



New South Wales
Aboriginal Land Council



NSW Aboriginal Land Council Submission

Introduction

The NSW Aboriginal Land Council (NSWALC) welcomes the opportunity to provide input into the Productivity Commission's Inquiry into Housing Supply Regulation. NSWALC is the peak Aboriginal representative body in NSW, with more than 32,500 members across a network of 121 Local Aboriginal Land Councils (LALCs). NSWALC is a self-funded statutory organisation established under the *Aboriginal Land Rights Act 1983 (NSW)*, with a legislated objective to improve, protect and advance the interests of Aboriginal people in NSW.

NSWALC is committed to pursuing cultural, social and economic independence for Aboriginal people in NSW, with access to safe, affordable and culturally appropriate housing a key foundation to achieving this.

Housing supply regulation is particularly important in the context of Aboriginal-owned land. LALCs are substantial landholders across NSW, yet complex planning requirements, zoning and subdivision controls, environmental and hazard constraints, and infrastructure limitations can restrict their ability to activate land for housing and create significant costs and delays.

NSWALC strongly advocates for planning reform that unlocks the housing potential of Aboriginal-owned land and enables LALCs to meet identified community housing needs. Aboriginal-owned land also represents a strategic housing supply opportunity for government. Through partnership with the Land Rights Network, government investment, infrastructure and regulatory levers can be aligned with Aboriginal-owned land to support housing delivery while retaining land in Aboriginal ownership.

The Productivity Commission's focus on approval processes, the availability and use of land, and housing-enabling infrastructure provides an important opportunity to consider how regulatory and investment settings can better support the transition of Aboriginal-owned land into housing delivery.

NSWALC's Priority Planning Reform Agenda

1. Support planning reform that unlocks Aboriginal-owned land for housing.
2. Recognise Aboriginal-owned land as a strategic housing supply opportunity.
3. Reduce the cost and regulatory burden of bringing Aboriginal-owned land to housing-ready status.
4. Better align housing-enabling infrastructure with Aboriginal-owned land.

NSWALC considers that these reforms can support greater housing supply, enable Aboriginal communities to use their existing land assets to address housing need, strengthen community outcomes and realise the broader social and economic benefits of Aboriginal land ownership.

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1. Support planning reform that unlocks Aboriginal-owned land for housing.

Recommendation: Planning reform should unlock Aboriginal-owned land for housing

Across the Land Rights Network, LALCs encounter planning settings that can make it difficult to activate Aboriginal-owned land for housing. NSWALC supports reform that makes these settings simpler, more consistent and proportionate, enabling LALCs to respond to identified community housing needs.

NSWALC's experience is that the fundamental blockage often arises from the cumulative effect of planning, subdivision, environmental, hazard, infrastructure and approval requirements that must be addressed before housing can proceed. For a LALC seeking to deliver a small number of homes, these requirements can create significant costs, uncertainty and delays before it is clear whether a project is viable. This is particularly significant where the scale and financial capacity of a LALC project is substantially different from that of a commercial development.

NSWALC is currently delivering a NSW Government funded housing initiative across four Aboriginal communities in NSW, intended to deliver two to three new dwellings in each community on Aboriginal-owned land. The initiative responds to locally identified housing needs and seeks to use existing LALC land to increase the supply of culturally appropriate housing.

Bringing these relatively projects to a development-ready stage has required extensive technical investigations, including planning, geotechnical engineering, surveying, Aboriginal cultural heritage assessment, environmental and biodiversity assessment, bushfire assessment, architectural and project management services, and engagement with local councils. Across the four communities, approximately \$173,400 has been spent on feasibility and investigation work to date.

The housing initiative mentioned above includes work with a LALC located on the NSW North Coast and aimed to deliver two Elders' homes on Aboriginal-owned land. After community engagement began in June 2024, three potential sites were assessed. However, biodiversity and bushfire constraints made the project unviable by mid-2026. Around \$47,000 was spent on feasibility and technical investigations, with almost a further \$50,000 spent on project management and concept design, without delivering a housing outcome. This demonstrates the significant upfront cost, time and financial risk involved in determining whether Aboriginal-owned land can support even a small number of homes before construction can begin.

The Productivity Commission should consider the cost and time required to establish whether land can be developed alongside the formal development approval process, recognising that significant regulatory and financial burdens arise well before an application is lodged. This has a disproportionate impact on LALCs seeking to deliver small-scale community housing within limited funding envelopes, where substantial expenditure on consultants and technical investigations directly reduces the funding available to deliver housing for Aboriginal community benefit. NSWALC supports appropriate environmental, cultural and safety protections, while recognising the need for planning instruments and approval processes that are simpler, more consistent and proportionate to the scale and purpose of development, particularly where Aboriginal-owned land is being activated to meet identified community housing needs.

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Recommendation: Reforms should be measured by housing outcomes

NSWALC acknowledges recent NSW planning reforms aimed at simplifying referrals and improving coordination, including the establishment of the Development Coordination Authority. While these reforms are welcome, zoning, subdivision, infrastructure, environmental requirements and feasibility costs continue to influence whether land can ultimately be activated for housing.

The effectiveness of planning reform should be measured through housing delivery outcomes, including the time and cost from site identification to construction, the number of dwellings enabled, and the number of projects that do not proceed following significant feasibility expenditure.

Through the Aboriginal Housing Office's Social Housing Accelerator Fund (SHAF), NSWALC received funding to deliver shovel-ready new housing projects, with 36 dwellings now being delivered across 11 LALCs. These projects are progressing through the complying development pathway, demonstrating how streamlined and proportionate planning pathways can support the efficient delivery of housing on Aboriginal-owned land.

2. Recognise Aboriginal-owned land as a strategic housing supply opportunity.

Recommendation: Leverage Aboriginal-owned land as a housing delivery opportunity

The Land Rights Network is a significant landholder across NSW and represents an important opportunity to contribute to broader housing delivery, with more than 6275 hectares of appropriately zoned, vacant blocks for new supply. These landholdings provide a strong platform for government investment in housing without the need to first acquire land.

NSWALC sees the opportunity for government to partner with the Land Rights Network to identify suitable Aboriginal-owned land and bring it into the housing supply pipeline. LALCs bring land, local governance and knowledge of community housing priorities, while government can provide capital investment, enabling infrastructure, technical expertise and regulatory support. A coordinated investment approach could unlock housing supply while retaining land in Aboriginal ownership and delivering long-term social, cultural and economic benefits to Aboriginal communities.

NSWALC is developing a stronger evidence base across the Land Rights Network to identify land, existing housing stock, community priorities, planning constraints, infrastructure requirements and potential funding pathways. This work could provide a basis for government to work with NSWALC and LALCs to establish a pipeline of Aboriginal-owned land with housing potential, linking suitable sites with government housing and infrastructure investment.

Recommendation: Reform zoning and subdivision controls to unlock Aboriginal-owned land for housing

Planning reform also provides an opportunity to increase the amount of Aboriginal-owned land that can contribute to housing supply. Some LALC land is located within or adjacent to established communities but is constrained by zoning, minimum lot sizes, subdivision requirements or other land-use controls that limit its housing potential.

NSWALC supports greater consideration of Aboriginal-owned land through strategic planning, rezoning and subdivision processes, particularly where LALCs have identified land for housing and development would

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respond to demonstrated community need. More flexible and proportionate planning settings could enable appropriate sites to be subdivided, rezoned or otherwise configured for housing while maintaining relevant environmental, cultural and safety requirements.

NSWALC have many examples of the challenges relating to rezoning and subdivision, including sites that require Planning Proposals to realise any outcomes on the land. Planning Proposals are time and cost heavy undertakings that can take circa two years and cost between \$60,000 and \$150,000+ per proposal. These upfront costs and risks can prevent LALCs from progressing land development with housing potential before a development application or construction funding is even considered. Live examples include sites in Eden, Ulladulla, Tamworth and Goulburn. While there has been some support from the NSW Department of Planning, Housing and Infrastructure (DPHI) on these matters, the current pipeline of sites is only a fraction of the opportunities on offer across NSW which share the same hurdles and risks.

3. Reduce the cost and regulatory burden of bringing Aboriginal-owned land to housing-ready status.

Recommendation: Support the transition of Aboriginal-owned land to housing-ready status

Significant investment can be required to bring Aboriginal-owned land from an identified housing opportunity to a site that is ready for development. As demonstrated through NSWALC's Closing the Gap-funded housing projects, feasibility, planning and technical requirements can consume a substantial proportion of limited project funding before construction commences, with no guarantee that housing will ultimately be delivered.

Government housing programs should recognise these enabling costs as an integral part of housing delivery. Where Aboriginal-owned land has been identified as having housing potential, funding should support the feasibility, planning and enabling works required to bring suitable sites to housing-ready status. This would reduce the financial risk carried by LALCs and preserve housing funding for its intended purpose of delivering homes for Aboriginal communities.

The Productivity Commission should consider the total cost and timeframe from site identification through to housing delivery when assessing regulatory efficiency, including the costs incurred before a formal development application or construction funding stage. This issue extends beyond approvals reform and reflects a broader funding gap between land ownership and housing delivery. Addressing this gap is essential to ensuring that the cost of bringing Aboriginal-owned land to housing-ready status does not disproportionately fall to LALCs seeking to deliver community housing.

4. Better align housing-enabling infrastructure with Aboriginal-owned land.

Recommendation: Align housing-enabling infrastructure investment with Aboriginal-owned land

Aboriginal-owned land with housing potential can remain unavailable for development where essential infrastructure, including roads, water, sewer, electricity and stormwater, is unavailable or lacks capacity to support additional housing. The cost of extending or upgrading this infrastructure can make otherwise suitable land financially unviable for small-scale community housing.

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In addition, there is an increasing gap between the cost to deliver serviced lots (separate from dwellings) due to high construction fees and/or poor sales market in the respective areas. For example, a LALC located on the South Coast currently holds lands adjacent to a township with potential for residential subdivision. However, preliminary assessment found that the cost of delivering serviced lots to sell to the open market would exceed the likely value of the resulting lots. The project has therefore not progressed, as the enabling works would effectively need to be subsidised for the subdivision to be viable, prior to the construction of any housing. Live examples include sites in Bombala, Pambula, Grafton, Wellington and Narooma. Similar to zoning impediments, this feasibility issue represents a pool of sites that have been reviewed, noting that other LALCs across the Land Rights Network experience a range of similar hurdles.

NSWALC considers that Aboriginal-owned land should be more clearly integrated into government housing and infrastructure planning. Where land has been identified as having housing potential, consideration should be given to the infrastructure investment required to activate it and opportunities to align this with planned government investment. This should form part of a broader pipeline of Aboriginal-owned land with housing potential, enabling government, NSWALC and LALCs to identify where targeted infrastructure investment could unlock land for housing and support broader government housing supply objectives.

The Productivity Commission should also consider whether existing infrastructure funding and developer contribution frameworks appropriately account for small-scale Aboriginal community housing, particularly where infrastructure costs can represent a significant proportion of overall project funding.

Conclusion

Planning reform presents a critical opportunity to enable Aboriginal communities to deliver housing on their own land. Effective reform can remove structural barriers, support housing that responds to community needs and strengthen the capacity of Aboriginal-led organisations to deliver and steward housing over the long term.

Cultural heritage must remain central to this process. Aboriginal led heritage assessment and community engagement should occur early to ensure development appropriately protects Aboriginal cultural sites, values and practices. Realising the housing potential of Aboriginal-owned land requires strong and enduring partnerships between state and local governments, and the Land Rights Network, supported by coordinated investment, shared decision-making and practical support for Aboriginal-led housing delivery.

Together, these reforms can increase housing delivery on Aboriginal-owned land while strengthening the social, cultural and economic benefits of Aboriginal land ownership and supporting greater self-determination for Aboriginal communities. We hope that the recommendations made in this submission will be meaningfully considered. Should you require further information, please contact the NSWALC Strategy and Policy Unit on (02) 9689 4444 or via e-mail: policy@alc.org.au.

Sincerely,

28 September 2026

Clare McHugh
CEO, NSW Aboriginal Land Council

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