New South Wales Aboriginal Land Council

FACT Sheet

7 COMMUNITY DEVELOPMENT LEVY

What is the Community Development Levy?

Division 4A of Part 2 of the *Aboriginal Land Rights Act 1983* (**ALRA**) imposes community development levy (**CDL**) where a Local Aboriginal Land Council (**LALC**) carries out certain land dealing transactions.

CDL is a payment a LALC is required to pay for any dutiable transaction to which the levy applies, that occurs in relation to a land dealing (see Division 4A of Part 2 (sections 42Q - 42X) of the ALRA and Division 2 of Part 2 (clauses 15-18) of the *Aboriginal Land Rights Regulation 2020* (**ALRR**)). The CDL is collected by Revenue NSW, and the Revenue NSW determines exemptions where applicable.

Which transactions attract CDL?

CDL applies to the following dutiable transactions:

- a transfer of land;
- an agreement for the sale or transfer of land;
- a declaration of trust over land;
- a lease of land in respect of which a premium (an amount that is greater than rent and which essentially represents sale price) is paid or agreed to be paid; and
- any other transaction prescribed by the regulations (to date there have been no other transaction prescribed by the regulations).

CDL does not apply to the following dutiable transactions:

- transactions exempt from duty under the *Duties Act 1997*;
- transactions under a community benefit scheme providing home ownership for Aboriginal people;
- transactions between Aboriginal Land Councils;
- transactions where the dutiable value of the land is $81,000 or less; and
- any other transactions prescribed by the regulations (to date there have been no other transaction prescribed by the regulations).

How much is the CDL?

CDL is calculated similar to the way that stamp duty is calculated under the *Duties Act 1997* and is progressive. This means the more expensive the transaction, the higher the levy will be.

In accordance with clause 15 of the ALRR the levy rate is as follows, for transactions where the dutiable value of land is:

- less than $81,000 – nil levy payable
- $81,000 to $1,000,013 - 100% of the amount of duty
- $1,00,013 or more - 150% of the amount of duty

To assist LALCs with CDL calculations, Revenue NSW provides a CDL calculator on their website at Community development levy calculator

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When does CDL have to be paid?

CDL is required to be paid before a Registration Approval Certificate (**RAC**) for the dealing can be issued by NSWALC (see section 42K(2)(c), ALRA) (see **Fact Sheet 6** for more information).

How to pay CDL?

CDL may now be paid by electronic funds transfer (**EFT**) to the following account:

Account name: OSR Crown Revenue
BSB: 032-001
Account Number: 203869

Applying for Assessment of CDL

Applications for assessment of CDL may now be lodged via email rather than by post. Applications should be submitted to Revenue NSW by email as follows:

- Email to: duties@revenue.nsw.gov.au
- In the Subject line, put 'CDL Application'
- Provide the following documents:
  - Executed copy of the Contract for Sale; and
  - EFT remittance advice confirming payment of CDL

Upon completion of the assessment, Revenue NSW will issue a case decision letter via email to the LALC, confirming the following details:

Land Dealings Information

- Land Dealings Type:
  - Vendor
  - Purchaser
  - Property Details
  - Consideration
  - Date
- Levy Paid
- Receipt Number
- Receipt Date

If an otherwise "dutiable transaction" is exempt from the payment of stamp duty (for instance a dutiable transaction with the Crown, including a statutory body representing the Crown, may be exempt from the payment of stamp duty pursuant to s308 of the *Duties Act 1997*) a LALC may also be exempt from payment of the CDL. Evidence of the exemption will need to be provided to Revenue NSW. Revenue NSW will, if appropriate, issue a letter confirming the exemption.

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