

ELIGIBILITY (CRIMINAL RECORD) CHECKS CONSENT FOR LALC EMPLOYEES

Background

The *Aboriginal Land Rights Act 1983 (NSW)* ('ALRA') sets out who is eligible to be employed as a staff member of a Local Aboriginal Land Council ('LALC'), and the reasons that a person may be disqualified from being employed as a staff member of a LALC.

The reasons for which a person may be disqualified from being employed by a LALC are listed in section 79 of the ALRA. These reasons are further explained in Office of the Registrar, *Aboriginal Land Rights 1983 ('Office of the Registrar') Fact Sheet Eligibility Checks – LALC Employees*. A copy of section 79 of the ALRA is also attached to this form.

If you are disqualified from being employed as a staff member of a LALC for any of the reasons listed in section 79 of the ALRA, you **cannot** be employed as a staff member of a LALC (unless the Registrar has decided to disregard your offence in accordance with section 79(1A) of the ALRA)

Under s79 of the ALRA, you can be disqualified from being employed as a staff member of a LALC for reasons including:

1. being convicted of certain offences under the *Crimes Act 1900 (NSW)*, within the last 5 years (specifically offences under Part 3 (except section 61), 4, 4AA, 4AB, 4AC, 4ACA, 4AD, 4AE, 4A, 5 or 5A of the *Crimes Act 1900*); or
2. being convicted of certain child sexual offence under the *Crimes Act 1900 (NSW)* (including offences under sections 66EB or 66EC, or section s80D)).

Inquiries made by Office of the Registrar

When a person commences employment with a LALC, the Office of the Registrar conducts Eligibility Checks to make sure the person is eligible to be employed as a staff member of a LALC.

The Office of the Registrar will conduct a **National Police Check** (also known as a Criminal Record Check) through the NSW Police. The NSW Police search their criminal record database for all offences and/or convictions (under any State, Territory or Commonwealth law) recorded against the employee's name, and provide a report to the Office of the Registrar.

A LALC staff members' eligibility may need to be checked again during their employment if legitimate concerns are raised that the staff member may no longer be eligible for employment by the LALC.

Consent for National Police Checks

A LALC employee's consent is required to conduct National Police Checks. The ***Authorisation for Criminal Record Check Form*** asks you to authorise the Registrar to conduct National Police Checks and to provide relevant information and identification to the NSW Police to allow the checks to be undertaken.

If you authorise the Registrar to conduct National Police Checks, they will be conducted in strict confidence. The LALC that you have been employed by will **only** be advised if you are eligible or not eligible to be employed as a LALC staff member. The LALC will *not* be advised of any of the details discovered during that check.

If you are not eligible to be employed as a staff member of a LALC, the LALC will also be advised of *when* you may become eligible for employment.

PLEASE NOTE: The Office of the Registrar does not provide Working with Children Checks. If you are seeking a Working with Children Check Clearance you should refer to the NSW Office of the Children's Guardian website: [Working with Children Check | Office of the Children's Guardian \(nsw.gov.au\)](https://www.workingwithchildren.nsw.gov.au).

Identification documents

The NSW Police have strict requirements in relation to the identification documents that must be provided to complete National Police Checks.

Please ensure you provide a photocopy or photo of your:

- 1) current Driver's Licence (or other photo ID i.e. Passport or Photo Identification Card issued in Australia); **AND**
- 2) Medicare Card,

with your completed ***Authorisation for Criminal Record Checks Form***.

If you do not have a photo ID, you can provide another form of identification such as a certified copy of your Birth Certificate, a Change of Name Certificate or other government issued identification.

Please make sure all copies of your ID are clear and that your ID is current. If you are providing a copy of a digital Driver's Licence, please provide a copy of the whole licence from top to bottom – i.e. including both the card and licence number.

After you have completed the attached ***Authorisation for Criminal Record Checks Form***, please provide it and your ID documents to the LALC CEO, who will forward it to the Office of the Registrar on your behalf.

If you have any questions about any of the issues discussed in this form, please contact the Office of the Registrar on (02) 8575 1160 for assistance.

AUTHORISATION FOR CRIMINAL RECORD CHECK LALC EMPLOYEE

Being for the role of _____ at the _____ Local Aboriginal Land Council.

PERSONAL DETAILS:

Surname: _____ First Name: _____

Other Given Names: _____ Date Of Birth: _____

Town/Suburb of Birth: _____ State: _____

Country of Birth: _____

Daytime Contact Number: _____

Email Address: _____

Current Residential Address: Number: _____ Street: _____

Suburb: _____ State: _____ Postcode: _____

Previous Residential Address (in the last 5 years):

Are you known by any other names? (i.e. Former Name, Maiden Name etc.)

Surname: _____ First Name: _____

Other Given Names: _____

IDENTIFICATION DOCUMENTS - PLEASE PROVIDE A PHOTO OR COPY OF YOUR:

1. current Australian Drivers Licence (or other form of photo ID i.e. photo card or passport issued in Australia OR *if you do not have photo ID* a certified copy of Birth certificate, Change of Name Certificate or other government issued ID) **AND**
2. current Medicare Card.

AUTHORISATION:

I, _____ authorise the Registrar of the Aboriginal Land Rights Act 1983 to provide the New South Wales Police with the information contained in this form (including copies of any identification documents provided by me) for the purpose of completing National Police Checks and providing details of all offences and/or convictions that may be recorded against my name to the Office of the Registrar.

I declare the personal information I have provided on this form and any identification documents I have provided to the Office of the Registrar relate to me and are correct.

Attachment 1: section 79, *Aboriginal Land Rights Act, 1983*

79 Certain persons must not be employed

(1) A person who is convicted of an offence under Part 3 (except section 61), 4, 4AA, 4AB, 4AC, 4ACA, 4AD, 4AE, 4A, 4B, 5 or 5A of the *Crimes Act 1900* must not be employed as a staff member of, or a consultant to, a Local Aboriginal Land Council for 5 years from the date of conviction.

(1A) The Registrar may determine that an offence committed by a person may be disregarded for the purposes of subsection (1) because of:

- (a) the time that has passed since the offence was committed, or
- (b) the triviality of the acts or omissions giving rise to the offence, or
- (c) the nature and circumstances of the proposed employment.

(1B) A person must not be employed as a staff member of, or engaged as a consultant to, a Local Aboriginal Land Council if the person has been convicted of:

- (a) an offence that involves sexual intercourse with a child or of attempting, or of conspiracy or incitement, to commit an offence of that kind, or
- (b) an offence under section 66EB or 66EC of the *Crimes Act 1900* , or
- (c) an offence under section 80D of the *Crimes Act 1900* where the person against whom the offence is committed is a person under the age of 18 years.

(2) A person who is an officer of an Aboriginal Land Council must not be employed as a member of staff of a Local Aboriginal Land Council while the person is an officer of an Aboriginal Land Council.

(3) A person who is a consultant to a Local Aboriginal Land Council must not be employed as a member of staff of that Council while the person is such a consultant.

(4) A member of staff of the New South Wales Aboriginal Land Council must not be employed as a member of staff of a Local Aboriginal Land Council while the person is such a member of staff.

(5) Subsection (4) does not prevent a member of staff of the New South Wales Aboriginal Land Council from being seconded to the staff of a Local Aboriginal Land Council.