



ALS

Aboriginal Legal Service (NSW/ACT) Limited

3 March 2023

By email

NSW Law Reform Commission
Department of Communities and Justice
Locked Bag 5000
Parramatta NSW 2124
Australia

Commission Secretary
nswl-lrc@justice.nsw.gov.au

**Preliminary submission to the review:
Review of serious road crime NSW**

Dear Secretary

The Aboriginal Legal Service (NSW/ACT) Limited (“ALS”) thanks you for the opportunity to provide a preliminary submission on the NSW Law Reform Commission’s review of Serious Road Crime, particularly provisions of the *Crimes Act 1900 (NSW)* (*the Review*’).

The ALS is a proud Aboriginal Community Controlled Organisation and the peak legal services provider to Aboriginal and Torres Strait Islander men, women and children in NSW and the ACT. The ALS currently undertakes legal work in criminal law, children’s care and protection law and family law. We have 26 offices in 21 locations across NSW and the ACT, and we assist Aboriginal and Torres Strait Islander people through representation in court, advice and information, as well as providing broader support programs and undertaking policy and law reform work.

We provide the following in our capacity as an Aboriginal Community Controlled Organisation constantly fighting to improve access to justice for all Aboriginal and Torres Strait Islander people.

Unfortunately, due to staffing constraints and movement we are unable to provide a detailed submission to the Review at this stage. However, we have had the opportunity to read and do endorse the submission of the NSW Bar Association, dated 23 February 2023.

We also take this opportunity to highlight the disproportionate and unjust impact of mandatory disqualification periods and the restriction on the application of section 10 of the

Crimes (Sentencing Procedure) Act 1999 (NSW),¹ on Aboriginal and Torres Strait Islander people, particularly those residing in regional and remote areas.

It is widely recognised that geographical, cultural, economic and social barriers inhibit access to driver licensing for Aboriginal people.² The circumstances of some Aboriginal and Torres Strait Islander people have been said to equate to an 'endemic lack of licensing access for Aboriginal people'.³

- In 2017: One in 20 Aboriginal people in jail was serving a sentence for unlicensed driving and other "driver license" offences.
- Less than half of eligible Aboriginal people held a driver license compared to 70 per cent of the non-Aboriginal population.
- Only 51% of Aboriginal families had access to a motor vehicle compared to over 85% of non-Aboriginal families.
- 38% of Aboriginal and Torres Strait Islander people with a license had had it disqualified, suspended or cancelled.
- 12% of Aboriginal and Torres Strait Islander found guilty of driving offences were jailed, compared to 5% for the general population.

The imperative to drive in communities with low levels of driver licensing can lead to unlicensed driving and subsequent fines, charges and imprisonment for unlicensed or disqualified driving, which leads to harmful impacts for Aboriginal communities.

In regional and remote communities which lack public transportation infrastructure and in which community members face limited access to cars and licensed drivers to supervise learners, the risk of secondary criminalisation from driving whilst suspended or disqualified is more acute.

The ALS would welcome the opportunity for further consultation as the Review progresses. If you have any questions, please contact [REDACTED]

Yours sincerely

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¹ *Road Transport Act 2013 (NSW)* s 203.

² See, eg, Australian Law Reform Commission, *Pathways to Justice* (2017) chapter 12.

³ *Ibid* 414.