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Crown Lands Management Review

NSW Trade & Investment

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**ANTAR NSW**

**SUBMISSION ON THE NSW CROWN LANDS REVIEW - 2014**

ANTaR is a long standing, specialist advocacy and campaigning body which works to support justice and self determination for Aboriginal people in NSW.

We take the opportunity of making this submission to the Crown lands review in support of Aboriginal peoples and organisations. We acknowledge the policy position taken by the NSW Aboriginal Land Council (NSWALC) in response to the government’s review and we urge the review to give every consideration to NSWALC’s views.

ANTaR believes it is imperative that changes to the administration of Crown land in NSW should not further disadvantage Aboriginal people by reducing their prospects of claiming vacant Crown land under the *Aboriginal Land Rights Act 1983* (ALR Act) or diminishing the involvement of Aboriginal people in decisions about land of cultural significance.

**Principles ANTaR believes should apply:**

Changes to the administration of Crown land must not jeopardise or reduce the opportunities for Aboriginal people to secure land and derive benefits from the ownership and use of that land under the ALR Act. Although the Crown lands review does not propose amendments to the ALR Act, any changes to the way Crown land is currently owned and managed will have direct impacts on mechanisms within the ALR Act that support the claiming of unneeded and unused Crown land. ANTaR is concerned to ensure that Crown land is available for claiming by Aboriginal Land Councils into the future, to support ongoing self determination and as a source of economic independence.

The ALR Act is a most significant vehicle through which Aboriginal communities in NSW can realise economic opportunities. Any moves to corporatise or commercialise Crown land administration or streamline processes must not reduce the rights of Aboriginal people to claim and secure land rights under the ALR Act.

Any changes to the administration of Crown land must recognise that Crown land includes many of the most significant areas in NSW retaining Aboriginal cultural and heritage significance.

Changes must not undermine principles embedded in the United Nations Declaration on the Rights of Indigenous People.

**Specific comments on the proposed reforms:**

Objects

The preservation of cultural heritage provided for among the objects of new legislation must comply with principles embedded in the United Nations Declaration on the Rights of Indigenous People (the Declaration).

Under the Declaration, Aboriginal people are entitled to the right to ‘maintain, control, protect and develop their cultural heritage’ as well as the right to ‘participate in decision making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain & develop their own decision-making institutions’.

Processes adopted for notification, consultation and assessment under the new legislation must support and accommodate this entitlement.

The objects for the new Crown lands legislation must recognise that Aboriginal people have a fundamental interest in Crown land for cultural, heritage and economic development opportunities. These interests must not be undermined by, or discounted against, commercial or other interests of the state or other parties.

The object of encouraging Aboriginal use and co-management should include the transfer of Crown land to Aboriginal Land Councils through the ALR Act*.*

The object of preserving cultural heritage on Crown Land should accommodate appropriate arrangements for identification of Aboriginal culture and heritage beyond simply the use of the State Heritage Register, or other databases such as the Aboriginal Heritage Information Management System, Local Council LEPs or the Australian Heritage Database. These databases are often incomplete or inaccurate, and have limited details on Aboriginal culture and heritage sites.

The reforms must recognise the right of Local Aboriginal Land Councils and Native Title holders and claimants to determine the significance of culture heritage, and how it should be managed.

Notification

Notification processes for conversions, sales or other changes to tenure must be prominent, accessible and drawn to the attention of Local Aboriginal Land Councils and Native Title holders and claimants.

Notification arrangements must not prevent or reduce the prospect of land being claimable under the ALR Act*.*

The simplified and streamlined processes intended under the changes must not reduce community engagement and genuine, accessible notification.

Assessment, disposal and conversion decisions

ANTaR opposes the White Paper’s plan to abolish land assessment requirements as part of the streamlining measures. Site specific assessments, rather than “strategic” local plans under a new planning framework better ensure that Aboriginal culture and heritage is considered and the views of Aboriginal people with legal or cultural responsibilities for specific areas are given full consideration.

Open and accessible consultation process must be followed before decisions about disposal or changes to tenure. Aboriginal peoples, including Aboriginal Land Councils and Native Title holders and claimants, must be accorded pre-eminent status as more than mere stakeholders in assessment, disposal and conversion decisions, as original owners of the land with inherent rights over land and waters.

Disposal by sale or conversion must not take precedence over opportunities to transfer unused or vacant Crown land under the ALR Act*.*

Conversion of leases to freehold must not diminish the rights and opportunities for Aboriginal people to access sites of culture and heritage significance for ceremonies and other cultural purposes.

**Thank you for the opportunity to lodge a submission.**

**ANTaR has no objection to being identified in publication of a summary of submissions.**