by retrospectively altering the operation of the Aboriginal land claim system. For these reasons, NSWALC maintains that these aspects of the Bill should be withdrawn.

Should the Government proceed with the legislation, NSWALC calls for further amendments to ensure that Aboriginal land rights are appropriately protected, decision-making is transparent and accountable, and the objectives of the *Aboriginal Land Rights Act* are preserved.

NSWALC's position

NSWALC acknowledges that several important improvements have been secured through sustained advocacy from the Aboriginal Land Council network. However, these amendments do not alter NSWALC's overall position on the Bill including our opposition to provisions that retrospectively affect Aboriginal land claims, expand Ministerial discretion without adequate safeguards and reduce existing statutory protections governing the management of Crown land.

The *Aboriginal Land Rights Act* establishes an important statutory framework designed to provide restitution for the historic dispossession of Aboriginal people. The Aboriginal land claim process forms a central component of that framework and creates valuable statutory rights that should not be diminished through retrospective legislation.

The Bill is not limited to correcting administrative anomalies. Instead, it creates new powers capable of validating otherwise invalid Crown land holdings after the fact, with the practical effect of defeating existing Aboriginal land claims.

While NSWALC supports reforms that improve the operation of Crown land legislation, those reforms should not come at the expense of established legal rights, procedural fairness or the rule of law.

The issues the NSW Government claims the Bill is intended to address are not systemic problems requiring legislative intervention and, in many instances, are not problems at all. Existing legislation already provides extensive powers to protect essential public infrastructure, community services, residential land and other genuine public interests. Land required for an essential public purpose is already excluded from claim ability under the *Aboriginal Land Rights Act*, and the Minister has existing certification powers to provide certainty where necessary.

Aboriginal Land Councils have also consistently demonstrated a willingness to negotiate practical outcomes and settlement agreements that protect community facilities while advancing the compensatory and beneficial purposes of the ALRA. In many cases, however, such proposals have been rejected or not progressed by government. The failure to use existing statutory mechanisms or engage meaningfully with negotiated solutions does not justify creating new powers that diminish Aboriginal Land Rights.

Accordingly, NSWALC continues to call on the NSW Government to withdraw the Bill.

Improvements to the Bill

NSWALC acknowledges that the Government has removed proposed section 5.20B(4), which would have deemed the grant of a Crown land lease to constitute a lawful use for the purposes of the *Aboriginal Land Rights Act*. NSWALC welcomes the removal of this provision, which would have fundamentally altered the operation of the Aboriginal land

claim system and effectively prevented claims over Crown land subject to leases, regardless of whether the land was being lawfully used. Its removal is a significant improvement and reflects the strength of the advocacy undertaken by the Network.

The Government has also proposed a number of additional safeguards within the new validation framework, including requirements for the Minister to consider whether validation is in the public interest, the impacts on Aboriginal land claims, consultation with affected Aboriginal Land Councils, the provision of reasons for decisions and annual reporting on the exercise of the validation powers.

While these amendments represent important progress, they do not resolve our fundamental concerns with the Bill.

Remaining concerns

NSWALC's most significant concern is the continued inclusion of retrospective validation powers. These provisions would permit the validation of Crown land holdings that were not lawfully created or maintained, with the practical effect of defeating existing Aboriginal land claims that would otherwise succeed under the law as it stood when those claims were lodged. This retrospective interference with accrued statutory rights undermines legal certainty and departs from long-established principles that legislation affecting existing rights should operate prospectively wherever possible. It also has the effect of further disadvantaging Aboriginal Land Councils from the decades of delay in determining Aboriginal land claims, with no concurrent measures to increase the determination of claims.

NSWALC is also concerned that the Bill continues to confer broad discretionary powers on the Minister without sufficient independent oversight or safeguards. Although the proposed amendments require consultation and consideration of Aboriginal land claims, they do not require agreement with affected Aboriginal Land Councils, nor do they require the Minister to avoid impacts on Aboriginal land claims where reasonable alternatives exist or other protections are sufficient. Consultation alone cannot adequately protect statutory rights if the decision-maker retains an unfettered discretion to proceed regardless of the impacts identified.

More broadly, the Bill continues to weaken existing protections applying to Crown land by expanding ministerial powers and reducing statutory safeguards that have historically ensured Crown land is managed transparently and in the public interest. NSWALC remains concerned that these changes extend well beyond the stated objective of protecting important community facilities and instead establish a framework capable of affecting a much broader range of Crown land and Aboriginal land claims.

NSWALC also remains concerned that the Bill continues to transfer environmental and contamination risks to Aboriginal Land Councils in circumstances where those risks arose during Crown ownership. This has the potential to expose Aboriginal Land Councils to significant financial and legal liabilities for matters entirely outside their control.

Finally, while the Government has improved the consultation framework, NSWALC remains concerned that the Bill does not fully reflect the principles of partnership, shared decision-making and good faith engagement embodied in the National Agreement on Closing the Gap. Decisions capable of extinguishing or diminishing Aboriginal land rights should be subject to stronger safeguards and greater accountability than those currently proposed.

For these reasons, NSWALC maintains that, notwithstanding the improvements secured through the advocacy by the Land Rights Network, the Bill remains fundamentally flawed and should not proceed in its current form.

While NSWALC's position is that the Bill should be withdrawn, and there should be no retrospective provisions that impact Aboriginal land rights, we offer the below proposals for further amendments to the Bill. Any decisions affecting Aboriginal land claims are transparent, accountable and consistent with the objects of the *Aboriginal Land Rights Act*.

Minister for Aboriginal Affairs concurrence

The Bill should require that any decision to validate or vary a Crown land holding that may affect an undetermined Aboriginal land claim can only be made with the concurrence of the Minister for Aboriginal Affairs.

NSWALC notes that although the proposed amendments require consultation with the Minister for Aboriginal Affairs, consultation alone does not provide an effective safeguard. The Minister responsible for Crown Lands remains the sole decision-maker, despite decisions potentially affecting rights created under the *Aboriginal Land Rights Act*. Requiring the concurrence of the Minister for Aboriginal Affairs would provide a more appropriate level of oversight and ensure that decisions affecting Aboriginal land rights are made with the benefit of Aboriginal affairs expertise and whole-of-government consideration. This strikes an appropriate balance and is a reasonable amendment to ensure that Aboriginal Land Councils can be confident that the decisions will be made fairly.

Consideration of existing protections and alternatives

Before exercising powers to validate or vary a Crown land holding where an Aboriginal land claim exists, the Minister should be required to consider whether the claimed community facility, service or activity is already adequately protected through existing legislation, planning controls or zoning.

The Minister should also be required to consider whether there are alternative ways of protecting the community benefit without adversely affecting an Aboriginal land claim.

This recognises that many of the community outcomes cited in support of the Bill are already protected through existing legal mechanisms. It also ensures that validation powers are exercised only where genuinely necessary, rather than as the default response where other options remain available.

Meaningful consultation

The proposed consultation requirements should be strengthened to ensure Aboriginal Land Councils are provided with sufficient information to participate meaningfully in the process before being required to make submissions.

At a minimum, affected Aboriginal Land Councils must receive all relevant information relied upon by the Minister, including copies of any relevant lease or licence, details of the claimed community benefit and the reasons why validation or variation is considered necessary.

While there are provisions within the *Aboriginal Land Rights Act* to allow Aboriginal Land Councils to request information, recent experiences indicate that it sometimes takes more than 28 days to receive this information.

Without access to this information in the consultation period, Aboriginal Land Councils cannot properly assess the proposal or make informed submissions. Meaningful consultation requires more than an opportunity to comment—it requires access to the information on which the proposed decision is based.

Minimum consultation period

NSWALC supports the inclusion of a minimum 28-day consultation period. However, this protection should be preserved in the legislation and must not be capable of being reduced by regulation.

Given the significance of decisions that may affect Aboriginal land rights, consultation periods should provide Aboriginal Land Councils with sufficient time to obtain legal and technical advice, consult with their Boards and members, and prepare informed submissions.

Restricting validated land to the identified community benefit

Where a Crown land holding is validated on the basis that it delivers a community benefit, that land should remain restricted to the purpose relied upon to justify the validation.

Without this safeguard, there is a risk that land validated to protect a community facility or service could subsequently be used for unrelated purposes, including commercial development or other activities that were not relied upon when the validation decision was made.

If validation is justified because of a specific community benefit, that justification should continue to apply for the duration of the holding.

Ministerial accountability

Decisions to validate or vary Crown land holdings should be made personally by the Minister and should not be capable of delegation.

These decisions have the potential to affect accrued statutory rights, alter the operation of the Aboriginal land claim system and impact Aboriginal communities across NSW. Given their significance, decisions should remain with the accountable Minister rather than being delegated to departmental officers or other decision-makers. Decisions on whether a statutory power should be delegated are made in light of the impact and importance of the decision and the frequency with which the power will be exercised. In light of the significance of the impact, which is to effectively deny an Aboriginal Land Council the right to have land returned to it, and the fact that the Minister has characterised the circumstances when this power will be used as only relating to 'edge cases', NSWALC considers this is an appropriate balance.

Ministerial accountability is an important safeguard that promotes transparency, consistency and public confidence in the exercise of these exceptional powers.

Determining Aboriginal Land Claims

NSWALC acknowledges the time taken by Ministers Kamper and Harris to attend regional forums virtually on 28, 29 and 30 July with Aboriginal Land Councils across NSW.

A clear message from Minister Kamper was that the reforms are intended to strike a balance between protecting community assets and accelerating the determination of Aboriginal land claims. However, the Bill contains no measures to increase the rate at which land claims are determined. Instead, the Government has identified Aboriginal Land Agreements (ALAs) as the principal pathway for resolving the backlog of approximately 45,000 undetermined claims.

The Land Rights Network is therefore being asked to accept one half of the Government's stated balance, the diminution of Aboriginal land rights, without any certainty that the corresponding measures to accelerate the resolution of land claims will be delivered. This is particularly concerning given that the Bill was introduced without consultation and the role of ALAs as the purported counterbalance to the Bill's impacts was not raised with the Network until the Ministers attended the regional forums.

The Government has acknowledged that Treasurys accounting treatment of ALAs and associated land transfers constrains the funding available to negotiate and implement these agreements. In those circumstances, the Network cannot have confidence that ALAs can operate at the scale required. That concern is reinforced by the Government's recent determination record, only 25 claims have been determined during the 2026 calendar year, and no claims have been determined for almost two months as at the date of this letter, with the most recent determination occurring on 3 June 2026.

If the NSW Government is committed to achieving the balance it has described, the Bill should be paused unless and until the accounting and budgetary barriers affecting ALAs have been resolved and a sustainable, properly resourced funding model has been implemented. It is neither reasonable nor necessary to proceed with legislation that diminishes Aboriginal land rights while the Government has yet to remove the barriers preventing its own stated solution from operating effectively.

Pausing the Bill is necessary to give the Land Rights Network confidence that the Government's approach represents a genuine strategy to resolve Aboriginal land claims, rather than simply an attack on land rights.

NSWALC Youth Advisory Committee

The NSWALC Youth Advisory Committee stands with Aboriginal communities and the Land Rights network in opposing the *Crown Land Management Amendment (Statutory Review) Bill 2026* in its current form. Land Rights were not handed to Aboriginal people; they were secured through the dignity, determination and sacrifice of generations who fought so that their descendants could benefit from land and shape their own futures.

While some improvements have been made, the Committee remains concerned that the Bill would diminish hard-won rights in the name of streamlining government processes and could limit long-term opportunities for Aboriginal housing, employment, cultural tourism, economic development and community-led projects.

The Committee calls on the NSW Government to genuinely consider and respond to the views and recommendations of Aboriginal communities throughout its decision-making and to withdraw the Bill in its current form. The Committee stands with its communities, the Land Rights network, and present and future generations in rejecting any notion of progress that requires Aboriginal people to relinquish their rights.

Conclusion

NSWALC acknowledges the improvements made to the Bill following sustained advocacy by the Aboriginal Land Rights Network, particularly the removal of proposed section 5.20B(4) and the inclusion of additional procedural safeguards. However, these amendments do not address the Bill's fundamental defects.

The Bill remains unnecessary and continues to permit retrospective interference with accrued Aboriginal land claim rights, confer broad discretionary powers without adequate safeguards, weaken protections applying to Crown land and expose Aboriginal Land Councils to environmental and financial risks arising from Crown ownership. These impacts cannot be justified by administrative convenience or a failure to properly use existing statutory mechanisms and negotiated solutions.

Land Rights are compensatory rights secured through generations of struggle against dispossession. They should not be diminished to validate past administrative failures or streamline government processes. Consistent with the position of the NSWALC Youth Advisory Committee and the broader Aboriginal Land Rights Network, NSWALC calls on the NSW Government to withdraw the Bill.

If the Government nevertheless proceeds, the further amendments outlined in this submission are essential. At a minimum, the Bill must require the concurrence of the Minister for Aboriginal Affairs, meaningful and properly informed consultation, consideration of existing protections and reasonable alternatives, a legislated minimum consultation period, ongoing restrictions on land validated for a particular community benefit, and ministerial accountability for validation decisions. Further, the concerning aspects of the Bill should only progress once the government has resolved the accounting treatment for Aboriginal Land Agreements.

NSWALC remains willing to work constructively with the NSW Government to identify lawful and negotiated solutions that protect genuine community interests without undermining the objects of the *Aboriginal Land Rights Act* or the rights of present and future generations of Aboriginal people.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R Kelly', written over a horizontal line.

Dr Raymond Kelly

Chairperson and Councillor Sydney Newcastle Region

NSW Aboriginal Land Council