

**Submission
No 31**

**INQUIRY INTO BIODIVERSITY CONSERVATION
AMENDMENT (BIODIVERSITY OFFSETS SCHEME) BILL
2024**

Organisation: Awabakal, Biraban, Darkinjung, Gandangara, Illawarra, La
Perouse, Metropolitan and Mindaribba LALCs

Date Received: 6 September 2024



BIRABAN

Local Aboriginal Land Council



**ILLAWARRA
LOCAL ABORIGINAL
LAND COUNCIL**

LA PEROUSE



LOCAL ABORIGINAL LAND COUNCIL



**MINDARIBBA
LOCAL ABORIGINAL LAND COUNCIL**

6 September 2024

Portfolio Committee No. 7 – Planning and Environment
NSW Legislative Council

Dear Committee

Joint-LALC submission on the *Biodiversity Conservation Amendment (Biodiversity Offset Scheme) Bill 2024*

1. This is a joint submission made on behalf of the Awabakal, Biraban, Darkinjung, Gandangara, Illawarra, La Perouse, Metropolitan and Mindaribba Local Aboriginal Land Councils (**LALCs**).
2. Our LALCs have been engaging with the *Biodiversity Conservation Act 2016 (BCA)* and the Biodiversity Offsets Scheme (**BOS**) since their enactment, and have made submissions to previous reviews, including Ken Henry AC's 5-year statutory review (**Henry review**). However, we were not involved in the BCA's inception, nor were we consulted on the enactment of this piece of legislation which has a profound effect on our communities.
3. We welcome the opportunity to make a joint submission on the *Biodiversity Conservation Amendment (Biodiversity Offset Scheme) Bill 2024*. In our view, the BCA's relationship with LALCs, as statutory representatives of Aboriginal communities in NSW, requires an overhaul. The Bill does not achieve this.

The Henry review

4. A copy of our joint submission to the Henry review is enclosed. We repeat those submissions.
5. The Henry review acknowledged the impact of the BCA and BOS on LALCs. It said:

The land claims process does not consider potential biodiversity constraints of claimable land. Returned land is restricted to claimable Crown land and often has high biodiversity value, having been preserved from development. Credit requirements can be high on these lands, reducing the social and economic benefits that developing the land could provide for Aboriginal communities.

The Review Panel heard there is strong concern the objectives of the ALR Act and the BC Act do not align when a LALC seeks to develop returned land. There is no clear government position on which Act should be prioritised.

The Review Panel suggests government should consider what arrangements would better support application of the Biodiversity Offsets Scheme on land subject to a successful land claim under the ALR Act, for example, paying for credit obligations.

We support this suggestion and are open to discussing how to implement it.

6. The Henry review also made several recommendations to embed the values, aspirations and knowledge of Aboriginal people and communities in the BCA and BOS (Recommendations 3, 5, and 9). We support those recommendations.

NSW plan for nature

7. The **Government's response** to the Henry review, the "NSW plan for nature", supported 49 of the Henry review's 58 recommendations, including Recommendations 3 and 5.
8. The Bill does not implement these Recommendations the Government says it supports.
9. The Government's response acknowledged the need to co-design biodiversity and land management legislation, policies and programs with Aboriginal people. It says:

The NSW Government acknowledges the wide range of cultural, social and economic interests Aboriginal people have in biodiversity and land management issues. We are committed to exploring, in partnership with Aboriginal stakeholders, new and better ways to support Aboriginal people to connect with and care for Country.

We will undertake tailored engagement with Aboriginal organisations, communities and people to ensure their views, knowledge, values and interests underpin the development and implementation of our actions and initiatives under this response. We will:

- *build genuine partnerships to deliver both biodiversity outcomes and benefits for Aboriginal communities*
- *recognise the commitment of time and resources by Aboriginal organisations, communities and people*
- *seek free, prior and informed consent*
- *respect Indigenous Cultural and Intellectual Property rights.*

We anticipate tailored engagement with Aboriginal organisations, communities and people commencing in the second half of 2024. This will include exploring options to address biodiversity-related constraints and opportunities for land returned under the NSW Aboriginal Land Rights Act 1983, to ensure social, economic and cultural aspirations can be met from that land.

Any engagement and reform will support the NSW Government’s commitment to standalone Aboriginal cultural heritage legislation, our commitment to a process of Treaty with Aboriginal people, and our commitment to achieving the objectives in the National Agreement on Closing the Gap.

10. We support the Government’s commitments, including its commitment exploring options to address biodiversity-related constraints and opportunities for land returned to LALCs under the *Aboriginal Land Rights Act 1983 (NSW) (ALRA)*.

The Bill

11. In her second reading speech for the Bill, Penny Sharpe MLC said:

I recognise the inherent spiritual and cultural connection of Aboriginal people to land, water and native species, and I recognise the social, economic and environmental benefits that flow from caring for country.

...

In his review of our biodiversity laws, Ken Henry emphasised the need for genuine engagement with Aboriginal people and the application of traditional cultural knowledge into our laws. We accept these recommendations and as the government moves through our nature reform, I commit to working in partnership with Aboriginal communities to ensure their issues are genuinely heard, their role on country is promoted and their aspirations are met.

12. We do not know if the Government consulted with Aboriginal people during the preparation of the Bill. The Bill does not contain any reference to Aboriginal people or LALCs. It does not address the recommendations of the Henry review regarding Aboriginal people and LALCs, including those recommendations which the Government said it would implement in its response, e.g., “to prioritise Aboriginal cultural values, connecting to Country, cultural practices and opportunities for Aboriginal economic development”.

13. It is clear from the Government’s language that it intends to consult with Aboriginal groups to “ensure their aspirations are met”. What is unclear is how these consultations will occur, or what they will address, e.g., further amendments to the BCA, or changes to the Regulations or policy.
14. We call on the Government to further consult with us and other LALCs to ensure that our aspirations for land are met and that the BCA does not unfairly burden us.
15. In terms of the Bill, we call on the Government to consult with us on the “strategy” for achieving a “net positive outcome”, and any Regulations or policies developed on:
 - “prescribed conservation measures” (proposed s 6.29A)
 - the “circumstances” in which proponents will be unable to pay into the Biodiversity Conservation Fund (proposed sections 6.30(2)-(4)), and
 - the amendment of biodiversity maps (proposed s 7.4(4)).

Conclusion

Thank you for the opportunity to make this submission. As explained in our submission to the Henry review, in our view, there is currently a tension between the compensatory objects of the ALRA and the operation of the BCA. The BCA is stifling LALC development aspirations, devaluing our compensation, and holding back our communities. It is akin to a second dispossession. The Parliament, as the setter of those legislative objects, must address these tensions.

However, we do not see this as a zero-sum game between development and conservation. LALCs want both, and, as explained in our submission to the Henry review, we are willing to negotiate with Government to strategically plan for future development and conservation on LALC land, which, as an aside, is likely to continue to grow in scale given the number of outstanding Aboriginal land claims.

Regrettably, if this tension is not addressed, then the question will arise as to whether the BCA places a disproportionate burden on LALCs and Aboriginal communities, when compared with the rest of NSW.

Yours faithfully

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LA PEROUSE



BIRABAN
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Local Aboriginal Land Council
DARKINJUNG



28 April 2023

Biodiversity Conservation Act Review
Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Review Panel,

Joint LALC submission to the 5-year review of the *Biodiversity Conservation Act 2016*

1. This is a joint submission made on behalf of the Awabakal, Biraban, Darkinjung, Illawarra, La Perouse, Metropolitan, and Mindaribba Local Aboriginal Land Councils (**LALCs**).
2. Our LALCs have been engaging with the *Biodiversity Conservation Act 2016* (**BCA**) and the Biodiversity Offsets Scheme (**BOS**) since their enactment and have made submissions to previous reviews. However, we were not involved in the BCA's inception, nor were we consulted on this piece of legislation which has a profound effect on our communities.
3. We welcome the opportunity to make a joint submission to this 5-year review. In our view, the BCA's relationship with LALCs, as statutory representatives of Aboriginal communities in NSW, requires an overhaul.

4. Our issues and suggestions are set out in four parts:

- I. Issues with the BOS
- II. How the BOS can be improved for LALCs
- III. The BCA and planning
- IV. Conclusion

I. Issues with the BOS

History and current relationship of LALCs and the BCA

5. In 1983, the NSW Parliament legislated to return certain Crown land to the Aboriginal peoples of NSW as compensation for the severe historic dispossession and hardship suffered by them. The *Aboriginal Land Rights Act 1983 (ALRA)* set up a Network of LALCs – statutory corporate bodies with geographical boundaries covering almost all of NSW – which were given the right to claim Crown land.
6. Land has slowly been returned to the Network of LALCs over the last 39 years. However, Crown land can only be returned if, when it is claimed, it fits a set of narrow criteria.¹ That set of narrow criteria has resulted in largely disused and underutilised Crown land being returned to LALCs as compensation. That land is often on the fringe of towns and is frequently constrained in its capacity for development.
7. Constrained land is difficult to utilise even before factoring in institutionalised and systemic racism. To compound the problem, in 2016 the NSW Parliament enacted the BCA which required those wishing to develop land with biodiversity values to offset any clearing using formulas that commonly had the effect of sterilising heavily vegetated land from development. This is because offsets are required to be created in a lengthy and expensive process on a site by site basis. Unsurprisingly, constrained land is often heavily vegetated and is a prime target for such sterilisation, often accompanied by rezoning without consultation with LALCs because of the perception that LALC land is public land.
8. After being dispossessed of their land once, the BCA has had the effect of dispossessing NSW's Aboriginal people of their land again for less than fair value. The Aboriginal peoples of NSW have already contributed to all land developed in the State, and are now being asked to pay again for the benefit of the public and other developers by being unable to develop land returned as compensation.

¹ See s 36(1) of the ALRA.

The Biodiversity Offsets Scheme

9. The BOS as currently operating is not an ecologically credible scheme. Developers contribute money to the Biodiversity Conservation Trust (**BCT**) on the premise that the BCT will purchase and retire biodiversity credits to offset the impacts that the developers have caused in carrying out development. In theory, this would create a market in credits and drive the creation of biodiversity stewardship agreements. It would also ensure that the ecological values of a site being developed are offset by the preservation of a site with equivalent ecological values (“like for like”).
10. The previous NSW Government, with its proposed Warragamba Dam wall raising project, showed that it can avoid going to the market to buy the necessary biodiversity credits, or contributing to the BCT to meet its offset obligations, by utilising some other form of “indirect” offset, hence eroding the “like for like” offset principal. LALCs fear that the same approach can be adopted with other major projects, such as the Blue Mountains Tunnel project, losing the opportunity to contribute significantly to creating a real market in biodiversity credits.
11. The reality is that \$90 million has been paid by developers into the BCT to “offset” their clearing.² However, the biodiversity credits which are supposed to “offset” those losses are not being purchased by the BCT. According to the NSW Auditor-General, 96% of the developer demand for species credits is not met by current supply and only 20% of developer obligations transferred to the BCT have been acquitted.³ There is no real market for commonly required credits, and the payments made by developers are simply a cost of doing business.
12. It is likely that the BCT holds insufficient funds to meet its biodiversity credit liabilities were it to purchase and retire the relevant credits required to satisfy developer contributions to date on a “like for like” basis.⁴

II. How the BOS can be improved for LALCs

The BOS and Biodiversity Stewardship Agreements

13. To date, conserving land for biodiversity purposes under the BCA has not proven a viable option for LALCs.
14. There are significant upfront costs of carrying out the necessary ecological surveys and the payment of the “total fund deposit” (**TFD**), an amount to be held by the BCT, to cover the ongoing costs of management of the land. The poorly structured and incomplete information about the market, produced by DPE and the BCT contributes to these upfront costs by creating uncertainty, which is a further barrier to LALC participation.⁵

² Effectiveness of the Biodiversity Offsets Scheme, Audit Office of NSW, August 2022 p.4 at 2, accessed at <https://www.audit.nsw.gov.au/sites/default/files/documents/FINAL%20-%20Effectiveness%20of%20the%20Biodiversity%20Offsets%20Scheme.PDF>.

³ Effectiveness of the Biodiversity Offsets Scheme, Audit Office of NSW, August 2022 p.45.

⁴ Effectiveness of the Biodiversity Offsets Scheme, Audit Office of NSW, August 2022 p.5 at 5.

⁵ Effectiveness of the Biodiversity Offsets Scheme, Audit Office of NSW, August 2022 p.43 at 6.

15. On the potential income side of the ledger, there is no “market” in biodiversity credits and no adequate market information. The BCT website contains little information on trades of relevant credits for LALCs. In fact, the Biodiversity Offsets Payment Calculator (**BOPC**) was removed from public view from 17 October 2022, no doubt in response to the damning Audit Office Report, and replaced with a closed system of quotations for developer charges.⁶ These are secret offers in response to expressions of interest from people who have already committed to the significant investment of bio-certification and are ready to sell.
16. There is no way of ascertaining whether it makes financial sense to incur the significant costs (in excess of \$1 million including the TFD for even a small parcel of land) in order to enter into a biodiversity stewardship agreement. This is because there is no way of knowing the potential worth or value of the credits to be generated.
17. If these issues are not addressed, the economically rational thing for many LALCs to do where they cannot obtain fair value or use for their land because of the BCA and other unfair planning controls is to leave the land unmanaged which will lead to deterioration and loss of its conservation values, or to sell that land, parcel by parcel, and to reinvest the funds in lands that can provide tangible benefits to their members and the local Aboriginal community. This is not an optimal outcome for either the LALCs or anyone seeking strategic management of high value conservation lands, and will only result in greater fragmentation.
18. It is in the Government's and the BCT's interests to dramatically improve LALC participation in the BOS. LALCs own much of the land which could be used for offsets, and if they were supported to create and trade biodiversity credits, then the econometric modelling which underpins the BOS may begin to function properly.

Improvements to LALC engagement with the BCA

19. In our view, simple options to improve LALC engagement with the BCA include:
 - a. The NSW government or the BCT subsidising or fully funding the requisite ecological studies to create a biodiversity stewardship agreement, biocertify land, etc.
 - b. The introduction of a statutory mechanism to delay paying the TFD until income is realised for a LALC. Otherwise, LALCs must borrow and pay interest to fund the TFD.
 - c. Adding LALCs to the list of bodies in the definition of “planning authority” in section 8.1 of the BCA, to allow them to make a strategic application for biodiversity certification.

⁶ See the opaque “reverse auction” process described at <https://www.bct.nsw.gov.au/credit-tenders> where applicants offer a price at which they are prepared to sell their credits and the BCT considers the bid price in secret.

Consideration and integration of Indigenous knowledge and expertise in the BCA

20. The BCA has multiple statutory purposes. These include “to improve, share and use knowledge, including local and traditional Aboriginal ecological knowledge, about biodiversity conservation”.⁷ Despite this purpose, there is nothing in the BCA which requires a consent authority, the BCT, or any other decision-maker, to consider Indigenous knowledge and expertise when making a decision.⁸
21. The functions of the BCT are broad. They include the management and control of the Biodiversity Conservation Fund (**BCF**), the education of the public on issues of conservation, and the provision of technical, financial, and other assistance to landholders generally.⁹
22. The BCT has a Board of 5-11 members.¹⁰ The affairs of the BCT are managed by the Board.
23. Clause 2 of Schedule 8 to the BCA sets out the areas which persons appointed to the Board must have skills or experience in. None of those areas relates specifically to Indigenous knowledge of the environment, biodiversity conservation, or Indigenous economic development. The list of areas in clause 2(1) of Schedule 8 should be amended to include the area of Indigenous knowledge. Further, clause 2(1) should be amended to require the Minister to appoint at least one member to the Board who holds Indigenous knowledge. That person should be an Aboriginal person as defined in the ALRA.
24. An analogous requirement was recently put forward in the Commonwealth’s *Nature Repair Market Bill 2023*,¹¹ after similar feedback was given to an Exposure Draft of the Bill.

Competition in the offset credit market

25. We are also very concerned about the BCT’s role in the credit market where the BCT acts as both the market operator/clearing house and a market participant in the credit market.

III. The BCA and Planning

Planning and Biodiversity

26. Unfortunately, improving the BCA and BOS for LALCs only addresses one side of the coin. Planning and biodiversity protection are logically related, but are practically and legally separate and distinct restrictions in carrying out development in NSW. Land can be zoned to permit development, but still not without a Biodiversity Assessment Report (e.g., a BDAR or BCAR) and normally some form of “offset” as it may be the habitat of threatened species. This two-stage process, rezoning then biodiversity assessment, is cumbersome, uncertain, and in most cases for a LALC, prohibitively expensive.

⁷ BCA s 1.3(c).

⁸ Instead, the BCA’s provisions focus on obtaining the consent of the New South Wales Aboriginal Land Council for the making of agreements over land owned by a LALC: BCA ss 5.9(g), 5.21(e) and 5.28(e).

⁹ BCA s 10.5.

¹⁰ BCA s 10.3.

¹¹ See s 198(4).

27. The two-stage process is also unnecessary where LALCs own large tracts of land which could be strategically designated for uses such as residential development on the one hand, and reserved for conservation purposes on the other, meeting both conservation and housing needs. Landscape-scale strategic designation of uses of a LALC's land is a better option for all.
28. Rezoning and seeking to develop underutilised and heavily-constrained land on the periphery of towns is prohibitively expensive for many LALCs, despite some of this land being identified in Regional Plans for future urban development. Back in 1980, the Keane Report,¹² which recommended the granting of land rights in NSW as compensation for prior dispossession and catalysed the introduction of the ALRA, also identified that:

An overall problem is that Aboriginal land use initiatives are commonly considered secondary to economic interests. It appears that Aboriginal communities are sometimes either inadequately consulted or disregarded when development proposals affecting communities are being considered...

[T]he Aboriginal people of New South Wales suffer discrimination from various Government decision makers in relation to land development and planning. Thereby the ability of Aboriginal groups to progress as self-determining communities can be stifled.... land owned by Aboriginal communities be governed by special planning provisions... which would permit Aboriginal communities to develop projects that may otherwise be contrary to local planning ordinances...¹³

29. 40 years after the introduction of land rights in NSW, these sentiments are yet to be properly addressed. Without special planning measures, which includes measures to deal with biodiversity values, LALC land will remain underdeveloped and the compensatory purpose of the ALRA will not be achieved.
30. Two processes are available in a broad scale planning (as opposed to site specific) sense to ensure planning and environmental concerns are assessed and determined in a holistic fashion across the whole or a large part of a LALC's land portfolio:
 - a. a LALC-area wide rezoning; and
 - b. strategic biodiversity certification of land in a LALC's property portfolio.

A 2-Point Plan to address planning and biodiversity

31. Tinkering around the edges of the existing BCA and planning schemes will not address the significant injustice that is being caused to LALCs as owners of land on behalf of their members and other Aboriginal persons in their areas. Nor will it seize the opportunity of strategically planning the large areas of land owned by LALCs to provide significant areas of land for development, such as housing, and to offset any biodiversity loss using land within the same ownership.

¹² See Select Committee upon Aborigines, Parliament of New South Wales, M F Keane, *First Report from the Select Committee of the Legislative Assembly upon Aborigines: Report and Minutes of Proceedings* (1980).

¹³ Keane Report p. 99 and 101.

32. Rather than amendments to the BCA, we propose parallel targeted amendments to the ALRA to enable LALC landowners to develop their land and give effect to the intent of the ALRA, while simultaneously protecting threatened species by setting aside other land in their ownership for environmental protection and management. LALCs own sufficient areas of land in their region to justify strategic assessment of their lands and to ensure that this form of long-term strategic planning can be based on sound landscape planning conservation principles and ensure “like for like” offsets.
33. Below is a simple 2-point plan to address these issues. These amendments streamline the process for LALCs to develop their land and exempts certain LALC land from having to comply with the provisions of the BCA, provided the land is in a plan which both the LALC and the relevant State Ministers have agreed to. The plan envisages the setting aside of highly significant ecological and cultural lands for preservation in perpetuity under the control and management of the LALC. This would enable strategic landscape-scale biodiversity conservation outcomes, preserving areas of high ecological value and improving (or maintaining) connectivity.

Point 1 - Insert a new division in the ALRA which permits LALCs to develop and adopt Conservation and Development Plans (CDP) which are consistent with their statutory Community, Land and Business Plans. The division will also set out the effects of including land in a CDP. CDPs must be made with the consent of the Ministers for Aboriginal Affairs and Planning, after consulting with the Minister for Environment. CDPs have the status of both local environmental plans under the EP&A Act and strategic biodiversity certification under the BCA.

Rationale

34. The ALRA already provides a scheme for LALCs to develop and adopt 5-year Community, Land and Business Plans to direct their actions.¹⁴ CDPs will provide an opportunity for LALCs to set their longer-term (10-20 year) plans for their land in partnership with the State, by nominating land as either conservation or development land and setting out the LALC’s plans for the land. A CDP will operate as an agreement between the State and a LALC about the use of land and will apply special rules to land in the CDP. For this reason, CDPs should be consented to by the Ministers as representatives for the State.
35. It is fitting that these special rules are located within the ALRA, because they recognise the uniqueness of LALC land and give effect to the beneficial and remedial purposes of the ALRA. The objects of the ALRA could be refreshed at the same time, to make it clearer that the Act provides special benefits for land acquired under the Act as part of the Act’s compensatory purpose. The creation and adoption of CDPs will provide LALCs with the opportunity to grow their capacity and drive their own solutions to their community’s issues, in-line with the objects of the ALRA and the associated goals of the OCHRE plan.
36. The planning concessions in Chapter 3 of the *SEPP (Planning Systems 2021)* which apply to LALC Development Delivery Plans could also apply to land in a CDP.

¹⁴ ALRA s 82.

37. A CDP would thus draw on and combine two existing planning mechanisms, rezoning and strategic biocertification, for the effective planning for land use and conservation of Aboriginal land, thus striking the balance between conservation and development in one document before an individual development is proposed. A BDAR could be required to guide decisions on creating a CDP, to ensure the protection of habitat and protection measures for the long-term protection of reserved land in a CDP.
38. Land nominated for conservation in a CDP could be used to generate offset credits for LALCs under the BCA. Allowing LALCs to generate and sell offset credits on conservation land will provide a funding stream for conservation measures carried out by the LALC and allow the State to satisfy its obligation to ensure a workable market in offsets.
39. Where development set out in a CDP cannot be achieved or is refused, the ALRA must contain a mechanism to amend the CDP to rebalance the quantum of conservation land which was set aside in the CDP, in line with the strategic assessment in the BDAR-equivalent. No LALC would make a CDP without this flexibility to renegotiate the balance of land to be conserved and land to be developed.

Point 2 – Introduce Aboriginal Planning Panels to assess development on LALC land.

Rationale

40. LALCs have historically faced institutional barriers engaging with the planning system. Many consent authorities, particularly local councils, have a limited understanding of the ALRA and its purposes, and therefore struggle to reconcile community views with Aboriginal development aspirations. Many in the community still erroneously believe that land returned to Aboriginal people under the ALRA is destined for conservation or continued public use. LALCs should not have to continually correct this, and instead, Aboriginal Planning Panels should be constituted to assess LALC developments. These Panels must include at least one member with knowledge or experience in the ALRA and its purposes, and at least member who is an Aboriginal person.
41. In summary, the principles underpinning the 2-point plan are that:
 - a. LALCs should not have to pay the State to use land returned to them as compensation;
 - b. LALC developments should be exempt from the offsetting requirements in the BCA where other LALC land of high biodiversity value is conserved in perpetuity as part of the strategic planning embodied in a CDP;
 - c. LALCs should be able to generate offset credits on lands nominated for conservation. This will allow the State to satisfy its obligation to ensure a market in offsets and provide for management in perpetuity of the reserved lands; and

- d. Because land returned under the ALRA is often underutilised and on the periphery of towns, LALCs almost always face difficulties and high costs to obtain the permits required to use their land. These difficulties can only be alleviated through beneficial legislative change, where Ministers responsible for Planning and Environment portfolios reconcile competing interests for all LALC land within each LALC area constituted under the ALRA. The alternative is that the compensatory purpose of the ALRA is not realised.

IV. Conclusion

We thank you for the opportunity to make this submission.

In our view, there is currently a tension between the compensatory objects of the ALRA and the operation of the BCA. The BCA is stifling LALC development aspirations, devaluing our compensation, and holding back our communities. It is akin to a second dispossession. The Parliament, as the setter of those legislative objects, must address these tensions.

However, we do not see this as a zero-sum game between development and conservation. LALCs want both, and as explained above, are willing to negotiate with government to strategically plan for future development and conservation on LALC land, which, as an aside, is likely to continue to grow in scale given the number of outstanding Aboriginal land claims.

As the contemporary custodians of the land LALCs have the potential to be the greatest advocates of the objectives of the BCA, however they cannot assist unless they are adequately resourced to manage their own land and to engage with the BCA to derive fair benefits from the BOS.

Regrettably, if this tension is not addressed, then the question will arise as to whether the BCA places a disproportionate burden on LALCs and Aboriginal communities, when compared with the rest of NSW.

If you have any questions about this joint submission, please contact Blake Cansdale on (02) 4351 2930, Nathan Moran on (02) 8394 9666, Chris Ingrey on (02) 9311 4282, Adell Hyslop on (02) 4226 3338, Ashley Williams on (02) 4950 4806, Kumarah Kelly on (02) 4965 4532, or Tara Dever on (02) 4015 7000.

Yours sincerely,

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