Tina West - Introduce yourself.

Darkinjung is a Local Aboriginal Land Council established under the Aboriginal Land Rights Act (ALR Act). The ALR Act was enacted to provide some remedy for the injustice of the dispossession of Aboriginal people from their lands.

SLIDE 2

In introducing the Aboriginal Land Rights Bill in 1983, the then Minister for Aboriginal Affairs and Minister for Housing, Mr Frank Walker explained the dual purpose of land rights in addressing both the cultural importance of land to Aboriginal people, as well as the use of land as a remedy for Aboriginal economic deprivation:

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

The ALR Act is also an important measure consistent with Australia's obligations under the United Nations Declaration on the Rights of Indigenous Peoples, which Australia accepted in April 2009.

SLIDE 3

In the Second Reading Speech for the Aboriginal Land Rights Amendment Bill 2014, the Minister for Aboriginal Affairs, Victor Dominello explained:

"...the Aboriginal Land Rights Act is not simply a tokenistic gesture acknowledging past wrongs; it is an important vehicle for Aboriginal people to shape their own social and economic futures. The importance of the Aboriginal Land Rights Act in Aboriginal social and economic development is recognised internationally. When James Anaya, the former United Nations Special Rapporteur on the Rights of Indigenous Peoples, visited Australia in 2011, in addition to hailing our land rights model as "remarkable", he noted that the work of Aboriginal land councils in New South Wales in securing and developing Aboriginal lands to provide greater opportunities to Aboriginal peoples is:
...essential to operationalizing the standards set forth in the United Nations Declaration and to move forward in a future in which indigenous peoples are in control of their development, participating as equal partners in the development process."

Section 3 of the ALR Act provides that the purposes of the Act are to:

(a) to provide land rights for Aboriginal persons in New South Wales,

(b) to provide for representative Aboriginal Land Councils in New South Wales,

(c) to vest land in those Councils,

(d) to provide for the acquisition of land, and the management of land and other assets and investments, by or for those Councils and the allocation of funds to and by those Councils,

(e) to provide for the provision of community benefit schemes by or on behalf of those Councils.

The objects of Darkinjung are “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.” Darkinjung has a number of statutory functions which enable it to pursue that object and the social and economic objectives of the Act. Those functions include making claims to Crown land. Darkinjung can also hold and develop land in the same manner as any other land owner, subject to the provision of the ALR Act. The ability of Aboriginal land councils to hold land and develop it is recognition by Parliament of the need for Aboriginal people to be compensated for their past dispossession. It is also a recognition that Parliament has determined that it is in the public interest that Aboriginal people should be able to use such land to pursue the remedial and beneficial objects of the ALR Act, including pursuing the economic advancement of Aboriginal people.

In enacting the ALRA, Parliament was informed by the Report of the Parliamentary Joint Committee on Aboriginal Land Rights (the Keane Report) which looked at the circumstances of Aboriginal people across the State and the disadvantage that they suffered. In relation to how planning schemes operated, the Keane Report noted the difficulties they had in “opposing land
use schemes that detrimentally affect their own area of residency”. It also notes that as towns were spreading out to reserves the Aboriginal “communities were being ignored by local and State Government planners on questions of land usage and development”.

SLIDE 4

It explained that:

“Aborigines of New South Wales by virtue of their general position of socio-economic disadvantage stand in a position of relative inequality to non-Aborigines, in regard to access to local and State government land planning authorities. Additionally to this position of inequality, Aboriginal communities are forced to accept and abide by the decisions of the non-Aboriginal Government agencies regardless of whether they adequately accommodate the views, proposals, or expectations of the Aboriginal people. As a result, the Aboriginal people of New South Wales suffer discrimination from various Government decision makers in relation to land development and planning. Thereby the ability of Aboriginal group to progress as self-determining communities can be stifled.”

only limited lands are claimable under the ALRA. That means that the total amount of land available for Aboriginal people to pursue economic objectives is limited. This puts particular pressure on land councils to achieve outcomes on the limited land that has been transferred.

Darkinjung are the largest private land holder on the Central Coast with 3,500 hectares owned and 3,500 hectares under claim, with less than 10% of Darkinjung’s lands being developable we therefore limited by our economic opportunities and ability to manage and sustain the remaining 90% of our land holdings, which are environmentally or culturally constrained.

Darkinjung has been actively pursuing the development of some if its land as intended by the ALR Act and in particularly Darkinjung’s land in the North Wyong Region. Darkinjung LALC has been part of a NSW Government inter-agency taskforce since 2012 regarding it’s landholding across the North Wyong
Region including the Bushells Ridge area, which culminated in the lodging of a multi-site rezoning application in June 2014.

The multi-site rezoning proposal has been reported to the former Wyong Shire Council’s Ordinary meeting on various occasions over the past 18 months, with a resolution of support for the Wyee Road site (Site 3) in December 2014 (the Wyee Road Residential Site).

The recent decision by the NSW Department of Planning to recommend approval the Wallarah 2 Coal Project could be reasonably viewed as an example of confused or biased decision making toward mining, on one hand the Department of Planning have been engaging Darkinjung’s expertise to develop and improve how they work with Aboriginal land owners to achieve economic outcomes and on the other hand they fail to recognise Aboriginal land owners right to economic development.

Furthermore the Department’s own recently released Central Coast Regional Plan 2036 in which Direction 6 states “The NSW Government and Central Coast Council will work with Darkinjung to identify how its land can be best planned, managed and developed”.

We are confused and perplexed by this contradiction.

The Central Coast Regional Plan further states; Encouraging Aboriginal people to gain economic benefit from their land will support broader regional development, biodiversity and social outcomes.

**SLIDE 5**

This slide shows Darkinjung’s interests in the immediate vicinity to the proposed development site. Land shown in yellow is owned by Darkinjung. Land shown in purple has been granted to Darkinjung and is awaiting transfer. Land shown in pink has a current Aboriginal Land Claim over it.

Darkinjung is the registered proprietor of Lot 195 DP1032847 and Lot 1 DP 1192889, Bushells Ridge which were previously the subject of SSD-4974.

Darkinjung is also the registered proprietor of Lot 60 DP 755245, Doyalson, Lot 204 DP 1117900, Doyalson, Lot 197 DP 1964536, Charmhaven, Lot 196 DP1064536, Charmhaven.
Darkinjung also has an undetermined claim over Lot 201 DP1064536 at Charmhaven lodged pursuant to s 36(1) of the ALR Act being ALC 37185. ALC 37185 was lodged on 31 October 2014. The only access to this land is Nikko Rd.

Darkinjung also has an undetermined land claim over Lot 194/DP1032847.

As explained above, Darkinjung is an Aboriginal land council established under the ALR Act which was enacted to provide some remedy for the injustice of the dispossession of Aboriginal people from their lands. Under the ALR Act, land is returned to Aboriginal land councils to enable them to pursue the cultural, social and economic object of the Act.

**SLIDE 6**

The Amended DA does not adequately assess socio-economic impacts on the Aboriginal community.

The Wyee and Warnervale area is a growing residential area. There will be increasing demands for residential land on the Central Coast into the future. In fact, the Draft Central Coast Regional Plan, released by the Department of Planning and Environment in November 2015 (p.19), states;

“To meet the projected housing demand over the next 20 years, an average of 1,980 new homes will need to be constructed each year. This is 590 more homes than the average annual housing production of 1,390 dwellings over the 19 years to 2014-15. “

The economic assessment needs to consider impacts on adjoining land uses and opportunities lost on land moving into the future. Fig. 1.2 identifies Darkinjung’s identified opportunities in the immediate area.

As noted above, Darkinjung has two residential projects which have received Gateway approval. In contrast to the project in the Amended DA, the development of the Wyee Road Residential Site and the Bushells Ridge Residential Site are consistent with existing residential developments in the area such as other residential developments at Wyee. There is significant economic injection associated with the residential development – exceeding $300M in 1st round direct expenditure excluding any multiplier effects. There
are also significant outcomes for the Aboriginal community from those potential land uses.

The impacts of the Amended DA on these developments, or the capacity to use the land for those developments, have been completely ignored. It fails to address the social and economic impact on the Aboriginal community as the proposal limits Darkinjung’s potential on its proposed residential developments.

Where land is immediately adjacent to, or affects, land held by Aboriginal land councils, the assessment of the impacts should include an assessment on the impacts on the ability of the land council to achieve the social and economic objectives of the ALR Act.

The economic analysis does not comply with the Supplementary Director-General’s Directions which required “A description of the short-term and long-term social and economic implications and/or impacts of the project”.

Darkinjung has sought opinion on the potential financial impact of the amended proposal upon future residential estates being located so close to significant coal loading infrastructure. It is estimated that retail lot values would be adversely affect by approximately $10,000/lot - equals an $8,700,000 loss over the life of the project. A copy of the advice received will be attached to our submission.

The amended proposal may also sterilise any additional rail siding opportunities adjacent to the Darkinjung land zoned industrial, located to the west of the amended Proposal. This land is one of the few large (greater than 100ha) industrial zoned parcels located adjacent to a main rail line, and particularly between the Ports of Sydney & Newcastle.

Darkinjung has been working in partnership with a local company, Waste Enterprises over the past 18 months to prepare a Business Plan for a resource recovery facility to be located on the southern portion of lot 195 DP 1032847. The facility will (potentially) take waste from areas within a radius of 150 kilometres, sort it and sell it to waste recycling enterprises. An essential part of the plan is rail access to the development. The amended development
application will remove future rail access to all Darkinjung land within Bushells Ridge.

Darkinjung LALC has entered into an Agreement to Lease with Casar Supporters Inc., a consortium of local business persons who intend to develop a motorsports precinct and social enterprise over a large part of lot 195 DP 1032847. The long term plan is for Casar to have permanent access to the development over lot 1 DP 1192889. There are insufficient details of the proposed conveyor system (incl. details about height) within the development application to determine how this access will be restricted.

Each of Darkinjung’s economic development opportunities have a corresponding benefit for the Aboriginal community of the Central Coast that will arise from the project. Our recently completed residential subdivision at Blue Haven will result in the construction of 22 homes that will be provided to our members under our Affordable Housing Policy. Blue Haven also provided funding that allowed Darkinjung to protect an important Aboriginal woman’s site located at Calga that was under threat from expanding mining interests. The Agreement to Lease executed by CASA Supporters In and Darkinjung at Bushells Ridge includes an agreement that 20% of all employment on the site will be allocated to the Aboriginal community of the Central Coast. Benefits arising from the Amended DA are no match to those benefits that Darkinjung is already providing.
OUR LAND
OUR RIGHTS
OUR FUTURE
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Victor Dominello, Minister for Aboriginal - Hansard, Assembly, 21 October 2014, p 1491
“Aborigines of New South Wales by virtue of their general position of socio-economic disadvantage stand in a position of relative inequality to non-Aborigines, in regard to access to local and State government land planning authorities. Additionally to this position of inequality, Aboriginal communities are forced to accept and abide by the decisions of the non-Aboriginal Government agencies regardless of whether they adequately accommodate the views, proposals, or expectations of the Aboriginal people. As a result, the Aboriginal people of New South Wales suffer discrimination from various Government decision makers in relation to land development and planning. Thereby the ability of Aboriginal group to progress as self-determining communities can be stifled.”

First Report from the Select Committee of the Legislative Assembly, 1980, at paras [9.11]-[9.15].