

Inquiry into food production and supply in NSW 25 March 2022 – Questions on notice

1. **Any particular recommendations that the Aboriginal Land Council would like to see in terms of planning control changes that could help facilitate being able to really fully participate in the land, without limitations, in a way which is appropriate for the various different land councils would really be appreciated.**

NSWALC has long advocated for reforms to the NSW planning system that support Aboriginal Land Councils being able to access dedicated planning pathways that:

- Facilitate Aboriginal Land Councils (**LALCs**) to activate lands and deliver social, cultural and economic outcomes,
- Recognise the unique circumstances of Aboriginal land Councils, and
- Address the disproportionate impacts experienced by Aboriginal Land Councils in respect to land and planning processes.

Land owned by Aboriginal Land Councils are often subject to outdated zonings, and LALCs are generally very resource constrained.

The *State Environmental Planning Policy (Aboriginal Lands) 2019* would benefit from a review and redesign, in partnership with NSWALC and LALCs. While NSWALC welcomes the Aboriginal Lands SEPP as a first step to address the planning issues faced by LALCs, it's limited in its scope and application. Aboriginal Land Councils need streamlined and fit for purpose pathways to activate lands for social, cultural & economic outcomes.

We suggest the SEPP should:

- **Be streamlined** – the access threshold that requires a pre-planning approval of a development delivery plan is unnecessarily burdensome (the State & Regional Development SEPP has similar benefits for agencies, but doesn't require a pre-approval delivery plan), the current approach is inflexible and unresponsive to changing conditions. Each project will still require planning panel approval.
- **Include tailored considerations at development consent and/or exempt & complying developments to recognise and support Aboriginal land outcomes**, in addition to alternative planning pathways.
- **Be extended to NSWALC or to allow a state-wide approach** for example regional housing.
- **Address or provide exemptions for biodiversity provisions** – LALCs are disproportionately impacted.

Strategic Planning/Rezoning – Aboriginal Land Councils still have significant issues with inappropriate zoning of lands. The current SEPP's Develop Delivery Plan can assist with strategic planning, but this needs to be done more strategically across the state. Current strategic planning hooks (in regional plans and Local Environment Plans) are helpful but are not enough.

To better facilitate the aspirations of Aboriginal Land Councils, a broader Aboriginal Land Planning Framework should be designed and delivered in partnership with NSWALC and LALCs. This framework should be consistent with the NSW Government's commitments to Closing the Gap, particularly the Priority Reforms, and recommendations from numerous reviews and inquiries, including specific recommendations in the recent statutory review of the *Aboriginal Land Rights Act 1983*. This could include appropriate triggers to elevate decision making for all Aboriginal Land Council lands, tailored assessment pathways & fit for purpose decision-making criteria. LALCs should not be subject to additional requirements that exist for no other proponents.

Aboriginal economic development and protection of Aboriginal Culture and Heritage should also be express objectives of the *Environmental Planning and Assessment Act 1979*.

NSWALC is committed to working with Government to develop a broader suite of mechanisms & larger scale planning assistance to support all Aboriginal Land Councils to activate lands.