



New South Wales  
Aboriginal Land Council

ABN: 82 726 507 500

09 February 2023

Ms Margaret Sutherland  
Senior Corruption Prevention Officer  
Independent Commission Against Corruption (ICAC)  
Via email: [mmland@icac.nsw.gov.au](mailto:mmland@icac.nsw.gov.au)

Cc: Mr Lewis Rangott, Executive Director, Corruption Prevention

Dear Ms Sutherland,

**Re: Plan of Action regarding corruption prevention recommendations made in the report *Investigations into dealings involving Awabakal Local Aboriginal Land Council (ALALC) land***

As Principal Officer of the NSW Aboriginal Land Council (NSWALC), under S111E of the *Independent Commission Against Corruption Act 1988*, I provide our Plan of Action regarding the three corruption prevention recommendations made in the report *Investigations into dealings involving Awabakal Local Aboriginal Land Council (ALALC) land*.

Further progress Reports will be provided periodically.

If you require further information about this matter, please contact Ms Suba Tharmarajah, A/Manager Governance on (02) 9689 4406 or by email [Suba.Tharmarajah@alc.org.au](mailto:Suba.Tharmarajah@alc.org.au).

Yours sincerely,

Yuseph Deen  
Chief Executive Officer

**ALWAYS WAS. ALWAYS WILL BE.**

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# NSW Aboriginal Land Council plan of action in response to recommendations made in *Investigation into dealings involving Awabakal Local Aboriginal Land Council*

## PART A: NSW Aboriginal Land Council's (NSWALC) response to corruption prevention recommendations

Firstly please indicate the response to be taken for each recommendation made.

### Recommendation 3

- That the Minister for Aboriginal Affairs, NSWALC [NSW Aboriginal Land Council] and the registrar of the ALR Act discuss and implement legislative or policy measures that protect chief executive officers (CEOs) from arbitrary dismissal or without due process. Among other things, this discussion should consider requiring councils to provide reasons for dismissing a CEO and creating powers for the registrar or other entity to, in certain circumstances, approve or otherwise intervene in the proposed dismissal of a CEO.

Please indicate the response the public authority will take in its plan of action:

- Implement the recommendation as described in the report
- Implement the intent of the recommendation in an alternative way
- Partially implement the recommendation
- Not implement the recommendation

If the action NSWALC intends is other than "implement the recommendation as described in the report", please state the proposed action to be undertaken in the space provided below.

NSWALC does not agree with this recommendation. Arbitrary dismissal is covered by other legislation and should not be in the *Aboriginal Land Rights Act 1983* (ALRA). The ALRA already includes existing requirements for Board members, Councillors and members of staff to carry out functions in a proper manner, and various misconduct and disciplinary actions that may be taken, including:

- S183 of the ALRA – Requirements for Board members, Councillors and staff to:
  - a) act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions under this or any other Act;
  - b) act for a proper purpose in carrying out his or her functions under this or any other Act;
  - c) not use his or her office or position for personal advantage; and
  - d) not use his or her office or position to the detriment of an Aboriginal Land Council.

- S180 of the ALRA – Requires the NSWALC & LALCs to have and comply with a Code of Conduct.
- The Registrar has various powers (Part 10 of the ALRA), including to issue compliance directions, to mediate, conciliate or arbitrate disputes, to investigate complaints and to initiate disciplinary actions.
- S234A of the ALRA – NSWALC has functions to issue performance improvement orders.

Please explain why the above action is action is proposed rather than the ICAC's published recommendation.

NSWALC continues to advocate for legislative proposals (relating to the ALRA) that improve misconduct provisions. NSWALC has not advocated for specific provisions in the ALRA to specifically cover arbitrary dismissal, given this is covered by other legislation, however, advocates for clearer and improved provisions to prevent and address wrongdoing. Along this line, the ALRA was amended in 2022 with amendments coming into force on 25 November 2022. Also noting in Operation Petrie the Commission made the following recommendation: That any future amendments to the *Aboriginal Land Rights Act 1983* (ALRA) are sensitive to the resource implications of compliance with the amended legislation for the Aboriginal land rights network.

### Recommendation 13

That the NSWALC and the registrar consider whether the corruption prevention recommendations made in this report should be applied to other LALCs and whether the NSWALC and registrar should collaborate to develop an education program that addresses the findings and recommendations in this report.

Please indicate the response the public authority will take in its plan of action:

- Implement the recommendation as described in the report
- Implement the intent of the recommendation in an alternative way
- Partially implement the recommendation
- Not implement the recommendation

If the action NSWALC intends is other than “implement the recommendation as described in the report”, please state the proposed action to be undertaken in the space provided below.

NSWALC had previously worked with ICAC with their delivery of the Corruption Prevention Workshop's to LALC Board's and LALC staff members.

NSWALC will collaborate with ICAC and other parties to coordinate and deliver further educational programs that will target corruption prevention for LALC Board members and LALC staff members.

We have identified that these workshops would be best placed to be delivered by ICAC and coordinated through the NSWALC Network Services Unit's capacity development team.

NSWALC has held discussions with Ms Margaret Sutherland, from ICAC, and there is an agreement to develop a corruption prevention program for LALCs across the network. These workshops have been earmarked to commence in April 2023 and will be coordinated through the NSWALC Network Services Unit's capacity development team and focused upon LALC Boards and LALC CEOs.

Please explain why the above action is action is proposed rather than the ICAC's published recommendation.

NSWALC agrees in general to the delivery of corruption prevention workshops across the LALC network. NSWALC feels that the ICAC Corruption Prevention Division are the most appropriate body to deliver these modules on corruption prevention to LALCs and coordinated through the NSWALC capacity development team and Zone Offices.

## Recommendation 14

That the NSW Aboriginal Land Council extend the questions concerning 'Property' in the Risk Assessment System to include "Is the LALC in discussion(s) with any third parties about potential land dealings in which any agreement(s) would be conditional on the LALC obtaining necessary approval under the ALR Act?"

Please indicate the response the public authority will take in its plan of action:

- Implement the recommendation as described in the report
- Implement the intent of the recommendation in an alternative way
- Partially implement the recommendation
- Not implement the recommendation

If the action NSWALC intends is other than "implement the recommendation as described in the report", please state the proposed action to be undertaken in the space provided below.

The NSWALC agrees in general to the reintroduction of a risk question to capture those LALC's seeking to undertake a land dealing. The new Network Delivery Model will identify seven (7) critical areas of risk which will require all LALC's to provide financial reports and supporting documentary evidence to the NSWALC on a 6-monthly basis.

A question to capture any potential land dealings by a LALC has been included within the 7 critical questions under a new LALC self-assessment and reporting basis:

"Since the last reporting period, has the LALC considered any land dealings or had discussions with third parties about potential land dealings that would require NSWALC approval?"

All LALCs will be required to undertake the self-assessment process on a 6-monthly basis. All questions, including the above land dealing question, has been weighted in the 'extreme' risk category.

Please explain why the above action is action is proposed rather than the ICAC's published recommendation.

NSWALC has reintroduced a question under the new risk assessment process to incorporate the question proposed in the ICAC recommendation which has been weighted as "extreme" risk under the new process.

## PART B: NSW Aboriginal Land Council's plan of action

In this section, please provide details of NSWALC's plan of action in relation to the recommendations and/or proposed actions described above.

The scope and scale of recommendations made in investigation reports varies considerably, and the Commission recognises a single template may not suit every agency or investigation. In view of this, NSWALC is invited to develop a format that is appropriate for the proposed plan of action and subsequent report(s).

The Commission asks that the plan of action and subsequent proposed report formats are developed in consultation with the ICAC's corruption prevention representative named in the cover letter. The ICAC corruption prevention representative will advise if the plan or report format has the Commission's endorsement.

However if NSWALC prefers to adhere to an established format, the following may be used as a guide.

### Plan of action

Each specific recommendation or proposed action
Action to be taken describing activities, allocating responsibility, measures to be used

Recommendation	Action	Time Frame
That the NSWALC and the registrar consider whether the corruption prevention recommendations made in this report should be applied to other LALCs and whether the NSWALC and registrar should collaborate to develop an education program that addresses the findings and recommendations in this report.	NSWALC to facilitate ICAC Corruption Prevention Workshops	To commence April 2023
That the NSW Aboriginal Land Council extend the questions concerning 'Property' in the Risk Assessment System to include "Is the LALC in discussion(s) with any third parties about potential land dealings in which any agreement(s) would be conditional on the LALC obtaining necessary approval under the ALR Act?"	Risk Question included in the LALC Self-Assessment in the new Network Delivery Model	To commence 1 July 2023
	Results of the LALC Self-Assessment to be reported to the Minister on a 6 monthly basis	Within 1 <sup>st</sup> quarter of 2024 (for period 1 July – 31 December 2023)