

FACT SHEET



NEW SOUTH WALES
ABORIGINAL LAND COUNCIL

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Fact Sheet 4

Resolutions approving Land Dealings

The *Aboriginal Land Rights Act 1983 (ALRA)* and the *Aboriginal Land Rights Regulation 2020 (ALRR)* are specific as to how Local Aboriginal Land Councils (**LALCs**) must hold a land dealing meeting and what statement(s) a resolution approving the land dealing must contain.

Opening the land dealing meeting

LALCs should not open the meeting until there is a **quorum** present.

Clause 3 Part 1 of Schedule 3 of the ALRA states:

“The quorum of a Local Aboriginal Land Council is 10 per cent of the total number of voting members of the Council”.

LALCs will need to round 10% of the total voting members up to the next whole number.

For example:

1. If a LALC has 68 voting members then the quorum is 7

(10% x 68 = 6.8. Rounding up to the next whole number = 7).

2. If a LALC has 301 voting members then the quorum is 31 (10% x 301 = 30.1. Rounding up to the next whole number = 31).

3. If a LALC has 1455 voting members then a quorum is 146 (10% x 1455 = 145.6. Rounding up to the next whole number = 146).

Pecuniary Interest

At the meeting;

(1) Any Board member, LALC member or staff with a pecuniary interest in the land dealing must declare their interest and leave the meeting and be out of sight of the meeting while the land dealing is being discussed and voted on, unless the members determine otherwise (see Division 4 of Part 10 of the ALRA);

(2) LALCs should table any other relevant documents and plans, including valuations, and any legal advice the LALC has received on the transaction;

(3) LALCs may wish to have their legal/financial advisor in attendance, especially where the transaction is complex, so that the

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FACT SHEET



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ABORIGINAL LAND COUNCIL

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advisor can explain any relevant documents and answer questions members may have.

LALCs should carefully minute the meeting, including all the documents tabled and the discussions that occurred.

Land dealing resolution

LALCs can only approve a land dealing by passing a resolution. A LALC may only pass a land dealing resolution if there is a quorum present, otherwise no business can be conducted. The ALRA sets out what a resolution approving a land dealing must contain.

Section 42G(5) of the ALRA states:

“(5) Requirements for approval resolutions

A Local Aboriginal Land Council resolution approving a land dealing must:

- a) be passed at a meeting of which prior notice was given, in accordance with the regulations, and at which a quorum was present, and*
- b) be passed by not less than 80 per cent of the voting members of the Council present at the meeting, and contain the following matters:*

- (i) the identity of the land,*
- (ii) a statement that the impact of the land dealing on the cultural and heritage significance of the land to Aborigines has been considered in determining whether to approve the dealing,*
- (iii) the manner in which the land is to be dealt with,*
- (iv) any conditions to which the approval of the dealing is subject.”*

Attached to this fact sheet as **Attachment 1** are sample resolutions which may assist a LALC to pass a land dealing resolution in compliance with section 42G(5) of the ALRA.

Attached to this fact sheet as **Attachment 2** is a calculation to assist LALCs to calculate if the resolution has been passed by at least 80% of voting members present at the meeting.

In addition to the sample land dealing resolutions attached and in order to ensure, as far as possible, that LALC resolutions approving the land dealings comply with the ALRA, LALCs or their legal advisors should prepare a draft land dealing resolution and are encouraged to provide the draft

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FACT SHEET



NEW SOUTH WALES
ABORIGINAL LAND COUNCIL

www.alc.org.au

resolution to the Land and Property Unit of NSWALC (**Quick Reference Guide and Contacts**) for further assistance and comments prior to the LALC holding the land dealing meeting.

Attachment 1

Sample of resolutions by ABC LALC approving land dealings

Please note: this is only a sample and the particulars of the LALC, properties and land dealings are made up.]

“Meeting of ABC Local Aboriginal Land Council (ALALC) held on Friday 18 September 2020 commencing 2.30pm

Sample Resolution 1:

The members of ALALC having considered the impact of the proposed sale of 12 Smythe Street, Nancyville (Lot 135 of Section 2 in DP 25739) (**Lot 135**) on the cultural and heritage significance of Lot 135 to Aboriginal persons, approve selling Lot 135 for a price no less than current market value as assessed by a qualified valuer in a valuation report that is not more

than 12 months old at the date of the sale.

Moved by: [LALC to insert the name of the person who moved the motion]

Seconded by: [LALC to insert the name of the person who seconded the motion]

Numbers for: [LALC to insert the number of voting members who voted for the motion]

Numbers against: [LALC to insert the number of voting members who voted against the motion]

Numbers abstained: [LALC to insert the number of voting members who abstained from voting]

Motion carried/not carried.

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FACT SHEET



NEW SOUTH WALES
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Sample Resolution 2:

The members of ALALC having considered the impact of the proposed lodgement of a development application for consent to build a house at 98 Seville Road, Maynard (Lot 42 in DP 57321) (**Lot 42**) on the cultural and heritage significance of Lot 42 to Aboriginal persons, approve lodging a development application with the XYZ Shire Council for consent to build a single storey house on Lot 42.

Moved by: [LALC to insert the name of the person who moved the motion]

Seconded by: [LALC to insert the name of the person who seconded the motion]

Numbers for: [LALC to insert the number of voting members who voted for the motion]

Numbers against: [LALC to insert the number of voting members who voted against the motion]

Numbers abstained: [LALC to insert the number of voting members who abstained from voting]

Motion carried/not carried.

Sample Resolution 3:

The members of ALALC having considered the impact of the proposed grant of lease of 84 Daris Road, Broadland (Lot A in DP 278549) (**Lot A**) on the cultural and heritage significance of Lot A to Aboriginal persons, approve granting a lease of Lot A for a term of 5 years on terms and conditions substantially the same as the draft lease tabled at this meeting and for a rent no less than current market rent as assessed by a registered valuer in a valuation report not more than 12 months old at the time the lease is entered into.

Moved by: [LALC to insert the name of the person who moved the motion]

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FACT SHEET



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Attachment 2

How to calculate if at least 80% of voting members have passed the land dealing resolution

Section 42G(5)(b) of the ALRA states the land dealing resolution is **required to be passed by at least 80%** of voting members present at the meeting. To assist LALCs to calculate if this has been achieved, please see the sample table below:

| | Resolution 1 | Resolution 2 | Resolution 3 | Resolution 4 |
|-----------------------|--|---------------------------------------|---------------------------------------|---|
| No. For: | 40 | 28 | 32 | 31 |
| No. Against: | 0 | 9 | 3 | 2 |
| No. Abstained: | 0 | 3 | 5 | 7 |
| Calculation | $\frac{40}{40+0+0} \times 100 = 100\%$ | $\frac{28}{28+9+3} \times 100 = 70\%$ | $\frac{32}{32+3+5} \times 100 = 80\%$ | $\frac{31}{31+2+7} \times 100 = 77.5\%$ |
| Motion | Carried | Not carried | Carried | Not carried |

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