

ELIGIBILITY (CRIMINAL RECORD) CHECKS CONSENT FOR LALC BOARD MEMBERS

Background

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

The reasons for which a person may be disqualified from holding office as Board member of a LALC are listed in section 66(1) of the ALRA. These reasons are further explained in the Office of the Registrar, *Aboriginal Land Rights Act 1983 ('Office of the Registrar') Fact Sheet Eligibility Checks – LALC Board members*. A copy of section 66 of the ALRA is also attached to this form.

If you are disqualified from holding office as a Board member for any of the reasons listed in section 66(1) of the ALRA, you **cannot** be a Board member of a LALC. (Unless the Registrar has decided to disregard your offence in accordance with section 66(2) of the ALRA).

Under section 66(1) of the ALRA, you can be disqualified from holding office for reasons including:

1. being convicted of an offence relating to the management of a corporation, within the last 5 years; or
2. being convicted of an offence under the ALRA, within the last 5 years; or
3. being convicted of an offence within the last 5 years that has a maximum sentence of 5 years or more in prison in NSW, even if you personally did not receive that sentence; or
4. being disqualified from holding office in or being involved in the management of a corporation under any law.

Inquiries made by Office of the Registrar

When a person is elected to the Board of a LALC, the Office of the Registrar conducts Eligibility Checks to make sure the person is eligible to hold office. The Office of the Registrar makes the following inquiries about each new Board member:

- 1) **National Police Check** – 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 Board member's name, and provide a report to the Office of the Registrar.

- 2) **ASIC Search** - A search of the Australian Securities and Investment Commission's ('ASIC') "*Banned and Disqualified Register*" to determine if the Board member has been disqualified from involvement in the management of a corporation.
- 3) **ORIC Search** - A search of the Office of the Registrar of Indigenous Corporations ('ORIC') "*Register of Disqualified Officers*" to determine if the Board member has been disqualified from managing corporations by a Court or by the Registrar of Indigenous Corporations.

A Board member's eligibility may need to be checked again during their term in office if legitimate concerns are raised that the Board member may no longer be eligible to hold that office.

Consent for National Police Checks

A Board members' 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 elected a Board member of will **only** be advised if you are eligible or not eligible to hold office as a Board member. The LALC will not be advised of any details discovered during that check.

The Office of the Registrar does not require a person's consent to conduct the ASIC and ORIC searches, as the registers searched are public and available for any person to search.

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 \(nsw.gov.au\)](http://Working with Children Check | Office of the Children's Guardian (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 your NSWALC Zone or LALC CEO and they 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 CHECKS

Being for the role of **BOARD MEMBER** at _____ LALC.

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.

Signature: _____ Date: _____

Section 66, *Aboriginal Land Rights Act, 1983*

66 Grounds for disqualification from office

- (1) A person is disqualified from holding office as a Board member of a Local Aboriginal Land Council if the person:
- (a) has a conviction in New South Wales or elsewhere for an offence relating to the management of a corporation, that was recorded within the last 5 years, or
 - (b) has a conviction for an offence under this Act that was recorded within the last 5 years, or
 - (c) has a conviction in New South Wales for any other offence that is punishable by imprisonment for 5 years or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable that was recorded within the last 5 years, or
 - (c1) has, within the last 5 years, been the subject of a finding by the Independent Commission Against Corruption that the person has engaged in serious corrupt conduct, or
 - (d) ceases to be a voting member of the Council, or
 - (e) becomes a councillor of the New South Wales Aboriginal Land Council, or
 - (f) is a mentally incapacitated person, or
 - (g) is or becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (h) is or was a director or person concerned in the management of a body corporate that is the subject of a winding up order or for which either of the following has been appointed during the last 3 years:
 - (a) under the *Corporations Act 2001* of the Commonwealth, or
 - (b) a controller or administrator, other than a special administrator, under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* of the Commonwealth, or
 - (i) is disqualified from holding office in or being concerned in the management of a corporation under any law of this or any other State or Territory or the Commonwealth, or
 - (j) is an employee of, or a consultant to, the Council, or
 - (k) was an officer of the Local Aboriginal Land Council at a time that was both –
 - (i) within the last 5 years, and
 - (ii) within 2 years before an administrator was appointed for the Council, or
 - (l) fails, without a reasonable excuse, for a period of 3 months or more to comply with a written requirement by the New South Wales Aboriginal Land Council to undergo training under section 65, or
 - (m) is disqualified from holding office as a councillor (other than on the ground that the person is an employee of, or consultant or contractor to, the New South Wales Aboriginal Land Council).
- (2) The Registrar may determine that an offence committed by a person should be ignored for the purposes of this section because of the time that has passed since the offence was committed or because of the triviality of the acts or omissions giving rise to the

offence.

- (3) The Registrar may determine that a person is not disqualified on the ground set out in subsection (1) (k) if the Registrar is satisfied that it is appropriate in the circumstances that the person not be disqualified on that ground.
- (4) Despite subsection (1)(j), a person is not disqualified from holding office as a Board member of a Local Aboriginal Land Council (and is taken not to have been disqualified from holding office at the time of the person's nomination) on the ground that the person is an employee of, or a consultant or contractor to, the Council if the person resigns from employment with, or ceases to be a consultant or contractor to, the Council as soon as practicable after becoming aware of the result of the election.