

Submission

No 095

**CONSULTATION ON THE MODERN
MANAGEMENT OF COMMONS**

Name: New South Wales Aboriginal Land Council

Date received: 21/02/2017

NSWALC

Date: Tue, Feb 21, 2017 at 2:30 PM

Subject: NSWALC Submission regarding the NSW Government's Updated Proposals for Commons

Dear Sir/Madam

Dear Mr Clarke

NSW Government's Updated Proposals for Commons- Submission of the NSW Aboriginal Land Council

I refer to your correspondence, dated 24 January 2017, seeking the views of the NSW Aboriginal Land Council (**NSWALC**) in relation to the NSW Government's updated proposals for commons across NSW. NSWALC appreciates the opportunity to provide this submission on this important issue.

NSWALC is the peak Aboriginal representative body in NSW and with over 23,000 members, is the largest Aboriginal member based organisation in Australia. NSWALC is a self-funded statutory corporation under the *Aboriginal Land Rights Act 1983 (NSW)*, with a legislative objective to improve, protect and foster the best interests of Aboriginal peoples in NSW.

NSWALC is of the view that the current management and use arrangements of commons, are unsuitable, outdated, and failing to serve the needs of the majority of both Aboriginal and non-Aboriginal people across contemporary NSW.

Accordingly, NSWALC welcomes the proposals for commons to become crown land reserves legislated in provisions to be inserted in the recently passed *Crown Land Management Act 2016* and holds the view that there is no justification, particularly in this day and age, for distinct crown land management regimes of the sort that commons have hitherto been afforded.

NSWALC agrees with the need for a new approach in relation to commons land including a new legislative framework as the *Commons Management Act 1989 (CMA)*, does not serve the needs of local communities, only specific sections of local communities.

However NSWALC notes that under the proposed legislative framework 'current managers of commons trusts (including common trust boards) continue to be responsible for the care, control and management of the common' and also that existing board members will continue as board members of the new land manager entity.

Given this, NSWALC also recommends that any new proposed legislative framework contains mechanisms within it to ensure that decision making processes in relation to the use and management of commons' lands are more open and more accessible to the wider community. This is especially necessary given the wide-ranging powers that trust board members enjoy under the current CMA and may continue to enjoy under the updated proposals and that decision making in relation to commons' land is generally restricted to either trusts' boards or 'commoners' whose names have been listed on the commoners' roll. Indeed even being

listed on the commoners roll is something which many local people, especially those from low socio-economic backgrounds, would currently be discouraged from doing as the process requires both paying a fee and also undergoing an onerous application procedure.

Furthermore in addition to the wider community currently being restricted from decision making in relation to commons land, there is also a lack of consultation with the wider community regarding the use and management of commons situated within their local area.

As a means of addressing the lack of proper community consultation, it is NSWALC's view that commons' trusts should be specifically required to consult with the broader community not least when they are determining their Management Plans to ensure that the contents of the Plans, which set out their direction for the coming years, aligns with the broader local community's needs and expectations, including members of the local Aboriginal community.

Moreover, as is well known, commons often contain significant Aboriginal cultural value encompassing both tangible, as well as intangible, Aboriginal cultural heritage. Given this, NSWALC believes that there is a need for those managing commons to consult outside the narrow confines of commoners and the trusts' boards in relation to the management and preservation of Aboriginal cultural heritage. This is particularly the case as there is no requirement under the current CMA for trusts' boards or commoners' rolls to have any Aboriginal representation on them or even consult with the local Aboriginal community whatsoever.

To address the lack of consultation with Aboriginal communities in relation to Aboriginal cultural heritage on commons land, NSWALC advocates for the proposed legislative framework to include a requirement for any commons land manager entity to seek the views of the local Aboriginal community in instances where their decisions may impact on Aboriginal cultural heritage within commons.

NSWALC is supportive of the principle of reforming the long outdated legislative arrangements related to commons and is willing to play a role in shaping the proposed legislative framework to ensure that the future use and management of commons better reflects the needs and values of today's diverse local communities.

If you have further questions regarding the content of this letter, please contact the Policy and Research Unit on [REDACTED]

Yours Sincerely,



Malcom Davis

21/02/17

A/Chief Executive Officer, NSW Aboriginal Land Council