

ELIGIBILITY (CRIMINAL RECORD) CHECK CONSENT FOR CHIEF EXECUTIVE OFFICERS

The *Aboriginal Land Rights Act 1983 (NSW)* ('ALRA') sets out the grounds on which a person is eligible to be employed as a Chief Executive Officer ('CEO') of a Local Aboriginal Land Council ('LALC'), and the grounds that disqualify a person from being employed in this role. The grounds are listed in sections 78B and 79 of the ALRA; a copy is attached to this form. These are further explained in the Office of the Registrar Fact Sheet *Eligibility Checks – LALC Chief Executive Officers*.

If you are disqualified from being employed as CEO for any of the reasons listed in sections 78B or 79, you **cannot** be employed as a CEO of a LALC.

Under s78B and 79 of the ALRA, you cannot be employed as a CEO of a LALC and are disqualified from holding office for the following reasons:

1. Being convicted, within the last 5 years, in New South Wales (or elsewhere) of an offence relating to the management of a corporation, or;
2. Being convicted, within the last 5 years, of an offence in New South Wales that is punishable by imprisonment for 12 months or more, or you were convicted of an offence elsewhere (other than New South Wales), that if committed in New South Wales would be an offence punishable by 12 month or more of imprisonment;
3. Being convicted, within the last 5 years, of an offence under Part 3 (except section 61), 4, 4AA, 4AB, 4AC, 4ACA, 4AD, 4AE, 4A, 5 or 5A of the *Crimes Act NSW 1900*;
4. Being convicted of a child sexual offence or an offence under section 66EB or 66EC of the *Crimes Act NSW*, or under s80D (if the person against whom the offence is committed is under 18 years old);
5. Being disqualified from holding office in or being concerned in the management of a corporation under any law of any other State or Territory of the Commonwealth.

If you are ineligible to be employed as a CEO due to a conviction under s78B or specific offences under the *Crimes Act* listed above under s79(1) (see point 3 above), you *may* request the Registrar of the ALRA to review your ineligibility and make a Registrar's Determination, declaring that you may be employed as CEO of the LALC. The Registrar may or may not decide to declare that you can be employed as a CEO of the LALC, depending on the circumstances of each individual case.

You are asked in this form to authorise the Registrar of the ALRA to make certain inquiries about you.

The inquiries are:

1. A search of the New South Wales Police Service's criminal records database for all offences that may be recorded against you in the last 5 years. This search will include any offences committed under any Australian State, Territory or Federal law;
2. A search of the Australian Securities and Investment Commission's ("ASIC") website database for any offence you may have committed in relation to a corporation and if you are disqualified from holding an office in any corporation; and
3. A search of the Office of the Registrar of Indigenous Corporations ("ORIC") website database for any offence you may have committed in relation to an Aboriginal Corporation and if you are disqualified from holding office in any Aboriginal Corporation.

If you authorise the Registrar to make these inquiries, they will be conducted in strict confidence. The LALC that you have been employed by as CEO will **only** be advised if you are eligible or ineligible to be employed as CEO; to be clear, the LALC will not be advised of any details discovered during the Eligibility Check process. If at this time you are ineligible from being employed, the LALC will also be advised of when you may become eligible for employment, based on the relevant provisions of the ALRA.

The ORALRA 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: <http://www.kidsguardian.nsw.gov.au/Working-with-children/working-with-children-check>

If you have any questions about the grounds for ineligibility from being employed as a chief executive officer of a LALC, or about any of the issues discussed in this form, please contact the Registrar's office on (02) 8633 1266 for assistance.

After you have completed the attached Authorisation for the Criminal Record Check, please provide it to the LALC Chairperson and they will forward it to ORALRA on your behalf.

AUTHORISATION FOR CRIMINAL RECORD CHECK

Being for the role of **CHIEF EXECUTIVE OFFICER** at _____ LALC.

Surname: _____ First Name: _____

Other Given Names: _____ Date Of Birth: _____

Were you born in Australia?

YES: _____ Place of Birth: _____ State: _____

NO: _____ Country of Birth: _____

Daytime Contact Number: _____

Email Address: _____

ID: [Please provide a photo or photocopy of your licence or other photo ID with this form](#)

1. Australian Drivers Licence Number: _____
2. Photo Identification Card issued in Australia : _____
3. Other ID. E.g.: Certified Copy of Birth Certificate: _____

Current Residential Address: Number: _____ Street: _____

Suburb: _____ State: _____

Previous Residential Address: _____

Other Names Used (Former Name, Maiden Name etc.)

Surname: _____ First Name: _____

Other Given Names: _____ Date Of Birth: _____

I, _____ authorise the Registrar of the Aboriginal Land Rights Act 1983 to search the following records:

The New South Wales Police Service's criminal records database for all offences that may be recorded against me in the last 5 years in New South Wales.

I declare the personal information I have provided on this form relate to me and are correct.

Signature: _____ Date: _____

Address: Level 3, 2 – 10 Wentworth Street, PARRAMATTA NSW 2150

Post: P.O Box 5068, PARRAMATTA NSW 2124

Phone: 02 8633 1266

Attachment 1: section 78B and 79, *Aboriginal Land Rights Act, 1983*

78B Certain persons must not be employed as chief executive officers

(1) The following persons must not be or continue to be employed as the chief executive officer of a Local Aboriginal Land Council:

- (a) a person who is a Board member of the Council or a councillor,
- (b) a person who 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,
- (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,
- (d) a person who 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,
- (e) a person who has an interest in, or is an employee of or concerned in the management of, a corporation that receives a benefit from the Council,
- (f) a person who is already engaged as a consultant to the Council,
- (g) a person who is a member of staff of the New South Wales Aboriginal Land Council,
- (h) a person who has been dismissed on the recommendation of the former Aboriginal Land Councils Pecuniary Interest and Disciplinary Tribunal or the Civil and Administrative Tribunal within the last 5 years,
- (i) a person who is disqualified under this Act from being a Board member or a councillor (other than on the grounds of employment by the Council or ceasing to be a voting member of a Local 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) Despite subsection (1) (e), a person may, with the approval of the Board of a Local Aboriginal Land Council, be employed or continue to be employed as the chief executive officer of the Local Aboriginal Land Council, if the person would be prohibited merely because:

- (a) the person is concerned in the management of a corporation established, acquired, operated or managed in connection with an arrangement to which section 52C applies, or
- (b) the person is employed as the chief executive officer of another Local Aboriginal Land Council.

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.