



NSWALRA Inc

Our Land, Our People, Our Future

NSW ABORIGINAL LAND RIGHTS ASSOCIATION Inc
 PO Box 146 MASCOT NSW 2020
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 ABN: 74 713 276 135

NSW ABORIGINAL LAND RIGHTS ACT REVIEW 2021

NSW Aboriginal Land Rights Association Inc (NSWALRA Inc) is an advocacy organisation determined to reform Aboriginal Land Rights in NSW. We do this by listening to our people on the ground and supporting LALCs to enhance their full potential such as implementing policies that are culturally aligned to our way of life as per the *NSW Aboriginal Land Rights Act 1983* and *NSW Aboriginal Housing Act 1998*.

NSWALRA Inc is pleased to submit the following submission for the 2021 NSW Aboriginal Land Rights Act 1983 Review.

| ALRA SECTION | CLAUSE/IMPROVEMENT | RECOMMENDATION |
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| Preamble | WHEREAS (4) It is accepted that as a result of past Government decisions the amount of land set aside for Aboriginal persons has been progressively reduced without compensation | After compensation, include 'Treaty or agreement making. |
| Schedule 1 Model rules for Local Aboriginal Land Councils – 10 Voting | Voting through Proxy and postal ballot. | Amend section 10 (2) after the word secret, include the word postal ballot. This allows voting members who are not able to physically attend meeting are given at least 7 days notice on agenda items to vote on. Amend section 10 (3) Proxy votes are permitted for voting members not present at the meeting. Proxy votes must be performed by non-voting members on behalf of voting member. |
| Schedule 3 Procedure of Board and Councils - Part 1 Procedure of Local Aboriginal Land Councils – 1 Frequency of meetings (2) A Council must | (2) A Council must; a) hold not less than 3 ordinary meetings a year, at intervals of no more than 4 calendar months | Change the term of ordinary meetings to a minimum of 4 per year instead of a minimum of 3 per year. a) hold not less than 4 ordinary meetings a year, at intervals of no more than 3 calendar months. This ensures at least an extra meeting occurred each year ensuring LALC members are frequently engaged in their LALC affairs. |
| 2 General Procedure | 1) The procedure for the calling of meetings of a Local Aboriginal Land Council and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Council. | Include sentence <i>'this includes conducting members meetings, as the Council thinks fit, by conference calls or by other means such as closed-circuit television. (Zoom, Microsoft Teams meeting)</i> This amendment is logical in that it brings the ALRA into the modern-day conducting business through the means of technology. This will ensure a quorum is always met. |



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| <p>3 Quorum</p> | <p>The quorum for a meeting of a Local Aboriginal Land Council is 10 per cent of the total number of voting members of the Council.</p> | <p>Change 10 per cent to 20 percent for LALCs with a membership under 500. For LALC memberships over 500, 10 per cent shall remain.</p> <p>The quorum for a meeting of a Local Aboriginal Land Council is; (a) 10 per cent of the total number of voting members of the Council with a membership over 500 (b) 20 per cent of the total number of voting members of the Council with a membership under 500</p> <p>This limits the practice of nepotism that is rampant across our LALCs and encourages all LALCs takes the necessary steps to get more members actively involved in Council meetings to reach a quorum.</p> |
| <p>6 Minutes</p> | <p>There is no provision that allows for minutes to be reviewed by Board Members upon request.</p> | <p>Include new sub section – 3) Any Board member of the Council may request a copy of the Council minutes upon which the member has attended. The CEO must provide minutes within 28 days of request at no cost to the member.</p> <p>This is a rule for most not for profit organisations however seems to fall through the cracks of the ALRA. Board Members are not given a copy of the minutes upon request, ALRA should balance confidentiality with request of minutes on behalf of members.</p> |
| <p>Part 2 Procedure of Board of Local Aboriginal Land Councils – 1 Frequency of Meetings (2)</p> | <p>The Chairperson may, at the request of a majority of the members of the Board, call a meeting of the Board at any time.</p> | <p>Change the word <i>may</i> to <i>shall</i>. The definition of may indicates the discretion of the individual to act and not act on the request of the majority.</p> <p>The definition of <i>shall</i> embedded into ALRA gives direction of the Chairperson to act in the interest of the Board and not personal bias.</p> <p>This is an issue for many LALCs across NSW and subject to numerous enquiries to NSWALRA Inc by Board members of LALCs.</p> |
| <p>Division 2 Memberships of Local Aboriginal Land Councils – s57 Suspension of members from attending Council</p> | <p>(1) A Local Aboriginal Land Council may suspend a member of the Council (other than a Board member) from attending meetings of the Council for a specified time (not exceeding 3 years)</p> | <p>Change the timeframe of 3 years to 12 months.</p> <p>3 years is too long and contributes to further disenfranchisement.</p> |



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| <p>Division 3 Boards of Local Aboriginal Land Councils – s66 Grounds for disqualification from office</p> | <p>(c) has a conviction in New South Wales for any other offence that is punishable by imprisonment for 12 months 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 h) is or was a director or persons concerned in the management of a body corporate that is the subject of a winding up order or for which a controller or administrator has been appointed under the Corporations Act 2001 of the Commonwealth during the last 3 years</p> | <p>Change the timeframe from 5 years to 2 years. A lot of Aboriginal people are charged for trivial offences that occur a sentence of 12 months or more, to hang it over their heads for 5 years limits Aboriginal involvement in Land Rights Network.</p> <p>The timeframe should be changed from 5 years to 2 years throughout the ALRA.</p> <p>Include <i>Corporations (Aboriginal and Torres Strait Islander) Act 2005</i>. Change timeframe from 3 years to 5 years.</p> <p>This ensures Board Members concerned with the mismanagement of other Aboriginal organisations are accountable under the ALRA.</p> |
| <p>Division 5 Staff of Local Aboriginal Land Councils – 78B/79 Certain persons not to be employed</p> | <p>c) a person who has a conviction in New South Wales for an offence that is punishable by imprisonment for 12 months 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,</p> | <p>Change the timeframe from 5 years to 2 years. A lot of Aboriginal people are charged for trivial offences that occur a sentence of 12 months or more, to hang it over their heads for 5 years limits Aboriginal involvement in the Land Rights Network.</p> <p>The timeframe should be changed from 5 years to 2 years throughout the ALRA.</p> |
| <p>REGULATIONS – Division 2 Nominations – s64 Uncontested Election</p> | <p>A person duly nominated by the close of nominations is taken to be elected if no other person has been duly nominated by that time</p> | <p>Remove section. Uncontested elections should remain vacant until a minimum of 2 candidates are nominated.</p> |
| <p>LALC AMALGAMATION</p> | <p>There are too many LALCs with less than 100 members or just over 100 members. NSWALRA Inc supports the amalgamation of LALCs</p> | <p>For example, Baradine and Pilliga could Amalgamate into one. We believe this is akin to the amalgamation of NSW Local Government Areas.</p> <p>Reduce amount of LALCs through amalgamation.</p> |



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| Division 3 Councillors of NSWALC - 132 Grounds for disqualification from office | (1) A person is disqualified from holding office as a councillor of the New South Wales Aboriginal Land Council if the person— (i) in the case of a councillor, engages in other paid employment, | This section must remain in place. There is attempts by NSWALC to amend this section in order for Councillors to engage in other paid work. Councillors are like our Aboriginal elected members, similar to our elected members of parliament, our Councillors also receive an attractive remuneration of \$161,003. This was increased on 1 st April 2020 as the Tribunal determined the responsibilities of elected councillors should be further rewarded. NSWALC Councillors are elected full time to perform the role effectively, to engage in other paid work is contrary to the ALRA and would not be allowed by any other elected public official such as a member of parliament. |
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We thank you for your time in accepting our submission for the 2021 Review into the *NSW Aboriginal Land Rights Act 1983*.

Yours Sincerely,

C. Simpson

Clayton Simpson
Executive Director
NSWALRA Inc