

NSWALC s66A(2)(a) Policy Directive for Local Aboriginal Land Council Approved Work Policy

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1. Purpose

This policy establishes the criteria for Local Aboriginal Land Councils (LALCs) to prepare and approve an approved work policy for the short-term employment of LALC Board members, as per section 66A(2)(a) of the *Aboriginal Land Rights Act 1983* (ALRA).

The new Section 66A provides for the short-term employment of a Board member within the LALC in specific circumstances. Section 66(1)(j) now provides an exception to the disqualification clause which prescribes that “a person is disqualified from holding office as a Board member of a Local Aboriginal Land Council if the person is an employee of, or consultant or contractor to, the Council”.

This document sets out the directions of the NSW Aboriginal Land Council (**NSWALC**) prescribed by s.66A(2)(a) for LALCs preparing an approved work policy.

2. Scope

This policy applies to all LALCs seeking to engage a Board member for short-term employment.

3. Policy Statement

The recent 2022 amendments to the ALRA makes provision under certain circumstances, for the employment of a LALC Board member within a LALC. Section 66A allows for Board members to undertake employment, or be engaged as a consultant or contractor to, the LALC, provided the employment or engagement is approved by LALC members in accordance with s.66A.

3.1 Guiding Principles

A LALC must prepare their approved work policy as prescribed by NSWALC's s.66A(2)(a) directions as follows;

- A. The employment, consultancy or contract must involve the performance of work of a kind specified in a policy (an *approved work policy*) prepared in accordance with the directions of NSWALC and approved by resolution of the voting members of the LALC, and
- B. The employment, consultancy or contract must be approved by resolution of the voting members of the LALC or, if required by the approved work policy, the Board, and;
- C. The approved work policy may not specify, as approved work, any work involving the exercise of the functions of the Chief Executive Officer of the LALC, or work performed on a permanent basis.

3.2 Definition of short-term work

Short-term work to be defined as being non-permanent and time bound work.

3.3 Types of short-term work

The intent of s.66A is to allow Board members of a LALC to engage in short-term work (employment, consultancy or contract). This could include, but not be limited to culture and heritage work, such as sites work, land management on LALC owned lands and/or Welcome to Country ceremonies. Short-term work must not include functions of the chief executive officer. Section 78B(1)(a) of the ALRA, provides that a Board member may not be employed as the chief executive officer of the LALC.

3.4 Approval of short-term work

The employment, consultancy or contract of a Board member shall be approved by resolution of the voting Members of the LALC or the Board (if allowed by the approved work policy). The approval shall be subject to the following requirements:

- The Board member who is seeking to be engaged must disclose and declare their interest and remove themselves from the part of the Council or Board meeting where the decision is to be made.
- The Board must ensure that staff and consultants are engaged on the basis of merit (as per s.80 and s.81 of the ALRA) before seeking the approval of Members by a special majority (representing 80% of the voting members present).
- The Board must not approve the employment, or engagement of the Board member if the Board believes that the employment or engagement will be ongoing, rather than non-permanent and time bound.
- The remuneration paid to the Board member for their employment must be approved by the Board and must be within any range approved by a resolution of the Members of the LALC (if any).

- The employment or engagement must be within the LALCs approved budget, or a variation to the LALCs budget be undertaken prior to engagement of the Board member, and depending on the type of arrangement, all oncosts need to be considered, such as superannuation, PAYG which may be payable.
- The CEO will provide regular reports to the Board and Members on the nature of the employment of the Board member, such as the terms of engagement, remuneration paid, and the merit-based process used to engage the Board member.

4. Responsibilities and Reporting

LALCs will be required to report in their Annual Report the nature and period of the engagement of all Board members employed under the approved work policy during the financial period.

The LALC CEO will report periodically to the Board and the Members on the appointment, remuneration paid and nature of employment of any Board member engaged.

5. Management and Oversight

The LALC CEO will be responsible for the direct management of those who are engaged by the LALC to undertake short term work (as an employee, consultant or contractor). Board members engaged to undertake short term work must comply with all relevant employment conditions and policies during their engagement and all requirements of the LALC's code of conduct and engage in ethical behaviour.

6. Related Policies and Procedures

A LALC must ensure its approved work policy complies with all of the LALCs policies such as, but not restricted to:

- Conflict and Pecuniary Interest Policy
- Culture and Heritage or Sites Works Policy
- Welcome to Country Policy
- Employment Policy
- Any applicable Code of Conduct or Policy prescribed by the ALRA, ALRR

7. Approval and Version History

Approval and Version History	Details
Council: 15 June 2023	444 Council Meeting – 15/6/23
	Version 1