

FACT SHEET

ELIGIBILITY CHECKS – LALC EMPLOYEES

What is an Eligibility Check?

An Eligibility Check is a check that the Office of the Registrar of the *Aboriginal Land Rights Act 1983 (NSW)* ('ORALRA') performs to make sure that you are eligible for employment with a Local Aboriginal Land Council ('LALC'). The Eligibility Check will seek information to find out whether you are disqualified from employment.

At the start of your employment, the ORALRA seeks your consent to ask the NSW Police to confirm your national criminal history, to see if you have been convicted of any crimes that *may* disqualify you from employment. Not all crimes will prevent your employment: only some specific offences, convicted at a particular time, will disqualify you.

Who needs an Eligibility Check and When?

All people who become employed by a LALC or become a consultant to a LALC *must* have an Eligibility Check at the commencement of their employment. All you have to do is fill out the 'Criminal Record Check Consent' form giving ORALRA the right to perform the checks.

Eligibility Checks are conducted in strict confidence and the LALC will only be advised if you are qualified or disqualified from employment.

Why do I need an Eligibility Check?

Section 79 of the *Aboriginal Land Rights Act 1983 (NSW)* ('ALRA') requires that employees and consultants to a LALC *must* be eligible for employment. Your employment depends on many factors. If you are ineligible you will receive a Statutory Disqualification from employment. You can be disqualified for the following:

- Being convicted, within the last 5 years, of a crime under the following parts of the *Crimes Act 1900 (NSW)*: Part 3, 4, 4AA, 4AB, 4AC, 4ACA, 4AD, 4AE, 4A, 4B, 5 or 5A; or
- Being convicted of a child sex offence.

Will any and all criminal history disqualify me?

No. Only certain crimes will disqualify you from employment with a LALC. For example, if the crime is not listed in Section 79(1) of the ALRA, or if the conviction took place more than 5 years ago, you will *not* receive a Statutory Disqualification.

However, you will remain disqualified (under section 79 of the ALRA) if you have been convicted of a child sex offence, regardless of how long ago.

If I do receive a Statutory Disqualification, is there something I can do about it?

Yes. The Registrar has the power to review your Statutory Disqualification and to make a Registrar's Determination. The Registrar can ignore or disregard your offence and allow you to be employed by the LALC.

When making this determination, the Registrar will consider whether your offence may have been trivial, how long ago it was committed, and the nature and circumstances of your employment. The Registrar will take into consideration the statement of facts from the Police and any references supporting your character that you have supplied.

The Registrar does *not* have the power under the ALRA to issue a Registrar's Determination and disregard a conviction in relation to a child sex offence (section 79(1B)). A Statutory Disqualification for a child sex offence will stand. If you have been convicted of an offence and are not sure whether it would fall under that description, you may still seek advice from the Registrar.

What do I need to do now?

If you have recently been employed by a LALC, or are considering employment, you should fill out the 'Criminal History Check Consent for LALC Employees' form provided by ORALRA, and forward them to ORALRA to commence the eligibility checking process as soon as possible.

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

Post: P.O Box 5068, PARRAMATTA NSW 2124

Phone: 02 8633 1266