Aboriginal Community Local Decision Making

POLICY AND OPERATIONAL FRAMEWORK

Changing the way Aboriginal communities and government agencies work together to improve lives
Acronyms and abbreviations

CAPER - Centre for Aboriginal Economic Policy Research

CWP - Community Working Parties

CIRCA - Cultural and Indigenous Research Centre Australia

EOI - Expression of Interest

LALC - Local Aboriginal Land Councils

LDM – Local Decision Making

LDMRC - Local Decision Making Regional Chairs

MERI - Monitoring, Evaluation, Reporting and Improvement

NGO – Non-Government Organisation

NSW – New South Wales

NSWALC – New South Wales Aboriginal Land Council


RLG - Regional Leadership Group
Glossary

**Capacity Strengthening Policy:** The Policy has been developed to guide the negotiation of capacity strengthening strategies and to assist with identifying resources for investment.

**OCHRE Good Governance Guidelines:** The Guidelines provide an overview of the Good Governance Principles and a description of good governance in the context of Local Decision Making.

**Local Decision Making Accord Process:** The document sets out the process for commencing and negotiating an Accord.

**Murdi Paaki Accord Process Review Evaluation Report:** The Report documents the Murdi Paaki Accord negotiation process, including strengths and challenges, and ways it might be improved.

**NSW Government Phase 1 Accord Readiness Self-Assessment:** The Self-Assessment sets out the minimum level of awareness and basic understanding that NSW Government agencies and their representatives will need to participate in Phase 1 Local Decision Making Accord negotiations.

**Premiers Memorandum: Local Decision Making M2015-01:** The Memorandum directs NSW Government agencies to work respectfully, constructively and cooperatively with Aboriginal regional alliances, to develop Accords.

**Regional Alliance Phase 1 Accord Readiness Self-Assessment:** The Self-Assessment sets out the key governance principles regional alliances must meet, or have achieved substantial progress towards, before commencing Phase 1 Local Decision Making Accord negotiations.

**United Nations Declaration on Indigenous peoples:** The Declaration is an international instrument for Indigenous peoples and governments around the world. Based on the principles of self-determination and participation, it recognises and protects the rights and roles of Indigenous peoples within society.
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Date of Next Review: June 2016
## Overview

### Local Decision Making (LDM)

Is a new way for Aboriginal communities and government agencies to work together. It sets out a pathway for communities to have more control in the delivery and coordination of government services, and for government to support community identified priorities, including in the area of economic development. It directs the way government works with communities and looks at ways to improve along the way.

### Vision Overview

Aboriginal communities will have more control of delivery and coordination of government services in their communities, including increased decision-making skills, capabilities and authority. Government will become more flexible and responsive to the needs of Aboriginal communities, and recognise Aboriginal leadership and decision-making.

### Guiding Principles

- Aboriginal people and communities have a spiritual, social, cultural and economic relationship with Country and/or place.
- Aboriginal leaders and communities understand their own community needs. They have the drive and ability to develop and manage their own solutions.
- Acknowledgement of the injury and hurt caused by past government policies and assist with healing.
- Respectful consultation and negotiation between government and Aboriginal communities, with the free, prior and informed consent of those communities.
- Regional and local solutions for regional and local problems, with ideas and help from outside when and where required.
- Responsibility, accountability and transparency in decision-making.
- Continuous improvement and adjustment when needed.
- Promote the participation of Aboriginal people residing in LDM locations.

### Objectives

- Recognition and support of Aboriginal community leadership and management.
- Better service delivery between government and communities.
- Delivering the services and supports that communities say are needed and that will make an improvement.
- Better coordination between government agencies.
- Stronger partnerships between community, leadership and government.
- More local responsibility and accountability.

### Outcomes

- Decrease the duplication of services.
- Increase the effectiveness of service delivery to better meet local needs.
- Increase the skill and capacity of Aboriginal governance bodies.

### NSW Government policy environment

NSW 2021 Plan

OCHRE, Aboriginal affairs plan for NSW

### Policy & Operational Framework

LDM will be rolled-out carefully and deliberately so that it can be adapted to the needs of Aboriginal communities taking part, and the government and non-government agencies working with them. This Policy and Operational Framework will be continuously improved and regularly updated.
Vision: Where we are headed

Our Vision

Aboriginal communities will have more control of delivery and coordination of government services in their communities, decision-making skills, capabilities and authority.

Government will become more flexible and responsive to the needs of Aboriginal communities, and recognise Aboriginal leadership and decision-making.

Guiding principles

Local Decision Making (LDM) is underpinned by the following guiding principles:

1. Aboriginal people and communities have a spiritual, social, cultural and economic relationship with Country and/or place.
2. Aboriginal leaders and communities understand their own needs. They have the drive and ability to develop and manage their own solutions.
3. Respectful relationships and recognition of the need to heal the hurt and injury caused by past government policies.
4. Respectful consultation and negotiation between government and Aboriginal communities, with the free, prior and informed consent of those communities.
5. Regional and local solutions for regional and local problems, with ideas and help from outside when and where required.
6. Responsible, accountable and transparent decision-making.
7. Continuous improvement and adjustment when needed.
8. Promote the participation of Aboriginal people residing in LDM locations.

How

1. Strengthening relationships between Aboriginal communities and government.
2. Supporting Aboriginal governance at the regional and local level.
3. Building community capability to work in partnership with government and other stakeholders.
4. Building government capacity to work in partnership with community.
5. Negotiating and setting priorities for investment and service coordination in communities through formal agreements called Accords.
Background: why a new approach is needed?

Context

In 2011 the Ministerial Taskforce on Aboriginal Affairs was established to develop a way forward to improve:

- service delivery and accountability in Aboriginal affairs across NSW; and
- employment and educational outcomes for Aboriginal people in NSW.

The Taskforce was formed in response to two government reports from the NSW Ombudsman¹ and Auditor General² that found serious problems in the way the government worked with Aboriginal communities, including:

- government and Aboriginal communities were not working well with each other;
- government agencies were failing to coordinate services when working in Aboriginal communities; and
- government agencies were failing to measure the effectiveness of services delivered to Aboriginal communities.

In its community consultations, the Taskforce heard of:

- widespread unhappiness with top down decision-making that overlooked Aboriginal knowledge and community hopes and needs;
- a need for greater Aboriginal control of decision-making and service delivery; and
- a need for local solutions which recognise that each community is different.

A Local Decision Making (LDM) model proposed by the Taskforce, to give communities more say in service delivery, was also discussed. Overall, Aboriginal communities supported the aims of the new model.

However, LDM was seen as a major change which would take time, commitment and resources from government for it to be successful. Feedback from the consultations was used to further develop the model.

Rationale

1. **Aboriginal communities control of service delivery**

Few Aboriginal communities have a say in government decision-making or control over local service delivery.

This is despite many efforts to improve Aboriginal community governance within NSW and more broadly across Australia. These include government policies of self-determination and self-management, significant investment over the last three decades, and the establishment of strong leadership through peak bodies such as the NSW Aboriginal Land Council and other Aboriginal controlled organisations, as well as through local community bodies such as Local Aboriginal Land Councils (LALCs) and Community Working Parties (CWPs).

Consequently Aboriginal communities continue to call for greater control in decision-making and service delivery.

2. **Links between self-governance and development**

At the same time, more and more research links the recognition of Aboriginal self-governance with improved social and economic outcomes for Aboriginal communities.³

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¹ NSW Ombudsman, 2011.
² NSW Auditor General 2011.
³ Bainbridge et.al, 2012, pp.1
The Australian Human Rights Commission 2012 Social Justice Report said governance is “a key factor in the realisation of human rights and sustainable development” for Aboriginal people. Similarly, the Centre for Aboriginal Economic Policy Research (CAEPR), said that being able to self-govern is a “fundamental factor in generating sustained economic development and social outcomes”.

Strong Aboriginal community governance supports socio-economic development through:

- visionary leadership;
- culturally-based institutions;
- stable management and professional staff;
- networking with the wider economy;
- infrastructure;
- relevant training and mentoring opportunities; and
- strategic planning and review.

In Canada and the United States Aboriginal governance, leadership, capacity building and localised service delivery are now an established part of government policy. After years of research, it has been shown that sustained, positive economic performance can only be achieved if American Indian Nations or Canadian First Nations are making the major decisions about governing institutions, governmental policy, development strategy and resource allocation and use.

These developments show that the way Aboriginal communities agree to make decisions, distribute authority and rights, and organise themselves and their activities, is key to their economic development and future.

3. Regionalisation and Localisation

Despite the recent push towards regionalisation in Aboriginal governance, the deeper principles underlying traditional Aboriginal social and political systems need to be considered. People come together in different sized groups, and for different purposes. Even when Aboriginal people join in regional decision-making there is still a preference for local autonomy and decision making through local groups.

Lessons from regional governance suggest there is a need to support local groups and ‘bottom-up federalism’. In some areas of decision making the desire for local autonomy remains strong. Aboriginal Affairs recognises and supports local groups, which continue to be an important part of Aboriginal social and political systems.

4. Conclusion

The NSW Government:

- acknowledges that Aboriginal communities want greater control in decision-making and service delivery;
- recognises that Aboriginal communities that are able to effectively self-govern benefit from improved social and economic outcomes; and
- supports local groups which feed into regional decision making structures.

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4 (Hunt and Smith, 2005, pp.3)
5 (Hunt and Smith, 2005, pp.3)
Local Decision Making

Local Decision Making (LDM) is a process for Aboriginal community-based regional decision making groups (regional alliances) to have an increased say in government service delivery.

For Aboriginal communities it means:

- the ability to call on government to explain where government money is being spent and on what;
- more control of services at the local and regional level;
- better local management;
- government investment linked to community goals;
- responsibility shared between communities and government; and
- observing what is happening and making changes along the way.

LDM sets out a path to self-governance for participating regional alliances. NSW Government and regional alliances will enter into agreements (called Accords) that will define the relationship between government and participating Aboriginal communities. The Accord will include negotiated and agreed priorities, key actions to achieve desired outcomes, timeframes, resources, responsibilities and how success will be measured.

Over time regional alliances will have more decision-making powers. Eventually these powers may include control of the budgets for some NSW government services and programs.

The model will initially be implemented in six locations including Far Western NSW, Illawarra South East, New England North West, the North Coast, the Central West and the Central Coast. The model will build on the strengths of existing Aboriginal community governance bodies in these locations such as Local Aboriginal Land Councils (LALCs) and Community Working Parties (CWPs). LDM is designed to enable Aboriginal communities to better influence the design and delivery of services to their communities. To achieve this LDM will not duplicate, supersede, undermine or compete with other initiatives or partnerships. Instead LDM assumes an inclusive and collaborative approach that builds on and strengthens existing relationships, partnerships and initiatives.

Regional alliances will need to actively work with existing Aboriginal peak bodies and community organisations in their regions. This may include negotiating with other bodies and organisations to decide who takes the lead on certain issues and to scope their decision making powers and influence. Regional alliances may collaborate and work with other bodies to jointly examine the intersection between existing roles and relationships, and decide how they will work together on issues or delineate responsibilities.

NSW Government agencies will also need to consider the linkages and intersections between various policies, programs, initiatives, reforms and agreements. Once regional alliances identify their priorities, NSW Government agencies will need to determine how existing initiatives and programs relate, and negotiate with regional alliance, other agencies and stakeholders to determine what is in scope, understand how service delivery may need to change and to coordinate their response.

Some aspects of service delivery will be out of scope for LDM Accord negotiation. These are statutory regulatory functions undertaken by agencies, which are non-discretionary and are not policy or program based. It is important to distinguish the broad statutory powers or roles given to agencies through legislation, where the services delivered are determined by past practices, policy, budget imperatives and discretionary decision-making, as opposed to regulatory statutory roles where there is little or no discretionary decision-making. The majority of services Government deliver fall into the former category not the later.
Statutory regulatory functions undertaken by agencies which are out of scope for Accord negotiations include:

- policing, but not discretionary programs such as community policing activities and liaison or policy issues;
- justice, including operations of the courts, but not discretionary programs such as preventative juvenile justice;
- child protection, but not discretionary program related to family support and child wellbeing; and environmental regulatory powers, such as statutory powers associated with prosecution for environmental offences or damage to Aboriginal cultural heritage, but not discretionary programs focussing on land management.

Self Determination

In responding to Aboriginal community calls for greater recognition and support for Aboriginal leadership and decision making, LDM aims to fundamentally and positively change the relationship between Aboriginal communities and government, and enable Aboriginal communities to participate fully in decision making, service design and delivery decisions.

LDM recognises the right to self-determination and the right to participate in decision making and exercise full authority and self management consistent with the United Nations Declaration on the Rights of Indigenous Peoples, specifically:

- Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
- Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures.
- Article 19: States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

While government needs to be satisfied that regional alliances have good governance arrangements in place before entering into formal relationships with regional alliances, principally through the negotiation of Accords, the relationship must be managed in a way that upholds the principle of self-determination. How Aboriginal communities are represented and how they come together to make decisions, are matters for communities to determine. Government has no role in directing how communities govern themselves.

Accordingly, the principles of self-determination are embedded in LDM, by the following:

- Aboriginal people have the right to determine their own governance and decision making structures in accordance with their customs, traditions and in the best interests of family and community;
- Aboriginal people have the right to develop and maintain their own traditions, procedures and practices; and
- Aboriginal people have the right to recognition and enforcement of any agreements they enter into with the government.
What does this mean for Government?

The NSW Government must be prepared to listen and respond to Aboriginal communities. Lessons learned from national and international research demonstrate that Government has a role in promoting respectful dealings and transparency in working with regional alliances and where invited or agreed, government has a role in providing support and advice to assist regional alliances to develop good governance. Where there are substantiated concerns about working with regional alliances, government must openly raise concerns with regional alliances so that alliances can attempt to address the issues. However, it is not government’s role to step in and “fix” intra-community disputes about community governance as this is contrary to self-determination.

What does this mean for community?

Self-determination requires Aboriginal communities to exercise full decision-making control in relation to their governing institutions and to operate in the best interest of their constituent communities. Accordingly, issues and complaints about the operations and governance of a regional alliance must be addressed by that alliance.

It is recognised that the adoption of self-determination into practice through LDM will present challenges. The evidence indicates facing challenges openly and honestly is essential to the development of more robust governance over time.
Components

Vision
Aboriginal communities will have more control of delivery and coordination of government services in their communities, including increased decision-making skills, capabilities and authority. Government will become more flexible and responsive to the needs of Aboriginal communities, and recognise Aboriginal leadership and decision-making.

Objectives
- Recognise and support Aboriginal community leadership and management
- Better service delivery including coordination between government and communities
- Delivering the services and supports that communities say they need and want Better coordination between government agencies
- Stronger partnerships between community, leadership and government
- More local responsibility and accountability

Outcomes
- Decrease the duplication of services
- Increase the effectiveness of service delivery to better meet local needs
- Increase the skill and capacity of Aboriginal governance bodies

Key Components
Local Decision Making (LDM) has five key components:

1. Strengthening relationships between Aboriginal communities and government. For Aboriginal communities and government to work together effectively and meaningfully, there needs to be respectful negotiation and dealings. LDM sets up a framework for regional alliances to meet and work with government based on their free, prior and informed consent. Through LDM, Accords between regional alliances and the government will set priorities, governance arrangements and levels of investment for that community.

2. Supporting Aboriginal governance at the regional and local level. LDM will start in communities that are ready for it. Regional level governance is the best level to drive service coordination. However, regional governance works best when linked to strong local governance. Communities will decide what regional boundaries and governance structures best suit them.

3. Building community capacity to work in partnership with government/stakeholders and increase decision making powers. To help regional alliances to develop, LDM will encourage and support skills development. Regional alliances can step through levels of responsibility and accountability as they meet agreed good governance principles. Training and development support will cover governance, leadership, financial management, strategic planning and more.

4. Building the capacity of government to work in partnership with communities. LDM means NSW Government agencies will change the way they work with Aboriginal communities. NSW Government agencies will work in partnership with participating regional alliances to build community strengths and address key priorities. With LDM, sharing decision-making between government agencies and regional alliances means changing the way agencies design, fund and implement their services and programs. Agencies and staff will have to respond to community needs and priorities, changing the way they work, and developing new ways of doing business. This will mean training and developing new skills for government staff as well as Aboriginal communities.

5. Negotiating and addressing priorities. Regional alliances and government will have to share information and talk openly and honestly about community needs and government service delivery, so they can set the right priorities for future investment and improvement in services. Priorities will be determined through negotiated agreement and formalised via LDM Accords.
Implementation Process

Local Decision Making (LDM) sets a path for regional alliances to build their capacity and increase their control of local service delivery, and for government to share information and decision-making. Figure 1 shows the steps on the path to LDM, it has four steps or phases:

Establishment and Start Up

In this phase:
- Arrangements are made for the implementation of LDM;
- NSW Government LDM accountability arrangements established;
- Existing or newly formed regional alliances have the opportunity to apply for LDM and provide their informed consent to participate;
- Regional alliances formalise their governance arrangements, including how their member communities will be represented and engaged in decision-making; and
- LDM evaluation framework developed with stakeholders.

Figure 1: Implementation Framework
Accord Commencement
In this phase:
• Regional alliances and the NSW government demonstrate their readiness for Accord negotiations, priorities for negotiation are identified, lead negotiators are nominated and preliminary data is assembled.

Phase 1 (Advisory Delegation)
In this phase:
• Regional alliances and the NSW government (and other relevant stakeholders) agree via an Accord on the initial priorities for action, how decision-making will be shared and investment in capacity strengthening; and
• Accord delivery, including monitoring and reporting.

Phase 2 (Planning Delegation)
In this phase:
• Regional alliances become Boards of Management;
• Priorities and actions (business plan) are negotiated, agreed and formalised via an Accord.
• A single Senior Officer from government who can direct government activity depending on priorities and actions agreed in the Accord; and
• Senior Officer manages pooled government funds consistent with Accord.

Phase 3 (Implementation Delegation)
In this phase:
• Boards of Management manage some government resources and/or services;
• Boards of Management will be accountable and responsible for those resources and services; and
• Boards of Management may also be in charge of some government staff.

Regional alliances will step up when they are ready. Some regional alliances may be ready to step up before others – there is no requirement for communities to be at a certain phase for a set length of time. Not all regional alliances will seek to progress to Phase 3 (Implementation Delegation). In addition, if regional alliances capacity diminishes they may go back to an earlier phase and lower delegation.
Establishment and Start Up

Before Aboriginal communities were asked to take part in Local Decision Making (LDM), Aboriginal Affairs talked to other NSW Government agencies, and Aboriginal peak bodies including the NSWALC. Together they developed this Policy and Operational Framework for LDM, which outlines what LDM hopes to achieve and the major steps along the way. This Framework can be adjusted and will be regularly checked with input from participating regional alliances and government agencies to ensure it meets their needs.

During establishment and start up, the following were developed:

- Policy and Operational Framework;
- Capacity Strengthening Policy;
- OCHRE Good Governance Guidelines;
- Government accountability and governance arrangements;
- A Yearly Implementation Plan including key deliverables and Communications Plan; and

LDM is initially being implemented at the regional level in six locations including Far Western NSW, Illawarra South East, New England North West, the North Coast, the Central West and the Central Coast. These initial locations were selected through an Expression of Interest (EOI) process open to any existing or newly formed regional alliances. To make sure the EOI process was run honestly and openly, a Probity Plan was developed which outlined how the EOI process would be promoted, how regional alliances could apply and how the selection process would occur. An independent Probity Advisor oversaw the process to ensure it was run fairly, openly, and according to the Plan.

Regional alliances that wanted to be part of LDM submitted application forms and the information provided was used by the EOI evaluation panel to select the initial LDM locations. Threshold and weighted criteria were used by the EOI evaluation panel to guide the selection process. Some criteria were more important than others, but successful communities needed to demonstrate they met all the criteria. The selection criteria used by the evaluation panel to select LDM locations was published on the Aboriginal Affairs website during the application process.

Regional alliances who agree to be part of LDM will need to decide the most suitable long-term structure and membership to work with government through LDM. An existing regional alliance may undertake this work in consultation with communities and organisations from the region. Or a new regional alliance may need to form an interim committee.

Regional alliances will step through levels of responsibility and accountability as they demonstrate good governance capabilities. Regional alliances will develop their own rules on how they will run, however government needs to be satisfied that good governance practices are in place before it delegates greater decision-making authority to communities. To ensure a transparent pathway for progressing through the phases of LDM, Aboriginal Affairs has developed OCHRE Good Governance Guidelines based on research undertaken by the Centre for Aboriginal Economic Policy Research (CAEPR). The OCHRE Good Governance Guidelines set out prerequisite good governance principles that must be met in each phase of LDM before regional alliances can move to the next phase.

As a part of the Accord negotiation process the NSW Government and regional alliances will negotiate capacity strengthening strategies and identify resources to invest in good governance practice. Aboriginal Affairs has developed a Capacity Strengthening Policy to guide these negotiations and the strategic investment of NSW Government resources. The Policy will assist with the identification of existing assets, strengths and opportunities for strengthening capacity, focusing on the good governance principles as key areas for action and investment.
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| Establish program goals and major steps | • Policy and Operational Framework  
• Capacity Strengthening Policy  
• OCHRE Good Governance Guidelines  
• Communications Plan  
• Evaluation Framework  
• Year 1 Implementation Plan  
• Government LDM accountability arrangements established | Aboriginal Affairs in consultation with NSWALC and other NSW Government agencies |
| Obtain informed consent from participating LDM communities | • Open application process  
• Locations identified | Aboriginal Affairs |
| Establish Evaluation Framework | • Framework & measures for success agreed by stakeholders & participating communities  
• Collect baseline data (to measure impact on participants and community) | Aboriginal Affairs |
| Establish agreed regional alliance structure | • Identify interim committee  
• Community consultation to establish regional alliance  
• Regional alliance established | Aboriginal Communities |
Accord Commencement

Consistent with the principles of self-determination underlying Local Decision Making (LDM), Phase 1 Accord negotiations will only commence once a regional alliance has indicated that it is ready to enter into an Accord. It is the regional alliance not government who will decide when Accord negotiations will commence.

Consistent with the principle of joint decision making and collaboration, both regional alliances and government agencies will need to demonstrate readiness to enter into an Accord.

The LDM Accord Process sets out how NSW Government agencies and regional alliances can openly and transparently demonstrate their readiness to commence Accord negotiations. Each regional alliance must develop key governance processes, including how their regional alliance will run and make decisions, and how they will be accountable to the broader community. As part of this work each regional alliance will need to demonstrate advancement towards some key governance principles, including power, leadership, decision-making, and cultural geography and legitimacy. The OCHRE Good Governance Guidelines describe what each of these facets of good governance are and provides regional alliances with guidance on how they can be demonstrated or measured.

NSW Government agencies will also need to demonstrate readiness to commence Accord negotiations. Premiers Memorandum: Local Decision Making M2015-01 requires senior officers with sufficient delegation and authority to work openly, constructively and collaboratively with regional alliances to achieve positive outcomes, including through service innovation, in response to the needs of Aboriginal communities. This includes that they meet or have made substantial progress toward meeting requirements set out in the Premier’s Memorandum. NSW Government agencies participating in Phase 1 Accord negotiations must demonstrate readiness against the NSW Government Phase 1 Accord Readiness Self-Assessment, which outlines key practice indicators for NSW Government agencies and their representatives participating in the Accord negotiation process.

Once both parties are ready and prepared to commence Accord negotiations, Phase 1 Accord negotiations can commence.

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| Regional alliances prepare for Accord negotiations | • Develop key governance processes and identify priority issues.  
• Nominate a lead negotiator.  
• Identify information and data needed for Accord negotiations. | Regional alliances |
| The NSW Government prepares for Accord negotiations | • Ensure Cluster negotiators have delegated authority.  
• Assemble data for negotiations as per regional alliances priority issues.  
• Nominate a lead negotiator. | Department of Premier and Cabinet (lead) and other relevant departments and/or agencies |
| Assessment of regional alliances and NSW Government readiness for Phase 1 Accord negotiations | • Assess whether sufficient information has been provided to demonstrate the regional alliance and the NSW Government are ready to negotiate an Accord | Aboriginal Affairs |
| Both parties declared ready to commence Phase 1 Accord negotiations | • Notify the regional alliance and NSW Government that both parties have provided sufficient information to demonstrate readiness to commence Accord negotiations. | The Head of Aboriginal Affairs |
| Phase 1 Accord negotiations commence | • Schedule Accord kick-off meeting between the lead negotiators and Aboriginal Affairs. | Aboriginal Affairs |
Phase 1: Advisory Delegation

An Accord will be made between the regional alliance and NSW Government agencies. Accords are negotiated agreements – no party can dictate what must be included, and if agreement cannot be reached on a particular outcome or action, it cannot be included in the Accord.

Accords are like Memorandums of Understanding, and as such are not legally binding, nor do they give rise to legal rights or obligations. However strict accountability arrangements are in place for commitments made by government and regional alliances. The Accords will be signed off by the Secretary’s Board, made up of Secretaries of all NSW Government Departments, to ensure NSW Government agency undertakings are mandated. In addition government agencies have a positive obligation under Local Decision Making (LDM) Premier’s Memorandum (M2015-01-Local Decision Making) to engage with regional alliances in a timely and problem solving manner, and are required to undertake due diligence to ensure they have plans and processes in place to deliver on Accord commitments.

The first Accord will set out agreed priorities and projects, and the rules on how decision-making will be shared between the regional alliance and government. The regional alliance and government will have to work together under those rules for the time of the Accord. This means the government must promise to deliver the resources needed for the priority projects.

The first Accord will also outline how regional alliances and government will strengthen their governance and how parties will invest in capacity strengthening. If desired, the Accord may also outline how the regional alliance will meet the pre-requisite governance principles that must be demonstrated before they can progress to Phase 2 of LDM:

- **strategic direction** - a long-term perspective on social, economic and cultural development and what is needed for such development;
- **participation and voice** – how member Aboriginal communities are involved in regional alliance decision-making; and
- **accountability** - internal and external, including the control of corruption and political lobbying.

Exactly how these governance principles are met is a matter for the regional alliance, however clearly stated criteria and benchmarks will need to be negotiated and outlined in the Accord so that a transparent and agreed pathway exists for government to transfer greater decision-making power and the regional alliance to progress through LDM.

Each Accord will be signed by the regional alliance (according to the sign off process determined by the regional alliance) and the NSW Government signatory. The first Accord will probably be for 12 -18 months but it is up to each regional alliance and other signatories to decide how long the first Accord will be for.

To assist this process, in each LDM location, NSW Government agencies and communities will identify priority government funded services delivered to that location, including the type of services, the funds spent, where there are gaps in service delivery, and what resources are needed to fill the gaps. For further information on service mapping refer to the Service Mapping Scoping Paper.

The regional alliance may decide that other relevant stakeholders including Non-Government Organisations (NGOs) and other tiers of government should be parties to their Accord. It will be at the discretion of other stakeholders whether they negotiate and commit to Accords under LDM.

After 12 -18 months, it is expected that the initial Accord will be updated and renewed and a new Accord will be developed. In developing the next Accord the regional alliance will look at how successful they were in getting their priority projects completed, what worked and what didn’t. The second Accord will then update, if required, the rules on how decision-making will be shared between the regional alliance and government. The second Accord will also document the medium and long term priorities for communities including the outcomes they
want, and what they want government to deliver to achieve those outcomes. For further detail on the Accord refer to the paper on the Accord negotiation process.

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| Build a mutual understanding of current levels of service delivery, including gaps and duplication | May include:  
- Service mapping  
- Needs assessments/social and economic profiles | NSW Government agencies and regional alliances |
| Communities’ priorities negotiated (including capacity strengthening) | • Independent facilitator appointed to assist communities  
• Workshops/Consultations | Aboriginal Communities and NSW Government agencies |
| Strengthen existing leadership and governance in communities and in government | • Regional alliances and government negotiate mutual expectations  
• Regional alliances identify capacity strengthening goals and needs  
• Capacity strengthening plan  
• Regional alliance and government negotiate mutual expectations | Aboriginal Communities, Aboriginal Affairs and NSW Government agencies |
| Accords negotiated between NSW Government and Aboriginal communities (and other relevant stakeholders) on priorities | • Accord negotiated and agreed  
• Director Generals of agencies sign off accords  
• Negotiate and agree criteria for Phase 2 | Aboriginal Affairs to coordinate; NSW Government agencies and regional alliances |
| NSW Government and regional alliance demonstrate readiness for Phase 2 Accord negotiations | • Regional alliance indicates that it is ready to enter into a Phase 2 Accord.  
• NSW Government and regional demonstrate their readiness.  
• Once both parties are ready and prepared to commence Accord negotiations, Phase 2 Accord negotiations can commence. | Aboriginal Affairs |
Phase 2: Planning Delegation

The Planning Delegation step of Local Decision Making (LDM) can be attained when the regional alliance steps up to a Board of Management and the NSW Government establishes processes within government, including the pooled funding mechanism. Before a regional alliance can become a Board of Management it must demonstrate certain governance principles as negotiated and agreed in the Phase 1 Accord, including strategic direction; participation and voice; and accountability.

Once a regional alliance can demonstrate it’s ready for the next stage of LDM, the government will appoint a dedicated Senior Government Officer to work with it full time. The Senior Officer will help the regional alliance get ready to become a Board of Management. Phase 2 of LDM also requires government operationalise pooled funding and Senior Officer arrangements.

When the regional alliance becomes a Board of Management, it’s time to agree on a new Accord between the Board of Management, the NSW Government and other relevant stakeholders. The new Accord will:

- take another look at services in the community and may set some new goals;
- include a business plan to set medium term plans for working with government; and
- change the way that money is handled between the Board of Management and the government, including allowing the Board of Management to direct government money from a pooled fund to services and projects that they want delivered.

Phase 2 Accords will include plans to continue to strengthen the governance capacity Boards of Management and government. If desired, the Accord may also outline how the Board of Management will meet the prerequisite governance principles that must be demonstrated before they can progress to Phase 3 of LDM: At a minimum this will include:

- resource governance - management of resources and economic development; and
- organisational performance - how governance structures and goals are established and reviewed, organisational capacity to formulate and deliver policies and services to meet need for transparency, and for stability, innovation and risk management.

<table>
<thead>
<tr>
<th>Goals</th>
<th>Activities</th>
<th>Responsibility</th>
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</thead>
<tbody>
<tr>
<td>Board of Management is operational</td>
<td>• Operating arrangements</td>
<td>Board of Management</td>
</tr>
<tr>
<td></td>
<td>• Roles and Responsibilities</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Terms of Reference</td>
<td></td>
</tr>
<tr>
<td>Pooled funding available</td>
<td>• Funding arrangements established</td>
<td>Treasury and Senior Officer</td>
</tr>
<tr>
<td></td>
<td>• Communities able to direct funds</td>
<td></td>
</tr>
<tr>
<td>Senior Officer is directed by the Board and implements their business plan</td>
<td>• Senior Officer appointed</td>
<td>Board of Management and Senior Officer</td>
</tr>
<tr>
<td></td>
<td>• Senior Officer coordinates the implementation of the business plan</td>
<td></td>
</tr>
<tr>
<td>Board develops and implements business plan</td>
<td>• Build on service mapping and priorities from Phase 1</td>
<td>Board of Management</td>
</tr>
<tr>
<td></td>
<td>• Consultation with communities</td>
<td></td>
</tr>
<tr>
<td>Strengthen existing leadership and governance</td>
<td>• Board demonstrates capability consistent with Good Governance Principles as identified in the capacity strengthening plan</td>
<td>Board of Management and Aboriginal Affairs</td>
</tr>
<tr>
<td>Accords negotiated between NSW Government and Aboriginal communities (and other stakeholders) on priorities</td>
<td>• Accord negotiated and agreed</td>
<td>Aboriginal Affairs</td>
</tr>
<tr>
<td></td>
<td>• Director Generals of agencies sign off accords</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Set criteria for Phase 3</td>
<td></td>
</tr>
<tr>
<td>NSW Government and regional alliance demonstrate readiness for</td>
<td>• Regional alliance indicates that it is ready to enter into a Phase 3 Accord.</td>
<td>Aboriginal Affairs</td>
</tr>
</tbody>
</table>
| Phase 3 Accord negotiations   | • NSW Government and regional demonstrate their readiness.  
|                               | • Once both parties are ready and prepared to commence Accord negotiations, Phase 3 Accord negotiations can commence. |
Phase 3: Implementation Delegation

Local Decision Making (LDM) is only just starting out, so further work is needed to determine when a Board of Management will be ready to step up to the final phase, called Implementation Delegation. At a minimum, Boards of Management would need to demonstrate certain governance principles, including resource governance and organisational performance.

In this phase the government will hand over complete responsibility for some services and programs to the Board of Management. Those services and programs are likely to be ones that the Board of Management and the government have been working on together through their Accords.

The government may do this by making a new law that turns the Board of Management into an independent regional authority, governed by a Board of Management made up of Aboriginal people representing local communities. The authority would then also be able to decide what services and programs are needed in that region, and then work with government and non-government service providers to make those services and programs available.

<table>
<thead>
<tr>
<th>Goals</th>
<th>Responsibility</th>
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<tbody>
<tr>
<td>All specified NSW Government resources in the region are managed by the regional Aboriginal authority through the Board of Management</td>
<td>Board of Management</td>
</tr>
<tr>
<td>Specified NSW Government staff report to the Board of Management</td>
<td>Relevant NSW Government agencies</td>
</tr>
<tr>
<td>NSW Government agencies need Board of Management approval to work in locations</td>
<td>Board of Management</td>
</tr>
<tr>
<td>Board of Management is accountable for resources and services</td>
<td>Board of Management</td>
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</table>
Operational Arrangements and Accountability

The Secretaries Board, made up of Secretaries of all NSW Government Departments, has agreed that the way government works through Local Decision Making (LDM) must be simple and efficient, and not overly bureaucratic. Agencies need to work together as “whole of government,” not as individual agencies.

As regional alliances and the NSW Government commence LDM, what is learned needs to be shared between agencies, and between agencies and regional alliances. Change and flexibility need to be encouraged. Networks, collaboration and relationships will be developed and supported at every level. Strong and effective regional leaders within government will be identified and utilised.

The whole-of-government accountability framework adopted for LDM also:

- gives agencies clear program goals and obligations;
- uses existing whole-of-government coordination arrangements rather than create new ones;
- is light-handed, using informal communication channels to share information and ideas;
- establishes accountability arrangements outside existing agency line management structures; and
- is decentralised, with cross agency collaboration, information sharing and coordination occurring primarily at the regional level.

The NSW Government

Premier’s Memorandum M2015-01-Local Decision Making states the intent of LDM and outlines the roles and responsibilities of NSW Government agencies in supporting LDM.

NSW Government agencies are required to work respectfully, constructively and cooperatively with Aboriginal regional alliances, to develop Accords. Agencies are obligated to adhere to the principles of LDM, to negotiate openly and in good faith, and to share service provision and indicator data with Aboriginal regional alliances.

In addition to the Premier’s Memorandum, the following operational and accountability framework has been established for LDM.

- The Secretaries Board set an expectation that agencies will negotiate with regional alliances in good faith, in a timely, open and honest manner, and deliver the agreed actions, programs and investment negotiated and agreed through Accords.
- A Lead Officer will be appointed for each Accord negotiation (nominated by the Regional Leadership Groups (RLGs)). The nominated senior government officer will have a track record in collaboration, problem solving and delivery. They will be responsible for bringing agencies to the table for Accord negotiations, brokering collaborative responses across agencies to the issues identified by regional alliances and co-ordinating ongoing Accord commitments.
- The NSW Department of Premier and Cabinet will lead service delivery reform and change management across the NSW Government. The Department of Premier and Cabinet will also oversee line agency participation in LDM.
- NSW Treasury will establish pooled and flexible funding for each LDM location, to enable a re-direction of government spending (if required) consistent with Accord priorities. The mechanism will be ready for implementation in the initial communities from year two.
- Government agencies have a positive obligation to find solutions and share information with regional alliances.
- The Secretaries Board will oversee the operation of LDM for the NSW Government. This includes receiving regular reports on how LDM is progressing, and making adjustments as necessary.
Secretaries will also approve and commit to the Accords that each regional alliance or Board of Management develops with agencies.

- Aboriginal Affairs is the lead agency for LDM and is responsible for overall co-ordination. The Head of Aboriginal Affairs will liaise and troubleshoot; escalating issues with Secretaries if issues cannot be resolved regionally. Aboriginal Affairs will also co-ordinate information sharing, and encourage collaboration and change management across agencies. This will include regular updates, phone conferencing and informal liaison, and as well as a regular workshops for agency staff directly working with regional alliances.

- Regional Leadership Groups (RLGs) are existing regionally based cross government co-ordination groups, made up of senior agency staff. RLGs will be directly responsible for the regional delivery of LDM Accord commitments. Senior agency staff will be expected to work with the NSW Government Lead Negotiator and participate and engage with regional alliances in order to respond to community priorities. In negotiating the Accords with regional alliances, they will also need to take into account agency resourcing and existing government commitments.

- Agency staff involved in Accord negotiations must have sufficient delegation and decision-making power so they have the authority to respond flexibly and innovatively to the needs and aspirations of the regional alliances participating in LDM.

Regional alliances

Regional alliances operational arrangements are a matter for regional alliances to decide. However the Aboriginal communities represented by the regional alliance and the NSW Government will need to be confident that the regional alliance practices good governance.

To strengthen governance arrangements, Local Decision Making (LDM) will invest in regional alliances capacity. Aboriginal Affairs and other agencies may fund capacity strengthening activities including mentoring and training, leadership, financial management and strategic planning and more.

Regional alliances will step through levels of responsibility and accountability as they demonstrate good governance capabilities.

To ensure a transparent pathway for progressing through the phases of LDM, the OCHRE Good Governance Guidelines have been established based on research undertaken by the Centre for Aboriginal Economic Policy Research (CAEPR). The OCHRE Good Governance Guidelines set out prerequisite good governance principles that must be demonstrated in each phase of LDM before regional alliances can move to the next phase.

Exactly how regional alliances meet each good governance principle is up to each regional alliance. However government needs to be satisfied that regional alliances are operating with good governance practice before it transfers greater decision-making authority to community control. Clear criteria for demonstrating the good governance principles required for Phase 2 and Phase 3 of LDM must be negotiated and agreed in Accords.

To ensure that set criteria can be realised, regional alliances may request that government, as signatory to the Accord, invest in capacity strengthening activities. In addition, regional alliances may negotiate governance and accountability requirements that government must meet under the Accord.

It is anticipated that the OCHRE Good Governance Guidelines will support development through each phase of LDM by focusing on specific governance principles, but not at the exclusion of all others. It recognises that most principles will apply and carryover each phase of LDM. A number of optional tools for measurement have also been identified, which may be used to demonstrate set governance criteria for each phase.
The OCHRE Good Governance Guidelines include the governance of government and recognises that the NSW Government’s capacity to establish enabling policy and service delivery frameworks, funding mechanisms, downwards accountability, is fundamental to LDM.

Local Decision Making Regional Chairs

The Chairs of each regional alliance form the Local Decision Making Regional Chairs (LDMRC) which operates as a forum to exchange ideas and consider common issues, as well as provide leadership and advocacy with respect to Local Decision Making (LDM).

The primary function of the LDMRC is to:

- Advocate and share knowledge on issues that relate to delivery of services to Aboriginal people;
- Encourage and foster discussion, and consider common issues;
- Identify risks and opportunities;
- Strategically plan for the future needs of Aboriginal communities; and
- Support the aspirations and achievements of regions, including providing mutual support for participating and emerging regional alliances.

The LDMRC is recognised as a leadership group that provides proactive solutions and policy advice to government. It promotes the application of good governance principles and self-determination to facilitate positive outcomes based on informed decision making and good practice.

The LDMRC will address and advocate on state wide and policy level issues arising from or identified by constituent regional alliances and does not make decisions that impinge on the autonomy of individual regional alliances.

LDMRC will address issues at a state-wide/policy level, regional and community service delivery issues and consultation will be directed to relevant alliances. Discussion with the LDMRC should not be seen as eliminating the need for direct consultation with alliances at a regional or community level.

The LDMRC does not address issues that are clearly the responsibility of other peak organisations. This includes issues related to culture & heritage, native title, and traditional ownership.

The LDMRC will maintain a formal relationship with the NSW Government though the Minister for Aboriginal Affairs, and the Secretaries of NSW Government Departments. The LDMRC will also foster relationships with the Australian Government and the non-government sector.
## Roles and Responsibilities

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<tr>
<th>Who</th>
<th>Roles</th>
<th>Responsibility</th>
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</table>
| Minister for Aboriginal Affairs    | • Support • Oversight                       | • Champion LDM within government.  
• Oversee the implementation of OCHRE including LDM. |
| Secretaries Board                  | • Approval • Oversight                      | • Approve the cross-government accountability arrangements including the Accords.  
• Oversee the implementation of LDM through OCHRE. |
| Local Decision Making Regional Chairs | • Advocacy • Oversight                     | • Advocate on issues that relate to delivery of services to Aboriginal people;  
• Encourage and foster discussion, and consider common issues;  
• Identify risks and opportunities;  
• Strategically plan for the future needs of Aboriginal communities;  
• Support the aspirations and achievements of regions, including providing mutual support for participating and emerging regional alliances. |
| Department of Premier and Cabinet and NSW Treasury | • Cross-government change management and service redesign | • Oversee cross-government change plan.  
• Establish pooled fund.  
• Lead cross-government service delivery reform.  
• Oversee line agency participation. |
| Aboriginal Affairs                 | • Establishment and set up • Brokerage • Support • Coordination | • Lead the establishment and coordination of LDM.  
• Encourage partnerships between agencies and Aboriginal communities in LDM locations.  
• Support selected Aboriginal communities to strengthen their governance capacity  
• Work with agencies and regional alliances to determine priorities and develop Accords. |
| Regional alliance                  | • Priority setting and decision making      | • Form regional alliances and decide how it will work.  
• Undertake capacity strengthening.  
• Set short and medium priorities.  
• Demonstrate good governance. |
| Board of Management                | • Priority setting and decision making      | • Form Board of Management  
• Develop long term Community Business Plan.  
• Allocate and administer funds from pooled funding. |
| Relevant NSW Government agencies   | • Service mapping • Community engagement • Service re-design | • Providing information to build a common understanding of the service system with regional alliances / Board of Management.  
• Negotiate and deliver Accord commitments.  
• Undertake change management and skills development.  
• Participate in service-redesign. |
Monitoring and Evaluation

Aboriginal Affairs published a Monitoring, Evaluation, Reporting and Improvement (MERI) framework for OCHRE to guide the evaluation of major initiatives, including LDM. The design and implementation of the evaluation will be undertaken in consultation with regional alliances to assess overall program performance.

The Framework will also assist with the development of a rigorous monitoring and reporting system, with an inbuilt process to ensure that the data collected can inform ongoing adjustments and improvements to the roll out of LDM. The NSW Government produces annual reports on the implementation of OCHRE, including achievements and priorities for each of the initiatives. These reports can be accessed on the Aboriginal Affairs website.

LDM Accords will also stipulate monitoring and reporting requirements. NSW Government agencies and regional alliances will need to monitor and report on their progress and performance against each Accord, including:

- Accord priorities, activities and milestones, including meeting attendance.
- regional alliances governance capacity in respect to specific governance principles; and
- NSW Government agencies compliance with government accountability mechanisms, their cultural competency and partnership with regional alliances and broader Aboriginal communities.

NSW Government agencies are expected to report existing program or project data through the Accord monitoring and reporting processes.

LDM monitoring and reporting mechanisms will be:

- User friendly and accessible to all stakeholders including regional alliances and government who may be operating from home, the office or the field;
- Able to track progress, highlight achievements and tell a story about overall progress and performance; and
- Improve processes and inform decision-making by capturing interaction, input and advice from the engagement process (such as meetings).

Murdi Paaki Accord Process Review

The Cultural and Indigenous Research Centre Australia (CIRCA), an independent research agency, conducted an evaluation of the negotiation process for the Murdi Paaki Accord.

The evaluation approach included a document review and in-depth interviews and small-group discussions with three representatives of the Murdi Paaki Regional Assembly negotiating panel, 12 representatives of NSW Government departments and agencies, and the independent facilitator.

The aim of the evaluation was to document the Accord negotiation process, to identify its strengths and challenges, and to identify ways it might be improved.

Overall, participants felt the:

- Accord negotiation was professional, transparent and structured process based on good governance approaches; and
- Negotiating parties wanted the process to work, and were cooperative, responsive, collaborative, respectful and committed.

Legislative Framework

Local Decision Making (LDM) has been up and running for a while and Aboriginal Affairs is now scoping legislation to give it legal status. As a part of this process, Aboriginal Affairs will be talking to other NSW Government agencies, regional alliances and Aboriginal communities more broadly to get their input before drafting the legislation.

The legislation could include things like:

- The role for the Minister of Aboriginal Affairs;
- Ensuring effective partnership between regional alliances or Boards of Management and the NSW Government;
- The establishment of pooled government funding and how Boards of Management can access and manage those funds; and
- Outlining financial and legal liability limitations for Board members.

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<tr>
<th>Goals</th>
<th>Activities</th>
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<tr>
<td>Legislation passed</td>
<td>• Discussion paper released</td>
<td>Aboriginal Affairs and Parliamentary Counsel</td>
</tr>
<tr>
<td></td>
<td>• Community consultation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Legislation drafted and passed</td>
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References


