



Tabled, by leave,  
Mr Franklin  
Clerk of the Parliaments  
8 / 11 / 2022

## ABORIGINAL LAND RIGHTS AMENDMENT BILL 2022

### STATEMENT OF PUBLIC INTEREST

#### **Need: Why is the policy needed based on factual evidence and stakeholder input?**

The Aboriginal Land Rights Act 1983 (ALRA) has been in operation for 38 years and is compensatory in nature, recognising that land is of a spiritual, social, cultural and economic importance to Aboriginal people. The ALRA is one of the most progressive Aboriginal land tenure regimes operating in Australia, providing a comprehensive legal framework with the objective to improve, protect and foster the best interests of Aboriginal persons within NSW.

Since 1983 the ALRA has undergone a number of reviews, most resulting in amendment intended to improve the performance of Local Aboriginal Land Councils and The NSW Aboriginal Land Council, and importantly to benefit the lives and futures of the Aboriginal people of NSW.

The ALRA has been amended multiple times over the past 20 years. This has resulted in some inconsistency within and between certain provisions, confusing language, and some lingering outdated precepts that can make interpretation and application of the ALRA unclear, particularly on the ground in the day-to-day activity of Aboriginal Land Councils. Similarly, where there has been reform and modernisation of other statutes, particularly the Local Government Act 1993 (LGA), the ALRA has not been aligned or updated when changes were made.

The *Aboriginal Land Rights Act Statutory Review 2021 Report* identified immediate and long-term legislative reforms that will involve a three-staged process.

- Stage 1: A range of administrative and operational changes to better existing structures and provisions to improve the administration of the ALRA and ALCs.
- Stage 2: Initiate a consultation on proposals to consider ways for ALCs to undertake land dealings subject to native title as a matter of priority.
- Stage 3: To further consider major policy matters and aspirational reform for the ALRA and intersecting legislative frameworks and administrative processes.

#### **Objectives: What is the policy's objective couched in terms of the public interest?**

Stage One (1) Reforms was developed to amend the ALRA to make administrative and operational changes to better existing structures and provisions to improve the administration of the ALRA and Aboriginal Land Councils.

The Stage One (1) administrative and operational amendments contained in the ALRA Amendment Bill are intended to achieve:

- **Consistency** - to ensure the regulatory requirements of the ALRA and Local Aboriginal Land Councils (LALCs) are comparable with other statutory frameworks and aligns expectations of similar corporate entities in New South Wales.
- **Efficiency** - alleviate unnecessary, duplicative and onerous regulatory requirements for both LALCs and oversight bodies.
- **Empowerment** - strengthen the self-determination of LALCs by allowing them to gain appropriate control of their affairs as independent corporate entities in the 21st Century.

### **Options: What alternative policies and mechanisms were considered in advance of the bill?**

Every five years, the ALRA must undergo a statutory review of the legislation and regulations. The statutory review process is the mechanism for a range of stakeholders to engagement, collaborate, and recommend improvements to the Aboriginal Land Rights system in New South Wales. The *Aboriginal Land Rights Act 1983 Statutory Review 2021 Report* made several recommendations primarily focused on legislative reform.

A substantial intent of the recent *Aboriginal Land Rights Act Statutory Review 2021 Report* set to focus on the present reading and workings of the ALRA in context with the requirements of other comparable statutes, and more general alignment with current Aboriginal Affairs policy thinking and relationship settings between Aboriginal people and governments in the 21st Century.

The administrative amendments identified in the review will significantly cut red tape, reduce financial costs and ease the day-to-day works of Aboriginal Land Councils and the regulators. Importantly, making the ALRA readable and better understood by all users will have beneficial and long-lasting positive impacts. Improving the accessibility and operation of the Aboriginal Land Rights system will strengthen and increase engagement across the network which will in turn ensure the continued delivery of the ALRA policy objectives

### **Analysis: What were the pros/cons and benefits/costs of each option considered?**

The Aboriginal Land Rights Amendment Bill 2022 seeks to achieve greater consistency, efficiency, and empowerment of self-determination for Aboriginal Land Councils and regulators across New South Wales.

- **Empowerment & Self-Determination:** The principle of self-determination underpins the ALRA which this Bill sets to strengthen. The amendments within the Bill refine existing provisions of the ALRA to advance its efficiency and effectiveness.
- **Economic Development & Prosperity:** The amendments in the Bill are designed to support these aspirations and strengthen Aboriginal Land Councils even further including by making it easier for Aboriginal Land Councils and their entities, to do business, and attract investment. Additionally, these amendments allow for great certainty and functionality for Local, State and Commonwealth Government, and the private sector, do business with the Aboriginal Land Rights network in NSW.
- **Closing the Gap:** The amendments proposed to the ALRA set to improve the operation and empowerment of the Aboriginal Community Controlled Sector which in

turn will ensure NSW closes the gaps in disadvantage between Aboriginal people and the other citizens of NSW.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

The Aboriginal Land Rights Amendment Bill 2022 is the result of collaboration and partnership between Government, the Registrar of the Aboriginal Land Rights Act 1983, and the NSW Aboriginal Land Council to improve the efficiency of the ALRA, and maximise economic, social, and cultural outcomes for Aboriginal peoples and communities across New South Wales.

The Aboriginal Land Rights Amendment Bill 2022 specifically sets to improve the operation and processes of the ALRA, including the 120 LALCs constituted throughout NSW.

The NSW Aboriginal Land Council and the Registrar of the Aboriginal Land Rights Act 1983. have been critical in developing the Aboriginal Land Rights Amendment Bill. Together, the Minister for Aboriginal Affairs, the NSW Aboriginal Land Council, and the Office of the Registrar of the Aboriginal Land Rights Act 1983 has come together to create a stronger Aboriginal Land Rights system in New South Wales.