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fact sheet

NEW SOUTH WALES ABORIGINAL LAND COUNCIL

Amendments to the *Aboriginal Land Rights Act 1983 (NSW) (ALRA)*

Review of NSWALC decisions

What can a LALC do if its application is refused or is subject to conditions?

If a LALC's application for approval of a land dealing is refused by NSWALC, or has certain conditions imposed on it by NSWALC, the LALC can request written reasons from NSWALC as to its decision. NSWALC must provide those written reasons within 28 days of the LALC's request.

If a LALC is unsatisfied with the reasons supplied by NSWALC, it can commence proceedings for **judicial review** of NSWALC's decision in the Land and Environment Court. However, before commencing proceedings for judicial review, a LALC must refer their dispute to the Registrar to undergo a dispute resolution process.

Conciliation/mediation

Before commencing proceedings for judicial review, a LALC **must** have the dispute with NSWALC referred to the Registrar for mandatory conciliation/mediation. This is aimed at reducing costly and unnecessary litigation between the parties. The referral does not require the Registrar to resolve the dispute before court proceedings can commence but the referral may provide a non-litigious option for the LALC and NSWALC to discuss the dispute without going to court. After the referral is made, a LALC is then be able to commence proceedings for judicial review of NSWALC's decision in the Land and Environment Court if it so wishes.

Judicial review

If a dispute is referred to the Land and Environment Court it will be subject to judicial review. Judicial review means the court will examine the decision made by NSWALC and decide whether or not NSWALC made an error of law when making its decision. This will **not** involve a review of the merits upon which the decision was made by NSWALC.

Only the LALC that has made the land dealing application to NSWALC may commence proceedings for judicial review of that decision in the Land and Environment Court. No other party will be able to bring a proceeding against NSWALC for its decision to refuse to grant approval or place a condition on the ALRA.

Note: the content of this fact sheet is intended for information purposes only. It is not intended as advice and should not be relied upon as advice. All parties should seek independent advice that is suited to their own specific circumstances.