



NEW SOUTH WALES ABORIGINAL LAND COUNCIL

ABN 82 726 507 500

Regulation Benchmarking Study:
Planning, Zoning and Development Assessments
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Also sent by email to planning@pc.gov.au

To whom it may concern,

The NSW Aboriginal Land Council (NSWALC) welcomes the opportunity to comment on the Issues Paper *'Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments'* released by the Productivity Commission in May 2010.

The creation and amendment of environmental planning instruments is an important issue for the Aboriginal community. Planning instruments and processes have the potential to significantly impact on access to and use of land by Aboriginal people, and the protection of Aboriginal culture and heritage.

NSWALC is the peak body representing Aboriginal people in NSW. NSWALC provides support to the network of 119 Local Aboriginal Land Councils, or LALCs, in NSW. NSWALC is committed to promoting the rights of Aboriginal people in NSW and improving the protection of Aboriginal heritage in NSW, in accordance with our statutory responsibilities under the *Aboriginal Land Rights Act 1983* (NSW).

LALCs are the largest Aboriginal land owner group in NSW. Land owned by LALCs is primarily free hold land, though some LALCs also hold other forms of land title including joint management leases over national parks. As per the *Aboriginal Land Rights Act 1983*, LALCs hold land for the economic, social and cultural benefit of Aboriginal people living within their boundaries. With the consent of their members, LALCs may seek to develop or sell land that they hold. LALCs may also seek to maintain key parcels of land for its cultural or environmental values.

It is essential that, as significant freehold landowners throughout NSW, the Aboriginal Land Council network are fully aware of any impending changes that may impact on their land or on Aboriginal culture and heritage.

The different levels of planning and environmental laws and instruments in NSW often have conflicting requirements, or may be confusing or unclear, which mean that Aboriginal culture and heritage issues may not be identified at early stages of planning.

NSWALC supports improved measures to ensure that Aboriginal culture and heritage is better integrated into local planning laws.

Given the high level of anticipated development in NSW over the coming years, it is essential that planning laws in NSW provide for best practice community consultation, provide clear rights for Aboriginal to be consulted and involved in decision-making, and ensure that the protection of Aboriginal culture and heritage is considered in the early stages of land use planning and development projects.

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Proposals that allow a broad scope of activities to take place without appropriate community notification or consultation processes may disregard the protection of Aboriginal cultural heritage.

NSWALC has recently completed a submission to the NSW Planning Department, *Zoning in on Aboriginal land and heritage protection*. This submission encourages local councils and other planning bodies to work closely with Aboriginal communities to ensure that mechanisms for protecting Aboriginal cultural heritage are developed and implemented, particularly through local planning laws.

NSWALC also supports reforms that would recognise best practice standards for protecting Aboriginal cultural heritage, and considering cultural heritage in the early stages of planning and development.

These recommendations are outlined in NSWALC's submission *Respect and Protect* that was submitted to the Department of Environment, Water, Heritage and the Arts in November 2009 in response to proposed changes to the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth). Both of these submissions are attached for your reference and consideration.

Yours sincerely,

Clare McHugh
Director
Policy and Research Unit

Date: 25/8/10