

Ms Paulina Wythes
Director, Planning Legislative Reform
Department of Planning and Environment (DPE)
Locked Bag 5022 Parramatta NSW 2124



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

Dear Ms Wythes,

Re: Rezoning discussion paper

Thank you for the opportunity to comment on the discussion paper 'A new approach to rezonings', and to DPE for hosting a briefing session for Aboriginal Land Councils.

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

Overall, NSWALC:

- **Welcomes proposals to make the rezoning process clearer**, more transparent, minimise duplication, and improve consultation processes.
- **Welcomes the proposal for Local Aboriginal Land Councils (LALCs) to be consulted in the early scoping phase of proposed rezonings.** This will bring significant benefits and ensure a range of issues are identified and addressed early. Government resourcing will be required to support LALCs to carry out this function. We seek to ensure that consultation in the scoping phase does not replace consultation during the exhibition phase.
- **Seeks further engagement on the proposal for all LALC rezoning proposals to automatically be assessed and determined by DPE, rather than local councils.** There may be merits to this proposal however, as this was raised by DPE in the LALC briefing session, we seek to clarify the proposal and intent, including whether DPE are proposing a different assessment pathway, decision making criteria, appeal/review rights, or whether LALC proposals would be considered the same as a 'public authority proponent'. Given the issues faced by LALCs, a simplified, effective, tailored and more fit for purpose pathway is needed.
- **Supports a minimum community consultation timeframe of 4 weeks for basic projects**, however longer timeframes are needed for more complex projects.
- **Seeks scoping & assessment fee exemptions for Aboriginal Land Councils**, given that land owned by Aboriginal Land Council is often subject to outdated zonings, LALCs are resource constrained, and there are broader public benefits to facilitating activation of LALC lands.
- **Seeks safeguards to protect Aboriginal cultural heritage** and ensure engagement with LALCs and Aboriginal communities on ACH matters.
- **Seeks safeguards to address gaps in strategic planning.** We note the government's desire to place increased emphasis on strategic planning, but Aboriginal outcomes have not been well captured in strategic planning documents to date, specifically to facilitate economic, social, and cultural

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	

outcomes on Aboriginal owned land, and to protect and promote Aboriginal cultural heritage. Further work is needed to address this.

More broadly, consistent with the NSW Government's commitments to Closing the Gap¹, particularly the Priority Reforms, and recommendations from numerous reviews and inquiries², further work is needed in partnership with us to better facilitate the aspirations of Aboriginal Land Councils. In particular:

- The *Aboriginal Lands State Environmental Planning Policy* should be reviewed and redesigned in partnership with NSWALC and LALCs.
- Aboriginal economic development and protection of Aboriginal Culture and Heritage should be express objectives of the *Environmental Planning and Assessment Act 1979*
- 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

Again, we thank the Department for the important work being progressed to improve the social, cultural and economic outcomes for Aboriginal peoples and the Aboriginal Land Rights network. We are committed to continuing to working in partnership with the Department to address these issues.

If you would like any further details about any matters raised in this letter please contact Stephen Hynd, Executive Director, Land, Legal and Strategy on [REDACTED] or [REDACTED].

Sincerely,



Yuseph Deen
CEO
NSW Aboriginal Land Council

Date: 25 February 2022

¹ National Agreement on Closing the Gap: <https://www.closingthegap.gov.au/national-agreement/national-agreement-closing-the-gap>;

² Previous reviews and inquiries recommending reforms to provide tailored planning system measures to support Aboriginal Land Councils economic, social and cultural aspirations include the 1980 NSW Legislative Assembly Select Committee on Aboriginal people, 2016 NSW Parliamentary inquiry into Economic Development in Aboriginal communities, 2016 NSW Parliamentary Inquiry into Regional Planning Processes, and 2021 statutory review of the *Aboriginal Land Rights Act 1983*