FACT SHEET

NEW SOUTH WALES
ABORIGINAL LAND COUNCIL

www.alc.org.au

Fact Sheet 1

What is a Land Dealing?

Local Aboriginal Land Councils (**LALCs**) must comply with the *Aboriginal Land Rights Act 1983* (**ALRA**) and the *Aboriginal Land Rights Regulation 2020* (**ALRR**) when they want to "deal with land" that is "vested" in them.

What is "deal with land" or a land dealing?

Under section 40(1) of the ALRA, the definition of "deal with land" includes:

- sale, lease or mortgage of land;
- subdivision/consolidation of land so as to affect the interest of an Aboriginal Land Council (**ALC**) in that land;
- granting easements and covenants over land;
- releasing an easement or covenant that benefits land;
- entering into biobanking agreements;
- entering into wilderness protection agreements;
- property vegetation plans;
- making or consenting to the lodgement of a development application (**DA**) in relation to land;
- doing anything that creates or passes a legal or equitable interest in land.

Approval from NSWALC is required

Section 42E of the ALRA states that a LALC "*must not deal with land **vested** in it except in accordance with an approval"* of the New South Wales Aboriginal Land Council (**NSWALC**) under section 42G of the ALRA.

However, approval of NSWALC is **not** required for the following land dealings by LALCs:

- a land dealing in relation to a lease for a period of less than 3 years (including any option to renew the lease) or a short-term residential tenancy agreement, other than a social housing management lease, or
- the making of a DA in relation to land where the development has an estimated cost of less than $500,000.

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Please note that lodging a DA is a land dealing under the ALRA, however if the estimated cost of the development is less than $500,000 then it does not require approval from NSWALC (clause 6 of the ALRR). The LALC Board may pass a resolution approving the lodgement of the DA.

If, however, the estimated cost of development is $500,000 or more, then the LALC must obtain land dealing approval from members and from NSWALC in accordance with the ALRA and ALRR.

What does "vested" in mean?

Section 40(2) of the ALRA states that land is "vested" in an ALC if:

(a) the ALC has a legal interest in the land;

(a1) the land is the whole or part of land that is, pursuant to an Aboriginal Land Agreement under section 36AA, to be transferred to the ALC, or

(b) the land is the whole or part of land the subject of a claim under section 36 and:

(i) the Crown Lands Minister is satisfied that the land is claimable Crown land under section 36, or

(ii) the Court has ordered under section 36 (7) that the land be transferred to the ALC,
and the land has not been transferred to the Council.

If LALCs are unsure whether land has "vested" in them or if what they propose to do with the land is a land dealing, please contact the Land and Property Unit of NSWALC (**Quick Reference Guide and Contacts**).

If LALCs wish to "deal with land" that is "vested" in them then LALCs are encouraged to read the other Fact Sheets for further information on how to give their members notice of land dealing meetings, how to hold the meetings and pass a compliant resolution and how to apply to NSWALC for consent to the land dealing.

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