

# Aboriginal land and environmental enterprises: a survey of LALC activity and future possibilities.

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## Acronyms

ALC – Aboriginal Land Council

ALRA – *Aboriginal Land Rights Act (1983) NSW*

BCA – *Biodiversity Conservation Act (2016) NSW*

CLBP – Community Land and Business Plan

DDP – Development Delivery Plan

LALC – Local Aboriginal Land Council

LEP – Local Environmental Plan

LLS – Local Land Services

RALC – Regional Aboriginal Land Councils

NIAA – National Indigenous Australians Agency

NPWS – National Parks and Wildlife Services

NSWALC – New South Wales Aboriginal Land Council

MoU – Memorandum of Understanding

SAP – Special Activation Precinct

SEPP – State Environmental Planning Policy

TEC – Threatened Ecological Communities

TSR – Travelling Stock Reserves

## Introduction

In September-October 2024, research was undertaken with 22 NSW Local Aboriginal Land Councils (LALCs) to better understand their environmental work, LALC insights about their land holdings in relation to conservation and biodiversity and, knowledge, and interest and participation in conservation related programs. The research revealed extensive land management and environmental work underway across the ALC network and overwhelming aspiration to grow this work in the future. LALCs draw on 'pockets' and piecemeal funding and rely on diverse and disparate programs to advance this work. Establishing Ranger Programs is a leading aspiration for all LALCs interviewed and growing 'fee for service' environmental enterprises a priority for all LALCs we interviewed. LALCs are under resourced to undertake the extent of work required to manage their existing estate, and yet have ambitions to be more active in the broad scope of work to care for country, including on land outside of the Aboriginal land estate. LALCs work in coalition with community, industry and government as they undertake environmental work. The majority of LALCs have no readily available or accessible information about their land zoning; they have not independently mapped their estate with regards to biodiversity. Most LALCs have very little understanding of programs and funding that can enable and progress their environmental and land management aspirations. LALCs yearn for enduring funding to meet their responsibility to care for country and grow an income stream from this work. Where LALCs had investigated Biodiversity Stewardship Agreements, they ultimately decided against them as an unsuitable option. Three LALCs we interviewed had investigated biodiversity offsets. They explained they encountered significant challenges and that the options ran counter to their aspirations and the compensatory intentions of the Aboriginal Land Rights Act, 1983. We found no examples of LALCs participating in the Biodiversity Offsets Scheme or Biodiversity Stewardship Agreement.

## About the research

This research set out to gather data about how LALCs are currently involved in land care and conservation work and their future aspirations. The research project also includes recommendations for future policy reforms drawing on interviews, along with submissions and earlier policy review reports. This research is a partnership with NSWALC, and the UNSW Indigenous and Justice (ILJ) Research Group led by Prof Heidi Norman. Environmental enterprise is defined as activity generally aimed at improving the environment and that generates income or has the potential to generate income and other benefits for the LALCs and their members.

The following report summarises our findings in relation to LALC work to care for country, documents LALC insights about land biodiversity value and conservation, and LALC knowledge about programs and funding for development and conservation.

## Methodology

For this report, the Indigenous Land and Justice Research Group (ILJ) based at the University of New South Wales conducted telephone interviews with focused questions on environmental work that LALCs are undertaking or would like to undertake, as well as access and knowledge of funding and programs that support LALC environmental and land management aspirations.

For the telephone interview component of this project, we sent an introductory email to LALCs sharing information about the study, the interview questions and background information on relevant government policies, programs and funding. We indicated that we would follow up with a telephone interview and gave LALCs the option to schedule in an interview at a specific time. The NSWALC also published a network message with information on the research study, published on their website and shared with the Aboriginal Land Council network. All telephone interviews, with permission from the interviewee were recorded. We then transcribed and coded the interviews.

We conducted 20 interviews in total with following Local Aboriginal Land Councils: Bathurst, Bahtabah, Brewarrina, Cobowra, Dorrigo, Jubullum, La Perouse, Merrimans, Moama, Mogo, Moree, Murrin Bridge, Narrabri, Tamworth, Ulladulla, Unkya, Wee Waa, Weilwan, Young; one LALC elected to be anonymous; and the NSW Aboriginal Land Council. Of these LALC interviews 16 were with CEOs, 2 Acting CEOs, 1 Senior Ranger, and 1 NSWALC Senior Policy Officer.

### **Literature review**

We drew on an existing archive of interviews with LALCs, conducted between 2018-2022. These interviews were part of a larger study that examined the perceived benefits of Aboriginal land rights in NSW. Research findings and outputs from this study have been published (cf. Norman, 2024, 2025).

## **Background**

### **The Aboriginal Land Rights Act (1983) NSW**

In 1983 the NSW Government passed the NSW Aboriginal Land Rights Act (herein NSW ALRA). In the Second Reading speech for the Aboriginal Land Rights Bill in 1983, then Minister for Aboriginal Affairs, The Hon Frank Walker, explained:

The Government has made a clear, unequivocal decision that land rights for Aborigines is the most fundamental initiative to be taken for the regeneration of Aboriginal culture and dignity, and at the same time laying the basis for a self-reliant and more secure economic future for our continent's Aboriginal custodians.<sup>1</sup>

NSW Chair and Councillor for the Sydney-Newcastle region, Dr Ray Kelly, draws our attention to compensation as a feature of Aboriginal land rights recognition in NSW, saying:

Our people in south-eastern Australia had endured nearly 200 years of colonisation and dispossession in nearly always violent circumstances. Recognising our rights to land in 1983 therefore needed to take into account the loss of land, including reserve lands – some that we continued to possess – the movement of our people, the ways we had survived and secured our families and livelihood, and continued our culture. Land rights in NSW therefore had to compensate us for our loss in circumstances where land dealings were extensive.<sup>2</sup>

The ALRA created a straightforward mechanism for claiming limited public land, the three-tier Aboriginal Land Council network that was anchored, at least initially, in regional and local level

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<sup>1</sup> Walker, F. 1983.

<sup>2</sup> Kelly, R. 2025.

organising that enabled the exercise of Aboriginal political power through Regional Aboriginal Land Councils (RALCs) and Local Aboriginal Land Councils (LALCs). The compensation paid to the Aboriginal Land Council (ALC) network was calculated at 7.5 per cent of the state's land tax revenue for a period of 15 years, with half of the fund to be set aside to fund the network into the future and the rest to fund enterprises, initiated by Aboriginal Land Councils. The ALRA thus acknowledged Aboriginal people's lives were shaped by colonial history and that new patterns of historical attachment and movement of people were hallmarks of Aboriginal survival. LALCs created a space for Aboriginal people to regather and regroup and devise the terms on which to negotiate enduring Aboriginal presence in towns and in the life of the nation.

### **Local Aboriginal Land Councils today**

The purpose of the ALRA is to provide land rights for Aboriginal people in NSW. In turn, the land base is intended to support LALCs carry out a range of activities in service of their members' needs realising economic autonomy, social uplift and political power, including to protect culture and heritage. The NSW ALRA (s 51) sets out that the objective of each LALC is 'to improve, protect and foster the best interests of all Aboriginal persons within the Council's area and other persons who are members of the Council'. These functions (s 52) include land acquisition, land use and management, culture and heritage protection, and financial stewardship. The ALRA sets out legally enforced parameters of what a LALC can and cannot do, and the New South Wales Aboriginal Land Council (NSWALC) oversees compliance, undertakes advocacy on behalf of LALCs, and convenes LALCs across 9 regions; the breadth of activity undertaken by LALCs and their membership is rich and inspiring (cf. NSWALC, 2024; Norman, 2025), yet poorly understood or mis-understood by the wider community (NSW Aboriginal Affairs, 2017).

Some 30,000 Aboriginal people are active members of their LALC, representing approximately 8.5 per cent of the self-identified NSW Indigenous population. The NSWALC estate includes a range of land holdings that are of social, cultural, conservation, economic and biodiversity significance. It has been estimated that as much as 80 per cent of the ALC estate has some form of conservation or environmental zoning (NSW Aboriginal Affairs, 2017). Several land councils, mostly along the east coast, lead successful enterprises, are leading service providers, run successful tourism and hospitality ventures, have developed their land for housing and other enterprises, and a few are the largest landholders, second to government, in their local government areas. All land councils take responsibility for culture and heritage care, support their communities at times of Sorry Business, and most provide some housing for their members. Most Local Aboriginal Land Councils are staffed by one CEO who juggles multiple functions and requests, and their community expectations, all on a modest administration allocation from NSWALC.

### **Land and justice**

Land recovery was configured as the architecture to address the injustice Aboriginal people had experienced since the colonial settlement. As NSWALC Chair, Dr Ray Kelly cautions, 'It was always an enormous task to turn the tide on the impact of dispossession'. Kelly's comments remind us that the passing of Aboriginal land rights laws in 1983, rather than a moment, the laws commenced a process

of restitution that has necessarily evolved and changed to meet community needs and aspirations and responded to broader changes.

### **Land claims**

The land claims process under the ALRA is limited to certain available Crown Land that is not deemed to be lawfully used or occupied; and not needed, nor likely to be needed, for an essential public purpose. Between the enactment of the ALRA in 1983 and 2024, land councils have lodged 56 157 land claims, of these, 4741 have been granted and 1050 have been granted in part, covering approximately 170 000 hectares of land; 10 671 land claims have been refused by Crown Lands. The reality is that less than a fraction of 1% of the state of NSW has been returned to collective Aboriginal ownership through the ALRA.

Minister Walker envisioned the land claims process would be 'simple, quick and inexpensive' and with the promise that 'vast tracts of Crown land will be available for claim and will go some way to redress the injustices of dispossession'.<sup>3</sup> However, as Yuwaalaraay man, and land rights lawyer Jason Behrendt, has observed, 'the promise of land rights through a claim process is an empty gesture if it is not matched by the political will to see it fairly implemented'.<sup>4</sup> The problem with implementation of the ALRA can be seen in that 39 939 land claims, equivalent to 70 per cent of land claims lodged over the last 42 years and covering approximately 1.12 million hectares of Crown land, are awaiting determination by the NSW Government in 2024.

Other interrelated factors that limit realising autonomy through the Aboriginal land estate, readily identified by participants for this research paper, and in the many reviews of the ALRA, include the character of claimable land, zoning, along with LALC governance, competing interest on title, especially Native title rights and interests, and resources to support LALC land aspirations. Where land has been repossessed, it is an uneven picture with most land recovered by east coast LALCs. In the west and northwest of the state several LALCs have properties that were either purchased or secured by other land recovery mechanisms as one response to the very limited land recovery options in the western third of the state. LALCs repossess land without the resources to plan or manage the new assets, and without the benefit of strategic planning. Land transfers to LALCs are without adequate resources to manage lands, land parcels have often been without adequate maintenance and can be burdened with waste and derelict infrastructure. LALCs identified improved relations and responsiveness on the part of government organisations that enables Aboriginal led solutions and aspirations to be realised. This extends to sharing data, improved interactions, resources and support; improved communication about programs and program design that comprehends the unique history and experience of land repossession and purpose of the ALRA. Many of these identified areas for reform are captured in the NSW Implementation Plan for Closing the Gap.

### **Closing the Gap: Land rights and changing policy settings**

The 2022–2024 NSW Implementation Plan for Closing the Gap, developed by NSW in partnership with the NSW Coalition of Aboriginal Peak Organisations (NSW CAPO), the NSW Government and Local Government NSW (LGNSW), identifies 5 Priority Reforms and 17 Socio-Economic Outcomes. These

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<sup>3</sup> NSW, *Legislative Assembly Hansard*, 24 March 1983, p. 5095.

<sup>4</sup> Behrendt, J., 2025, *The land claim process under the Aboriginal Land Rights Act*, in *Land Back: Aboriginal land rights in New South Wales, today and always*, UNSW Press, Sydney, pp1-15.

reforms are couched in terms of a fundamental overarching transformation in how Government works with Aboriginal people 'to be more responsive to the needs and aspirations of Aboriginal people...'. Importantly, they go to some of the key issues identified by participants in this research.

The NSW Implementation Plan includes 5 priority reform areas: Formal partnerships and shared decision-making (1); Building the community-controlled sector (2); Transforming government organisations (3); Shared access to data and information at a regional level (4); Employment, business growth and economic prosperity (NSW-specific) (5). Relevant Socio-Economic Outcomes include Strong economic participation and development of Aboriginal people and communities (8); Aboriginal people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters (15) and, Aboriginal people have access to information and services enabling participation in informed decision-making regarding their own lives (17).

## Part 1: LALC work to care for country

Interviews with LALCs revealed that all LALCs undertake land management work on their land estate. This work is enormously diverse and includes the necessary maintenance of their land estate, caring for country and cultural heritage site survey work. The work extends beyond the LALC estate and includes contract-based regeneration work, sea and water country management, invasive species management and introducing culturally informed practices as part of mainstream management and, education about this work. LALCs operate strategically to expand their environmental service enterprise work.

### 1.1. Ranger Programs

Ranger Programs were discussed by nearly all LALCs to support a range of existing LALC activity and future aspirations. LALC discussion of Ranger Programs is worth further elaboration. There were three main overlapping approaches that LALCs pursued when it came to Ranger Programs: National Indigenous Australians Agency (NIAA) funded Ranger Program, fee for service funded Rangers and, Rangers on co-managed National Parks. All these models seek to grow an income stream from land management work, they involve extensive networks and partnerships with scientific researchers and others and seek to foreground cultural knowledge in land management. Not every LALC interviewed framed their environmental work in terms of Rangers. Ulladulla LALC CEO, who have several environmental projects underway, emphasised economic development and meaningful employment. Brook commented, 'working with our young ones, that's where they're the happiest ... outdoors [and] providing meaningful work for them to be able to do that ... that's really important' (Brook, 2024).

NIAA, since commencing the Ranger Program in 2018, have funded 15 projects in NSW, 5 of these are LALC programs.<sup>5</sup> In October 2024, the Commonwealth Government expanded the Indigenous Rangers Program, which will see funding for 21 new projects in NSW (out of a total of 115 new projects nationally). The Government has not released details of successful recipients at the time of writing. Out

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<sup>5</sup> These include: Ngulingah Aboriginal Rangers (auspiced by Ngulingah Local Aboriginal Land Council) (NIAA n.d.a); Worimi Green Team Rangers (auspiced by Worimi LALC) (NIAA n.d.b); Gamay Rangers (auspiced by La Perouse LALC land) (NIAA n.d.c), Gayini River Rangers (auspiced by Hay LALC); Walaaybaa Rangers (auspiced by Tamworth LALC) (Tamworth LALC, n.d.).

of the LALCs we interviewed, most had either applied and were eagerly anticipating the funding outcome, had wanted to apply but didn't have capacity to complete the application, or were ineligible, had built up Ranger Programs through other funding streams, such as fee for service contracts, joint management, IPA and two more worked in partnership with Traditional Owner groups. Where LALCs were interested in a Ranger Program, they indicated this was not an easy process: one LALC saying they are 'most definitely' interested in a Rangers program and lamenting has 'tried and tried' to set one up.

In the following section, I canvas a few examples of Ranger Groups auspiced by LALCs, and what is enabled through the Ranger Programs.

#### 1.1.1. Tamworth LALC and the Walaaybaa Rangers

Tamworth LALC secured funding through the Commonwealth National Indigenous Australians Agency (NIAA) for their Walaaybaa Rangers program. Critical for them is that funding continues until 2028 and thus gives them time to build up the work of the Rangers to be sustainable beyond the funding period. They also have a Junior Ranger Group that operates in five high schools and one primary school in Tamworth. They have three school-based trainees; Junior rangers are in Years 9-11. Some are doing their Certificate 2 (Cert 2) in Conservation and Land Ecosystem as part of their year 11 and 12 studies towards their HSC. The school-based coordinator has been able to run the Cert 2 for 10 high school students at what is known as a 'connected communities' school (Snape, 2024).

The Walaaybaa Rangers will also do some work in the schools with the program coordinator where they take school children out on country. Tamworth LALC is hopeful the junior ranger program will create a pipeline and interest in the Walaaybaa Rangers.

In addition to their land recovered under the ALRA, Tamworth LALC have a Memorandum of Understanding (MoU) with Local Land Services (LLS) and with Crown Lands to work on several Travelling Stock Reserves (TSRs) and Crown Land parcels that have high cultural heritage importance and biodiversity significance. The rangers have also completed a cultural burn. This was particularly popular, the LALC CEO says, in relation to growing the environmental enterprise. Tamworth LALC CEO Fiona Snape (2024) said, as several LALCs also cautioned, 'it's baby steps'.

Some other examples of work the Walaaybaa Rangers have underway includes seed collection and propagation for an offset around Chaffey Dam, contract from Water NSW and another contract for similar work for Transport for NSW to regenerate land impacted by road widening. The funding from the contract will allow the LALC to employ another ranger full time for 12 months. They anticipate future contract work doing pest and weed control. Other work includes Aboriginal waterway assessment with Fisheries: for example, Water NSW has a snagging project on the Peel River to provide habitats for endangered native fish species. The rangers will be doing some training and junior rangers will participate as well. At important cultural sites at Boundary Rock, the LALC Rangers have been working to improve the access road and the walkway up to the rock art and upgrading a ceremony circle. At Trelawney Station, a LALC owned property, they have a grant to do some regeneration work such as tree planting, erosion control, and habitat creation. The LALC also works with Landcare to replant trees on a TSR.

The Rangers work with the Tamworth Regional Council in relation to the Gamilaroi Garden located in the Regional Botanic Gardens. The rangers often work from the 'Gamilaroi area' in the botanic gardens, which the LALC explains, is a garden area that has high cultural value with a display of Aboriginal

artefacts for education purposes (some of which were salvaged from development of Chaffey Dam in 2020). The rangers built the garden, and it will also serve as a space for cultural education experiences for school groups and visitors.

The strategic focus Tamworth LALC is pursuing is to grow 'fee for service' work to resource the Ranger Program over the long term. This in turn will allow them to employ more Aboriginal Rangers and expand their operations. Cultural heritage site survey work that all LALCs undertake on a fee-for-service basis is increasingly included as the work of the Ranger Group. Whereas in the past this work was undertaken on a casual basis by community members, this important work is undertaken by Rangers and therefore a permanent workforce, who are also engaged in a range of work to care for country, as listed above.

Where LALCs had difficulty staffing site survey work, the staffing profile of the Ranger Program includes the ability to build capacity through training and with security of employment, rather than piecemeal and occasional work. It was also observed that training is generally in abundance, however, securing employment without real-world experience, is more difficult. Other LALCs echoed this point, saying we are the most qualified unemployed people in town (Davies, 2024; Brook, 2024). LALCs see the Ranger Programs as bridging the identified gap between training and 'real jobs'. Linda Carlson, CEO at Mogo LALC, explained that at one point, she had a team of 14 fully trained adult and junior rangers, with various on-site land and water management and maintenance certifications. The CEO was able to secure work for her rangers that enabled them to specialise in care for midden and mangrove sites. However, as Carlson (2024) explained, 'I still have the ranger team now I've [got] approximately four people...I'm not receiving funding at this point in time'. This example demonstrates the overwhelming interest on the part of LALC members to build up ranger skills and work, but a lack of demand and consistent funding to continue environmental enterprise work.

Tamworth LALC sees the Ranger group as critical to what they can achieve in the future. They see the grant for the ranger program 'lifts them off the ground', otherwise, as they say, 'we'd be starting from scratch ... whereas we've got the ranger grant to be able to do that, to be able to expand' (Snape, 2024). The NIAA funding for the ranger program until 2028, provides a standing start to access further contracts, negotiate MOUs and other agreements, to 'be involved in a whole heap of small pieces of work and then build up our fee for service work and apply for other grants' (Snape, 2024).

As part of this networking and expanding agenda, the Ranger group attended Gunnedah's annual AgQuip, Australia's largest primary industry field day. The Walaaybaa Rangers rangers attended and distributed pamphlets promoting their fee-for-service environmental work to the farming industry. Snape observes, 'there's a bit of a barrier, or block, between the farming community and Aboriginal community'. Snape went on to say, we were sort of interested to see if we got any work as a result of [the AgQuip stall] and if we ever do get any phone calls from farmers, we ask them where they got the information'. Snape explains, the LALC will continue to work on promotion of Walaaybaa Rangers' work and 'break down some of those barriers' (Snape, 2024).

#### 1.1.2. Networks through Aboriginal cultural burning practice

Cultural Burning was cited as an activity most LALCs have been involved. This activity ranged from one-off training and small-scale demonstration exercises facilitated by Firestick Alliance, to working with the RFS and LLS, and an understanding of the practice as 'mainstreaming' Indigenous knowledges in fire responses.



Five LALCs explained their greater involvement with the RFS (Bathurst LALC, 2024; Brook, 2024; Carlson, 2024; Cooley 2024; Freeman, 2024), La Perouse LALC explained working with the RFS as fire 'designed by country'. The LALC emphasised listening and working with country, plants and animals in the burn practice. La Perouse LALC was optimistic about the possibility of partners, including NPWS and RFS willingness to value Aboriginal cultural heritage and cultural knowledge. As they said, 'we have put into NSW NPWS and RFS fire plans, information to protect our cultural sites within their planned hazard reduction burns, advising them of ways to better protect them rather than let the hot fire go through, which potentially could damage things like middens and engraving sites' (Cooley, 2024). La Perouse LALC see that they have been able to advise and have 'input into those burn plans and talking to [government] Fire Management Officers around ways to better protect them' (Cooley, 2024).

The level of interest in cultural burning is apparent in this example from Young LALC. Young LALC participated in an initial training in cultural burning, subsequent to this, they had the opportunity to offer 15 places to their members. CEO Norma Freeman (2024) explains that they sent out a notice inviting members to apply on a first in basis. To her amazement, 'everyone got back in less than half an hour'; 'there was big interest in learning about cultural burning' and they continued to field enquiries from members about possibly participating. This response compared very favorably with other communication from the LALC that would more than likely be overlooked. With humour, Freeman (2024) added, 'You try to get them to a meeting, you don't hear from anybody'. She viewed the cultural burning training as '... the best thing that we could ever put on for [our community members]' and they will see how they can get funding 'so we can get more people trained up' in cultural burning practice.

#### 1.1.3. LALC Communities of knowledge-exchange and practice

While many LALCs across NSW report feeling isolated as a 'one-person outfit', LALC environmental work has given rise to opportunities for learning and communities of practice. Tamworth LALC explained that they benefited from training and learning from Bateman's Bay and Eden LALCs. Snape (2024) says, 'we went down to Batemans Bay to their ranger group down there ... because they've been burning for about 20 years'. In the context where there are few examples of LALCs working collaboratively, this is an interesting example of sharing knowledge and expertise. The success of the Batemans Bay LALC's long established Ranger Program and cultural burning was a source of inspiration for other LALCs and where learning from them based on their experience was explained as significant (Brook, 2024; Carlson, 2024). Many of the programs that LALCs engage with can be seen be influenced by the success or experiences of other LALCs revealing a level of peer exchange about what works and what doesn't and what is more suitable. The sharing of experiences among LALCs is an important and unrecognised dimension. As we will see later in this study, many of the grants and programs that LALCs know about from email communication, are also known about through less formal networks. Cultural burning is an example where positive experiences are shared across the network and inspire further uptake. Other LALCs raised the need for opportunities for LALCs to come together as a region for strategic planning. An acting CEO stated 'Our region is talking about having a CEO forum...every three or four months... we can get together and talk about funding opportunities and new and emerging markets that we might not be aware of so that we can all be benefiting' (Anonymous LALC, 2024).

#### 1.1.4. Formal Partnership with government and research institutes to apply Indigenous Knowledges

La Perouse LALC have significant environmental projects underway that, in part, stem from them entering into an agreement under the ALRA for Joint Management of Gamay National Park, with NPWS. As part of the Joint Management agreement, they have negotiated state and Commonwealth funding

for their ranger program that is comprised of five permanent full-time rangers and two trainee Junior rangers who participate two days a week as part of their school week. Like most LALCs we interviewed, they have multiple conservation focused projects underway on their managed lands. Their approach, as the lead Ranger, Robert Cooley explains, is to bring together 'Western science and our cultural knowledge'. They emphasise their culture as 'our living history'. Like many LALCs they build strategic partnerships and rely on wide networks to achieve multiple outcomes. They are working with scientists to find 'better ways to manage our environmental outputs'. For example, two-way conservation approach: 'work with NPWS to identify suitable areas to do some cultural burns' [...] 'basically identifying a few strategic areas, small patches, to see how [cultural burning] fares in comparison to normal hazard-reduction burns which are more around reducing fuel loads in those areas'; restoring endangered seagrass meadows' [...] 'what's going on, why they're declining, and coming up with solutions to halt that decline and start the process of regenerating some of those lost seagrass meadows'. In another example, they are working with the Sydney Institute of Marine Science, NSW DPI, and the University of New South Wales, on a recovery project of the endangered species, the Sydney White Seahorse. The work La Perouse Rangers have underway that was shared in interview was extensive. In their account, key to what they are doing is building strategic partnerships, agreement-making and power-sharing 'with councils and government and the industry'.

## 1.2. LALCs as brokers in environmental projects

LALCs describe playing the role of a 'broker' between Aboriginal community members and government agencies involved in land management. Linda Morgan explained that Moama LALC has supported members to get appropriate certification, which has allowed them to find employment in the environmental sector. Through Moama LALC's networks and partnerships, LALC members have successfully taken up positions and contracts with organisations such as NPWS, LLS, and local government. Bathurst LALC were recently involved in a community day to educate local landholders about local koala habitats. The CEO explained, 'We're trying to get into [the environmental] space. It's hard when you're not working in that sector constantly ... that's why we like doing partnerships with people that lead that project, and come onboard to support them and to bring our community along to engage and to educate.' One positive outcome of these partnerships is that LALC members can find employment with the LALC's project partners.

Some LALCs work as a broker between organisations and Aboriginal businesses. Urayne Warraweena stated that the LALCs 'auspice' four communities members who run cultural camps, language programs, dance groups and the Baiame Ngunnhu Festival. Warraweena explains: 'We usually just give up our own time because we can't afford to do much more than that. If we can loan the LALC bus, if we can provide some water, if we can just support, help set up, we will. We will be there. We give up our weekends a lot sometimes for things like that'. The LALC space is also made available: 'If they want to host it here [in Brewarrina LALC's Office], come here, just use the space, use our shed, whatever you need.'

Cathy Thomas (2024) stated that Dorrigo LALC acts 'an initial contact' for government agencies and businesses wanting environmental services. She explains the LALC is a 'conduit' and plays a 'networking' role, in that they 'direct [requests] to members of the community who do that work'.

### 1.3. Environmental work as complementary to the function and activities of LALCs

Many LALCs saw environmental work, as complementary to the responsibilities of the LALC – drawing on similar skillsets and networks. LALCs say they are currently active in a range of work including management of returned land, training and upskilling of Aboriginal community, on-country tourism and education experiences, care and restoration of cultural sites, repatriation of remains, and ecocultural tourism. As Cathy Thomas (2024) at Dorriggo LALC explains, ‘we really basically need funding to do more work because the more land you get, the more conservation and land management you need to do. When you’re a small land council like we are and you’ve really only got your allocation from NSWALC, it doesn’t go very far’. Dwayne Hammond (2024) at Weilwan LALC that the LALC would like to do ‘weed management’ because they have land ‘we really want to maintain’. He explains ‘we cleaned our mission up because we wanted to restore it, put some plaques down there because a lot of people, when they come home, they just want to go down to the mission and reminisce and just be back on country. Not only for the elderly but the younger generation too’. Michelle Nagas at Jubullum LALC (2024) similarly explains, that the LALC is motivated to be involved in environmental work, so they can be involved in the preservation of sites and can have a say in land access and plans of management over important sites.

Most LALCs raised education as a key part of their conservation work. The previous section, we explained the Junior Rangers who are part of Tamworth LALC’s Walaaybaa Rangers. Wee Waa LALC hosts students each week visiting the LALC and with a board member and visiting scientist, where they primary and high school students attend as part of the curriculum and learn about what they describe as ‘bush tucker’ and propagation (Keefe, 2024). La Perouse LALCs Gamay Rangers also see an important education role as part of their work. Cooley says:

We attend lots of public forums and events promoting who we are and what we’re doing – raising awareness around the environmental issues. That goes down from our pre-schools to the primary schools, high schools, to government, to industry, and all the way up to the corporate and the senior government.

They were pleased that on a recent visit by the Monarch King Charles, he was interested in knowing more about their work. They are also increasingly hosting on-Country experiences as an approach that combines learning from Country and immersive cultural awareness.

### 1.4. Growing a sustainable LALC environmental service enterprise

Several LALCs explained environmental and conservation labour as a stepping stone for other complementary economic enterprises and learning from country. Visiting sites is an identified area of work. For example, one LALC explained maintenance and care for publicly accessible cultural sites so that they can run tourism or to make them suitable for non-Aboriginal visitors. Carol Proctor explained that Bahtahbah has a full time Conservation Land Management and Cultural Heritage Officer. Along with the maintenance of LALC land, the LALC have been able to do fee-for-service conservation and land management, bush regeneration, cultural burning, marine waste management, and cultural immersion programs for students and educators. The LALC is hoping to expand into tourism. They see the ranger program as an opportunity to scale up, employ more workers and diversify activities.

For example, Michelle Donovan CEO at Nambucca Heads LALC explained that the LALC has been able to run ‘cultural eco tours out at Scotts Head’, although this is on hold for now while they await the outcome of the NIAA Ranger Program funding. Donovan says, ‘if we get the ranger program started we’re going to introduce that tour’, as one of a suite of work that rangers could do.

Linda Carlson discusses some of the difficulties of establishing an environmental enterprise as a LALC. She observes that organisations with environmental contracts are likely to use environmental consultants they are already familiar with, and it is difficult for their relatively new Aboriginal environmental enterprise to be competitive in tenders. Davies also elaborates on the difficulties faced by Merriman's LALC in setting up an environmental enterprise. He says: 'Our biggest opponents are local governments and environmental agencies that are doing the work and therefore prevents us being on country doing the cultural and traditional stewardship of our land'. For Fiona Snape (2024), at Tamworth LALC, establishing a fee-for-service environmental enterprise requires the LALC to 'break some of those barriers' between farming community, who may require services but are hesitant to employ Aboriginal community members.

La Perouse LALC has been strategic and able to seize multiple opportunities as they arise and are thinking about how to complement environmental work already underway. They nominated carbon offsetting and carbon markets and viewed the conservation work they have underway '... can potentially be consistent with that market, approach or system' (Cooley, 2024).

Many LALCs raised the possibility of carbon markets and carbon trading, however, further research will be required to better understand what program this aligns with.

Many LALCs view Firesticks Alliance as a useful Aboriginal network saying, 'we're just trying to learn their adaptive ways and them vice versa with the fire practitioner stuff' (Bathurst LALC, 2024). Further, Urayne Warraweena, Acting CEO at Brewarrina LALC said:

We have guys that come out and work with our community to do fire reduction and the cultural burning side of it. We also work with our local fire brigade, but generally, the people that come out and assist us with the fire and burning management are a group of Aboriginal men that come from Bourke and Brewarrina. We want to keep that cultural identity central to burning.

Many LALCs say they are in the early stages of relationship building with government. They find it is a slow process working with government but are generally optimistic about possibilities and hopeful that Aboriginal community's aspirations will also be valued. Strategically using land is a central part of LALCs building partnerships.

## 1.5. Summary

All LALCs have underway and aspire to further develop expertise and capacity in environmental and conservation work. Most were keen to highlight that to date, this area of work environmental enterprise work early stages; that they are tentatively and slowly growing capacity and capability in this area. This approach is, in part, driven by the necessity to manage the restituted Aboriginal land estate where the title to a parcel of land, that has been under claim for several years, arrives in the post. Without prior notice, resources or plans of management, LALCs find themselves with the responsibility of caring for land that often requires maintenance and work to comply with environmental, and health and safety regimes. LALCs need a suitable business model to meet the costs of this land management work, and build local capacity to undertake the work in the long-term. While residential land development has been the most lucrative type of enterprise in the last 20 years, this opportunity is largely confined to coastal and greater Sydney urban areas, LALC environmental work has much greater geographic potential with opportunities for all LALCs. The character of LALC environmental enterprise is diverse: the work takes places on multiple land parcels with different tenures, sites and contexts. The intention and purpose of the work is also diverse. There is a distinct cultural affirmation dimension for participating rangers and

desire to align cultural practices with land, sea, water and habitat management practices. However, a scan of the Supply Nation database, there are only five LALCs are registered and all of those registered nominate environmental and land management services (Coffs Harbour, Tamworth, Orange, Illawarra and Biraban; Supply Nation 2024). Enabling LALCs to expand their environmental enterprises work to managing private conservation lands, such as Biodiversity Stewardship Agreements, should be considered. This aligns with the 2022–2024 NSW Implementation Plan for Closing the Gap, Priority Reforms areas, specifically, *Employment, business growth and economic prosperity* (NSW-specific) (5).

## Part 2: Knowledge about land biodiversity value and conservation.

Most LALCs have limited resources to undertake mapping of their land. Only one LALC we interviewed were able to say with any certainty what proportion, or which land parcels, are zoned conservation and biodiversity value.

### 2.1. Strategic approaches to biodiversity mapping

La Perouse LALC have conducted extensive mapping of sites and surveyed flora and fauna on their LALC estate, including where they entered Joint Management agreement with NPWS. They recited the exact amount of conservation land in their estate: '96 hectares of conservation lands between Kurnell and Cronulla' which they described as 'pure conservation land which will never be built on'. Robert Cooley, Senior Ranger for La Perouse LALC's Gamay Ranger team, explained that they have conducted surveying to identify the conservation values on their estate: they have 'documented sites in our cultural area', 'recorded sites within the National Parks and Wildlife Estate', conducted flora and fauna surveys where they have identified high conservation values including threatened vegetation communities, freshwater wetlands and Aboriginal Cultural Heritage. La Perouse LALC's mapping is in part driven by their agreement with the NSW Government to jointly manage Gamay National Park. This agreement provides the infrastructure and impetus, along with their own ingenuity, for this activity.

Another LALC that has undertaken mapping of their estate is Darkinjung LALC. NSWALC Senior Policy Officer, Adonna See explained that in her experience, 'LALCs are more engaged in the Biodiversity Conservation Act when there is opportunity for development on their lands'. This includes mechanism such as the Development Delivery Plan (DDP), an alternate land development pathway, created for the LALC. It has been in this context, as Darkinjung LALC have sought to make application for development of some 31 projects on their land estate, that they have necessarily had to address biodiversity offsets to progress the State Environmental Planning Policy (SEPP).

Darkinjung LALC is the only LALC we could identify to have surveyed their land estate and identified the zoning of their land to progress to an application for development. Darkinjung LALC's experience of biodiversity assessment and certification has been described as 'very difficult and challenging'. Darkinjung LALC boundary covers an area extending from Catherine Hill Bay and Lake Macquarie to the north, the Hawkesbury River to the south, the Pacific Ocean to the east, and Watagan Mountains, McDonald River and Wollombi up to Mt Yengo to the west; the LALC is within the boundary of the Central Coast Council. Darkinjung LALC has repossessed and holds freehold 3,700 ha of land, and of this, more than half of their land is zoned for conservation; less than 10% is currently zoned for development and almost the entire estate is mapped as supporting native vegetation. The zoning and vegetation profile of Darkinjung LALC land is the result of the interplay of local government planning assumptions about how Aboriginal land ought to be used (for conservation rather than development) and powers to change

the zoning, the limited nature and character of land available for recovery under the ALRA and the history of those land parcels. Although beyond the scope of this study, delays in the land claims determination process are also a likely factor in how land comes to be zoned conservation.

### 2.1. Knowledge gaps and piecemeal mapping of the Aboriginal land estate

The interviews with LALCs showed that most LALC CEOs have deep knowledge of their land and can refer to areas that are significant for different reasons, however, most LALCs do not have data available or undertaken mapping that enables them to know how much of their land is zoned environmental, or its biodiversity value. They have not had the opportunity to create a plan for their lands and do not know how much they could dedicate to conservation, given multiple community needs. In interviews several LALCs, other than La Perouse LALC, said:

I couldn't tell you what percentage.

We've got areas that I haven't seen yet because we've had quite a bit going on in my first three months that I was here. We need to make a plan on how we manage our properties that have nothing on it. We need to figure out which ones can develop – whether it's residential, for people to build houses, other infrastructure, or do we dedicate that land to conservation and biodiversity? That way we're still owning it, protecting it, and bringing it to good health.

The land that we own between town and Kings Point, which is quite a big area – I couldn't tell you exactly – it's of high biodiversity value because it is land that's never been logged.

I don't, but I know that there's a large amount of it. You'll see that we have a fair greenspace type of land, easements, all that sort of stuff. We don't have that high value commercial type land, just bush.

(Bathurst LALC, 2024; Proctor, 2024; Brook, 2024; Hall, 2024)

Others estimated 'all' of their land was likely conservation zoning and biodiversity significance. Some LALCs reported that they had mapping work about to start, in one case on a pro-bono basis (Anonymous LALC, 2024). One LALC has conducted some biodiversity surveys on a project-by-project basis, so the biodiversity surveys are limited to certain parcels and species where the LALC has been able to secure funding (Brook, 2024). NSWALC staff Adonna See, with the benefit of knowledge of the ALC network, advised that 'we know that [LALC land biodiversity] analysis has not been done at a broad, strategic level'.

### 2.2. The limitations of Environmental and Conservation zoning on Aboriginal wealth creation

The conservation zoning over LALC land across NSW is estimated to be as high as 80% (NSW Government). LALCs interviewed could nominate parcels of land that are of significant environmental value. Mungindi LALC, for example, recovered a land parcel that is a significant wetland and migratory bird area in 2018. They reported that they had since had meetings with government scientists about management. Other LALCs nominated land that adjoins reserves and national parks as being environmentally significant. Other than place-based studies, such as that conducted by Darkinjung and La Perouse LALCs, and zoning detail available from local government plans, there is no central archive of the zoning of land recovered under the ALRA. In contrast, Darkinjung LALC has mapped the biodiversity of their estate as part of the Development Delivery Plan. As See (2024) observes, this mapping would be 'really useful' to do across all LALC-held land.

Concern about the zoning of land is an ongoing issue for LALCs. Tamworth LALC CEO explained that they had recently made a submission to Tamworth Regional Council about their Local Environmental Plan (LEP). Tamworth LALC viewed the LEP would impact their interests in land, including cultural heritage and economic impacts. CEO Fiona Snape (2024) was optimistic that the council will amend the LEP, saying they, 'did take up some of our recommendations...'. At the planning level, some LALCs do see that they are able to ensure their interests are reflected, while others continued to feel aggrieved by the local level planning system that consistently "downzones" land claims that has the impact of reducing the future development potential of a site.

### 2.3. LALC access and ownership over data

The gap in knowledge about the extent, zoning and biodiversity of the LALC estate was underscored by NSWALC's advocacy for an accessible central information system supported by the NSW Government. One LALC stated, that in order to better a manage their land, they need 'to get a full asset register' and a system for organising all 'scoping reports' (Anonymous LALC). Such a database could assist LALCs understand the ecosystems and species on their land and associated corridors. Information is available in relation to land zoning, flooding and bush fire, however, LALCs and NSWALC reported there is not the same information available when it comes to biodiversity. NSWALC reported that LALCs often rely on the NSW Government informing them where there could be potential biodiversity; this would often be in relation to a specific program. Robyn Keefe, CEO of Wee Waa LALC, echoed the reliance on stakeholders to provide information about the LALC land estate. Keefe described an example where participation in a cultural burn was dependent on the presence of an endangered Gum (Keefe, 2024).

### 2.4. Findings

There is the need to support LALCs undertake whole of estate planning to define development and conservation opportunities. This needs to be an ongoing process that is undertaken at the time or close to the time, land is restituted to LALCs. This aligns with the 2022–2024 NSW Implementation Plan for Closing the Gap, Priority Reforms areas, specifically, *Shared access to data and information at a regional level* (4).

## Part 3: LALC knowledge about programs and funding for development and conservation.

### 3.1. LALCs are overloaded with information

Responding to the question about awareness and access to programs supporting land management for conservation, every LALC repeated 'we get the emails', or 'I think an email came through about that...'. When I asked about knowledge about or participation in programs, one bush LALC said, 'no, we're mushrooms out here', before adding 'we were just told what they think we need to know' (Freeman, 2024). Similarly, Danielle Dent (2024) CEO of Mungundi LALC explained, the LALC is interested in these opportunities but 'don't have the resources to stay across these programs' and says there is a need for government to do 'a bit of follow up as well'. The NSWALC also acknowledged that they forward emails to the ALC network, and with reference to the BCA stewardship and offsets, 'do not sell' the opportunity to LALCs as the benefits are uncertain (See, 2024).

Interviewed LALCs uniformly said they received the emails but had very little information or knowledge of the specifics of most. Programs and schemes were often conflated and confused, names hybridised and government departments, and state and federal, undifferentiated. Several LALCs identified the need for a more personalised, face to face approach and more accessible information about the program. Comments in response included: 'They've probably sent information out but because we are very limited in our resources and staffing, we just don't physically get the time to sit down and read and kind of educate ourselves on it because we've got 101 million other things to get done as well. It'd be nice to do face-to-face so then it can kind of sink in' (Bathurst LALC, 2024).

Another said,

'[NSWALC] give us heaps of information ...We are constantly getting emails, updates to access grants and work with these organisations for that reason. I'm always thinking, could that happen here for us? [...] I'm aware but I really haven't had a whole lot of time to sit down' (Hall, 2024) adding 'We're a community who like face-to-face conversations' (Hall, 2024).

A few LALCs mentioned regional forums where various programs were discussed, but the awareness of the range of programs and funding available was vague and uncertain for most. Several LALC CEOs had some recollection of the BCA and Biodiversity Offsets, that they were considering it, but it is difficult to determine how far advanced LALCs were in their engagement with the regime.

For Moree LALC, Biodiversity Offsetting has been discussed as an opportunity in the context of the declaration of a Special Activation Precinct (SAP) in Moree, which will see the town become a hub for agribusiness, logistics and food processing. Given the scale of economic development planned for the area, Steve McIntosh CEO at Moree LALC, explained that the LALC has opportunity to use land for biodiversity offsets. He notes they have a suitable parcel but have encountered some barriers, because there has not been a Native Title determination over the land. For Narrabri LALC, the possibility of biodiversity offsetting is being considered by the LALC but being pursued through their partnership with mining companies operating in their area (Trindall, 2024).

This contrasts with responses in Part 1 of this study, that demonstrated that working on country was not only a high priority for Aboriginal community members, but it was also one vital for LALCs given their responsibility in relation to land holdings. Some form of environmental work was underway in this area for every LALC, although at different scales and with different resourcing and capacity. However, knowledge of what is available to advance this work was unclear. Given the level of knowledge, uptake and interest among the ALC network noted in the previous section, it is worth reviewing how the Ranger Program and Cultural Burning established a reputation as worthwhile government program for Aboriginal communities.

All LALCs highlighted the need not just for more accessible information, but for a central 'front desk', or 'conciierge', that assists LALCs understand the programs and funding available and commitment to communicating opportunities in regional forums. Firestick Alliance and the cultural burning demonstrates the utility of peer-learning and exchange in the context of the LALC system. This is captured in LALCs raising the need for 'exemplars' of positive experiences of LALCs participating in Biodiversity Offsetting. They don't just need information, as Thomas (2024) stated, they want to be able to contact 'people who are actually doing things and learn how they've gone about doing it'.

Knowledge sharing and peer learning, through pilot studies of new approaches, should be considered as a model for advancing biodiversity related LALC opportunities.



This aligns with the 2022–2024 NSW Implementation Plan for Closing the Gap, Priority Reforms areas, specifically, Transforming government organisations (3), Formal partnerships and shared decision-making (1) and Building the community-controlled sector (2).

### 3.2. Interest in exploring environmental markets

At a more general level of discussion, LALCs had carefully considered ideas about the opportunity to leverage their land for what was often referred to as ‘environmental markets’.

LALCs are optimistic about the potential way to ‘make good use out of what some people think is a useless bit of land’ (Hall, 2024).

### 3.3. The Biodiversity Offsets Scheme

There are no examples of LALC participation in the Biodiversity Offsets scheme or Biodiversity Stewardship Agreement under the Biodiversity Conservation Act 2016. Three LALCs interviewed had ‘looked into’ the stewardship agreements under the BCA but decided against entering into the stewardship agreement for three reasons. There was the generally held view that this was an important area for LALCs given the character of land holdings, however, LALCs concluded the BCA, BOS and Stewardship Agreement were suitable and did not represent benefit for LALCs. All LALCs expressed general interests in what was broadly described as ‘environmental markets’ but they could not see value in existing programs. All LALCs wanted to know how these opportunities could be improved.

The value proposition for LALCS in relation to features of the BCA included the necessity to commit land in perpetuity as a condition of the Stewardship Agreement carries implications for future generations. LALCs were uncomfortable making a decision about land that limited access and use of LALC land for future generations (Carlson, 2024; Brook, 2024; Trindall, 2024; See, 2024). LALCs spoke about the need to think and plan for seven generations into the future and account for decisions today with those future generations in mind. Some LALCs include consideration of future generations in their Community Land and Business Plans (CLBP) as a criterion for their decision making.

Secondly, there was uncertainty that the Stewardship Agreement represented financial value for a LALC, a concern that was also framed in terms of its implications for future generations. As one LALC put it, ‘It really locks in what we can do with the land and the money that they pay us to look after that land might not be sufficient’ (Brook, 2024). LALCs are seeking to enter the scheme to generate credits, however, they were reluctant to commit land in perpetuity with no indication, confirmation or guarantee about the actual income you would earn from the agreement. Such an agreement was considered too risky several LALCs, who understood they would still need to meet land management responsibilities without the requisite funding stream over time.

Thirdly, LALCs explained that leveraging or activating their land holdings to generate an income stream is their core business. In relation to land management, as detailed above, they are variously looking to achieve this through opportunistic and strategic negotiations that combine partnerships with a range of experts, industry and government departments to expand their fee for service land management, care and protection work. This includes necessarily on their own estate, and beyond. That is, LALCs are seeking to establish sustainable enterprises undertaking a host of activities that are oriented around caring for country, regeneration, tourism, language revitalisation, western and traditional knowledge exchange, and more. LALCs saw this as their priority and indicated that this breadth of work would not be possible, or there would be the same opportunities to grow this work, when land is under a

Stewardship Agreement. They also see opportunities that could arise in direct negotiations with industry and where they can leverage other factors, not possible under the Stewardship Agreement. For example, Narrabri LALC decided against a Stewardship Agreement as they thought there could be greater advantage negotiating directly with a mining company who seek a range of outcomes, including social license to operate (Trindall, 2024).

Further observations arose that include the reality that many of the LALCs interviewed had limited land repossessed. The amount of land returned across NSW is very uneven and so the option of entering into a Stewardship Agreement is limited by the fact that you have minimal land holdings and where you do have modest land holdings, you would be reluctant to place an agreement in perpetuity.

The Biodiversity Offsets Scheme is viewed as a potential pathway for LALCs to realise benefits from their land estate. However, participation has proven 'really difficult' (See, 2024). One observation shared by Adonna See (2024) from the NSWALC, was that 'LALCs don't feel like they have the expertise and the knowledge to participate' while others are put off by the 'fee to enter', that is, the cost to undertake the assessment (See, 2024). We identified only one LALC that had undertaken assessment of their land with the view to Biodiversity Offsets. LALCs are more likely to be more engaged or consider the Biodiversity Offsets scheme in the context of application for development. Given that LALC land development has been historically low and limited to a few LALCs, there is little involvement in the scheme either in relation to offsets or to enter the market to sell credits.

Most LALCs will not have the capital to be able to cover the upfront costs of an assessment. The cost of undertaking a biodiversity assessment is a significant barrier for LALCs who have very limited capital. LALCs do not have the capital to pay for the assessment and where they do, that will exhaust their entire savings on an uncertain and undetermined future income. As See (2024) observes, 'It is simply too big a risk'. Further, LALC governance and decision-making processes are premised on low risk. Where LALCs have an established capital base, usually from the sale of land, or land development and realisable capital through their land holdings, such as Darkinjung or Metropolitan LALCs, they can take calculated risks.

NSWALC have advocated consideration of a larger geographic footprint and strategic approach to Biodiversity Offsets. With consent and participation, one LALC's development could be offset by another LALC. Across the ALC network, offsets and credits could interact in a dynamic and creative way to deliver benefits. This example raises the possibility of a strategic approach, rather than piecemeal and fragmented individual LALCs engaging in the scheme. A more strategic and statewide approach could also support the identified interest to purchase biodiversity credits generated from the LALC land estate. As NSWALC has advocated, this could contribute to developing a modified scheme that enables the ALC network to work strategically to 'realise the potential across the broader estate' (See, 2024).

Interview participants, NSWALC submissions and presentations, highlighted the principle of the ALRA – land as compensation for violent loss of the entire country that is now NSW is undermined by the imposition of the BCA that restricts and confines LALC land dealings and access. The BCA is perceived as compromising the compensatory purpose of land recovered under the ALRA.

This is apparent in the Darkinjung LALCs efforts to advance development of their land holdings. As a result of difficulties gaining local community support and local government approval for development applications on their lands, Darkinjung LALC gained NSW Government support for an alternative pathway to development. As part of this process, Darkinjung LALC created a Development Delivery Plan (DPP).

The LALC undertook preliminary work mapping their land estate to identify areas suitable for development in alignment with priorities their members set out in their CLBP. The mapping included cultural, economic, social and environmental character of land parcels. They met with NSW Government officers where they went through a process of identifying priority sites for development along with the opportunity and constraints profile of each selected site. The nominated sites for inclusion in the DPP numbered 31 sites. The mapping revealed the extent of land in the approximately 3,700ha as being of cultural significance and high conservation value. The 31 sites comprise land of 1,613ha. Noting that the 31 sites also include areas that the LALC will protect (Darkinjung LALC, 2022, p. 6).

To meet the NSW Government's requirement for net zero bio-diversity loss in any development, Darkinjung LALC will need to off-set the biodiversity loss. This is an expectation and requirement for all development in NSW. Challenges of the NSW Biodiversity Offsets Scheme have been readily identified (Garvey, 2024; NSWALC, 2024; Darkinjung, LALC, 2022). These challenges were also raised in interviews with LALCs and include the character of LALC land assets, LALC governance structure and financial burden.

Research by Nathan Garvey (2024) shows that Darkinjung LALC Biodiversity offset liability across the 31 sites is substantial. In relation to one site one, Lake Munmorah, the offset liability is calculated at 872 ecosystem credits, 1,804 species credits (of these, 921 relate to the Swift Parrot) requiring an estimated payment to the Biodiversity Conservation Fund of more than \$11.5M.

At the same time, as Garvey summarises, analysis of the Darkinjung LALC land estate reveals there are potentially 30 offset sites, capable of generating an estimated 19,019 ecosystem credits across 29 non-Threatened Ecological Communities (TEC) offset trading groups; these credits are estimated to generate approximately 2,053 credits across 11 TEC offset trading groups; and 52 threatened species credits have been recorded in the Conservation Estate.

Darkinjung LALC (Duncan, pers. comm, 2024) described the process as frustrating and ultimately the requirement to offset biodiversity impacts presented an insurmountable barrier to developing their land estate, despite decades of work to get to this point. The requirement for 'like for like' offsets was highlighted as delimiting the possibility of offsetting the biodiversity liability. While beyond the scope of this report and author expertise, LALCs are already making a significant contribution to achieving conservation outcomes as the Darkinjung LALC biodiversity assessment shows, along with the activity outlined at part one of this report. The Biodiversity Offsets, given the history of the land recoverable under the ALRA and features of the planning system confound LALC land development options.

Aboriginal Land Councils wanting to develop land for commercial or residential purposes are subject to, as all developers are, the state's biodiversity regime. However, LALCs and their land holdings are different to other land developers. The land base that has been recoverable by LALCs is highly constrained when development is an objective. The ALRA is intended as compensation for near complete dispossession, yet the BCA imposes too great a burden to pursue development. LALCs have a low resources base, they are not-for-profit and the history of the land that is repossessed is overwhelmingly of conservation and biodiversity value. This reality requires innovation in the state's administration and management of biodiversity. How this impacts the aspirations of LALCs is manifest across the network. For example, Ulladulla LALC would like to 'develop a cultural centre' but in doing so, 'would need to offset' with other land in their estate of biodiversity value (Brook, 2024). They are currently conducting surveys to investigate if this is possible.

Garvey (2024) nominates a range of options to assist with the costs of developing a Biodiversity Stewardship Agreement. These include a financial subsidy to assist with the costs of the assessment and a scheme, or market, that offers a 'premium' on LALC generated biodiversity credits; he recommends a LALC Biodiversity fund be established to support conservation work by LALCs. NSWALC have advocated for a Biodiversity Offsets trading scheme across the ALC estate that creates a mechanism for LALCs to generate credit to supply offsets for LALC land development across the state.

### 3.4. LALC-identified barriers to participation

Participants in this research highlighted the burden for LALCs when it comes to managing land returned from the Crown land estate to the LALC. Often this land has been neglected, there are instances of contamination, rubbish dumping, derelict and contaminated infrastructure and then there is the immediate requirement to manage lands to ensure fire trails and other obligations are followed. All of this comes with no resources, other than occasional one-off grant funding. This reality underscores the aspiration by LALCs to create enterprises that support and sustain this work.

There are further complexities and challenges of the ALC structure and governance that were readily nominated in this research. LALCs are unusual entities to be pursuing land development: they are not for profit, member based and always leading responsibility for Aboriginal cultural rights and interests. Land repossessed under the ALRA is also likely to have overlaying Traditional Owner rights and interests. Although, it is useful to note that two LALCs highlighted constructive working relations in caring for country between the LALC and Traditional Owner group recognised under the Commonwealth Native Title laws (Unkya and Jabullum) in relation to land management. Others mentioned the complexity of working across two or more local governments. There is also member participation on decisions that often takes time, and in some instances, is challenging for businesses who require decisions making to be more precise and compressed period of time.

Interviews with LALCs reveals an incredible dedication to working with your restituted land estate to strengthen your people and create a better future. The ALRA intended to support the regeneration of our society and culture and enable Aboriginal people to pursue self-reliance and secure our economic futures. The necessary action to address climate stability and arrest species loss cannot be at the expense of the rights and interests of Aboriginal peoples, including the purpose of the ALRA to compensate Aboriginal people of NSW.

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### **Other**

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### **Interviews**

Anonymous LALC (20 September 2024) interview with Therese Apolonio, telephone.

Bathurst LALC (18 September 2024), interview with Therese Apolonio, telephone.

**LALC land and environmental enterprises: survey of current activity and future possibilities.**

Brook L (20 September 2024) Ulladulla LALC, interview with Heidi Norman, telephone.

Carlson L (17 September 2024) Mogo LALC, 17 September, telephone.

Cooley R (23 October 2024) interview with Therese Apolonio, telephone.

Davies B (16 September 2024) interview with Heidi Norman, telephone.

Dent D (16 September 2024) interview with Heidi Norman, telephone.

Donovan M (20 September 2024) interview with Heidi Norman, telephone.

Freeman, N (20 September 2024) interview with Heidi Norman, telephone.

Hall N (17 September 2024), interview with Therese Apolonio, telephone.

Hammond D (17 September 2024) interview with Heidi Norman, telephone.

Keefe R (24 October 2024) interview with Heidi Norman, telephone.

McIntosh, S (20 September 2024) interview with Heidi Norman, telephone.

Morgan L (17 September) interview with Heidi Norman, telephone.

Nagas M (18 September 2024) interview with Heidi Norman, telephone.

Proctor C (18 September 2024), interview with Therese Apolonio, telephone.

Prince R (18 July 2018), interview with Heidi Norman, Mungundi Local Aboriginal Land Council.

See A (11 October 2024) interview with Heidi Norman, telephone.

Snape F., and Whitton, T, Tamworth LALC CEO; Operations Manager Walaaybaa Rangers, (17 September 2024) interview with Heidi Norman, telephone.

Te Kowhai H (18 September 2024) interview with Therese Apolonio, telephone.

Thomas C (19 September 2024) interview with Therese Apolonio, telephone.

Trindall L (19 September 2024) interview with Heidi Norman, telephone.

Warraweena U (17 September 2024) Brewarrina LALC, interview with Therese Apolonio, telephone.

#### Personal Communication

Duncan, B, 20<sup>th</sup> October, Darkinjung LALC Board Member.

## Attachment

The research team surveyed 21 Aboriginal Land Councils in the city bush, north and south of NSW.

LALCs were asked three open ended questions. Prior to interview we shared the questions and also provided some prompts as to what might constitute examples.

In relation of LALC

A. Can you give examples of your LALCs environmental work?

For example:

carbon off sets

Land regeneration

Ranger program

Dedicated LALC land as part of a conservation area (national park, Aboriginal area)

Manage conservation lands

Species management

Land care, green teams

Fire management

carbon offsets or carbon markets

healing country

education

cultural heritage care

Other activity.

B. Thinking about your LALC land estate:

Do you know how much of your land has conservation zoning?

Do you know how much land could potentially have biodiversity value? (define 'biodiversity value').

Do you have biodiversity conservation work already underway on your LALC land? (define biodiversity conservation work).

C. Awareness and access to programs

This section asks what programs you are aware of and participated.



Are you aware of any programs that enable your LALC to participate in climate change related mitigation?

Have you heard of nature repair market? Carbon off set scheme?

Are you / your LALC, as Aboriginal landholders, aware of the Biodiversity Offsets Scheme and how the Scheme/market works? Have you considered participating in the Bio-diversity scheme? If not, why not?

Are some of the different ways of participating in the scheme more of a barrier than others? (e.g. would you prefer an auction or prefer a one-on-one negotiation?)

What changes, if any, could be made to the market to encourage your LALC participation?