



Land Dealing Meeting Notice

After Local Aboriginal Land Councils (**LALCs**) have established that land is “vested” in them and they wish to deal with the land (see Fact Sheet 1) and that there are no impediments to dealing with the land (see Fact Sheet 2), LALCs are required to obtain members’ and NSWALC’s approval under the *Aboriginal Land Rights Act 1983 (ALRA)*, before carrying out the land dealing.

The *Aboriginal Land Rights Regulation 2014 (ALRR)* and the ALRA are specific as to how LALCs must notify their members of a land dealing meeting.

Notice of Meetings

Clauses 32(1) and (2) of the ALRR state:

“32 Notice of meetings

- (1) *Notice of a meeting of a Local Aboriginal Land Council must:*
 - (a) *be published in a newspaper, magazine or periodical circulating in the Council’s area, or*
 - (b) *be given to all the members of the Council by such other means as may appear to the Council to be efficient and practicable and are approved by the Council.*
- (2) *Notice under subclause (1) must specify a time and place for the meeting and the date on which it is to be held, not being a date earlier than 7 clear days after the notice is given.*

*Note. Section 76(1)(b) of the Interpretation Act 1987 provides that a document that is served by post within Australia or an external Territory is, unless evidence sufficient to raise doubt is adduced to the contrary, taken to have been effected on the *seventh working day after the letter was posted.”*

Clause 101 of the ALRR states:

“101 Notice of meetings of LALCs

- (1) *For the purposes of section 42G(5)(a) of the Act, notice of a meeting to approve a land dealing must be given not less than 7 clear calendar days before the day on which the meeting is to be held.*
- (2) *The notice must:*
 - (a) *clearly identify the land subject to the dealing, and*
 - (b) *state the manner in which the land is to be dealt with, and*

- (c) *state that at the meeting it is proposed to decide whether or not to approve of the land dealing.*"

Clause 32(2) of the ALRR refers to "7 clear days" and clause 101(2) of the ALRR refers to "7 clear calendar days" but they both mean the same thing, i.e. there needs to be **at least 7 days between** the date the notice is given and the date of the meeting (not counting those 2 dates).

LALCs often give notice to members by post. This method, or any other method of issuing notices other than by newspaper advertisement, must be approved by LALC members at a properly convened LALC meeting. LALCs should be mindful that if they give notice to members by post then, section 76(1)(b) of the *Interpretation Act 1987* means that the notice is not deemed to have been received by members until the **7th business/working day after** the notice was posted. This was previously 4 business days, however the Interpretation Act 1987 was changed with effect from 28 November 2018 to reflect current Australia Post delivery times. Attached to this fact sheet as **Attachment 1** is a calculation to assist LALCs on how 7 clear calendar days are calculated.

If LALCs issue meeting notices to members by a method other than newspaper advertisement or postal notice, NSWALC suggests that the LALC contact the Land and Property Unit (**LPU**) (**Quick Reference Guide and Contacts**) to discuss what meeting notice information a LALC will need to provide in support of its Land Dealing Application.

Attached to this fact sheet as **Attachment 2** is an example of a meeting notice that may assist a LALC to advertise/post a meeting notice to members in compliance with clauses 32 and 101 of the ALRR.

In addition to the sample meeting notice attached and in order to ensure, as far as possible, that LALC notices calling land dealing meetings comply with the ALRR, LALCs or their legal advisors should prepare a draft meeting notice and are encouraged to provide the draft meeting notice to the LPU for further assistance and comments prior to placing the advertisement or sending the meeting notice to members.

Attachment 1

Calculating when to give members notice

1. In order to hold a meeting on Wednesday 30 October 2019, a LALC must ensure that the newspaper containing the advertisement is circulated in the LALC's area and is published no later than 22 October 2019 (to comply with the 7 clear calendar days' notice required under clause 101 of the ALRR).

The calculation is as follows:

- 30 October 2019 - date proposed for land dealing meeting;
- 29 October 2019 - 1 calendar day before the meeting;
- 28 October 2019 - 2 calendar days before the meeting;
- 27 October 2019- 3 calendar days before the meeting;
- 26 October 2019 - 4 calendar days before the meeting;
- 25 October 2019 - 5 calendar days before the meeting;
- 24 October 2019 - 6 calendar days before the meeting;
- 23 October 2019 - 7 calendar days before the meeting; and
- 22 October 2019 - 7 **clear** calendar days before the meeting. This is the latest date the Land dealing meeting notice can be published in the newspaper. **The meeting notice can be published on 22 October 2019 or earlier.**

Where LALC's notify their members of a land dealing by a newspaper advertisement, LALC's must provide NSWALC with a copy of the newspaper advertisement advertising the meeting, which shows the publication print date.

2. If members have previously, at a properly convened LALC meeting, approved the LALC notifying members, of future meetings, by post then the LALC can mail the meeting notice to all of its voting and non-voting members by post, no later than 11 October 2019 (for a meeting to be held on 30 October 2019). This is because the notice is taken to have been received by the members on the 7th business day after posting (see section 76(1)(b) of the *Interpretation Act 1987*) (**Postal Rule**).

The calculation of the dates are:

- 30 October 2019 - date proposed for land dealing meeting;
- 29 October 2019 - 1 calendar day before the meeting;
- 28 October 2019 - 2 calendar days before the meeting;
- 27 October 2019 - 3 calendar days before the meeting;
- 26 October 2019 - 4 calendar days before the meeting;
- 25 October 2019 - 5 calendar days before the meeting;
- 24 October 2019 - 6 calendar days before the meeting;
- 23 October 2019 - 7 calendar days before the meeting;
- 22 October 2019 - 7th business day after posting. This is 7 **clear** days before the meeting (equivalent to the date the notice can be published in the newspaper, i.e. the date members are taken to have been given the notice);
- 21 October 2019– 6th business day after posting;
- 20 October 2019– Sunday, so not a business day
- 19 October 2019 – Saturday, so not a business day
- 18 October 2019 – 5th business day after posting;
- 17 October 2019 – 4th business day after posting;
- 16 October 2019 – 3rd business day after posting;
- 15 October 2019 – 2nd business day after posting;
- 14 October 2019 – 1st business day after posting;
- 13 October 2019 – Sunday, so not a business day; –
- 12 October 2019 – Saturday, so not a business day; and

- 11 October 2019 latest date the meeting notice can be posted to members. The meeting notice can be posted on **11 October 2019 or earlier**.

Where LALCs notify their members of a land dealing meeting by post, LALCs must provide NSWALC with a copy of the meeting notice together with evidence that:

- at a previous and properly convened meeting their members passed a resolution approving posting meeting notices to members. An example of the required evidence could be a copy of the resolution passed at the previous meeting; and
- the notice of the land dealing meeting was sent to all members on its membership roll on a date that would give its members 7 clear calendar days' notice, taking into account the **Postal Rule** (which from 28 November 2018 now "deems" a postal notice to be received 7 working days later) An example of the required evidence could be a receipt from Australia Post showing bulk postage paid for the letters, a copy of the LALCs mail log or a declaration by the LALC Chairperson/CEO to that effect.

Attachment 2

A sample of a land dealing meeting notice

[Please note: this is only a sample and the particulars of the LALC, properties and land dealings are made up.]

“Abc LALC invites its members to attend a land dealing meeting.

Date: Thursday 31 January 2019

Time: 2.30pm

Place: Abc LALC Office, 49 Muriel Road, Mt Dial

At the meeting members will decide to approve or not approve the following land dealing(s):

- i. selling 12 Smythe Street, Nancyville (Lot 135 of Section 2 in DP 25739);
- ii. lodging a development application for consent to build a single storey house at 98 Seville Road, Maynard (Lot 42 in DP 57321); and
- iii. granting a lease of 84 Daris Road, Broadland (Lot A in DP 278549) for a term of 5 years;
- iv. multi-lot development of Cnr McCauley Avenue and Meetis Street, Opus Head (Lots 172 and 173 in DP 111352), including lodging a development application to subdivide into multi-lots, granting and releasing easements, dedication of roads/infrastructure to public authorities and sale of the subdivided lots.

Meeting authorised by **[insert name and position]**”

Please note:

1. The more complex the land dealing, the more information the LALC members should be provided before they are asked to make a decision. Therefore LALCs should consider holding information sessions leading up to the land dealing meeting or making documents such as proposed plans of subdivision available upon request and stating the availability of the documents, in the meeting notice, such as “Members can view the draft house plans, draft lease and draft concept plans for the subdivision by contacting the Abc LALC office”.
2. LALCs must ensure that all the relevant properties are correctly listed by Lot, Section and DP and by street address (if possible) or by a common name the LALC members call the land, e.g. - Cameera Reserve.