

FACT SHEET

ELIGIBILITY CHECKS – NSWALC COUNCILLOR

What is an Eligibility Check?

An Eligibility Check is an optional service provided by the Office of the Registrar of the *Aboriginal Land Rights Act 1983* ('**ORALRA**') to help confirm you are eligible to hold office as a Councillor of the New South Wales Aboriginal Land Council (**NSWALC**).

The ORALRA will seek information in line with requirements set out in the *Aboriginal Land Rights Act 1983* to find out whether you may be disqualified from holding office as a Councillor of NSWALC.

Checks are conducted in strict confidence.

If you have any concerns about whether you might be disqualified you should contact the ORALRA as soon as possible.

Why complete an Eligibility Check?

All candidates, when nominating for election as a Councillor, are required to sign a statutory declaration declaring that you are NOT disqualified from holding office.

There are penalties for making false declarations.

If you are considering nominating for election as a Councillor of the NSWALC and would like to confirm that you are not disqualified you can ask the ORALRA to complete an eligibility check.

Why would I be disqualified from holding office as a Councillor?

Section 132 of the *Aboriginal Land Rights Act 1983* requires that Councillors of the NSWALC must be eligible to hold office. You can be disqualified for any of the following:

- Being convicted, within the last 5 years, of an offence that is punishable by imprisonment for 12 months or more, even if you personally did not receive that sentence;
- Being convicted, within the last 5 years, of an offence against the *Aboriginal Land Rights Act 1983*;
- Being convicted, within the last 5 years, of an offence relating to the management of a corporation;
- Being made bankrupt or taking bankruptcy relief steps,
- Being involved in a company forced to wind up within the last 3 years, or being disqualified from involvement in a company in Australia;
- Remaining an employee of or a consultant to the NSWALC, after you are elected to NSWALC;
- Engaging in other paid employment;
- Being disqualified from being a board member of a LALC;

- Being a Councillor of NSWALC, within the last 5 years, immediately before an administrator was appointed;
- Failing to undergo training as required by NSWALC; or
- Being assessed as mentally incapacitated.

How do I request an Eligibility Check?

All you have to do is fill out a simple form giving the ORALRA permission to perform the checks.

The check includes:

- Checking your criminal history with the NSW Police to see if you have been convicted of any crimes in Australia that may disqualify you from holding office. **Not all crimes will prevent you from holding office**, only some specific offences, convicted at a particular time.
- Checking with the Australian Securities and Investments Commission (**ASIC**) and the Office of the Registrar of Aboriginal Corporations (**ORIC**) if you have been disqualified from involvement in the management of corporations.

Will any and all criminal history disqualify me?

No. Only certain crimes will disqualify a person from holding office as a Councillor of NSWALC. For example, if the type of crime has a maximum sentence that is less than 12 months in prison, or if the conviction took place more than 5 years ago, you will not be disqualified.

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

Yes. If you are disqualified due to a conviction, the Registrar has the power to review your Statutory Disqualification and to make a Registrar's Determination. In some cases, this will mean you are then eligible to stand for election and NOT disqualified from holding office as a Councillor of the NSWALC.

When making this determination in relation to a criminal offence the Registrar will consider whether the acts or omissions giving rise to the offence may have been trivial, and how long ago the offence was committed. The Registrar will take into consideration the statement of facts from the police and any references supporting your character that you have supplied.

Is there a fee for the Eligibility Check?

No, there is no fee payable.

What do I need to do now?

If you are considering nominating for election as a Councillor of NSWALC and want to confirm your eligibility we recommend that you start the process as soon as possible to ensure the eligibility check can be completed in time for your nomination to be lodged with the NSW Electoral Commission prior to the close of nominations 12 noon on Tuesday, 5 November 2019.

To stay up-to-date on the election events, how to nominate and key dates please continue to check the Electoral Commission's website: elections.nsw.gov.au/NSWALC19

You can contact the ORALRA on (02) 8633 1266 or email adminofficer@oralra.nsw.gov.au