



fact sheet



Inactive Members – section 57A of the ALRA

This document has been prepared by the New South Wales Aboriginal Land Council (**NSWALC**) for Local Aboriginal Land Councils (**LALCs**). **Please Note:** While all care has been taken in the preparation of this document, the advice it contains should not be seen as a substitute for independent consideration of the issues and/or legal advice on this subject. This document is current as at March 2016.

The Issue

A LALC members' meeting must be attended by a quorum – being 10% of the total number of voting members of the LALC – before the meeting can be validly held to conduct business. Some LALCs have been unable to achieve a quorum due to a large number of voting members not attending LALC meetings, thereby preventing the LALC from complying with its obligations to hold members' meetings.

The Solution

Section 57A of the *Aboriginal Land Rights Act 1983* (ALRA) has been introduced to provide that the chief executive officer (**CEO**) of a LALC can declare a voting member to be an 'inactive member' if that member has been absent from 6 consecutive meetings of the Council. Voting members who are declared to be 'inactive members' are not included when the LALC is determining the number of members required to achieve a quorum for a meeting.

For example, if a LALC has 250 voting members and 50 of those members are declared to be 'inactive members' at the time of the particular meeting, the number of voting members that the quorum is calculated from is 200 members. This means the LALC's quorum for that meeting is 20 voting members being 10% of 200.

What are the consequences of being declared an inactive member?

A declaration that a member is an 'inactive member' has no legal or other affect for that person. The person is still a voting member of the LALC, and is entitled to attend and vote at any meetings of the LALC or vote in the NSWALC election. The only consequence of a declaration under section 57A is that the person will not be counted as a voting member for the purpose – and only for the purpose – of determining the number of members that need to attend a meeting to achieve a quorum for the meeting.

Two Meeting Rule

A declaration that a member is an 'inactive member' has no bearing on the Two Meeting Rule. Under that rule a voting member is not eligible to vote, nominate, or be nominated in a Board election for the LALC unless that member has attended two LALC meetings in the twelve months prior to the election. This rule still applies to 'inactive members'.

Calculation of Board members

Under the ALRA, the number of Board members for each LALC will depend on that LALC's membership. Inactive members are included in the LALC's membership for the purposes of determining the number of members on a Board of a LALC.

Apologies

Some members send an apology to a LALC members' meeting if they are unable to attend the meeting. This, however, does not mean that they have attended the meeting (even if their apology is accepted by the attendees at the meeting). Therefore, a member who has been absent for 6 or more consecutive members' meetings may be declared an 'inactive member' regardless of whether that person sent an apology for not attending any or all of those meetings.

The Declaration Process

The CEO may declare a person to be an inactive member after following a notification process (set out in the flowchart on the following page). If the person does not want to become an inactive member, or would like to stop being an inactive member, they only need to attend a members' meeting or write to the Registrar.

If a voting member writes to the Registrar because they do not want to be an inactive member, the Registrar must direct the CEO to cease recording the member as inactive on the roll.

The easiest way to reactivate a membership is to attend a LALC members meeting.

Attached is a flowchart outlining the notification process that must be followed to declare a member inactive as well as a sample letter for CEOs to use to notify members, and a sample letter for inactive members who wish to write to the Registrar to retain active membership. Section 57A(2)(i) set out that a CEO must write to a member before they are declared inactive. This allows a member who has missed 5 consecutive meetings to attend the next meeting to prevent being declared inactive.

Voting member has not attended 5 or more consecutive meetings

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graph TD; A[Voting member has not attended 5 or more consecutive meetings] --> B[For a voting member to be declared inactive, the LALC CEO must provide written notice to the member, informing them: - They will be declared an inactive member if they do not attend six consecutive meetings; - The intention is to declare them an inactive member after the next meeting of the LALC; - The date, time and location of the next meeting, which must be 20 days after the CEO has written; and - They must attend a meeting or write to the Registrar of the ALRA to prevent being declared as an inactive member]; B --> C[At the next meeting of the LALC (which must be held 20 days after the CEO has written to the potential inactive member) the CEO must notify members present of the intention to declare the member inactive]; C --> D[CEO must record on the membership roll that the member has been declared an inactive member. The CEO must ensure the Registrar is informed of changes to the membership roll, including inactive members, on a regular basis];
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For a voting member to be declared inactive, the LALC CEO must provide written notice to the member, informing them:

- They will be declared an inactive member if they do not attend six consecutive meetings;
- The intention is to declare them an inactive member after the next meeting of the LALC;
- The date, time and location of the next meeting, which must be 20 days after the CEO has written; and
- They must attend a meeting or write to the Registrar of the ALRA to prevent being declared as an inactive member

At the next meeting of the LALC (which must be held 20 days after the CEO has written to the potential inactive member) the CEO must notify members present of the intention to declare the member inactive

CEO must record on the membership roll that the member has been declared an inactive member. The CEO must ensure the Registrar is informed of changes to the membership roll, including inactive members, on a regular basis

SAMPLE ONLY

IT IS RECOMMENDED THAT YOU INCLUDE A COPY OF THE FACT SHEET WITH THIS LETTER

[Date]

[Member's name]

[Member's address]

Dear [Member's name],

RE: Intention to declare you an inactive member

I am writing to notify you of my intention to declare you an inactive member of [xx] Local Aboriginal Land Council. Under section 57A of the *Aboriginal Land Rights Act 1983* (NSW), the CEO of a Local Aboriginal Land Council may declare a member inactive if they do not attend 6 consecutive land council meetings. Our records show that you have not attended the past 5 consecutive land council meetings.

If you do not attend the next land council meeting, you will be declared an inactive member. This means that unless you attend the meeting, you will not be counted towards the calculation of the quorum. Your membership status will not be affected.

If you are declared an inactive member you can become an active member again at any time by attending a land council meeting. If you do not wish to attend a meeting, you can write to the Registrar stating that you want to be an active member.

If you wish to attend the next land council meeting to prevent being declared an inactive member, it will be held at [time], on [date] at [location of meeting].

If you have any questions, please do not hesitate to contact me on [contact phone number].

Yours Sincerely,

[CEO's name]

Chief Executive Officer

[xx] Local Aboriginal Land Council

[Date]

Mr Stephen Wright
Registrar
Aboriginal Land Rights Act 1983 (NSW)
PO Box 112
Glebe NSW 2037

Dear Registrar,

RE: Request to retain my status as an active member of [XX] Local Aboriginal Land Council

I received a letter from my Local Aboriginal Land Council notifying me that if I do not attend the next land council meeting, I will be declared an inactive member of the Local Aboriginal Land Council.

OR

I have been declared an inactive member of my Local Aboriginal Land Council

I am writing to request that I not be declared to be an inactive member of [XX] Local Aboriginal Land Council. Please notify the Chief Executive Officer of that Council of my request and request that this be noted on the Council's membership roll.

Yours Sincerely,

[Member's name]
[XX] Local Aboriginal Land Council