



New South Wales
Aboriginal Land Council

Policy on the Approval of LALC Community Benefits Schemes (Residential Accommodation)

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1. Purpose

Many Local Aboriginal Land Councils ("LALCs") provide residential accommodation to their members and other Aboriginal people in their areas. This accommodation is made available under residential tenancy agreements.

Under the *Aboriginal Land Rights Act 1983* ("ALRA") the provision of residential accommodation (including rental accommodation) is referred to as a "Community Benefits Scheme" ("CBS"). The ALRA says that a LALC may, in accordance with an approval of the NSW Aboriginal Land Council ("NSWALC"), directly or indirectly provide community benefits under community benefits schemes, which may include providing, acquiring, constructing, upgrading or extending residential accommodation for Aboriginal persons in its area.

NSWALC must only approve a CBS if it is satisfied that the scheme complies with specific requirements set out in the ALRA. One of the statutory requirements that NSWALC must be satisfied of prior to giving approval is whether the scheme is consistent with any applicable policy of NSWALC.

Written policy is desirable to promote consistency in decision making and to provide greater predictability and certainty about how applications for approval will be treated by NSWALC.

In order to give guidance to NSWALC itself and to LALCs about how NSWALC will perform its approval function for a CBS for provision of residential rental accommodation, NSWALC has made this policy which sets out the considerations that NSWALC will take into account when determining whether the statutory requirements have been fulfilled.

2. Scope

The ALRA states that NSWALC approval is not required for LALCs who operate a community benefits scheme involving the provision of residential accommodation if the LALC is:

- a) A registered Aboriginal housing organisation (within the meaning of the *Aboriginal Housing Act 1998*), or
- b) A registered community housing provider (within the meaning of the *Community Housing Providers National Law (NSW)*)

Apart from those exceptions, this policy applies to all LALCs who wish to operate a CBS for the provision of residential rental accommodation for Aboriginal persons in their area. The policy

applies whether or not the LALC provides the accommodation with the assistance of an external manager or agent such as a real estate agent. For the purposes of this policy, such schemes will be referred to as a “CBS (Residential Accommodation)”.

3. Policy Statement

3.1 Guiding Principles

The ALRA says that NSWALC *must not approve* a community benefits scheme *unless* it is satisfied that (s52A(2)):

- a) The scheme complies with the ALRA and ALR Regulations;
- b) The scheme is consistent with any applicable policy of NSWALC;
- c) The scheme is consistent with the community, land and business plan (if any) of the LALC;
- d) The scheme is fair and equitable and will be administered in a responsible and transparent way;
- e) The proposed scheme is not likely to prevent the LALC from being able to meet its debts and when they fall due; and
- f) The need for the proposed benefits is not otherwise being adequately met.

3.2 What is in this policy

This policy has 5 main sections. These are as follows:

3.3 “Statutory framework for the provision of housing under a CBS (Residential Accommodation)” discusses the statutory framework for the approval of a LALC community benefits scheme in relation to the provision of residential accommodation.

3.4 “Seeking NSWALC’s approval under this policy” describes how and when applications to NSWALC for approval of a CBS (Residential Accommodation) should be made.

3.5 “Can NSWALC be satisfied that the scheme meets the statutory requirements?” provides guidance at a broad level about considerations that NSWALC will take into account when determining whether it will approve a scheme.

3.6 “What action may NSWALC take where CBS (Residential Accommodation) schemes are not approved?” outlines the sorts of action that NSWALC may take in cases where it does not approve a scheme (or approval is revoked) but the LALC continues to provide the housing.

3.7 “Interaction of the ALRA and NSWALC’s approval with the Aboriginal Housing Act 1998 (NSW)” describes how these two statutory regimes and approval/registration processes interact.

3.3 Statutory framework for the provision of housing under a Community Benefits Scheme (Residential Accommodation)

3.3.1 What is a CBS (Residential Accommodation)?

- a) A CBS (Residential Accommodation) includes the operation of all of the essential components of a LALC’s residential rental accommodation for members and other Aboriginal persons in its area.

- b) This includes (but is not limited to):
1. the properties that will be leased;
 2. the policies and practices of the LALC about things such as:
 - a. how the housing is allocated;
 - b. how the rents are set and the other terms under which the housing will be provided;
 - c. the collection of rents and enforcement of tenancy agreements,
 3. the services to be provided by the LALC, including essential repairs and maintenance;
 4. how all the expenses of the scheme (including those required for maintenance and repairs, rates, charges and insurances, building new houses, employment costs for any LALC staff who administer the scheme, fees for any external providers who assist the LALC) will be met (including by the collection of rents, external grants and assistance from the AHO or other external sources, and all other income streams); and
 5. any arrangements with external service providers, including real estate agents, which the LALC may use to assist with the operation of the scheme.
- c) NSWALC's approval of a CBS (Residential Accommodation) will be an approval of the whole scheme as described by the LALC.
- d) To assist in implementing this Policy, NSWALC has established two broad categories under which it assesses applications:
1. **Independently Operated Schemes** - where a LALC operates all facets of its community benefits scheme (residential accommodation).
 2. **Assisted Operator Schemes** - where a LALC uses the services of another body or agency under a management agreement or another form of contract to assist in the operation of the scheme.

3.3.2 When must NSWALC's approval be obtained?

- a) Generally, a LALC must obtain NSWALC's approval for its CBS (Residential Accommodation) before it provides accommodation under the scheme. Otherwise, it would be providing the accommodation without NSWALC's approval contrary to the ALRA (s.52A (1)).
- b) Unless subsequently revoked, NSWALC approvals provided under the SHAPE scheme (which preceded this CBS (Residential Accommodation) policy) are deemed to be approvals under the CBS (Residential Accommodation) policy.
- c) As stated in Part 2, NSWALC approval is not required (and this policy does not apply) if the LALC is a registered Aboriginal housing organisation (within the meaning of the *Aboriginal Housing Act 1998*) or a registered community housing

provider (within the meaning of the *Community Housing Providers National Law (NSW)*).

3.3.3 Can NSWALC impose conditions on an approval for a CBS (Residential Accommodation)

- a) Section 119(1) of the ALRA allows NSWALC to impose conditions on any approval given under the Act. NSWALC may also impose a time within which a condition must be complied with (section 119(2)).
- b) One example of a condition that NSWALC may impose is where a LALC has indicated that they will increase rents over a 12-month period to ensure that the income of the scheme is sufficient to meet all costs of the scheme. NSWALC may approve the scheme on the condition that the LALC demonstrate that it has increased rents within the specified timeframe. Another example of a condition that NSWALC may impose is a condition to ensure that the LALC continues to fund the scheme in the manner it proposes in its application for approval. This could mean that if a LALC identifies an income stream (such as rental income from commercial lands) that it plans to use in the scheme to make it financially viable, NSWALC may require, as a condition of its approval, that this income stream continue to be applied to the scheme during the term of the approval.

3.3.4 Can NSWALC revoke an approval for a CBS (Residential Accommodation)

- a) While there is no specific legislative requirement for NSWALC to supervise a LALC community benefit scheme, this policy establishes a framework whereby LALCs will need to report to NSWALC periodically on the operation of their CBS (Residential Accommodation) so that NSWALC can assure itself that the scheme is being operated in accordance with the approval provided by NSWALC.
- b) NSWALC may revoke its approval of a CBS (Residential Accommodation) (section 119(4)). This may be done where NSWALC considers that a scheme no longer fulfils the statutory requirements or where a condition of the NSWALC approval is breached or not satisfied by the LALC and no extension of time is given for the LALC to remedy this situation. For example, NSWALC may have to revoke an approval if an approved scheme fails to generate sufficient income to enable the LALC to meet the requirements of s. 52A(2)(e) of the ALRA.
- c) Another example of when NSWALC may have to consider revoking an approval is if it could no longer be satisfied that the LALC could run the scheme transparently, for example where the LALC does not comply with NSWALC's policy or its own policies.
- d) Unless there are urgent circumstances, NSWALC will not revoke its approval of a CBS (Residential Accommodation) without first:
 1. discussing with the LALC the matters that NSWALC considers to be of concern, and the actions NSWALC considers need to be taken by the LALC to address those matters
 2. if NSWALC still holds concerns, giving the LALC notice of NSWALC's intentions.

3.3.5 What if NSWALC does not approve a scheme, or revokes an approval?

- a) A LALC can only operate a CBS (Residential Accommodation) if it is approved by NSWALC. A LALC will contravene the Act if it operates a scheme without approval. Some consequences of this are provided for in the ALRA.

- b) Part 3.6 of this policy provides some guidance on steps that NSWALC may take if a LALC provides residential accommodation without approval.

3.3.6 If NSWALC refuses to approve, or imposes conditions, what rights of review or appeal does the LALC have under the ARLA?

- a) If a LALC is unhappy with a decision made by NSWALC, it can contact NSWALC to discuss its concerns within 30 days of the decision.
- b) If a LALC disagrees with a decision made by NSWALC, the LALC can ask the Registrar appointed under the ALRA to mediate, conciliate or arbitrate any dispute with NSWALC.
- c) If a LALC believes that NSWALC's decision is unlawful it may seek the review of a decision of NSWALC by the Land and Environment Court (pursuant to the Land and Environment Court Act 1979).

3.4 Seeking NSWALC's approval under the ALRA and this policy

3.4.1 How can NSWALC's approval be sought?

- a) It is the responsibility of a LALC proposing to operate a CBS (Residential Accommodation) to seek NSWALC's approval for that scheme.
- b) It is the responsibility of a LALC applying for NSWALC's approval to demonstrate to NSWALC that it has satisfied the criteria that NSWALC must have regard to in order to approve the scheme.
- c) NSWALC will publish an application form for LALCs to use to apply for approval of a CBS (Residential Accommodation). This application form is intended to assist a LALC to identify the elements of the scheme or schemes that it requires approval for.
- d) NSWALC will also publish a Procedure to accompany this Policy which will include Guidelines that will provide greater detail on the sorts of evidence that a LALC should provide to NSWALC to obtain its approval.

3.4.2 NSWALC's supervision of the LALC CBS (Residential Accommodation)

- a) NSWALC will supervise the operation of the LALC CBS (Residential Accommodation) to ensure that the scheme is being operated in accordance with the NSWALC approval.
- b) NSWALC will supervise each LALC CBS (Residential Accommodation) by:
 1. monitoring to ensure that conditions of approval are met within the relevant timeframes
 2. assessing the LALC's six monthly self-reporting to NSWALC to ensure LALC operations are in line with the basis of NSWALC's approval for the scheme, and
 3. reviewing the approval of the scheme every three years to ensure it continues to meet each of the requirements described in this policy.
- c) If a LALC fails to cooperate with NSWALC's requirements in relation to supervision of the scheme, NSWALC will consider whether this requires the approval to be amended or revoked.

3.4.3 How long does an approval last?

- a) As a rule, NSWALC's approval of a CBS (Residential Accommodation) will not be time restricted. If a scheme is approved, then that scheme will have approval unless and until the approval is revoked.
- b) However, this may not always be the case. In some cases, NSWALC may decide to impose a time restriction on an approval if it considers that there are reasons why this is desirable.

3.4.4 Material changes to a CBS (Residential Accommodation) that may require an amended approval

- a) The details of an approved scheme will be set out in the NSWALC approval.
- b) If the approved scheme changes in any material way, it may no longer be covered by the approval. In this case the LALC will need a new approval or an amendment to the existing approval.
- c) It may not always be straightforward, however, to know whether a change to an approved CBS (Residential Accommodation) is so "material" that a new or amended approval is required. A change will be "material" if it affects the viability of a scheme or the basis on which the scheme was approved under the ALRA. Whether this is so in any particular case will involve a consideration of:
 - 1. the approved scheme (as set out in the approval document); and
 - 2. the nature and extent of the proposed changes to that scheme.
- d) Some examples of "material" changes to an approved CBS (Residential Accommodation) may include, but are not limited to:
 - 1. Changes to the income of the scheme
 - 2. Changes to the liabilities of the scheme and the viability of the scheme such as increased borrowings and whether such changes will prevent a LALC from meeting its debts as and when they fall due
 - 3. Changes to the manner in which the scheme is managed, eg from external management to internal management.

3.5 Can NSWALC be satisfied that the scheme meets the statutory requirements?

3.5.1 Statutory requirement A: Does the scheme comply with the ALRA and the ALR Regulation?

- a) As well as being satisfied that the particular requirements of section 52A are met, NSWALC must be satisfied that the scheme complies generally with the ALRA and the ALR Regulations.
- b) An example of how a scheme may not comply with the ALRA and/or ALR Regulation is where the operation of the CBS (Residential Accommodation) is supported financially by the proceeds of a LALC investment and that investment itself was not authorised.

3.5.2 Statutory requirement B: Is the scheme consistent with any applicable policy of NSWALC?

- c) NSWALC will apply this policy when considering whether it can be satisfied that the statutory requirements are met.

- d) In addition, NSWALC must be satisfied that the scheme is consistent with any other NSWALC policy that may be applicable. For example, in some circumstances NSWALC's policy on the approval of LALC land dealings may be applicable to an aspect of a scheme (for example, a development application may be required to construct a new garage which would be a land dealing requiring NSWALC and LALC members' approval).

3.5.3 Statutory requirement C: Is the scheme consistent with the LALC's Community, Land and Business Plan?

- a) To determine whether it is satisfied that this requirement is met, NSWALC will need to consider in addition to the full details of the scheme the LALC's approved Community, Land and Business Plan (CLBP).
- b) A scheme will be clearly consistent with the LALC's approved CLBP if the proposal to operate the particular scheme is described in the plan (as one of the LALC's objects or proposed programs).
- c) NSWALC appreciates, however, that CLBPs are long term broad strategic documents which may describe the LALC's objects and intended programs with varying degrees of detail.
- d) When determining whether it is satisfied that this requirement is met, NSWALC will therefore consider questions such as:
 - 1. Does the CLBP identify rental accommodation as one of the needs of the LALC's community, and is meeting that need identified as one of the LALC's objects?
 - 2. Does the CLBP identify the community benefits scheme for the provision of residential accommodation as one of the programs that the LALC intended to operate?
 - 3. If the CLBP describes a CBS (Residential Accommodation) which is to be provided, is the scheme being considered by NSWALC at odds with the one described in the plan in a material respect?
 - 4. Does the CLBP indicate that the LALC had plans to use the relevant land for a purpose other than housing?
- e) A community benefits scheme for the provision of residential accommodation will not be approved if it is clearly inconsistent with the LALC's community, land and business plan.
- f) An example of when a proposed community benefits scheme for the provision of residential accommodation may be clearly inconsistent with a LALC's community land and business plan is if the plan clearly indicated that the LALC did not want to operate such a scheme.

3.5.4 Statutory requirement D: Is the scheme fair and equitable, and will it be administered in a responsible and transparent way?

Is the scheme fair and equitable?

- a) NSWALC must be satisfied that the scheme is fair and equitable in all significant respects.
- b) NSWALC's consideration of whether a scheme is fair and equitable, involves (but is not limited to) consideration of:
 - 1. Which LALC members and other Aboriginal people are eligible to participate

- in and benefit from the scheme (who is eligible to have a tenancy)
 2. How the housing is allocated amongst those who are eligible (including how waiting lists are managed and how limited housing resources are allocated)
 3. How the LALC acts towards its tenants and consideration of such things as the terms of the tenancy and respecting and upholding tenant's rights)
- c) When determining whether it is satisfied that this requirement is met, NSWALC will particularly consider whether the LALC has demonstrated that it has developed and will apply appropriate policies and practices for achieving fairness and equity. For example, does the LALC have appropriate procedures for:
1. applicants to apply for housing, and in doing so to identify their particular need for the LALC's housing
 2. determining whether or not an applicant will be granted admission to a waiting list for the scheme and where they will be placed upon that waiting list
 3. allocating housing; and
 4. determining the rent payable under the tenancies?

A LALC can most easily demonstrate these points by reference to written policies and procedures that it has adopted and will apply.

- d) In relation to fairness between the LALC and its tenants, NSWALC will consider whether the scheme respects and upholds tenant's rights. For example, NSWALC may consider whether, under the scheme, tenants will be:
1. offered a residential tenancy agreement that outlines rights and responsibilities;
 2. provided with, and have a chance to review and correct, a condition assessment of the property;
 3. made fully aware of the key terms of the tenancy, such as their obligation to pay rent at the agreed level, the agreed term of the lease and the ways in which the lease can be terminated;
 4. advised about how the LALC receives and deals with complaints regarding the tenancy; and
 5. advised about how they may complain to an external body about the tenancy.

Will the scheme be administered in a responsible way?

- a) Whether a scheme will be administered in a responsible way involves NSWALC considering matters such as:
1. seeking access to available funding and assistance sources;
 2. repairing damage to the properties, including that caused by tenants;
 3. maintenance of the properties, including plans for funding such maintenance;
 4. collecting rental arrears; and
 5. keeping necessary records,
- b) NSWALC's consideration of this requirement will include consideration of:
1. the scheme itself, including written policies and procedures for implementing the scheme; and
 2. how the LALC has performed its functions generally in the past and can

be expected to operate the scheme.

- c) A LALC that can demonstrate that it has appropriate systems in place, and a history of sound administration, is unlikely to have difficulty with this requirement. However, a LALC that has a continuing history of poor administration, particularly in relation to residential accommodation, is likely to have to satisfy NSWALC to a greater degree that its scheme will be administered responsibly.

Will the scheme be administered in a transparent way?

- a) Whether the scheme will be administered in a transparent way involves (but is not limited to) consideration of whether:
 - 1. the rules or criteria for determining important matters such as how limited housing resources are allocated are visible; and
 - 2. whether the application of those rules, and other decision making in relation to the scheme, will be open and transparent.
- b) NSWALC's consideration of this requirement will include consideration of:
 - 1. the scheme itself, and in particular any written policies and procedures for implementing the scheme; and
 - 2. the LALC and how it has performed its functions generally in the past and can be expected to make decisions about and otherwise operate the scheme.
- c) A LALC will most easily be able to satisfy NSWALC that this requirement is met if:
 - 1. its scheme has well documented policies or procedural documents clearly setting out the basis on which decisions will be made, and how complaints will be managed and responded to;
 - 2. those documents have been discussed with and are available to members and other potential tenants;
 - 3. it has good record keeping practices; and
 - 4. it has a good history of open and transparent, objective decision making.

3.5.5 Statutory requirement E: The proposed scheme is not likely to prevent the LALC from being able to meet its debts as and when they fall due

- a) This requirement requires NSWALC to consider whether the operation of a CBS (Residential Accommodation) scheme could prevent the LALC from being able to meet its debts when they fall due.
- b) This will require consideration of the expenses and income of the scheme as well as the overall financial position of the LALC.
- c) For NSWALC to consider this, a LALC must include with its application for approval a credible budget for the scheme in which:
 - 1. all reasonably foreseeable expenses of the scheme, including reasonable repairs and maintenance requirements are provisioned for; and
 - 2. all income projections are realistic.
- d) Whether the budget for the scheme is realistic may be ascertained by reference to such things as:
 - 1. whether foreseeable items of expenditure involved in the provision of residential accommodation have been adequately provided for;

2. whether the rent setting is realistic; and
 3. in the case of existing schemes, the past income and expenditure of the scheme.
- e) Income from the scheme will generally be derived from rent payable by the tenant and collected by the landlord or managing agent; and may also include external funding and subsidies from the Aboriginal Housing Office or from other government or non-government agencies or other income streams of the LALC.
- f) In addition, it may be that a LALC chooses to apply income derived from sources such as:
1. the profit from specified commercial operations, or
 2. the interest earned on an investment fund to meet the expenses of a scheme. In relation to such income sources, however, NSWALC will only treat them as being attributable to the scheme if it is clear that the income from that source legally must (such as where there is a trust deed) or reliably will, be applied to the scheme.
- g) Where an intended income source has been identified but the availability of the income has not yet been confirmed (such as where a funding application has been made but not determined) NSWALC may impose a condition on any approval to the effect that the approval is to be reviewed at a time when the availability or otherwise of the income will be confirmed.
- h) If NSWALC cannot satisfy itself that the scheme is not likely to prevent the LALC from being able to meet its debts as and when they fall due, then NSWALC must refuse to approve the proposed scheme.

3.5.6 Statutory requirement F: The need for the proposed benefits is not otherwise being adequately met

In relation to any scheme the LALC will have to demonstrate that there is a need for the housing and that it is not otherwise being adequately met by, for example, the general rental market or other social housing providers. If NSWALC cannot be satisfied that there is an unmet need for the proposed housing scheme, it must refuse to approve the proposed scheme (s.52A (2) (f)).

3.6 What action may NSWALC take where LALC residential accommodation schemes are not approved

3.6.1 Action to assist the LALC to decide what to do with a scheme that is not approved (or where approval is revoked)

- a) If NSWALC does not approve a CBS (Residential Accommodation), it will take steps to guide and assist the LALC to decide what it should do. The aim will be to guide and assist the LALC to avoid breaching the ALRA by providing housing without an approved scheme.
- b) In some cases, for example, a LALC's best alternative to providing a CBS (Residential Accommodation) itself may be to lease its existing housing stock to another housing provider which is better placed to provide the housing. In such cases NSWALC may be able to assist in identifying an appropriate housing provider that could be used.
- c) It should be noted that if a LALC was to lease its housing stock to an external provider in this way this would be a "land dealing" for the purposes of Division 4 of

Part 2 of the ALRA. As such, the lease would need NSWALC's approval in accordance with s.42E of the ALRA. LALCs should refer to Division 4 of Part 2 of the ALRA, as well as NSWALC's policy on land dealings, in this regard. It may also be a form of community benefit scheme requiring approval under s.52A of the ALRA.

3.6.2 Action if a LALC provides a scheme without NSWALC's approval

- a) A LALC which continued to provide a CBS (Residential Accommodation) without approval from NSWALC would be breaching the ALRA and acting beyond its lawful authority.
- b) In these circumstances, NSWALC will consider taking one or more of the following steps:

Cessation of funding

1. If the LALC is operating the scheme in breach of the ALRA, and is a party to a Funding Agreement with NSWALC, NSWALC may be required to cease funding of the LALC.

Registrar's compliance direction

1. NSWALC may request the Registrar to issue a direction to the LALC under section 235 of the ALRA to comply with the ALRA. If a direction was issued and the LALC failed to comply with it, the Registrar could refer the matter to the Court for determination (section 236). The Court could, after hearing the matter, give directions to the LALC to determine the matter. If the LALC contravened such a direction, it would be guilty of an offence and could be required to pay a fine (section 237).

Consent to administration

1. NSWALC may consent to the appointment of an administrator to the LALC (section 222). Such an appointment may be made if a LALC is operating a CBS (Residential Accommodation) in contravention of the requirement for that scheme to be approved by NSWALC.
2. The ALRA provides an Administrator that has been appointed on this ground with the authority to approve a LALC dealing that is necessary for the purposes of either obtaining NSWALC approval for the operation of the scheme, gaining registration as an Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998 or gaining registration as a community housing provider within the meaning of the Community Housing Providers National Law (NSW)

Liaison with Registrar and Minister regarding dissolution

1. NSWALC may encourage the Registrar to issue a report to the Minister recommending dissolution if one of the circumstances in s.91 (1) of the ALRA appears to exist. Section 91(1)(i) provides that the operation of an unapproved CBS (Residential Accommodation) is a possible trigger for dissolution.

3.7 Interaction of the ALRA and NSWALC's approval with the Aboriginal Housing Act 1998 and Aboriginal Housing Office

- (a) It is important to understand that NSWALC's approval of a housing scheme under this CBS (Residential Accommodation) policy is an entirely separate process to the Aboriginal Housing Office's ("**AHO**") process for registration of LALCs as an Aboriginal housing organisation under the Aboriginal Housing Act (NSW) ('**AHA**').
- (b) As stated in Part 2, NSWALC approval is not required (and this policy does not apply) if the LALC is registered with the AHO as an Aboriginal housing organisation under the *Aboriginal Housing Act 1998*).
- (c) Registration with the AHO makes a LALC eligible for potential financial assistance and support from the AHO. Approval from NSWALC under this CBS (Residential Accommodation) policy does not make a LALC eligible for such assistance.
- (d) In 2023 the AHO introduced a new category of registration which LALCs may apply for. This new category of registration is called 'Aboriginal Community Housing Organisation' ('ACHO'). To be registered with the AHO as an ACHO, a LALC must have its housing is managed by a Aboriginal Community Housing Provider (ACHP) which has achieved registration under the National Registration System for Community Housing (NRSCH).
- (e) This means that a LALC which has its housing managed by an Aboriginal Community Housing Provider (ACHP) theoretically has two options:
 - 1. It can seek registration as an ACHO with the AHO; or
 - 2. It can seek approval from NSWALC through a CBS (Residential Accommodation) as an 'assisted operator'.
- (f) In practice, however, LALCs facing this choice will find it much simpler to apply for registration as an ACHO with the AHO than to apply for approval from NSWALC under this CBS (Residential Accommodation) Policy. This is because the AHO requires proof of operating capability from the managing provider, whereas under this policy NSWALC requires proof of operating capability from the LALC itself. In addition, registration as an ACHO will make the LALC eligible for potential financial assistance and support from the AHO, whereas approval from NSWALC under this policy will not make a LALC eligible for such assistance.

4. Related policy and procedures

- 4.1 NSWALC Policy NS 0908 Approval of Community Benefits Scheme
- 4.2 NSWALC Procedure NS 0908 Approval of Community Benefits Scheme
- 4.3 NSWALC Procedure NS 0905 Approval of Community Benefits Scheme (Residential Accommodation)

5. Related legislation and regulation

ALRA Part 5 Division 1A Functions of Local Aboriginal Land Councils

ALRA s113(2) creates a requirement specifically for CBS(RA) – which is that the CBSRA's Policy's criteria for deciding applications must be determined after consultation with the AHO.

6. Definitions

Words and expressions used in this policy guide have the same meaning as they have in Division 4 of Part 2 of the ALRA.

Further, references to section numbers (e.g., s.42G) are references to sections in the ALRA (except where the section number is followed by the name of another Act).

In addition, the following words and expressions used in this policy have the following meanings:

- AHA:** means the *Aboriginal Housing Act 1998*
- AHO:** means the Aboriginal Housing Office
- ALRA:** means the *Aboriginal Land Rights Act 1983*
- ALR Regulation** means the *Aboriginal Land Rights Regulation 2014*
- LALC:** means a Local Aboriginal Land Council
- Material change:** means a change that will affect the statutory basis on which the scheme was approved or its viability (see clause 4.5 for further information).
- NSWALC:** means the New South Wales Aboriginal Land Council

7. Approval and Version History

Approval and Version History	Details
First Approved Authority and Date	[Relevant approval authority and first approved date DD/MM/YYYY]
Version History and dates and other notes	[If relevant, add notes to alert readers about the document/s this one replaces, e.g. This document consolidates and replaces X Policy, Y Procedure and Z Procedure.]