

FACT SHEET



NEW SOUTH WALES
ABORIGINAL LAND COUNCIL

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Community Development Levy (CDL)

Division 4A of Part 2 of the *Aboriginal Land Rights Act 1983 (ALRA)* imposes CDL where a Local Aboriginal Land Council (**LALC**) carries out certain land dealing transactions.

What is the CDL?

The CDL is a payment LALCs are required to pay for any “*dutiable transaction*” (whether or not the LALC is liable to pay duty in respect of the transaction under the *Duties Act 1997*) to which the levy applies in relation to a dealing in land vested in the LALC.

Currently Aboriginal Land Councils (**ALCs**) are exempt from stamp duty payments under section 280 of the *Duties Act 1997*. The operation of that exemption has not changed. However, if the CDL applies to the “*dutiable transaction*” (regardless of whether the payment of the stamp duty is exempted under section 280), then the levy is still payable. This is because the levy will apply whether or not the LALC is liable to pay duty under the *Duties Act*.

Which transactions attract the levy?

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 (an amount that is greater than rent and which essentially represents sale price) is paid or agreed to be paid;
- any other transaction prescribed by the regulations (to date there have been no other transaction prescribed by the regulations).

The CDL will 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 ALCs;
- transactions where the dutiable value of the land is \$81,000 or less; and
- any other transactions prescribed by the regulations.

How much will the levy cost?

The levy is calculated similar to the way that stamp duty is calculated under the *Duties Act* and is progressive. This means the more expensive the transaction, the higher the levy will be. The current levy rate, as at 1 July 2020, for transactions where the dutiable value of land is:

- less than \$81,000 = nil levy payable
- more than \$81,000 but not more than \$1,013,000 = 100% of the amount of duty;

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- more than \$1,013,000 = 150% of the amount of duty.

The above thresholds for CDL liability will be indexed on 1 July each year in line with the thresholds provided for stamp duty under the *Duties Act*.

Revenue NSW has provided assistance in calculating the amount of levy payments by providing a CDL calculator which can be found on the [Revenue NSW website](#).

When does the levy have to be paid and how is it paid?

Under clause 17 of the *Aboriginal Land Rights Regulation 2020* the lodgement period for the CDL is separated into two categories depending on the type of transaction.

- a) in the case of an agreement for sale or transfer of land for consideration, and any transfer in completion of such an agreement, the CDL must be paid before settlement of the agreement or transfer.
- b) in any other case the CDL must be paid within 3 months after the liability first arises.

A LALC can pay the levy or mark the relevant document exempt from the levy by sending the relevant documents and a cheque in favour of 'Revenue NSW' for payment of the levy to:

Revenue NSW
PO Box 666
Wollongong NSW 2520

Revenue NSW will stamp the original document (contract or other instrument) showing the date of payment and the amount of levy paid. A copy of this document should be provided to NSWALC along with the Application for a Registration Approval Certificate (**RAC**).

If an otherwise "*dutiable transaction*" is exempt from the payment of stamp duty (for instance a dutiable transaction with the Crown, including a statutory body representing the Crown, may be exempt from the payment of stamp duty pursuant to s308 of the *Duties Act 1997*) a LALC may also be exempt from payment of the CDL. Evidence of the exemption will need to be provided to Revenue NSW. Revenue NSW will, if appropriate, stamp the instrument as "Exempt from CDL". The stamped document should then be provided to NSWALC with the Application for a RAC.

Where a LALC does not have sufficient funds to pay the levy, NSWALC suggests the LALC discuss this with its solicitor/conveyancer and include in the contract for sale, a clause requiring the purchaser to release the deposit or part of it for the payment of the levy.

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