



Registration Approval Certificates and the Community Development Levy

In many cases, following a land dealing approval from Local Aboriginal Land Council (**LALC**) members and the New South Wales Aboriginal Land Council (**NSWALC**), LALCs will be required to apply to NSWALC for a Registration Approval Certificate (**RAC**).

A RAC, signed by the NSWALC CEO, is required to register most land dealings at Land Registry Services (**LRS**). For example, in the case of a LALC selling land, the purchaser will be required to lodge an executed transfer with LRS to change the name on the title of the property. When a transfer is lodged over LALC land, it is required to be accompanied by a RAC (see section 42M of the *Aboriginal Land Rights Act 1983* (**ALRA**)).

Applying for a Registration Approval Certificate

To apply for a RAC a LALC must first complete NSWALC's Application for a Registration Approval Certificate which can be found on the NSWALC website by following this link: <http://www.alc.org.au/land-councils/lalc-land-dealings.aspx>. It is recommended that LALCs apply for a RAC as soon as possible (when unconditional contracts for sale have been exchanged / when all conditions of approval have been satisfied) before the RAC is required to avoid any issues as a result of delays in obtaining the RAC.

Section 42K(2) of the ALRA states that the NSWALC CEO can only issue a RAC when they are satisfied:

- (a) that the instrument is a registrable instrument giving effect to or forming part of a land dealing approved by the New South Wales Aboriginal Land Council under this Division,
- (b) that any conditions of the approval by the New South Wales Aboriginal Land Council of the land dealing to which the instrument relates have been met,
- (c) that any community development levy payable in respect of that land dealing has been paid.

Therefore, in order to obtain a RAC, LALCs must first provide evidence that any conditions of the NSWALC approval have been met. These conditions will be listed on the Dealing Approval Certificate (**DAC**) which would have been issued upon NSWALC approval – see NSWALC **Fact Sheet 6** for further information.

The LALC will also be required to provide evidence of payment of any Community Development Levy (**CDL**) where applicable. Further information relating to the CDL is provided below.

As an example, in the case of the sale of LALC land, the LALC may be required to provide the following information:

- A copy of the proposed transfer for the property (normally provided by the purchaser's solicitor close to settlement);
- A copy of the exchanged contract for sale for the property, stamped by the Office of State Revenue (**OSR**) confirming payment of CDL, if applicable and;
- A copy of a current market valuation of the property.

Please note however that each land dealing is unique in nature and different documents may be required to provide evidence of compliance with the NSWALC conditions of approval. Complex land dealing matters may require the reconciliation of multiple documents – which takes time. If a LALC has any doubt regarding the required documentation, the LALC should contact the Land & Property Unit (**LPU**) of NSWALC for clarification.

What is the Community Development Levy?

The CDL is a payment LALCs are required to pay for any dutiable transaction to which the levy applies, that occurs in relation to a land dealing (see sections 42Q - 42X of the ALRA and regulations 110 - 114 of the *Aboriginal Land Rights Regulation 2014 (ALRR)*). The CDL is collected by the OSR and the OSR determines exemptions where applicable.

Which transactions attract CDL?

The CDL applies to the following dutiable transactions:

- a transfer of land;
- an agreement for the sale or transfer of land;
- a declaration of trust over land;
- a lease of land in respect of which a premium is paid or agreed to be paid; and
- any other transaction prescribed by the regulations.

The CDL does not apply to the following dutiable transactions:

- transactions exempt from duty under the *Duties Act 1997* other than under Section 280;
- transactions under a community benefit scheme providing home ownership for Aboriginal people;
- transactions between LALCs;
- transactions where the dutiable value of the land is \$80,000 or less; and
- any other transactions prescribed by the regulations.

How much is the CDL?

The CDL is calculated similar to the way that stamp duty is calculated under the *Duties Act 1997* and is progressive. This means the more expensive the transaction, the higher the levy will be. In accordance with Schedule 6 of the ALRR the levy rate is as follows, for transactions where the dutiable value of land is:

- more than \$80,000 but not more than \$1million = 100% of the amount of duty;
- more than \$1million = 150% of the amount of duty.

To assist LALCs with CDL calculations, the OSR provides a CDL calculator on the OSR website at <https://www.apps08.osr.nsw.gov.au/erevenue/calculators/cdl.php>.

When does CDL have to be paid?

As previously mentioned, CDL is required to be paid before a RAC can be issued by NSWALC. For a contract for sale or lease, the OSR will stamp the original document showing the date and amount of levy paid. The LALC will need to provide a copy of that document to NSWALC **prior** to NSWALC issuing a RAC.