
Appendix two – About the audit

Audit objective

This audit assessed whether relevant agencies are effectively facilitating and administering Aboriginal land claim processes.

The relevant agencies (auditees) for the purpose of this audit are the Department of Planning and Environment (DPE), the Department of Premier and Cabinet (DPC) – Aboriginal Affairs NSW (AANSW) and the Office of the Registrar, Aboriginal Land Rights Act (ORALRA) – and the NSW Aboriginal Land Council.

Audit criteria

To assess this objective, we examined whether the relevant agencies meet the following criteria:

- relevant agencies coordinate information and activities to effectively facilitate Aboriginal land claim processes:
 - maintaining adequate, accessible information to facilitate participation in land claim lodgement
 - effective and efficient mechanisms for coordinating operations around land claim processes
 - effective governance for accountability and continuous improvement in land claim processes
- relevant agencies are effectively administering their roles in the Aboriginal land claim process
 - consistent, robust policies and procedures that inform the administration of land claim processes
 - appropriate engagement with agencies and stakeholders in the administration of land claims
 - addressing barriers to effectively administering land claim processes.

Audit scope and focus

The audit focus was on the administration of the process under section 36 of the *Aboriginal Land Rights Act 1983* (NSW) (the Act) – from claim lodgement to determination, and land transfer – as well as the interagency arrangements required to facilitate this process, efficiently and effectively.

This involved examining governance, operational coordination, information-sharing and stakeholder engagement activities from an agency and interagency perspective, as well as policies, procedures, systems and resources to support administrative functions.

Aboriginal Land Agreements under section 36AA of the Act are also a mechanism for processing land claims through negotiation but do not replace the statutory requirement to determine claims. Aboriginal Land Agreements have been considered in this audit as a mechanism through which the intent of the Act may be met, but the negotiation process itself has not been separately reviewed.

The audit period is from and including 2017. Activities and decisions before 2017 have also been considered where relevant and for context.

Audit exclusions

The audit did not examine:

- individual land claim assessments, determinations or outcomes
- activities, processes or outcomes relating to Department of Planning and Environment reforms to the Land Negotiation Program and the negotiation of Aboriginal Land Agreements, except to the extent that these activities are relevant to delivering on requirements to determine land claims
- activities and outcomes relating to the use and activation of land by Aboriginal Land Councils
- the merits of NSW Government policy objectives, including legislated policy and reforms.

Audit approach

We engaged a majority Indigenous-owned consulting firm to provide expertise and cultural advice to inform our audit approach, conduct and assessments, and to facilitate consultations with Local Aboriginal Land Council (LALC) representatives.

We contacted all LALCs in NSW to invite them to make a submission to the audit and facilitated consultations with a sample of LALCs. In total, we heard from 22 LALCs of varying sizes, and from a range of metropolitan and regional areas, through a combination of consultations and submissions. The audit was also open for public submissions until the end of January 2022.

Our audit procedures involved examining the relevant information management systems and data from the audited agencies, including:

- direct observation of the database used by DPC (ORALRA) to maintain the statutory Aboriginal Land Claim (ALC) Register
- direct observation of DPE's CrownTracker system, used to manage land claim related information
- direct observation of the NSW Aboriginal Land Council's GIS mapping tool
- examination of land claim data and reports generated from the ALC Register and DPE's land claim-related information systems.

Our procedures did not include remediating data in the ALC Register or DPE-held land claim information. We assessed these data sources to report the most accurate and current information available and have noted the limitations of these data sources (including their lack of integration) throughout the report.

Our audit procedures also involved assessing a range of relevant documents held by the audited agencies, including:

- strategic and business planning documents
- information about the resourcing of land-claim related functions, and reports from internal reviews of these activities
- risk management and reporting documentation, including risk registers and Audit and Risk Committee reporting
- terms of reference, agendas and minutes (where available) of relevant executive and operational meetings
- policies and procedures, particularly for lodging, registering, and assessing claims
- a sample of land claim recommendation briefs
- statutory reviews, Parliamentary inquiries, and other reports relevant to land claim processes and land rights more broadly, and information on the progress of actions to address relevant recommendations.

Our procedures included interviews with agency staff, experts and stakeholders. Specifically, interviews with:

- relevant from DPE, DPC (AANSW and ORALRA) and the NSW Aboriginal Land Council
- the Registrar of the Aboriginal Land Rights Act
- the Crown Land Commissioner
- relevant staff from other agencies such as NSW Treasury, Transport for NSW, and the Department of Regional NSW, and statutory bodies such as Property NSW
- sector stakeholders such as NTS Corp, Local Government NSW, and representatives from the Indigenous Legal Issues Committee of the Law Council of Australia
- relevant academics.

The audit approach was complemented by quality assurance processes within the Audit Office to ensure compliance with professional standards.

Audit methodology

Our performance audit methodology is designed to satisfy Australian Audit Standard ASAE 3500 'Performance Engagements' and other professional standards. The standards require the audit team to comply with relevant ethical requirements and plan and perform the audit to obtain reasonable assurance and draw a conclusion on the audit objective. Our processes have also been designed to comply with requirements specified in the *Government Sector Audit Act 1983* and the *Local Government Act 1993*.

Acknowledgements

We gratefully acknowledge the co-operation and assistance provided by the Department of Planning and Environment, the Department of Premier and Cabinet, the Office of the Registrar of the Aboriginal Land Rights Act, and the NSW Aboriginal Land Council.

We also acknowledge the input from LALCs and other stakeholders consulted during the audit.

Audit cost

The estimated cost of this audit including disbursements is \$845,000.