

Waverton Precinct

Development of the Waverton Bowling Club site is likely to proceed

In March 2026, the NSW Government introduced the Crown Land Management Amendment (Statutory Review) Bill 2026,¹ which surreptitiously changed how Crown land interacts with the Aboriginal Land Rights Act 1983 (ALRA).²

The amendments to the Crown Land Management Act would have allowed the NSW Minister for Lands to retrospectively convert invalid or defective Crown land leases into legally valid ones by declaring that the land was in "lawful use" and thus not claimable under the ALRA, overturning case law including last year's High Court decision on the former Paddington Bowling Club site. Protests from the NSW Aboriginal Land Council (NSWALC) and the NSW Law Society caused the amendment to be paused.

Waverton Precinct surmised that the issues between the parties were:

- The NSW Government: The ALRA did not intend that small parcels of recreational land embedded in urban communities – such as the Waverton Bowling Club, the Paddington Bowling Club and Love and Juice in Artarmon – could be defined as “unused and unneeded” in the same way that old stock routes and redundant rural commons were “unused and unneeded”. The High Court decision on the former Paddington Bowling Club site demonstrated that this needed to be clarified.
- The NSW Law Society: Fundamental changes to property rights should not be introduced in an underhand manner but should be transparent and negotiated openly.
- The NSWALC: Granting the Minister power to retrospectively reclassify Crown land undermined the principles of the ALRA and would allow the NSW Government to misuse that power to quarantine Crown land from land rights claims – including the 43,000 unresolved land claims.

Waverton Precinct urged the North Sydney Council to engage with the parties, in the expectation that a settlement might be negotiated. For instance:

- Where small recreational parcels of Crown land have been successfully claimed by local Aboriginal land councils because they were technically “unused and unneeded” – in North Sydney, City of Sydney and Willoughby – the NSWALC might have considered abandoning their claims or moderating their intended development in return for the broader protection of land rights across NSW.
- The NSW Government might have, in return, offered to maintain the original terms of the Aboriginal Land Rights Act if the minister could reclassify just those kinds of small urban recreational sites that are in transition to new uses.

The North Sydney Council chose not to get involved but to wait until it receives a rezoning application and then argue for the present zoning – even though these claims proceed through a specific process known as the Aboriginal Land Planning Pathway (see next section).

On 15 September 2026 the amendment bill was reintroduced to the Parliament for its second reading. It passed the next day and was assented to on 23 September 2026. It appears that government did not negotiate changes, but responded to some of the criticisms. The Act now requires the Minister for Crown Land to consult with the claimant LALC and the Minister administering the ALRA before making a retrospective change, although their agreement or consent is not required. Before validating a retrospective reclassification of Crown land that affects an undetermined land claim:

- variation powers are strictly limited to minor errors;
- LALCs have a mandatory minimum 28-day consultation period;
- delegation by the Minister to others is not permitted;

¹ This was “An Act to make miscellaneous amendments to the Crown Land Management Act 2016 and other legislation following a statutory review of the Act; and for other purposes.”

<https://www.parliament.nsw.gov.au/parliamentary-business/bills/bill-details?billId=18878&ref=1849>

² The amending Act had 46 pages of fine administrative detail. Buried in the Act was sec 5.20B. Buried in sec 5.20B was sec 5.20B(4). Here's what it (deviously) said:

5.20B Validation and variation of dealings

(1) The Minister may declare a holding over Crown land to be valid if the Minister is reasonably satisfied making the declaration is in the public interest...

(4) The granting of a lease under a Crown Land Act constitutes a lawful use for the purposes of another Act.

- the Minister's final decision and reasons must be given to the affected parties.

Perhaps the most significant response to criticism appears to be exactly what we did not want: that the development of the small urban recreational sites referred to above will proceed in the normal way, because the NSW Government confirmed that successful land claims are entirely unaffected by the amendments to the Crown Land Management Act.

We will therefore have to be prepared to actively participate in the approval process that will unfold over the next two or three years.

What happens next?

Anyone wishing to understand the approval process can examine the NSW Aboriginal Land Council's arduous but ultimately successful development proposal for a 71 ha bush site in Belrose known as Patyegarang.³

NSWALC engaged high-level expertise over a significant period to prepare a Development Delivery Plan (DDP) (the first such plan in NSW) which was approved by the Planning Minister in August 2022.

In November the Department of Planning, Housing and Infrastructure (DPHI) recommended finalisation of the planning proposal (amending the LEP) for the following reasons.

- The proposal, subject to the further recommended amendments, demonstrates strategic and site specific merit;
- the conditions of the Gateway have been met;
- agency and community consultation has occurred in accordance with the Gateway determination; and
- the post-exhibition changes do not alter the intent of the planning proposal and the proposal meets the requirements of the Section 9.1 Directions and other requirements under the Environmental Planning and Assessment Act.

The entire process is documented in an impressive, well-illustrated 46-page "Post-Exhibition Report". The report has some 40 attachments, all available on the DPHI's website, reference PP-2022-3802, each documenting a specific aspect of the overall process.⁴

One of the remaining amendments to the Patyegarang planning proposal related to bush fire risk, to be negotiated with the RFS. It appears that the proposal, though finalised, could not be sufficiently modified to satisfy the requirements of the RFS for evacuation routes amongst other issues.

On 1 July 2026 the Chair of NSWALC advised DPHI that "Reluctantly we wish to withdraw the Patyegarang planning proposal. MLALC's focus in the short term will be on projects that can more readily deliver tangible outcomes."

This could mean that the Waverton Bowling Club site is the new priority.

Jeremy Dawkins
30 September 2026

³ Patyegarang (pronounced Pa-te-ga-rang) was a young Cameraygal woman "of fierce and endearing audacity" according to Stephen Page. In the 1780s she and William Dawes (astronomer, living in a hut at Observatory Point) taught each other their language, Dharug in the case of Patyegarang.

⁴ As at 30 September 2026, "Post-Exhibition Report - Patyegarang PP-2022-3802" could be found in the list of documents (it is the 27th document listed) at this url:
<https://www.planningportal.nsw.gov.au/ppr/withdrawn/patyegarang-morgan-road-belrose>