 **Policy for the Consideration of Membership Applications**

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| **Policy No**  | **Membership Applications** |
| **Applies to : TLALC CEO, Staff, Board, Members**  | **Version 1** |
| **Responsibility : TLALC CEO, Staff, Board, and**  **Members** | **Date Approved 29/5/22** |
|  | **Review Date 29/5/23** |

* **This policy is relevant and applies to the Aboriginal Land Rights Act 1983 [NSW]**

**Statement**

This Policy applies to all applications for membership of the Tharawal Local Aboriginal Land Council (**TLALC].** The *Aboriginal Land Rights Act 1983* (NSW) (the ***ALR Act***) sets out the requirements for a person to be accepted as a person qualified for membership of a Local Aboriginal Land Council (**LALC**). Acceptance of persons as qualified for membership (ie acceptance as a member) is to be determined by resolution of the voting members of the LALC.[1](#_bookmark0)

**Purpose**

The purpose of this document is to:

* + 1. set out the process that will be followed for all new and previous membership applications of the TLALC; and
		2. provide assistance for applicants regarding what information is required when making a membership application.

**Policy**

# Membership Application Form

* For people who have previously been members of the TLALC who wish to have their membership reactivated, they will need to submit a Previous LALC Member Declaration Form which is **Appendix A**.
* An Applicant who is seeking to be accepted as a Member of the TLALC must submit a Membership Application Form which is **Appendix B**.
* The Applicant must make and submit to the TLALC the Membership Application Form (and, where relevant and appropriate, provide supporting documentation) that includes:[2](#_bookmark1)
1. The Applicant’s full name, residential address, and date of birth
2. A declaration that the Applicant is eligible for inclusion on the membership roll
3. The grounds on which the Applicant is qualified for inclusion on the membership roll (ie addressing Option 1, Option 2 or Option 3 set out below)
4. The basis on which the Applicant asserts their Aboriginal descent
5. If the Applicant is seeking membership on the grounds they have a sufficient association with the TLALC area, then the basis on which the Applicant asserts they have a sufficient association to the TLALC.
6. If the Applicant is seeking to be accepted as a voting member of the TLALC, a notice from the Registrar declaring that the Applicant is not a voting member of any other LALC must be provided **prior** to the member voting at a meeting

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1 Section 52G(1)(a) of the *Aboriginal Land Rights Act 1983* (NSW)

2 Section 54(3) of the *Aboriginal Land Rights Act 1983* (NSW)

* The onus is on the Applicant to provide sufficient information and documentation in the Membership Application Form including in relation to confirming their identity as an Aboriginal person. The Applicant will need to provide certified copies of all supporting documents

#  Membership Eligibility and Supporting Documentation

## **Membership Eligibility – Who can become a member of the TLALC?**

There are three ways a person can be qualified for membership of the TLALC. These are:

* + 1. **Option 1** – The Applicant will be qualified for membership if they are:
			1. an adult Aboriginal person;
			2. a resident within the TLALC area
			3. accepted as being qualified on that basis to be a member by a meeting of the TLALC.[3](#_bookmark2)
		2. **Option 2** – The Applicant will be qualified for membership if they are:
			1. an adult Aboriginal person;
			2. who has a sufficient association with the TLALC area (as determined by the voting members of the TLALC at a meeting of the TLALC); and
			3. accepted as being qualified on that basis to be a member by a meeting of the TLALC.[4](#_bookmark3)
		3. **Option 3** – The Applicant will be qualified for membership if they are:
			1. an Aboriginal owner in relation to land within the TLALC area
			2. have made a written application for membership in accordance with clause 3.3 above.[5](#_bookmark4)
* Whether the Applicant is to be accepted as an adult Aboriginal person who either resides in the TLALC area (Option 1) or has a sufficient association with the TLALC area (Option 2) is a matter for the voting members of the TLALC. Therefore, when preparing their application, the Applicant will need to consider what information (and documentation if relevant) they need to provide to help satisfy the members that they are qualified for membership of the TLALC.

## **Adult – Option 1(i) and Option 2(i)**

* To be accepted as a member of the TLALC, the Applicant must be over 18 years of age.

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3 Section 54(2A)(a) of the *Aboriginal Land Rights Act 1983* (NSW)

4 Section 54(2A)(b) of the *Aboriginal Land Rights Act 1983* (NSW)

5 Section 54(2A)(c) of the *Aboriginal Land Rights Act 1983* (NSW)

* The Applicant may choose to provide one of the following documents to assist the members in determining that the Applicant is an adult
	+ - Current driver’s license
		- Birth certificate
		- Proof of age photo ID card.

## **Aboriginal Person – Option 1(i) and Option 2(i)**

* An Aboriginal person is defined in section 4 of the *ALR Act* as a person who:
* is a member of the Aboriginal race of Australia (**Part 1**)
* identifies as an [Aboriginal person](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol_act/alra1983201/s4.html#aboriginal_person) (**Part 2**)
* is accepted by the Aboriginal community as an [Aboriginal person](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol_act/alra1983201/s4.html#aboriginal_person) (**Part 3**).[6](#_bookmark5)
* To be accepted as a member of the TLALC, Applicants must satisfy the voting members of the TLALC that they meet Part 1, Part 2 and Part 3.

**Part 1: Member of the Aboriginal Race of Australia**

* A member of the Aboriginal race of Australia is a person who is descended from an Aboriginal person or who is of Aboriginal descent.
* The Applicant may provide the following documents to help the members of the TLALC determine that the Applicant is a member of the Aboriginal race of Australia:
* Copy of a birth certificate that directly links the Applicant to Aboriginal birth parents and

/ or Aboriginal people within their family tree (genealogies must be verified by a suitable authority)

* Copy of a birth certificate that directly links the Applicant to a past or present TLALC member who has established that they are a member of the Aboriginal race of Australia;
* Family photos identifying the Applicant as part of a recognised Aboriginal family; and / or
* Births / Deaths / Marriage record documents that demonstrate the Applicant has descended from an Aboriginal person.

**Part 2: Self-identification as an Aboriginal person**

* On the Membership Application Form, the Applicant is required to make a declaration that they identify as Aboriginal. The members will need to be satisfied that the Applicant genuinely identifies as an Aboriginal person.
* The members may ask questions of the Applicant about their self-identification as an Aboriginal person.
* The Applicant may provide one or more of the following documentation to support self- identification as an Aboriginal person
	+ - A statutory declaration, witnessed by an authorised signatory, that the Applicant self- identifies as Aboriginal; and / or
		- Written references from people who have known the Applicant for a long period of time and who can comment on how the Applicant identifies as being Aboriginal.

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6 Section 4 of the *Aboriginal Land Rights Act 1983* (NSW)

**Part 3: Acceptance by Aboriginal Community**

* The Applicant must be accepted by the Aboriginal community as an Aboriginal person.
* If the Applicant is not well known to the members, then the Applicant may provide documentation that supports that they are recognised as an Aboriginal person by the Aboriginal community. This may include providing one or more of the following:
* Letter of support from a recognised community controlled Aboriginal organisation signed by the Chair of the Board (such as Aboriginal Medical Service); and
* Letters of support from local Elders either in the TLALC community, or the community where the Applicant formerly lived.

**Resident within TLALC Area (Option 1(ii**))

* The Applicant may choose to provide one of the following documents to assist the members in determining that they reside within the TLALC area:
	+ 1. Current driver’s license
		2. Current water or council rates notice
		3. Copy of residential lease
		4. Copy of electricity / gas / utilities bill
		5. Concession card.

## **Sufficient association with the TLALC area (Option 2(ii))**

* If the Applicant is making an application for membership of the TLALC because of their sufficient association to the TLALC area, they will need to set out the basis of their association with the TLALC area. This will need to be included on the Membership Application Form.
* Sufficient association includes but is not limited to the Applicant’s current, historical and ancestral association with the area of the TLALC.
* For example, the Applicant may have a sufficient association with the area of the TLALC if they often come back to the area to visit family. It will be up to the members to decide whether the basis set out by the Applicant is a “sufficient association” with the TLALC area.
* The Applicant may also be asked questions about this at the members meeting of the TLALC which is considering their application.

## **Aboriginal Owners (Option 3)**

* For the purposes of Option 3, the Applicant will need to provide evidence that they are on the Register of Aboriginal Owners that is maintained by the Registrar, pursuant to the requirements of the *ALR Act* and the *National Parks and Wildlife Act 1974* (NSW) (***NPW Act***).
* The Applicant will also need make and submit the Membership Application Form in accordance with clause 3.3.
* Applicants making an application as an Aboriginal Owner in accordance with Option 3 do not need to have their application approved by a members meeting (see section 54(2A)(c) of the *ALR Act*).

# Review by Tharawal Local Aboriginal Land Council Board

* Once a Membership Application Form has been completed and submitted to the TLALC (including all relevant supporting documentation), it will be reviewed by the TLALC Board.
* The role of the TLALC Board will be to:
	+ - ensure that written applications for membership are complete
		- provide assistance to Applicants where further information may be necessary
		- ensure that membership applications are put to members meetings for consideration in a timely manner.
* The TLALC Board does not have the power to determine whether a person is qualified for membership of the TLALC. That is a matter for the members of the TLALC to determine.
* Rather, the TLALC Board will determine whether the Membership Application Form is ‘complete’. A Membership Application Form will be considered ‘complete’ where it has all of the information required by section 54(3) of the *ALR Act* (as set out in clause 3.3 of the Policy).
* In considering whether an application is complete, the TLALC Board will need to ensure that it:
* contains the Applicant’s full name, residential address and date of birth;
* is signed by the Applicant;
* sets out the grounds on which the person is qualified to be a member of the TLALC;
* sets out the basis on which the Applicant asserts their Aboriginality including:
* setting out the basis on which the Applicant asserts they are a member of the Aboriginal race of Australia (ie that they are descended from an Aboriginal person)
* setting out the basis on which the Applicant self-identifies as an Aboriginal person (Note: The Membership Application Form requires the Applicant to make a declaration that they self-identify as Aboriginal. This will generally be enough to satisfy “sets out the basis” on which the Applicant self-identifies)
* setting out the basis on which the Applicant is accepted by the Aboriginal community as an Aboriginal person.
* sets out the basis on which the Applicant asserts they have a sufficient association to the TLALC (if the Applicant is seeking membership on the grounds they have a sufficient association with the TLALC area)
* In considering whether an application is complete, an application will “set out” the grounds or basis where it addresses that criteria to some extent. It is not up to the TLALC Board to consider the merits of these grounds or bases.
* If the TLALC Board considers the written application is complete it will:
	+ - inform the Applicant that their application is complete
		- ensure the Applicant’s application is to be considered at the next members meeting of the TLALC
		- invite the Applicant to attend the members meeting of the TLALC where their application is to be considered.
* The TLALC Board may consider that a written application is complete but that additional information or supporting documentation (including, for example, documents listed in clauses 4.4, 4.8, 4.11, 4.13, 4.14) would increase the likelihood of the membership application being approved by the members. In this situation, the TLALC Board should suggest to the Applicant that such additional information or supporting documentation be included as part of their application, prior to the application being considered by the members meeting. This is a suggestion only, and should the Applicant not provide the suggested information, their application must still be considered at the next members meeting.
* If the TLALC Board considers that the application is incomplete, as it does not include all the information required by section 54(3) of the *ALR Act* (as set out in clause 3.3 of the Policy) then a Request for More Information Letter will be sent to the Applicant

# Consideration at Members Meeting of the XLALC

* Acceptance of persons as qualified for membership of the TLALC is to be by resolution of the voting members of the TLALC.[7](#_bookmark6) That is, an Applicant’s application for membership of the TLALC will need to be considered and approved by a members meeting of the TLALC.
* The Applicant may choose to accept the invitation to attend the members meeting where their application will be considered. Alternatively, the Applicant may wish to rely on their written application instead.

## **Applicant’s Attendance at Meeting**

* If the Applicant does attend the members meeting, they may be asked questions regarding their application and eligibility for membership. Members are reminded that questions of the Applicant are to be asked in a polite and respectful manner. Under no circumstances is the Applicant to be intimidated, bullied, abused or treated disrespectfully.
* Once the Applicant has answered any questions, they will be asked to leave the meeting. At this time, the members may wish to discuss the application amongst themselves.

## **Voting by Members**

* Once the Applicant has left the room, and / or the members have discussed the application amongst themselves, the voting members of the TLALC in attendance will be required to vote.
* When voting, the members will need to consider the Applicant’s written application and / or response to questions and whether they are satisfied that the Applicant is:
* an adult Aboriginal person who resides in the TLALC area (Option 1); or
* an adult Aboriginal person who has a sufficient association with the TLALC area (Option 2).
* The members must either vote to:
* accept an Applicant’s membership application;
* reject an Applicant’s membership application; or
* request more information from the Applicant.
* A simple majority of more than 50% of the voting members of the TLALC in attendance at the meeting is required for the Applicant to be accepted as a person qualified for membership of the TLALC.
* If the members at the meeting choose to decline the membership application, the reason for this decision must be recorded. The reason for declining the application must be solely in relation to the application. The members may have more than one reason for declining the application
* The Applicant will need to be notified of the reason their application for membership was declined by a letter from the CEO following the meeting. The CEO shall send a Letter Declining Membership Application.

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7 Section 52G(1)(a) of the *Aboriginal Land Rights Act 1983* (NSW)

# Process Following Membership Meeting

## **CEO to Update Membership Roll**

* It is the responsibility of the CEO of the TLALC to maintain the membership roll of the TLALC and to ensure, as far as is practicable, that the membership roll of the TLALC is kept up to date.[8](#_bookmark7)
* Specifically, the CEO of the TLALC must list on the membership roll for the TLALC the names and address of those persons who are qualified for membership of the TLALC.[9](#_bookmark8)
* This means that following a members meeting of the TLALC where membership applications have been accepted, the CEO must update the membership roll of the TLALC to include the new members and inform the Registrar by email.
* After the CEO has updated the membership roll to include the details of the new members, the CEO will send a letter to the successful Applicants informing them that their details have been entered on to the membership roll of the TLALC.

## **Membership Voting Rights**

* If the new member is wishing to be a voting member of the TLALC, then a section 54(3)(c) notice from the Registrar is required to confirm that they are not a Voting Member of any other Land Council.[10](#_bookmark9)
* If the new member is already a voting member of another LALC but wants to become a voting member of the TLALC, then a section 56(5) notice from the Registrar is required to confirm this change. It is the responsibility of the new member to complete and submit the form to the Registrar, however the TLALC may provide assistance. [11](#_bookmark10)
* The CEO must provide the completed and signed Membership Application Form to the Registrar with the appropriate boxes marked in relation to whether a section 54(3) notice or section 56(5) notice is required.

## **Other Obligations Regarding Membership Roll**

* The CEO of the TLALC must also record the following details on the TLALC’s membership roll:
	+ 1. the name, residential address and date of birth of each person who is a member of the TLALC;
		2. the date of entry of the person's name on the membership roll;

8 Section 59(2) of the *Aboriginal Land Rights Act 1983* (NSW)

9 Section 54(2) of the *Aboriginal Land Rights Act 1983* (NSW)

10 Section 54(3)(c) of the *Aboriginal Land Rights Act 1983* (NSW)

11 Section 56(5) of the *Aboriginal Land Rights Act 1983* (NSW)

* + 1. whether the person is a voting or non-voting member of the TLALC;
		2. whether the person's membership is based on residence in the Council's area or association with that area or the person is a member because the person is an Aboriginal owner in relation to land within that area;
		3. whether the person is suspended from the TLALC;
		4. whether the person is a member of any other Local Aboriginal Land Council and, if so, the names of those other Councils.[12](#_bookmark11)
* The CEO of the TLALC also has important obligations to update the Registrar regarding the TLALC’s membership roll. The CEO must:
* send a copy of the TLALC’s membership roll (certified as correct by the CEO) to the Registrar no later than 10 weeks before the start of each financial year;[13](#_bookmark12) and
* advise the Registrar in writing of any changes to the membership roll that have occurred since a copy of the membership roll was last sent to the Registrar.

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12 Regulation 33(1) of the *Aboriginal Land Rights Regulations 2014* (NSW) 13 Regulation 33(2) of the *Aboriginal Land Rights Regulations 2014* (NSW) 14 Section 59(1)(b) of the *Aboriginal Land Rights Act 1983* (NSW)