



LOCAL ABORIGINAL LAND COUNCIL FINANCIAL REPORTING POLICY

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Drafted by: Stephen Hynd and various Zone Office Staff			
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Responsible Manager:		Cal Davis (Deputy Chief Executive Officer)	



NEW SOUTH WALES ABORIGINAL LAND COUNCIL

**LOCAL ABORIGINAL LAND COUNCIL
FINANCIAL REPORTING POLICY**

Introduction

1. Local Aboriginal Land Council (**LALC**) financial statements and reporting are key transparency and accountability mechanisms for ensuring members, the NSW Aboriginal Land Council (**NSWALC**) and other stakeholders can adequately and confidently assess the financial position and management of a LALC.
2. This Policy aims to tailor the financial reporting obligations of LALCs to better suit the range of LALC operations existing across the state, while maintaining appropriate levels of transparency and accountability.

Purpose

3. This Policy stipulates the annual financial reporting obligations of LALCs, including the obligations for the preparation, verification and certification of LALC financial statements as required by section 153 of the *Aboriginal Land Rights Act 1983* (**ALRA**).

Definitions

4. **AASB10** - The Australian Accounting Standards Board accounting standard *Consolidated Financial Statements* AASB10.
5. **AASB124** - The Australian Accounting Standards Board accounting standard *Related Party Disclosures* AASB124.
6. **AASB1053** - The Australian Accounting Standards Board accounting standard *Application of Tiers of Australian Accounting Standards* AASB1053.
7. **ALRA** – The *Aboriginal Land Rights Act 1983* (NSW).
8. **Average Annual Income** – For the purpose of determining the financial reporting obligations of LALCs under this policy Average Annual Income is the annual average of all revenues generated by the LALC on an accrual basis, with the exception of non-cash income, over a rolling three (3) year period; being the reporting year and the two previous financial years. Revenue generated by a LALC from any entity to which section 52C of the *Aboriginal Land Rights Act 1983* applies and the consolidated revenue of a LALC and its subsidiary entity, where a LALC has a subsidiary entity, are to be included as revenue for this purpose. Non-cash income such as the following, are to be exclude from revenue for this purpose:
 - Land acquisitions by way of a successful land claim or any other method.
 - Movements in asset value i.e. increases in land values on the LALC Balance Sheet, or positive revaluation of property values.
 - Indirect grant funding (for example Aboriginal Housing Office repairs & maintenance funding).

9. **Assurance Practitioner** - An accountant with membership to any of the following professional associations and is on the list of Assurance Practitioners maintained by NSWALC:
 - CPA Australia
 - Institute of Chartered Accountants
 - Institute of Public Accountants
10. **AUASB** – The Australian Auditing and Assurance Standard Board.
11. **Audit** – An audit carried out in accordance with the Australian auditing standards by an Auditor appointed by the LALC from the list maintained by NSWALC.
12. **Consolidated General Purpose Financial Statements** – Financial statements prepared in accordance with the Australian Accounting Standards Board accounting standard *Consolidated Financial Statements* AASB10, with the like items of assets, liabilities, equity, income, expenses and cash flows of a LALC and of its controlled and subsidiary entity or entities combined as those of a single economic entity.
13. **Subsidiary Entity** – Any entity that is controlled by the LALC for the purposes of AASB10.
14. **Commitments** – Contractually obliged future expenditure or revenue of the LALC e.g. future payments under a lease or contract.
15. **Review** – A Review of a LALC’s financial statements conducted in accordance with the Australian Auditing and Assurance Standards Board *Standard on Review Engagements ASRE 2400* and performed by an Assurance Practitioner from the list maintained by NSWALC.
16. **General Purpose Financial Report** - A set of financial statements prepared in accordance with all relevant Australian Accounting Standards.
17. **LALC/s** – Local Aboriginal Land Council/s
18. **List of Auditors** – The list of auditors kept by NSWALC in accordance with s 153(3) of the ALRA.
19. **List of Assurance Practitioners** – The list of Assurance Practitioners kept by NSWALC for the purposes of this Policy.
20. **NSWALC** – The NSW Aboriginal Land Council
21. **Qualified Accountant** – an accountant with membership to any of the following professional associations:
 - CPA Australia
 - Institute of Chartered Accountants

- Institute of Public Accountants

Obligations

22. Section 153 of the ALRA requires each LALC to prepare financial statements for each financial year in accordance with any applicable NSWALC Policy. The section also requires LALCs to have those financial statements verified and certified if required by any applicable NSWALC Policy.
23. Section 52C(3) of the ALRA requires LALCs to include in the accounts of the LALC details of any operations that are carried out under an arrangement to which section 52C applies (including any activities or operations carried out by an entity formed, acquired, operated or managed and any financial matters relating to any such entity).
24. Section 160 of the ALRA authorises NSWALC to give directions to LALCs relating to the keeping of accounts and records and the making of reports; LALCs are required to comply with such directions.
25. This policy stipulates 3 tiers of financial reporting obligations for LALCs, including for the preparation, verification and certification of LALC financial statements.
26. For the preparation, verification and certification of LALC Financial Statements for the 2015/16 financial year and onwards, all LALCs will need to comply with one of the 3 tiers of financial reporting obligations of this policy.
27. The 3 tiers apply to LALCs in the following ways unless NSWALC or the LALC nominates otherwise:
 - a) Tier 1: For LALCs with Average Annual Income less than \$250,000**
 - b) Tier 2: For LALCs with Average Annual Income from \$250,000 to \$750,000**
 - c) Tier 3: For LALCs with Average Annual Income over \$750,000**
28. NSWALC may nominate a higher reporting tier for a LALC, by notice in writing no later than 7 July following the financial reporting year, should it form the view that a higher reporting tier is necessary because:
 - (a) The LALC is presenting significant management difficulties; or
 - (b) The LALC has moved to a higher risk category in the fourth quarter NSWALC Risk Assessment System assessment; or
 - (c) A risk event has occurred that NSWALC otherwise deems significant enough to warrant a higher standard of financial reporting.
29. Where NSWALC nominates a higher reporting tier, the nominated LALC must report as per the obligations of the nominated higher reporting tier.

30. A LALC may nominate its own reporting obligations, by reporting in accordance with a higher reporting tier for a reporting year. Where a LALC nominates a higher reporting tier, the LALC must report as per the obligations of the nominated reporting tier and need not otherwise comply with the obligations of the lower reporting tier.

Tier 1 Annual Financial Reporting Obligations

Preparation of Financial Statements

31. A General Purpose Financial Report must be prepared as the financial statements of the LALC for each financial year. The General Purpose Financial Report must be prepared by a Qualified Accountant in accordance with Australian Accounting Standards and must include the additional disclosure requirements in **Appendix i** of this policy. The General Purpose Financial Report may be prepared in accordance with the reduced disclosure requirements of AASB1053.
32. If the LALC is involved in an arrangement for the purposes of section 52C of the ALRA, the General Purpose Financial Report must include details of any operations that are carried out under that arrangement as required by section 52C(3) of the ALRA.
33. If a LALC has a Subsidiary Entity, the LALC must prepare as part of its financial statements Consolidated General Purpose Financial Statements in accordance with AASB10, including a separate profit & loss and balance sheet for each Subsidiary Entity.

Financial Reporting to NSWALC

34. The following are to be provided to NSWALC along with the financial statements of the LALC:
- a) A completed and signed management representation letter in accordance with **Appendix ii**.
 - b) Copies of the policies or certificates of currency for all insurance policies held by the LALC.
 - c) Any additional information required by written direction of NSWALC made pursuant to s160 of the ALRA.

Tier 2 Annual Financial Reporting Obligations

Preparation of Financial Statements

35. A General Purpose Financial Report must be prepared as the financial statements of the LALC for each financial year. The General Purpose Financial Report must be prepared by a Qualified Accountant in accordance with Australian Accounting Standards and must include the additional disclosure requirements in

Appendix i of this policy. The General Purpose Financial Report may be prepared in accordance with the reduced disclosure requirements of AASB1053.

36. If the LALC is involved in an arrangement for the purposes of section 52C of the ALRA, the General Purpose Financial Report must include details of any operations that are carried out under that arrangement as required by section 52C(3) of the ALRA.
37. If a LALC has a Subsidiary Entity the LALC must prepare as part of its financial statements Consolidated General Purpose Financial Statements in accordance with AASB10, including a separate profit & loss and balance sheet for each Subsidiary Entity is required.

Verification and certification of Financial Statements

38. The financial statements of the LALC are to be verified and certified each year by a Review conducted by an Assurance Practitioner appointed by the LALC from the list of Assurance Practitioners kept by the NSWALC.
39. The Review report, including all the conclusions, opinions, notes, statements and disclosures required by the AUASB Standard on Review Engagements ASRE 2400 are to form part of the financial statements of the LALC.
40. In having its financial statements reviewed, a LALC must ensure that the Assurance Practitioner:
 - (a) has access at all reasonable times to the books of the LALC; and
 - (b) is given all reasonably requested information, explanations or other assistance for the purposes of the review.

Financial Reporting to NSWALC

41. The following are to be provided to NSWALC along with the verified and certified financial statements of the LALC:
 - a) Any management letter, including LALC response.
 - b) A copy of the service agreement and all invoices for the certified review conducted of the financial statements of the LALC.
 - c) Copies of the policies or certificates of currency for all insurance policies held by the LALC.
 - d) Any additional information required by further written direction of NSWALC made pursuant to s160 of the ALRA.

Tier 3 Annual Financial Reporting Obligations

Preparation of Financial Statements

42. A General Purpose Financial Report must be prepared as the financial statements of the LALC for each financial year. The General Purpose Financial Report must be prepared by a qualified accountant in accordance with Australian

Accounting Standards and must include the additional disclosure requirements in **Appendix i** of this policy. The General Purpose Financial Report may be prepared in accordance with the reduced disclosure requirements of AASB1053.

43. If the LALC is involved in an arrangement for the purposes of section 52C of the ALRA, the General Purpose Financial Report must include details of any operations that are carried out under that arrangement as required by section 52C(3) of the ALRA.
44. If a LALC has a Subsidiary Entity the LALC must prepare as part of its financial statements Consolidated General Purpose Financial Statements in accordance with AASB10, including a separate profit & loss and balance sheet for each Subsidiary Entity is required.

Verification and certification of Financial Statements

45. The financial statements must be verified and certified each year by an Audit conducted in accordance with the Australian auditing standards by an Auditor appointed by the LALC from the list of Auditors kept by NSWALC.
46. The audit report including all statements, disclosures, declarations opinions etc required from the Auditor by the Australian auditing standards is to form part of the financial statements of the LALC.
47. In having its financial statements audited, a LALC must ensure that the Auditor:
 - a) has access at all reasonable times to the books of the LALC; and
 - b) is given all reasonably requested information, explanations or other assistance for the purposes of the audit.

Financial Reporting to NSWALC

48. The following are to be provided to NSWALC along with the verified and certified financial statements of the LALC:
 - a) Any management letter, including LALC response.
 - b) Copies of the audit service agreement, and all invoices related to the audit conducted of the financial statements of the LALC.
 - c) Copies of the policies or certificates of currency for all insurance policies held by the LALC.
 - d) Any additional information required by further written direction of NSWALC made pursuant to s160 of the ALRA.

Provision of Financial Statements to LALC Members

49. Clause 12(b) of Schedule 1 of the *Aboriginal Land Rights Regulations 2014* requires LALCs (that have not amended the relevant model rule) to present the Financial Statements of the LALC for receipt at the Annual Meeting of the LALC.

50. Section 52G of the ALRA provides that receipt of the Financial Statements may only be confirmed by a resolution of the voting members of a LALC.

Provision of Financial Statements to NSWALC

51. Section 153(5) of the ALRA requires each LALC to provide NSWALC with a copy of its financial statements along with such other documents as prescribed by the regulations (any audit management letter and insurance policies of the LALC) by 1 November; 4 months after the end of each financial year.

Compliance

52. It is the responsibility of the LALC to ensure compliance with the ALRA and this policy.
53. Failure to comply with this policy may be grounds for the cessation of funding under NSWALC's funding policy and any funding agreement between NSWALC and a LALC.
54. Failure to comply with the statutory obligations identified in this policy, including the obligations in regards to the preparation, verification and certification of financial statements stipulated in this policy, may be grounds for the issuance of a section 160 direction from NSWALC, or a compliance direction by the Registrar of the ALRA.
55. Failure to provide NSWALC with satisfactory financial statements in accordance with the obligations of Division 2 of Part 8 of the ALRA, including the obligations in regards to the preparation, verification and certification of financial statements stipulated in this policy, may be grounds for the appointment of an administrator to a LALC by the Registrar of the ALRA pursuant to section 222(1)(b).

Transitional Arrangements

56. For all LALCs the financial statements prepared for the 2014-15 financial year are to be prepared in accordance with section 41B of the *Public Finance and Audit Act 1983*. Section 41BA of the *Public Finance and Audit Act 1983* is also to apply to the preparation of 2014-15 financial statements as it does to the financial reports required to be prepared under that Act.
57. All LALCs must have 2014-15 financial statements verified and certified by an Audit conducted by an Auditor appointed by the LALC from the list of Auditors kept by NSWALC.

Appendix i

The following are required to be included in the Financial Statements/ General Purpose Financial Reports prepared by LALCs.

Additional disclosure requirements			
1. Tax payable to ATO			
	GST	PAYG	Total
Opening balance			
Charges			
Payments			
Closing Balance			
2. Superannuation			
	Current year	Prior year	
Opening balance			
Charges			
Payments			
Closing balance			
3. Land and water rates			
	Current year	Prior year	
Opening balance			
Charges			
Payments			
Closing balance			
4. Current outstanding commitments for amounts over \$10,000			
5. Related Party Disclosures required by <u>AASB124</u> for transactions, balances and commitments between the LALC and a Board member or the Chief Executive Officer of the LALC, or any close family member of a Board member or the Chief Executive Officer.			
6. Any additional information required by written direction of NSWALC made pursuant to s160 of the ALRA.			

Appendix ii

<LALC NAME>
<ADDRESS LINE 1>
<ADDRESS LINE 2>

<DATE>

Representation Letter <LALC NAME>

This representation letter is provided in connection with the financial statements of <LALC NAME> for the year ended 30 June <YEAR>.

1. ACCOUNTING RECORDS AND TRANSACTIONS

We confirm that:

- all financial records and related data, other information, explanations were properly maintained.
- minutes of all meetings are accurate and up-to-date (e.g. <TYPES OF MEETINGS>)
- all legal issues and legal opinions that may be relevant to the financial statements are appropriately disclosed

All transactions have been recorded in the accounting records and are reflected in the financial statements, including all 'off-balance sheet' agreements or instruments.

2. COMPLIANCE WITH LEGISLATION AND OTHER REQUIREMENTS

We have no knowledge of any breaches or possible breaches of laws and regulations, contracts, agreements or licensing conditions, the effects of which should be considered when preparing the financial statements.

In respect to operations during the year, we have complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of non-compliance.

3. INTERNAL CONTROLS

We have established and maintained adequate internal control to ensure we:

- maintain adequate financial records
- minimise the risk of fraud and error occurring and detect them should they occur
- minimise the risk of significant breaches of legislation and other mandatory requirements and detect such breaches should they occur.

4. FRAUD AND ERROR

We acknowledge our responsibility for the design, implementation and maintenance of internal controls to prevent and detect fraud and error.

We have no knowledge of any fraud or suspected fraud affecting the entity involving:

- board members
- management
- employees who have significant roles in internal control
- others where the fraud could have a material effect on the financial statements.

We have no knowledge of any allegations of fraud, or suspected fraud, affecting the entity's financial statements communicated to us by employees, former employees, analysts, regulators or others.

5. OTHER

We confirm the above representations are made on the basis of adequate enquiries of management and staff (and where appropriate, inspection of evidence) sufficient to satisfy ourselves that we can properly make each of the above representations to you.

<LALC SIGNATORY>

Chair Person

<LALC SIGNATORY>

Chief Executive Officer