

# Registrar's Model Codes of Conduct for Board members, staff and members of Local Aboriginal Land Councils

## Preface

### Background

Codes of conduct have an important place in the governance framework for Local Aboriginal Land Councils (**LALCs**). They set out rules and standards of conduct for Board members, staff and members and provide a means for holding them to account.

At present, the vast majority of LALCs rely on the model code of conduct prescribed by the *Aboriginal Land Rights Regulation (ALR Regulation)*. That model code has a number of limitations and drawbacks. One is that it does not apply either to staff or to members.

LALCs do not have to use the code of conduct prescribed by the ALR Regulation. A LALC is able to adopt its own codes of conduct and have them approved by the Registrar. This gives the LALC an opportunity to shape its own standards and ensure they are a good fit with the LALC's vision, values and the community context.

### The Registrar's Model Codes of Conduct

The *Aboriginal Land Rights Act 1983* also says that, in addition to the code of conduct prescribed by the ALR Regulation, the Registrar can develop model codes of conduct for:

- a. Board members and staff, and
- b. members,

which a LALC *can*, but is not required to, adopt as its own.

This document sets out the model codes of conduct developed by the Registrar.

A LALC can choose to adopt these codes of conduct as they are. Alternatively, a LALC can choose to adapt them – add to or change them – to make them their own.

Note that to adopt any code of conduct, a LALC must have the code approved by the members and approved by the Registrar.

It is hoped these model codes of conduct will provide a useful starting point and structure to assist each LALC to develop its own codes. LALCs are encouraged to consider how these model codes can be adapted to make sure they have particular relevance to them and their communities, and to the sorts of organisation they want to be.

# Code of Conduct for Board members and staff

## 1. Introduction

### 1.1 What is the purpose of this Code of Conduct?

This is the Code of Conduct for X Local Aboriginal Land Council (**X LALC**) Board members and staff referred to in section 177(1)(a) of the *Aboriginal Land Rights Act 1983 (ALRA)*.

The purpose of this Code of Conduct is:

- to clearly set out for each LALC Board member and each staff member (together referred to in this Code of Conduct as **LALC officials**) the standards of conduct that are expected of them,
- in doing that, to assist X LALC officials to comply with their duties under the ALRA, and
- provide clear standards against which X LALC officials can be held to account.

By keeping to this Code of Conduct, X LALC officials can help ensure that the LALC is run well and is better able to achieve its goals. This will also help give LALC members, other Aboriginal people in the LALC's area and the public, confidence in X LALC and confidence in Aboriginal Land Councils generally.

On the other hand, failing to uphold the standards in this Code of Conduct could have a serious impact on the functioning and standing of X LALC. For that reason, breaches of this Code of Conduct may result in action being taken against the LALC official.

X LALC officials might be aware that they are protected from personal liability by section 242 of the ALRA. But it is important to understand that this only applies to officials acting in good faith and for the purpose of carrying out the ALRA. Observing this Code of Conduct will help to ensure that X LALC officials get the benefit of this important protection.

### 1.2 Relationship to duties and obligations under the ALRA and other laws

There is overlap between the standards in this Code of Conduct and some duties and obligations that LALC officials have under the ALRA and under other laws (such as the *Independent Commission Against Corruption Act 1988*).

For example, section 183 of the ALRA imposes general duties on LALC officials such as the duty to act honestly, in good faith and in the best interests of the Aboriginal Land Council. Very similar general duties are contained in this Code of Conduct.

This Code of Conduct does not alter or take away from any duties and obligations imposed by the ALRA or by any other law.

This Code of Conduct is a stand-alone source of standards and rules. It has been developed and adopted by X LALC to apply only to X LALC officials.

### 1.3 How to read and understand this Code of Conduct

#### *Importance of the ALRA*

This Code of Conduct must be read in light of the ALRA. It must be interpreted and applied only in a way that is consistent with the ALRA.

#### *Importance of X LALC's Values*

X LALC's values are set out below in Part 2 of this Code of Conduct.

This Code of Conduct should be read in the light of these values, and it should be understood and applied in a way that reflects and supports these values.

#### *The spirit as well as the word*

This Code of Conduct is intended to clearly set out rules and standards that X LALC officials have to observe. X LALC officials are expected to uphold the spirit as well as the word of this Code of Conduct.

#### *The use of "you"*

To make reading and understanding this Code of Conduct easier, throughout the Code – apart from this "Introduction" – the word "**you**" is used to mean the X LALC official reading the Code.

#### *Explanation boxes*

The explanations contained in the boxes below do not form part of this Code.

### 1.4 Enforcing this Code of Conduct

All Board members and staff members need to be familiar with and uphold this Code of Conduct.

If necessary, X LALC can take action to enforce this Code of Conduct.

This action could take a number of forms, depending on a range of factors. Some breaches may be best dealt with by discussion in an informal meeting or in mediation. For others, X LALC may consider that referral to the Registrar for investigation and disciplinary action is necessary.

This Code of Conduct also includes dismissal provisions of the kind referred to in section 178 of the ALRA. If a Board member breaches one of these provisions, X LALC's members can decide to dismiss them from office.

A breach of this Code of Conduct could also be corrupt conduct for the purposes of the *Independent Commission Against Corruption Act 1988*, and in that case X LALC's Chairperson will have a legal duty to report the matter to the Independent Commission Against Corruption.

## 2. X LALC's values

[It is intended that the LALC will develop a statement of its key values and insert them here.

[It may be that the LALC has already developed such a statement and that this is set out in its Community, Land and Business plan. In that case, that statement can be copied here.

[Some examples of values a LALC might consider appropriate to include are:

- **Respect** – for land and culture, for elders and family and for each other,
- **Support** – for each other and for those within our LALC community most in need of it.
- **Inclusion** – making a place within our LALC community for all Aboriginal people in the LALC area.
- **Dedication and commitment** – being selflessly committed to the protection of the X LALC's interests and the interests of its members and the X LALC community.
- **Fairness and impartiality** – making decisions and taking actions fairly and impartially, without favour or discrimination.
- **Honesty and integrity** – always acting honestly and not allowing private interests or obligations to influence decisions.
- **Accountability and openness** – being open and transparent about actions and decision making, allowing X LALC and its members to hold you to account.]

### 3. General duties and standards

#### What this is about

The provisions in this part set out the general duties and standards for Board members and staff. They closely reflect the general duties set out in section 183 of the ALRA. It is important to know and understand the provisions in this part. Many of the other more specific duties and standards (in parts 4 and 5 of this Code) are built upon these provisions.

#### 3.1 Conduct generally

- (1) You must always conduct yourself and exercise your authority:
  - (a) in the best interests of X LALC, its members and the community it serves,
  - (b) in compliance with the ALRA, the *Aboriginal Land Rights Regulation* and law generally, and with X LALC's Rules, this Code of Conduct and LALC policies,
  - (c) honestly and ethically, and
  - (d) in a way which upholds X LALC's values.
- (2) You must not conduct yourself in a manner detrimental to or likely to be detrimental to X LALC's interests, or those of its members or the community the LALC serves.
- (3) You must not conduct yourself in a manner that is likely to bring X LALC or Aboriginal Land Councils generally into disrepute.

#### 3.2 Care and attention

- (1) You must always be reasonably diligent and attentive to the duties of your office or position.
- (2) Whatever your knowledge, skills or experience, you must always perform your duties and exercise your functions with reasonable care for the LALC's benefit.

**What this is about**

This provision of the Code is similar to your duty to exercise a reasonable degree of care and diligence in section 183(1)(b) of the ALRA.

This provision of the Code requires you to:

- take your office or position seriously,
- use whatever knowledge, skills and experience you have that are relevant to your office or position,
- give reasonable time and effort to your responsibilities,
- get the information and advice you need to fulfil your responsibilities, and
- if you are a Board member – monitor the strategic direction, operations and financial position of the LALC.

**Ask yourself**

Would a fair minded onlooker think I am making the effort required to do my job or perform my duties properly? Would they think I am giving enough attention and care to the job or office?

**Example**

Gary has no particular skills or experience in the government or business worlds. But he is a respected member of the community and this is why he was elected as a Board member of Blue Sky LALC. Gary knows he lacks knowledge and skills to easily understand the LALC's financial reports and other technical information. But he takes his office very seriously and this means:

- he is aware of his duties under the ALRA and the standards expected of him in the LALC's Code of Conduct,
- he has read and understood the LALC's Community, Land and Business plan and keeps the LALC's goals in mind at each Board meeting,
- he takes time to read all Board papers and understand them as best he can,
- attends Board meetings (although there have been some occasions when he has had to send apologies and ask to be excused),
- asks the questions he needs to ask so he is equipped and confident to make the decisions on the Board's agenda,
- makes sure he gets the answers he needs to understand the significance of the financial reports, so he can be sure there is little risk that the LALC will incur debts it cannot pay, and
- does any follow up work he has agreed to do in between meetings.

**3.3 Honesty, good faith and proper purpose**

(1) You must always act honestly.

(2) You must always make decisions and act:

(a) in *good faith* – applying the ALRA, the LALC's Rules and this Code and exercising

- your functions in a manner that honestly and genuinely seems right to you, and
- (b) for a *proper purpose* – striving always to achieve X LALC's objects and its goals in accordance with the ALRA and with law generally.

#### **What this is about**

This provision of the Code is like your duty to act honestly and in good faith in section 183(1)(a) of the ALRA and your duty to act only for a proper purpose in section 183(1)(c) of the ALRA.

This provision of the Code requires you to:

- act honestly, with good conscience,
- be loyal to the LALC and its objects and goals,
- only make decisions and take actions that you genuinely and reasonably believe comply with the ALRA and are lawful, and are in the best interests of the LALC, its members and its community, and
- make sure your decisions and actions are consistent with, and are for the purpose of fulfilling, the LALC's objects (in section 51 of the ALRA) and goals (set out and reflected in its Community, Land and Business plan).

#### **Ask yourself**

Is this decision or this action lawful and in the LALC's interests? How does it sit with the LALC's objects and with its goals?

#### **Example**

Wally is the Chairperson of Green Acres LALC and is also a plumber. The LALC needs refurbishment work done on its office and housing. Jason is a builder who sometimes engages Wally as a subcontractor. Jason suggests to Wally that he should do the LALC's building work. When Wally says he'll discuss this with his Board, Jason tells him: "You're the Chairperson. You're the boss. You don't need anyone else to tell you what you can and can't do." So Wally tells Jason he can have the job. He tells Mable, the Chief Executive Officer, and instructs her to approve Jason's quotes and sign contracts with him. The quotes look high to Mable, but she is Wally's niece and has always been intimidated by him, so she does as she is told.

In this scenario, Wally has not acted in good faith. He knows that being Chairperson does not (without appropriate delegation) give him authority to make business decisions for the LALC on his own. He also knows he has no authority to instruct the Chief Executive Officer on his own.

Wally has also acted for an improper purpose. He gave Jason the work not because this was in the LALC's interests, but because he wanted to show Jason he was the LALC's boss and also hoped that it could lead to more work for him in the future.

### **3.4 Fairness and impartiality**

You must always act fairly and impartially – you must not engage in favouritism or act with bias. This especially applies to decisions and operations concerning benefits or services for LALC members and other Aboriginal people in the LALC's area.

**What this is about**

This provision is about being fair.

When X LALC provides services or benefits to its members and other Aboriginal people in its area, it is important that it does so fairly. The LALC's integrity and reputation, and the effectiveness of its programs, will be undermined if the LALC's programs or its decision-making show favouritism towards some community members, or prejudice against others.

**Ask yourself**

Am I acting, or am I making this decision, fairly and impartially?

If someone is missing out, or is losing something as a result of this action or decision, will they have good reason to think I was biased against them or that I was favouring others?

**Example:**

Cheryl's job is to co-ordinate Green Forrest LALC's land management and cultural heritage services team. Her duties include selecting team members for jobs as they come up from a pool of casual employees. The pool includes several members of her extended family and some close friends. Cheryl has disclosed this to the CEO. Cheryl enjoys working with her friends and family members – it gives a nice, relaxed family feeling to her job. But she also knows that the others in the pool are equally qualified and experienced and are equally able to do the work. She keeps careful records of who has had what work, and she makes a point of rotating through all members of the pool, so that they all get equal work opportunities. Although everyone knows about Cheryl's connections, no-one has any reason to think she is showing favouritism or bias in her allocation of work, and she enjoys community respect.

**3.5 Respect for others**

- (1) You must always act with respect for others.
- (2) Your interactions with others – including Board members, staff, members and community members – must always be respectful, civil and professional, to help foster:
  - (a) a well-run LALC that members and other community members are pleased to be involved with,
  - (b) a positive image of the LALC amongst its members, its community and within the wider community, and
  - (c) a healthy and safe workplace.

**What this is about**

If everyone within a LALC acts with genuine respect and courtesy, it is not only more pleasant for people to be involved with the LALC, it can also help the LALC to make better decisions and operate more effectively.

**Example**

The Board of Big City LALC is discussing a potentially lucrative opportunity to partner with a property developer on a large development in the LALC area. The development is also controversial because of its impacts on Aboriginal cultural heritage and some important remnant bushland. Because of the controversy, it is important for the Board members to be

able to speak openly and candidly with each other, to enable robust and deep conversation about the best interests of the LALC and the community. But this can only happen if there is genuine respect amongst the Board members and they all feel safe to speak their minds. Personal accusations or disrespectful or even abusive behavior will interfere with productive discussion, and may derail the discussion and cause lasting tension and resentment among the Board.

Board members will inevitably have differences of opinion. In fact, this is one of the key purposes of having a representative Board: to discuss and debate ideas or proposals and represent different opinions or elements of the community. But such debates and discussions need to be handled respectfully, for the Board to work effectively together in the best interests of the LALC.

### 3.6 Integrity

- (1) You must never allow any private or external interest or obligation to improperly influence your decision making or the exercise of your authority.
- (2) You must not improperly use your office or position to gain a personal advantage or benefit for yourself or another person or organisation, or to cause detriment to X LALC.
- (3) You must not improperly use information that you have access to because of your office or position to improperly gain a personal advantage or benefit for yourself or another person or organisation, or to cause detriment to X LALC.
- (4) You must not seek to influence other Board members or staff in order to gain a personal advantage or benefit for yourself or another person or organisation, or to cause detriment to X LALC.

#### What this is about

This provision reflects your duties in section 183(1)(d) of the ALRA.

This provision of the Code requires that you:

- not use your office or position for personal advantage, and
- not use your office or position to the detriment of an Aboriginal Land Council.

It is about making sure you exercise your authority or do your job as intended for the benefit of the LALC and its community, rather than for your own advantage or the advantage of someone else. It is about protecting the *integrity* of the LALC and its operations and, ultimately, the integrity of Land Rights.

In order to achieve its objects and meet its goals, the LALC needs all its people to be on board and needs all its resources. If you instead pursue your own interests, your family's interests or someone else's interests:

- you are essentially stealing from the LALC, and
- you will damage the LALC's standing and its reputation in the community and beyond.



**Ask yourself**

Am I making this decision or taking this action in the interests of X LALC and in accordance with my duties? Or am I being improperly influenced in my decision-making by some private interest or an obligation I owe to someone else?

Am I using my office or position and the information it gives me access to only as intended and for the benefit of the LALC and its community? Or am I instead using it to gain an advantage for myself, my family or someone else?

**Examples**

These provisions of the Code are breached by:

- a Board member who uses his or her office to get LALC housing for a family member,
- a CEO who uses his or her position to secure service contracts for a friend's business,
- a Chairperson who uses his or her influence on the Board to advance the agenda or standing of the political party he or she belongs to,
- a Board member who uses his or her office to pursue a personal grudge to the detriment of the LALC,
- a CEO who uses his or her working hours and the LALC's office equipment and other staff to run their own business,
- a staff member who gives a property developer friend information about potential opportunities involving LALC land holdings clearly breaches this provision; or
- a staff member who uses information gained from his or her job to criticise a CEO or LALC decision at a members' meeting may also breach this standard.

## 4. Conflicts of interests, duties of disclosure and personal benefit

**What this is about**

The provisions in this part are about ensuring that X LALC's integrity is kept safe from the influence of conflicts of interests that Board members and staff may have. They aim to make sure that private or external interests don't improperly interfere with the performance of your duties. They also aim to make sure there will be no reason for anyone to think your interests are improperly interfering.

**What is a conflict of interests?**

A conflict of interests is simply when two or more interests are in conflict with one another.

A conflict of interests could arise between a LALC official's duties and their private interests or duties. For example, a Board member might operate a business that the LALC is contracting with. A conflict could also arise if a LALC official has two or more roles ("hats") and different duties are expected in relation to each role. For example, a Board member could also sit on the Board of a local housing provider that has a head lease over LALC housing.

A conflict of interests can be either:

- **Actual** – where the conflict does in fact exist and could, if not managed properly, improperly influence the performance of an X LALC official's duties, or

- **Perceived** – where it could *appear* to a reasonable observer that a conflict exists and could improperly influence the performance of the X LALC official's duties. This is also sometimes called an *apparent* conflict of interests.

Both can have a significant impact on the LALC's operations and on how others view the LALC.

Your private or other interests giving rise to the conflict of interests could be either a:

- **Pecuniary interest** – which is defined in section 184 of the ALRA to mean “an interest a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated” as provided in section 184, or
- **Non-pecuniary interest** – which does not arise “because of a reasonable likelihood or expectation of appreciable financial gain or loss”, but which could nevertheless improperly influence the performance of your duties.

Conflicts of interest cannot always be avoided. They will happen. What matters is that you observe the duties and standards about conflicts of interests set out below in this part.

### **Why do conflicts of interests matter?**

Conflicts of interests can matter because they can lead to you *actually* being improperly influenced by a private or external interest or obligation. This harms the proper performance of your or X LALC's functions and the LALC's reputation.

Even if you are not improperly influenced, a conflict of interests can give rise to a *reasonable perception* that you have been. This in itself can harm the LALC's reputation. It can seriously undermine the confidence that members, the community and potential partners of the LALC have in it.

## **4.1 Avoiding and managing conflicts of interests**

- (1) You must take reasonable steps to avoid actual and perceived conflicts of interests from arising in relation to the performance of your duties.
- (2) When conflicts of interests do arise, you must take all reasonable steps to disclose and manage them, to ensure they are visible and do not improperly influence, or appear to improperly influence, the performance of your duties.
- (3) Without limiting paragraph (2), you must disclose pecuniary and non-pecuniary interests in accordance with this Code of Conduct and the ALRA.

### **What is this about**

Because the LALC is a local community-based organisation, it is inevitable that some conflicts of interest will arise. These provisions of the Code are about:

- avoiding (where you reasonably can) conflicts that could interfere with your office or job, and
- perhaps more importantly, managing conflicts of interests when they do arise.

Conflicts of interests are managed when they are out in the open and when you don't take part in decision making and operations that could otherwise be compromised. This is the point of all

disclosure provisions, including the ALRA disclosure provisions (in Part 10, Division 3, Subdivision 2 of the ALRA).

### Example

Alice is Board member of Central Tablelands LALC and is also the Chairperson of the regional Aboriginal Medical Service (AMS). The AMS wants a long-term lease of a valuable LALC owned building for staff accommodation. The AMS is not able to offer market rent. The LALC's board is discussing the proposal to decide whether they should recommend it to the members.

In a situation like this the long-term lease of the property to the AMS might not be in the best interests of the LALC, even though the AMS is another Aboriginal community organisation doing good work for local Aboriginal people.

In this case:

- Central Tablelands LALC has other priorities for providing or supporting community services, and these are set out in the Community, Land and Business Plan,
- there are other community agencies seeking the LALC's financial or property support, and
- a private developer is also interested in the building for a residential development, and may be prepared to offer a good price.

The LALC needs to have some real debate about what is the best use of this building for the LALC and its members and community.

Alice wears two "hats" in this scenario – she is both a LALC Board member and the AMS Chairperson. Because of this she has duties and responsibilities to both the LALC and the AMS. She has a conflict of interests in relation to the building. This may make it difficult for her to act solely in the interests of the LALC in discussing this proposal. Some members could see her presence on the Board as compromising the Board's decision making.

Alice recognises that she has a *non-pecuniary interest* in the matter being discussed. She discloses her interest at the meeting as required by clause 4.3 below, leaves the meeting room and takes no further part in the discussion or decision-making about the matter. Her disclosure and the fact that she took no part in the discussion is recorded in the minutes.

## 4.2 Disclosure of pecuniary interests

- (1) You must comply strictly with your duties of disclosure in relation to *pecuniary interests* set out in the ALRA (**ALRA disclosure provisions**) (see Part 10, Division 3, Subdivision 2 of the ALRA).
- (2) In complying with the ALRA disclosure provisions, you must assume that any reference to "*a meeting of the Council*" includes a meeting of X LALC's Board and a meeting of any sub-committee of the Board. That means that you must comply with s 185 of the ALRA not only at member meetings, but also at Board meetings and any sub-committee meetings.
- (3) In addition:
  - (a) if you are the Chief Executive Officer, you must disclose, in writing to the Board, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

- (b) if you are a member of staff other than the Chief Executive Officer, you must disclose, in writing to the Chief Executive Officer, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

#### **What this is about**

The ALRA disclosure provisions, and this provision 4.2 of the Code, are about managing conflicts of interests by bringing conflicts and potential conflicts into the open. Specifically, they are about bringing your *pecuniary interests* into the open: interests you have because of a *reasonable likelihood or expectation of appreciable financial gain or loss* to yourself or another person who you are associated with.

If such interests are acknowledged and brought into the open, they are far less likely to have an improper influence on your actions and decision making.

The ALRA disclosure provisions say that when a pecuniary interest is disclosed at a meeting, it must be recorded in the minutes of the meeting. This is not just a formality. It means that you and the LALC can later demonstrate that appropriate disclosure was made, and appropriate steps were taken.

If you disclose a pecuniary interest in a matter that is being considered or discussed at a meeting, you will generally be excluded from that part of the meeting. This is the default position. The members or Board (as the case may be) can decide to override this if, for example, your pecuniary interest is insignificant and unlikely to sway you.

If you are uncertain whether you have a pecuniary interest, it is always better to disclose anyway and let the meeting decide whether you should be allowed to stay and take part in the discussion and decision making.

#### **Ask yourself**

Do I, or people close to me, have any financial stake in this matter being discussed or voted on or that I am dealing with in my job for the LALC?

#### **Example**

Betty is a Board member of Tablelands LALC.

At a Board meeting, the Board is considering reviewing the rental rates for its social housing stock.

Betty's son Darren is an existing tenant. Clearly, Betty has a pecuniary interest in the matter. It directly impacts on the economic wellbeing of Betty's son Darren. Betty discloses her pecuniary interest in the matter. After considering Betty's interest, the Board confirms that Betty should leave the meeting for discussion and decision-making about the rental rates. The disclosure, and the fact that Betty left the meeting, is recorded in the minutes. There is now a clear record that Betty's interest was properly disclosed and managed and did not improperly influence the Board's decision.

### **4.3 Disclosure of non-pecuniary interests**

- (1) You must also disclose any *non-pecuniary interest* in relation to any matter being discussed at a X LALC meeting, as if it was a pecuniary interest and as if the ALRA disclosure provisions, and provision 4.2 of this Code of Conduct, applied. This means you must disclose non-pecuniary interests *as if they were* pecuniary interests.

- (2) If you are required by paragraph (1) to disclose a non-pecuniary interest at a meeting, you must also leave the meeting and remain out of sight of the meeting unless the Board decides the disclosed interest is not significant.
- (3) A non-pecuniary interest is to be regarded as “*significant*” if it involves:
- (a) a family relationship that is particularly close (e.g. a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, child or grandchild of you or of your spouse, your current or former spouse or partner, de facto or other person living in the same household),
  - (b) another relationship that is particularly close (e.g. a friend or business associate), or
  - (c) an affiliation between you and an organisation, sporting body, club, political party, corporation or association that is particularly strong,
- and if it could appear to a reasonable observer that the non-pecuniary interest could improperly influence your participation in decision making about the matter.

#### **What this is about**

The ALRA only has provisions about pecuniary interests. But an interest doesn't necessarily have to involve financial gain or loss for it to influence decision making. This provision 4.3 of the Code is about treating *non-pecuniary interests* like *pecuniary interests*. Both kinds need to be disclosed.

#### **Example**

Bob and Yvette are Board members of Big Sky LALC.

The LALC has some vehicles it is considering selling. The vehicles will be sold at fair market value, but decent used vehicles are hard to come by. Several LALC members have expressed interest in buying them. Bob's father Alf is one of them and Yvette is another. At a meeting, the Board is deciding whether to sell the vehicles and, if so, who to sell to.

Bob and Yvette decide they don't have a pecuniary interest in the matter, because the vehicles will in any case be sold at full market value.

But they also both understand that members could well think that their participation in decision making was influenced by their desire to get a decent used vehicle, rather than by the LALC's interest.

They both declare their non-pecuniary interests at the meeting. They leave the meeting to allow the matter to be discussed and voted on in their absence. This is recorded in the minutes.

In the end, the Board decides that it is better to sell the vehicles, but to do so through a local dealer. They made this decision to avoid any perception the Board was making decisions that favoured its Board members.

## **4.4 Gifts and benefits**

- (1) You must not:
- (a) seek or accept a bribe or other improper inducement,
  - (b) seek gifts or benefits of any kind in connection with the performance of your

duties, or

- (c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your duties, including any gift or benefit.
- (2) Without limiting paragraph (1)(c) above, a gift or benefit will be taken to be one that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you, if it:
- (a) is for more than nominal value, or
  - (b) consists of cash or a cash-like gift (gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts), regardless of the amount.
- (3) If you receive a gift or benefit of a kind referred to in paragraph (1), you must:
- (a) if you are a Board member – disclose the gift to the next Board meeting,
  - (b) if you are the Chief Executive Officer or a Board member – disclose it to the next Board meeting, or
  - (c) if you are a staff member other than the Chief Executive Officer – disclose it to the Chief Executive Officer as soon as practicable.

In each case, the gift or benefit must be surrendered to X LALC and then returned, unless the nature of the gift or benefit makes either surrender or return impractical.

#### **What this is about**

If a LALC official receives significant gifts from a person the LALC is dealing with (whether this is a tenant, a property developer or a member of parliament), it can give the impression that the official, or the LALC itself, is too close to that person or is obligated to them, and is being improperly influenced.

Obviously this depends on the size of the gifts and the circumstances in which they are given. The provisions in clause 4.4 of the Code aim to strike a balance and put sensible guidelines in place.

#### **Example 1**

Esther is a community elder and is a tenant in a LALC house. She sometimes likes to come into the LALC office for a chat and when she does she often brings a cake. Because she knows that chocolate cake is the CEO's favourite, it is often a chocolate cake.

No-one could reasonably think that accepting Esther's cake would create a sense of obligation on the part of the CEO and other office staff. There is no need for it to be refused or disclosed.

#### **Example 2**

Keith is the Chief Executive Officer of Saltwater LALC. Gary is a property developer who wants the LALC to agree to work with him on the development of some LALC lands. Gary is always popping over to visit the LALC to discuss opportunities and when he does he usually leaves small gifts behind. In the beginning these are just pens with his company's name on them, and no-one pays them much notice. One day, however, he produces 5 corporate box passes for the NRL grand final for him and 4 LALC Board members, claiming they are just spares that might

otherwise go to waste. Keith loves the NRL and this gift would also make him popular with those Board members who will go with him. But Keith is now concerned that Gary is attempting to make him and the Board feel obligated towards him. He knows it will look like this to members. He rightly tells Gary the LALC cannot accept the passes. Gary insists he means nothing by it, but Keith rightly remains firm in his refusal of the gift.

#### 4.5 Other business or employment – staff members

- (1) If you are a staff member considering outside employment or contract work that relates to the business of X LALC or that might conflict with your duties to the LALC, you must notify and seek the approval of the Chief Executive Officer in writing. If you are the Chief Executive Officer, you must notify and seek the written approval of the Board.
- (2) As a staff member, you must ensure that any outside employment or business you engage in will not:
  - (a) conflict with your duties to X LALC,
  - (b) involve using information or resources obtained through your work with the LALC,
  - (c) require you to work while on duty for the LALC, or
  - (d) discredit or disadvantage the LALC.

##### What this is about

LALC staff are often employed on a part time basis. It is reasonable that they should be able to do other work when they are not working for the LALC. This is only a problem if the other work conflicts with the staff member's work for the LALC in some way. That is what these provisions in clause 4.5 of the Code are about.

##### Example 1

Bruce works part time for Blue Sky LALC as a Receptionist and Administrative Assistant. On his days off he works at a pizza restaurant. Early on the restaurant used to ask him to come in on days when he was at the LALC. He explained he could not do this and they stopped asking him to. There is no problem here.

##### Example 2

Janette is employed part-time as the Heritage Officer for Green Acres LALC. Then she started working independently as a heritage consultant on her off days. It started out very small, and she didn't think there was any need to tell the CEO. But she is good at what she does and she has recently picked up some outside work funded by a Commonwealth grant. This work has become quite intensive and demanding, and it begins to conflict with Janette's scheduled hours at the LALC. Then she misses several days' work. She is called in to see Mary, the LALC CEO. Mary is becoming rightly concerned about Jeanette's attendance. She is annoyed to learn that Jeanette has been working independently without telling her. She is also concerned that Jeanette has applied for and is now performing a contract that the LALC itself could have done. Jeanette is in trouble.

#### 4.6 Personal dealings with X LALC

It is possible you will have reason to deal with X LALC in your personal capacity (e.g. as a tenant in one of the LALC's houses). You must not expect or request preferential treatment in

relation to any matter. You must avoid any action that could lead members or members of the community to believe that you are seeking or receiving preferential treatment.

#### **What this is about**

If Board members and staff members received preferential treatment from the LALC, the rest of the members and the community would likely think they were using the LALC to benefit themselves rather than looking after the community.

#### **Example**

Trevor works as the ranger coordinator for Big City LALC. He is also on a waiting list for a LALC-owned rental property.

Trevor works hard and his wages are modest. He has begun to think that the LALC owes him more than this. Bumping him up the waiting list is the least the LALC could do.

He repeatedly goes to see Lynette, the LALC's housing officer, asking if he can be bumped up the waiting list. He has also sometimes bought her lunch, saying things like "That's alright – I know you're doing what you can to get your work mate a house".

Lynette is becoming uncomfortable. She recognises that Trevor is seeking to use his position to gain preferential treatment. As Trevor doesn't seem to get the hints she is giving him, she takes her concerns to the CEO.

## 5. Other specific duties and standards

### 5.1 Grievances

There are proper ways to raise and deal with any concerns or grievances you might have about Board members, staff or members. You must not make personal attacks on Board members, staff or members or otherwise act in an offensive or inflammatory way towards Board members, staff or members. This applies to direct interactions, to LALC meetings (including any Board meeting or sub-committee meeting), to any other community or public forums, and also to Facebook, Twitter or other social media postings and to other communications.

#### **What this is about**

Conflict is an inevitable part of any organisation's existence. It is common for grievances to occur. Conflict and grievances can arise because of differences of opinion or personality differences.

When conflict does occur, it needs to be handled properly, and in a manner consistent with your:

- duty to look after the LALC's best interests, and
- duty to treat others with respect.

You must not allow grievances against other LALC officials to become detrimental to the LALC, to LALC operations or to the LALC community.

#### **Example**

Cheryl and Bob are both Board members of Outback LALC. Their families have come into conflict because of a fight between Cheryl's son Max and Bob's daughter Sheri that has caused



a lot of hurt. When Cheryl and Bob disagree about an issue being discussed at a Board meeting, Cheryl thinks Bob is being unreasonable and decides to make it personal.

Cheryl stops the meeting and gives an angry speech accusing Bob of lying just like that daughter of his. This lasts for about 5 minutes and then she storms out of the meeting, leaving it without a quorum. Still angry, she then posts a slur against Bob on her Facebook page.

This conflict persists for some time, affecting the Board's ability to meet and make decisions.

The Chairperson takes steps to resolve the conflict by arranging mediation.

## 5.2 Harassment and discrimination

- (1) You must never harass, discriminate against others, or encourage or support others who harass and discriminate against others. This includes, but is not limited to, harassment and discrimination on the grounds of sex, pregnancy, age, race, religion, marital status, disability, homosexuality or transgender grounds.
- (2) In this Code of Conduct, "*harassment*" means any form of behaviour towards a person that:
  - (a) is not wanted by the person,
  - (b) offends, humiliates or intimidates the person, and
  - (c) creates a hostile environment.

## 5.3 Bullying

- (1) You must not engage in bullying behaviour towards others.
- (2) In this Code of Conduct, "*bullying behaviour*" means any verbal, physical or social behaviour:
  - (a) in which a person or a group of people repeatedly acts in an intimidating or hurtful way towards another person or a group of persons, and
  - (b) which causes physical, social or psychological harm.

## 5.4 Board member interactions with staff and consultants

- (1) If you are a Board member, you must respect the division of roles and responsibilities between the Board and the Chief Executive Officer in relation to the direction of staff and engagement of consultants. While the Board directs and controls the affairs of the LALC generally, staff and consultants are under the direction of the Chief Executive Officer. You must not:
  - (a) try to direct staff or consultants (other than by a resolution of the Board giving an appropriate direction to the Chief Executive Officer),
  - (b) try to influence staff or consultants, including by things said at a LALC meeting or other forum.
- (2) Further, while the Chief Executive Officer is subject to the control and direction of the Board, it is not appropriate for individual Board members to try and direct the Chief Executive Officer. As with other functions of the Board, this function may only be exercised by Board resolution.

**What this is about**

The ALRA keeps a clear separation between the Board and the staff of an Aboriginal Land Council. For example, section 79(2) says that a Board member may not be employed as a member of staff of the LALC.

The Board and the Chief Executive Officer have different roles in relation to the direction and management of the LALC.

It is not the job of the Board or of individual Board members to give directions to staff or consultants. This is the Chief Executive Officer's job.

The Board can make resolutions giving directions to the Chief Executive Officer. Individual Board members, however, cannot do this.

**Example**

Paul is a Board member of Inland LALC. A LALC tenant speaks to Paul about urgent repairs that need doing. Paul promises that he can get them done.

Paul then goes to the LALC office. Lorraine, the CEO is out of the office. He approaches Simone the Administrative Assistant and instructs her to arrange tradespeople to do the work. Simone is not sure about this, but Paul insists, and Simone does as she is asked. Trades are organised and the first Lorraine knows of it is when the LALC receives a bill for \$2,500.00.

She is rightly furious because:

- she was already aware of the request for repairs,
- there are other more urgent repairs and maintenance works needed on the LALC's housing,
- the budget for repair and maintenance work for the year was already spent, and
- this is not the first time Paul has interfered in the day to operations of the LALC.

**5.5 Board members attendance at meetings**

- (1) If you are a Board member, you must make a reasonable effort to properly prepare for, attend, and participate constructively in all Board meetings and any sub-committee meetings you may be required to participate in.
- (2) A reasonably attentive and careful Board member will:
  - (a) take the time needed to gain a reasonable level of knowledge and understanding about the LALC's objects and functions, its operations and priorities (as set out in its Community, Land and Business plan) and its overall financial position,
  - (b) make an effort to attend all Board meetings (as well members meetings and any relevant Committee meetings),
  - (c) make an effort to prepare for meetings (e.g. by reading papers that may be provided in advance) so that at the meetings he or she will be ready and able to engage,
  - (d) pay attention at meetings and do his or her best to understand the matters being discussed, and

- (e) apply his or her knowledge and understanding about X LALC's objects and functions, operations and priorities to those matters.
- (3) If you are unable to attend a meeting you must request leave of absence from the Board, identifying:
- (a) the meeting you wish to be excused from, and
  - (b) the grounds on which you wish to be excused.

You should note that if you are absent from 2 consecutive meetings of the Board of which reasonable notice has been given, except on leave from the Board or unless you are excused by the Board for having been absent, your office may be vacated by operation of section 67 of the ALRA.

#### **What this is about**

Being a good Board member requires you to make an effort. This is the essence of your duty to exercise a reasonable degree of care and diligence in section 183(1)(b) of the ALRA. Because most of the Board's work takes place at Board meetings, this duty includes making an effort to be ready for Board meetings, to attend them and to participate in discussion and decision making.

When Board members do not attend Board meetings, this may prevent the Board from functioning. It has a demoralising impact on the rest of the Board and on the LALC as a whole. The LALC is unable to make decisions, issues drag on and people get disheartened. This is why section 67 of the ALRA says that failing to attend two Board meetings in a row – without leave or without being excused – may cause a Board member to vacate their office.

### **5.6 Behaviour at LALC meetings**

When at LALC meetings (including X LALC members' meetings, Board meetings and sub-committee meetings), you must observe and comply with Appendix 1 – Code of meeting behavior.

### **5.7 Misuse of information at members' meetings**

When at a LALC members' meeting, you must take care to not misuse information that you have because of your office or position.

#### **What this is about**

This provision of the Code is about being careful not to use information that you have only because you are a Board member or staff member for your own purposes at a LALC members' meeting.

A breach of this provision is likely to also be a breach of one of the provisions in clause 5.9 below.

#### **Example 1**

At a Dividing Range LALC Board meeting, the CEO tells the Board that Donald, the LALC's Ranger Coordinator, may have to resign soon because of a recent health issue. However, the cause is still being investigated and Donald expects to know more in about a month.

Two weeks later there is a members' meeting. An issue comes up about the LALC's ranger program. Some members are critical of Donald. Barry, a Board member, says "I reckon you're unfit for the job. Maybe you should leave now rather than wait for your test results!" The whole details about Donald's health issue and the possibility of his resignation then comes out.

This causes Donald embarrassment. His health problem is a sensitive issue and he raised it with the CEO in confidence only to give him early warning. The CEO had told the Board only to give the Board a full picture of issues facing the LALC at that point in time.

The Chairperson recognises this and calls Barry out for his behaviour.

### **Example 2**

A Western Plains LALC staff member is aware of details of a LALC member's background and personal circumstances, due to being involved in the administration of the LALC's membership roll and housing lists. The LALC employee mentions some of these details at a members' meeting to intentionally discredit and undermine the member during a community discussion.

The misuse of information by the Board member and LALC staff member in these examples also exposes the LALC to potential liability for breach of privacy.

## **5.8 Use of LALC resources**

- (1) X LALC resources (including its property, vehicles and also its name, letterhead and logo) are to be used only for the purposes of X LALC business. You must not use them for private purposes unless this use is lawfully authorised.
- (2) You must avoid any action or situation that could create an appearance that X LALC resources are being improperly used for your benefit or the benefit of any other person or body.

### **What this is about**

X LALC needs all its resources to carry out its operations effectively. If resources are instead used for personal or external work or business purposes of Board members or staff members, the LALC is essentially being stolen from.

### **Example 1**

Barry is the Culture and Heritage Coordinator for Midway LALC. He is also involved in a community heritage project outside his duties as a LALC employee. A number of large submissions are sent to him as part of his work on the community heritage project, to review and provide feedback. Each submission is several hundred pages and includes colour photos, and graphs and diagrams. Barry is tempted to use the LALC's computer and printer to print these submissions, rather than have them printed at a copy shop or print them at home and use his own paper and printer. However, he is conscious that this work is not part of his LALC duties and that the LALC is actually fairly careful to avoid printing lengthy colour documents. He does the right thing and gets the documents printed out of the LALC office.

### **Example 2**

Jock is the energetic CEO of Coastal LALC. He is always looking for new ways of doing things. As well as his full-time job as LALC CEO he operates a consulting business. After hours is just not long enough to conduct his business. He ends up operating his business during office hours. In addition, he uses many of the contacts he has from his LALC job to promote his

business. Pretty soon it becomes hard for some contacts to tell if they are dealing with Coastal LALC or with Jock in his private capacity, especially because he uses his LALC telephone numbers for his private work and often uses his work email account – with a LALC signature block – to communicate with private clients. Jock might be a bit confused himself. He tells one client that he can arrange a loan from the LALC to help fund that client's property development. Jock is clearly using LALC resources for his own private gain.

## 5.9 Use of information generally

- (1) Information that you have access to as a result of your office or position must not be abused. You must only access X LALC information that you need to perform your duties. You must use LALC information only as needed to perform your duties. You must not use LALC information for your own purposes.
- (2) You must not destroy, alter, or dispose of LALC information or records, unless authorised to do so.

### *Confidential information*

- (3) You must take special care with confidential information. This includes:
  - (a) Board papers and your knowledge of things said during Board meetings, and
  - (b) any other information or document that by its nature is confidential and that you know or ought to know is confidential.
- (4) You must:
  - (a) protect confidential information, and
  - (b) not release or disclose confidential information unless you are authorised to do so.

### **What this is about**

If the LALC's confidential information is not protected:

- opportunities open to the LALC may be lost,
- the LALC could breach its legal obligations under contracts with third parties, and
- people will stop trusting the LALC with confidential information.

Not everything that happens or is discussed at a Board meeting may be confidential. But Board papers are prepared and provided only to help the Board make decisions and may contain sensitive information. Further, it is important that Board meetings should be places when people can talk frankly and openly, without fear that things they say will be repeated. For these reasons, all Board papers and all things said during Board meetings must be considered to be confidential.

### **Example**

Clearwater LALC's Board is discussing a significant local business opportunity and a proposal to become involved in the business venture. It has not yet made up its mind if this is a good idea for the LALC. The opportunity and the commercial deal involved is set out in Board papers provided to all Board members.

Peter is a Clearwater LALC Board member who is opposed to the LALC's involvement. He keeps the Board papers and later discusses the proposal with family and with a work colleague at the local council. News of the proposal circulates and finds its way to the local press and a story is published. This impacts on the proposal and on the LALC's relationship with the proponent and on its reputation in the community.

*Personal information*

- (5) You must also take special care with any personal information of others that you have access to because of your office or position.
- (6) You must assume that such personal information is protected by privacy law and that you must comply with privacy law, including the Australian Privacy Principles.

**What this is about**

Members, community members and staff trust the LALC with private information about a range of matters. They rightly expect that the LALC will use their personal information only for the purposes it is given.

**Example**

In the course of a Saltwater LALC Board meeting, Barbara, a Board member, shares some personal and confidential information about herself and her family. A LALC employee is taking minutes at the meeting. He later shares this information with a friend at dinner. This information then makes its way into the local community, causing Barbara and her family embarrassment and distress. Barbara is furious that private information she disclosed at a Board meeting has become widely known. She will find it very difficult to trust her fellow Board members again.

**5.10 Unauthorised public comment**

- (1) Unless you are the Chairperson or the Chief Executive Officer acting within the scope of your authority, or you have been specifically authorised to do so by the Board, you may not make any public statement, including to any newspaper, radio or TV station, or in a post on Facebook, Twitter or any other social media service:
  - (a) on behalf of X LALC or that others may reasonable understand is made on behalf of the LALC,
  - (b) about the LALC or its affairs, or
  - (c) about LALC Board members, staff or members.
- (2) You especially must not make any such public statement about X LALC or its affairs or about Board members, staff or members:
  - (a) that you intend will, or that is likely to, damage X LALC's interests, or
  - (b) that you intend will, or that is likely to, lower the reputation or standing of the LALC or Aboriginal Land Councils generally.

**What this is about**

Reputation can be very important to the LALC. Your duties to the LALC, and to other LALC Board members and staff members, include the duty to protect that reputation. This includes leaving public comment about the LALC and its business to those who are authorised to make

public comment. It also includes refraining from comment that could damage the LALC's standing.

#### **Example 1**

Arlene is a Board member of Big River LALC. She is very unhappy with the LALC's recent decision to support a major road development in the local area. The project has been controversial with the Aboriginal community because it passes close to a known art site. The LALC decided to sell the road builder some property for a biodiversity offset, and the LALC's ranger team has done land management and cultural heritage clearance work for the road builder.

The road and the LALC's land dealing were discussed extensively at several Board meetings and members' meetings and there was even a LALC-wide survey to provide members with an opportunity to express their opinions. The decision to sell the land was reached after lengthy discussion, including consideration of the impacts on Aboriginal cultural heritage and is consistent with the LALC's Community, Land and Business plan.

But Arlene strongly believes it is the wrong decision and is furious with the LALC's Chairperson, Francine, who was in favour of the road. She also (wrongly) believes Francine had a conflict of interests that she should have disclosed as a pecuniary interest.

Francine invites Arlene to discuss the matter with her privately. She is concerned that Arlene does not have all the facts right. Arlene ignores these suggestions.

Instead, she leaves angry posts about Francine and about "corruption" in the LALC, on her own social media pages and on the LALC's Facebook page. The local newspaper picks up on this and publishes a story that paints a picture of the LALC, under Francine's leadership, as being divided, unprincipled and money hungry. An opinionated talk show host picks up on the story and says: "Here we go again. Another story about infighting and greed in Aboriginal Land Councils."

#### **Example 2**

Layla is a prominent local figure in the community and a long time Board member of Bayside LALC. She posts disparaging comments and abusive remarks on her own Twitter feed about a recent Board meeting and a decision with which she disagreed. They are shared and commented on by others, and are eventually quoted in a regional newspaper. The LALC is portrayed as a divided and squabbling organisation that is more interested in internal arguments than advancing the interests of its community.

### **5.11 Reporting wrongdoing**

Nothing in this Code of Conduct should discourage you from reporting or complaining about wrongdoing within the LALC. However, you must do this responsibly and to an appropriate person.

#### **What this is about**

It is very important that you should speak up if you see or experience corruption or maladministration in the LALC.

Any wrongdoing within the LALC should be exposed and dealt with. But this should always be done responsibly and to an appropriate person.

Depending on the conduct you are concerned about, the most appropriate person to report wrongdoing to may be either:

- the Chief Executive Officer or Chairperson of the LALC,
- the Office of the Registrar,
- ICAC,
- the NSW Ombudsman, or
- the Police.

You should keep in mind that the *Public Interest Disclosures Act 1994* (soon to be replaced with the *Public Interest Disclosures Act 2022*) can, in some circumstances, give you legal protection if you do disclose wrongdoing. To gain this protection, however:

- you must be a *public official*,
- you must take the disclosure to either the LALC's Chief Executive Officer or an appropriate agency such as the Office of the Registrar, ICAC or the NSW Ombudsman, and
- you must believe, on reasonable grounds, that the information you are disclosing shows or tends to show corruption or maladministration.

For more information about protection given to public officials who make public interest disclosures, you may wish to contact the NSW Ombudsman's office or consult their website:

[Making a public interest disclosure \(whistleblowing\) - NSW Ombudsman.](#)

## 6. Dismissal from office – Board members

### What this is about

The ALRA recognises that occasionally a Board member's behaviour may be such that the members want to show their disapproval by removing them from their position as a Board member.

Section 178 of the ALRA allows a LALC's code of conduct to include provisions that, if breached by a Board member, can lead to the members dismissing the Board member from office. These are called *dismissal provisions*.

This part 6 contains the dismissal provision for this Code. If you are a Board member, breaching this provision could lead to the LALC dismissing you from office.

You should also keep aware that to dismiss a Board member for breaching a dismissal provision, the LALC must act in accordance with section 182 of the ALRA. This says that:

- the LALC must give the Board member 14 days' notice of its intention to consider dismissal, including the full particulars of the alleged breach and details of the meeting at which it will be considered,
- the LALC must give the Board member an opportunity to make a submission about the alleged breach, and
- the LALC's members must be satisfied that the Board member did in fact breach the dismissal provision.



**Caution**

While taking action of this kind quickly might be seen as necessary in some cases, it would be sensible to get advice from the NSWALC Zone Office and/or the Registrar's Office before taking action under this part of the Code.

**6.1 Dismissal provision**

- (1) If:
  - (a) you are a Board member, and
  - (b) the Registrar has previously found you guilty of misconduct as a Board member and taken disciplinary action against you under Part 10, Division 4 of the ALRA,you must not commit any further act of misconduct that results in the Registrar taking disciplinary action against you.
- (2) If, contrary to paragraph (1), you do commit a further act of misconduct and the Registrar takes disciplinary action against you for it, you may be removed from office by the LALC's members pursuant to sections 178 and 182 of the ALRA.

# Code of Conduct for members

## 1. Introduction

### 1.1 What is the purpose of this Code of Conduct?

This is the Code of Conduct for X Local Aboriginal Land Council (**X LALC**) members referred to in section 177(1)(b) of the *Aboriginal Land Rights Act 1983 (ALRA)*.

The purpose of this Code of Conduct is to clearly set out for each member – whether they be a voting or non-voting member – the standards of conduct that are expected of them.

By observing the standards set out in this Code of Conduct, members can help enhance the governance of X LALC and support the greater involvement of the X LALC community in the LALC.

Failure to observe the standards in this Code of Conduct could have a serious impact on X LALC. For that reason, breaches of this Code of Conduct may result in action being taken against member concerned.

### 1.2 Relationship to the ALRA and other laws

This Code of Conduct does not alter or take away from duties and obligations imposed on members by the ALRA or by any other law.

This Code of Conduct is a stand-alone source of standards and rules. It has been developed and adopted by X LALC to apply only to X LALC members.

### 1.3 Reading and understanding this Code of Conduct

#### *The spirit as well as the word*

This Code of Conduct is intended to clearly set out rules and standards that X LALC members are expected to observe. X LALC members are expected to uphold the spirit as well as the word of this Code of Conduct.

#### *Importance of X LALC's Core Values*

X LALC's values are set out below in Part 2 of this Code of Conduct.

This Code of Conduct should be read in the light of these values, and it should be understood and applied in a way that reflects and supports these values.

#### *Importance of the ALRA and law*

This Code of Conduct is meant to be entirely consistent with the ALRA and with law generally.

This Code of Conduct should be read in the light of the ALRA and law generally, and it should be understood and applied only in a way that is consistent with the ALRA and with law generally.

### *The use of “you”*

To make reading and understanding this Code of Conduct easier, throughout the Code – apart from this Part 1 “Introduction” – the word “**you**” is used to mean the X LALC member reading the Code.

## 1.4 Enforcing this Code of Conduct

All X LALC members need to be familiar with this Code of Conduct and the standards and rules in it.

If the conduct of an X LALC member should become an issue, X LALC can take action to enforce this Code of Conduct.

This action could take a number of forms, depending on a range of factors. Some breaches may be best dealt with by discussion in an informal meeting or in mediation. For others, X LALC may consider that suspension under section 57 of the ALRA is necessary.

## 2. X LALC's values

[It is intended that the LALC will develop a statement of its key values and insert them here.

[It may be that the LALC has already developed such a statement and that this is set out in its Community, Land and Business plan. In that case, that statement can be copied here.

[Some examples of values a LALC might consider appropriate to include are:

- **Respect** – for land and culture, for elders and family and for each other.
- **Support** – for each other and for those within our LALC community most in need of it.
- **Inclusion** – making a place within our LALC community for all Aboriginal people in the LALC area.
- **Dedication and commitment** – being selflessly committed to the protection of the X LALC's interests and the interests of its members and the X LALC community.
- **Fairness and impartiality** – making decisions and taking actions fairly and impartially, without favour or discrimination.
- **Honesty and integrity** – always acting honestly and not allowing private interests or obligations to influence decisions.
- **Accountability and openness** – being open and transparent about actions and decision making, allowing X LALC and its members to hold you to account.]

## 3. Conduct of members

### 3.1 Conduct generally

- (1) You must always abide by the ALRA, the *Aboriginal Land Rights Regulation 2020* and law generally.
- (2) You must also abide by X LALC's Rules and this Code of Conduct.

- (3) You must not act in a manner detrimental to or likely to be detrimental to X LALC's interests, or those of its members.
- (4) You must not act in a manner that is likely to bring X LALC or Aboriginal Land Councils generally into disrepute.

### **3.2 Honesty and integrity**

- (1) In all your dealings with X LALC, including any dealings with the LALC as someone receiving a community benefit, you must always act honestly and in good faith.
- (2) You must not engage in any conduct intended to adversely affect, or that is likely to adversely affect, the honest or proper exercise of any official functions by X LALC, its Board or its staff. This includes, but is not limited to, offering or receiving bribes or inducements and making threats.

### **3.3 Conflicts of interests**

- (1) You must take all reasonable steps to ensure that your decision making at meetings is not improperly influenced by, and is not perceived to have been improperly influenced by, any conflict of interests.
- (2) If you have a pecuniary interest in any matter being considered at a meeting, you must disclose the existence and nature of the interest to the meeting. This is especially important at meetings where decisions about proposed land dealings are made. Any such disclosure should be recorded in the minutes.
- (3) Further, unless the other members determine otherwise, you must not be present at, or in sight of, such meeting:
  - (a) at any time during which the matter is being considered or discussed, or
  - (b) at any time during which the members are voting on any question in relation to the matter.
- (4) In this Code of Conduct, "*pecuniary interest*" has the same meaning as in section 184 of the ALRA.

### **3.4 Respect for others**

- (1) In all your interactions and communications with staff, Board members and members, you must act with respect and civility.
- (2) There are proper ways to raise and deal with any concerns or grievances you might have about staff, Board members or members. You must not, in connection with X LALC affairs, make personal attacks on staff, Board members or other members or otherwise act in an offensive or inflammatory way towards staff, Board members or other members. This applies to direct interactions, to meetings (including any Board meeting or sub-committee meeting you may be present at), to any other community or public forums, and to Facebook, Twitter or other social media postings and to other communications.

### **3.5 Behaviour at LALC meetings**

When at X LALC meetings (including any Board meeting or sub-committee meeting you may be present at) you must observe and comply with the Code of Meeting Behavior which is set out in Appendix 1.

### **3.6 Confidential and personal information**

Sometimes you might be given access to confidential or personal information or documents at an X LALC meeting or in connection with LALC decision making. You must not use such information or documents for any purpose other than LALC business. You must not share such information or documents with people they were not intended for.

### **3.7 Falsely representing the LALC**

- (1) Every member's views and contributions are important. But unless you are properly authorised, you do not represent X LALC and have no authority to bind X LALC, and you must not hold yourself out as being a representative or having authority.
- (2) Without limiting (1), unless you have been properly authorised to do so, you must not make any public statement (which includes a statement to a newspaper, to a radio or TV station, or in a Facebook, Twitter or other social media post) on behalf of the LALC or that others may reasonable understand is made on behalf of the LALC.

### **3.8 Damaging public comment**

There are proper ways to raise and deal with any concerns or complaints that you might have about X LALC. You must not engage in public comment about the LALC (including any comment to a newspaper, to a radio or TV station, or in a Facebook, Twitter or other social media post):

- (a) that you know or ought to know is untrue, or
- (b) that you intend will, or that is likely to, damage X LALC's interests, or
- (c) that you intend will, or that is likely to, lower the reputation or standing of X LALC or Aboriginal Land Councils generally.

### **3.9 Reporting wrongdoing**

Nothing in this Code of Conduct should discourage you from reporting or complaining about wrongdoing within the LALC. However, you must do this responsibly and to an appropriate person.

# Appendix 1 – Code of meeting behaviour

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## 1. Introduction

- (1) Meetings and collective decision making have an important place in Land Rights and the life of X LALC. It is essential for the proper governance of X LALC that its meetings are inclusive, participatory, orderly and effective forums for issues to be discussed, opinions to be voiced and decisions to be made.
- (2) For these reasons, it is important that all X LALC members, Board members and staff members attending an X LALC members meeting, Board meeting or sub-committee meeting, observe high standards of conduct and orderliness.
- (3) In this code of meeting behavior:  

“**meeting**” means any meeting of X LALC’s members, its Board and of any sub-committee, and

“**you**” applies to any X LALC member, Board member or staff member.

## 2. Behaviour at meetings

- (1) At all meetings you must:
  - (a) respect and follow the directions of the Chairperson,
  - (b) speak in your turn, as permitted by the Chairperson, and not over the top of other people,
  - (c) listen to what others are saying, and
  - (d) address others and their points of view respectfully and without any disparagement.
- (2) You must not at a meeting:
  - (a) be argumentative, inflammatory, or abusive,
  - (b) be disruptive or disorderly, and
  - (c) deliberately seek to impede the consideration of the business of a meeting.
- (3) Without limiting any of the general standards of behaviour set out in paragraph (1), you must not at a meeting:
  - (a) assault or threaten to assault another person present at the meeting,
  - (b) move or attempt to move a motion or an amendment that has an unlawful purpose or that deals with a matter that you know or ought to know is beyond the power of X LALC or the Board, or address or attempt to address X LALC or the Board on such a motion,
  - (c) leave a meeting in order to deprive the meeting of a quorum,
  - (d) insult or makes personal comments about or impute an improper motive to a Board member, staff member or member, or

- (e) act in a manner that is likely to bring X LALC or the Board into disrepute or contempt.
- (4) You must not make an unauthorised recording of any kind of a meeting.