



New South Wales

Aboriginal Land Rights Amendment Act 2006 No 111

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New South Wales

Aboriginal Land Rights Amendment Act 2006 No 111

Act No 111, 2006

An Act to amend the *Aboriginal Land Rights Act 1983* with respect to the constitution, functions and governance of Aboriginal Land Councils, the provision of community benefits by those Councils and investment by and business enterprises of those Councils; and for other purposes. [Assented to 4 December 2006]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Aboriginal Land Rights Amendment Act 2006*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Aboriginal Land Rights Act 1983 No 42

The *Aboriginal Land Rights Act 1983* is amended as set out in Schedule 1.

4 Amendment of other Acts

The Acts specified in Schedule 2 are amended as set out in that Schedule.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 **Amendment of Aboriginal Land Rights Act 1983**

(Section 3)

[1] The whole Act (except Schedule 4)

Omit “Pecuniary Interest Tribunal” wherever occurring (except where elsewhere specifically referred to in this Schedule).

Insert instead “Pecuniary Interest and Disciplinary Tribunal”.

[2] Section 3 Purpose of Act

Insert “, and the management of land and other assets and investments,” after “land” in section 3 (d).

[3] Section 3 (e)

Insert after section 3 (d):

- (e) to provide for the provision of community benefit schemes by or on behalf of those Councils.

[4] Section 4 Definitions

Omit “, a Regional Aboriginal Land Council” from the definition of *Aboriginal Land Council* in section 4 (1).

[5] Section 4 (1), definition of “Alternate Representative”

Omit the definition.

[6] Section 4 (1)

Insert in alphabetical order:

Board means a Board of a Local Aboriginal Land Council.

Board member means a member of a Board of a Local Aboriginal Land Council.

community benefit means a benefit or service provided for the benefit of Aboriginal persons, and may include, but is not limited to, the following:

- (a) funeral funds,
- (b) residential accommodation,
- (c) education and training,
- (d) scholarships and other assistance for education and training,
- (e) cultural activities,

(f) child care,

(g) aged care services.

community benefits scheme means a scheme for the provision of community benefits.

community, land and business plan means a plan prepared and approved under Division 6 of Part 5 or Division 5 of Part 7.

Region means a Region specified in Schedule 5.

[7] Section 4 (1), definition of “officer”

Omit the definition. Insert instead:

officer of an Aboriginal Land Council means a Board member or the Chairperson or Deputy Chairperson of the New South Wales Aboriginal Land Council.

[8] Section 4 (1), definition of “Pecuniary Interest Tribunal”

Omit the definition. Insert instead:

Pecuniary Interest and Disciplinary Tribunal means the Aboriginal Land Councils Pecuniary Interest and Disciplinary Tribunal established under Division 3 of Part 10.

[9] Section 4 (1), definitions of “Regional Aboriginal Land Council” and “Regional Aboriginal Land Council area”

Omit the definitions.

[10] Section 4 (1), definition of “satisfactory audited financial statements and documents”

Omit “or Regional”.

[11] Section 4 (1), definition of “satisfactory audited financial statements and documents”

Omit “under the criteria”.

Insert instead “in accordance with the requirements”.

[12] Section 36 Claims to Crown lands

Omit “, a Regional Aboriginal Land Council” from section 36 (14).

[13] Section 36 (15)

Omit “Stamp duty under the *Stamp Duties Act 1920* shall not be”.

Insert instead “Duty under the *Duties Act 1997* is not”.

[14] Section 37 Aboriginal lands in travelling stock reserves

Omit “Stamp duty under the *Stamp Duties Act 1920* shall not be” from section 37 (8).

Insert instead “Duty under the *Duties Act 1997* is not”.

[15] Section 40A Transfer of land from one Council to another

Omit “Stamp duty under the *Stamp Duties Act 1920*” from section 40A (3).

Insert instead “Duty under the *Duties Act 1997*”.

[16] Section 40D Sale etc of land by Local Aboriginal Land Council

Omit “Secretary of the Local Aboriginal Land Council and certifying that the disposal by the Council” from section 40D (2).

Insert instead “Chairperson of the New South Wales Aboriginal Land Council and certifying that the disposal by the Local Aboriginal Land Council”.

[17] Section 42A

Insert after section 42:

42A Unlawful land dealings

(1) A person must not deal with land, or enter into a transaction or arrangement to deal with land, vested in an Aboriginal Land Council knowing that the dealing is not authorised or permitted by this Act.

Maximum penalty: 100 penalty units.

(2) In this section:

deal with land means sell, purchase, exchange, mortgage or otherwise dispose of land or lease or grant or release an easement over land.

[18] Part 5, Division 1A

Omit section 52. Insert instead:

Division 1A Functions of Local Aboriginal Land Councils

52 Functions of Local Aboriginal Land Councils

(1) A Local Aboriginal Land Council has the functions conferred or imposed on it by or under this or any other Act.

(2) **Land acquisition**

A Local Aboriginal Land Council has the following functions in relation to the acquisition of land and related matters:

- (a) in accordance with this Act and the regulations, to acquire land and to use, manage, control, hold or dispose of, or otherwise deal with, land vested in or acquired by the Council,
- (b) functions relating to the acquisition of land and any other functions conferred on it by or under Part 4A of the NPW Act,
- (c) to submit proposals for the listing in Schedule 14 to the NPW Act of lands of cultural significance to Aboriginal persons that are reserved under the NPW Act,
- (d) to negotiate the lease by the Council or by the Council and one or more other Aboriginal Land Councils of lands to which section 36A applies to the Minister administering the NPW Act,
- (e) when exercising its functions with respect to land that is the subject of a lease, or proposed lease, under Part 4A of the NPW Act, to act in the best interests of the Aboriginal owners of the land concerned,
- (f) to make written applications to the New South Wales Aboriginal Land Council for the acquisition by the New South Wales Aboriginal Land Council of land on behalf of, or to be vested in, the Local Aboriginal Land Council,
- (g) to make claims to Crown lands.

(3) **Land use and management**

A Local Aboriginal Land Council has the following functions in relation to land use and management:

- (a) to consider applications to prospect or mine for minerals on the Council's land and to make recommendations to the New South Wales Aboriginal Land Council in respect of such applications,
- (b) to protect the interests of Aboriginal persons in its area in relation to the acquisition, management, use, control and disposal of its land.

(4) **Aboriginal culture and heritage**

A Local Aboriginal Land Council has the following functions in relation to Aboriginal culture and heritage:

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- (a) to take action to protect the culture and heritage of Aboriginal persons in the Council's area, subject to any other law,
 - (b) to promote awareness in the community of the culture and heritage of Aboriginal persons in the Council's area.

(5) **Financial stewardship**

A Local Aboriginal Land Council has the following functions in relation to financial management and business planning:

- (a) to prepare and implement, in accordance with this Act, a community, land and business plan,
- (b) to manage, in accordance with this Act and consistently with its community, land and business plan, the investment of any assets of the Council,
- (c) to facilitate business enterprises, in accordance with this Act and the regulations and consistently with its community, land and business plan.

(6) **Other functions prescribed by regulations**

A Local Aboriginal Land Council has any other functions prescribed by the regulations.

52A Community benefits schemes

- (1) A Local Aboriginal Land Council may, in accordance with an approval of the New South Wales Aboriginal Land Council:
 - (a) directly or indirectly, provide community benefits under community benefits schemes, and
 - (b) without limiting paragraph (a), provide, acquire, construct, upgrade or extend residential accommodation for Aboriginal persons in its area.
- (2) The New South Wales Aboriginal Land Council must not approve a community benefits scheme of a Local Aboriginal Land Council unless it is satisfied that:
 - (a) the proposed scheme complies with this Act and the regulations, and
 - (b) the proposed scheme is consistent with any applicable policy of the New South Wales Aboriginal Land Council, and
 - (c) the proposed scheme is consistent with the community, land and business plan of the Local Aboriginal Land Council, and

- (d) the proposed scheme is fair and equitable and will be administered in a way that is responsible and transparent, and
 - (e) the proposed scheme is not likely to prevent the Local Aboriginal Land Council from being able to meet its debts as and when they fall due, and
 - (f) the need for the proposed benefits is not otherwise being adequately met.
- (3) A Local Aboriginal Land Council must ensure that any community benefits scheme under which community benefits are provided by it or on its behalf:
- (a) complies with this Act and the regulations, and
 - (b) is consistent with any applicable policy of the New South Wales Aboriginal Land Council, and
 - (c) is consistent with the community, land and business plan of the Local Aboriginal Land Council.
- (4) A Local Aboriginal Land Council may provide community benefits under a community benefits scheme to persons within the areas of other Local Aboriginal Land Councils and may provide community benefits in conjunction with one or more other Aboriginal Land Councils.

52B Social housing schemes

- (1) This section applies to a community benefits scheme in relation to the acquisition and provision by or on behalf of a Local Aboriginal Land Council of residential accommodation for Aboriginal persons in its area and to the construction, upgrading and extension of any such accommodation (a *social housing scheme*).
- (2) The New South Wales Aboriginal Land Council must not approve a social housing scheme under section 52A unless:
- (a) it is satisfied that the income (including any subsidies and grants) from any existing social housing scheme provided by or on behalf of the Local Aboriginal Land Council or of the proposed scheme is or will be sufficient to meet all the expenses of the scheme concerned, including long term maintenance requirements, and
 - (b) it has considered the likely impact of the proposed scheme on the overall financial situation of the Local Aboriginal Land Council.

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- (3) A Local Aboriginal Land Council may provide a social housing scheme by using the services of another body or agency, or with the assistance of another body or agency, approved by the New South Wales Aboriginal Land Council either generally or in relation to a particular social housing scheme.
 - (4) Section 40B (2) applies to a lease by a Local Aboriginal Land Council (whether or not for a period exceeding 3 years), if the lease is for the purposes of the provision or management of a social housing scheme.

52C Trusts

- (1) A Local Aboriginal Land Council may, with the approval of the New South Wales Aboriginal Land Council, establish, or participate in the establishment of, a trust for the purpose of providing a community benefits scheme.
- (2) The New South Wales Aboriginal Land Council must not give an approval for the purposes of this section unless it is of the opinion that the proposed action by the Local Aboriginal Land Council:
 - (a) complies with this Act and the regulations, and
 - (b) is consistent with any applicable policy of the New South Wales Aboriginal Land Council, and
 - (c) is consistent with the community, land and business plan of the Local Aboriginal Land Council, and
 - (d) is not likely to prevent the Local Aboriginal Land Council from being able to meet its debts as and when they fall due.
- (3) Regulations may be made for or with respect to financial and reporting obligations for trusts established by Local Aboriginal Land Councils.

52D Duty of Aboriginal Land Council not to transfer land or other assets to Council members, Board members, staff or consultants

- (1) A Local Aboriginal Land Council must ensure that no part of the income or property of the Council is transferred directly or indirectly by way of dividend or bonus or otherwise by way of profit to members of the Council, Board members or any member of staff of, or consultant to, the Council.
- (2) Nothing in this section prevents:
 - (a) the provision of a benefit in good faith to a Council member, Board member, member of staff or consultant in accordance with this Act, or

- (b) the payment in good faith of remuneration to any such member, Board member, member of staff or consultant.

52E Delegation of functions by Local Aboriginal Land Councils

- (1) A Local Aboriginal Land Council may, by resolution, delegate to any person or body the exercise of any of the functions of the Council, other than the following:
 - (a) the acquisition of land and the use, management, control, holding or disposal of, or otherwise dealing with, land vested in or acquired by the Council,
 - (b) any function under this or any other Act that is expressly required to be exercised by resolution of the voting members of the Council.
- (2) Each Local Aboriginal Land Council must, once every year, review all its delegations.

52F Rules of Local Aboriginal Land Councils

- (1) The purpose of this section is to provide rules for Local Aboriginal Land Councils relating to those Councils' functions and operations.
- (2) The rules prescribed by the regulations as model rules are the rules for a Local Aboriginal Land Council.
- (3) However, a Local Aboriginal Land Council may prepare its own rules and submit them to the Registrar for approval.
- (4) On approval by the Registrar, the rules prepared by a Local Aboriginal Land Council, to the extent that they are not inconsistent with this Act or the regulations, become the rules of the Council to the exclusion of the model rules.
- (5) A Local Aboriginal Land Council's rules may, with the approval of the Registrar, be amended, repealed or replaced from time to time.
- (6) A Local Aboriginal Land Council may appeal to the Court against the Registrar's refusal to approve of rules or to approve of an amendment, a repeal or a replacement of its rules.
- (7) On the hearing of an appeal under subsection (6), the Court may direct the Registrar to approve of rules, or an amendment, a repeal or a replacement of rules, specified in the direction.

52G Functions to be exercised by Council resolution

The following functions are to be exercised, in accordance with this Act, by resolution of the voting members of a Local Aboriginal Land Council:

- (a) acceptance of persons as qualified for membership,
- (b) delegation of functions of the Council,
- (c) approval of the rules and code of conduct of the Council and any amendment to or repeal or replacement of those rules or that code,
- (d) approval of the community, land and business plan of the Council and any changes to the plan,
- (e) approval of dealings with land,
- (f) receipt of the annual budget and the financial statements of the Council,
- (g) election of Board members,
- (h) suspension of members from attending or voting at meetings of the Council,
- (i) approval of requests to change the name of the Council's area or for the amalgamation or dissolution of the Council, or its re-allocation to another Region.

52H Meetings of Local Aboriginal Land Councils

Part 1 of Schedule 3 has effect.

[19] Section 54 Local Aboriginal Land Council membership rolls

Omit "Secretary" from section 54 (1). Insert instead "chief executive officer".

[20] Section 54 (2)–(2B)

Omit section 54 (2). Insert instead:

- (2) The chief executive officer of a Local Aboriginal Land Council must list on the membership roll for the area of the Council the names and addresses of those persons who are qualified for membership.
- (2A) A person is qualified for membership if:
 - (a) the person is an adult Aboriginal person who resides within the area of the Local Aboriginal Land Council concerned and is accepted as being qualified on that basis to be a member by a meeting of the Council, or

- (b) the person is an adult Aboriginal person who has a sufficient association with the area of the Local Aboriginal Land Council concerned (as determined by the voting members of the Council at a meeting of the Council) and is accepted as being qualified on that basis to be a member by a meeting of the Council, or
 - (c) the person is an Aboriginal owner in relation to land within the area of the Local Aboriginal Land Council concerned and has made a written application for membership in accordance with subsection (3).
- (2B) The membership roll must indicate whether a member is a person who is included on the roll because of residence or association, or as an Aboriginal owner, and must indicate the basis for that inclusion.

[21] Section 54 (3) (a)–(b1)

Omit the paragraphs. Insert instead:

- (a) declares that the person is eligible for inclusion on the membership roll, and
- (b) sets out the grounds (other than acceptance as being qualified at a meeting) on which the person is qualified for inclusion on the membership roll, and
- (b1) sets out the basis on which the person asserts his or her Aboriginal descent and, if the application declares that the person has a sufficient association with that Council's area, the basis of that association, and

[22] Section 54 (3) (c)

Omit "Chief Executive Officer of the New South Wales Aboriginal Land Council".

Insert instead "Registrar".

[23] Section 55 Aboriginal persons may be members of more than one Local Aboriginal Land Council

Omit section 55 (3). Insert instead:

- (3) The Local Aboriginal Land Council in relation to which the person has voting rights is to be the Council nominated by the person or, if the person has not made a nomination, the Council for the area within which the person resides.

[24] Section 55 (4) (a)

Omit the paragraph. Insert instead:

- (a) in elections for Board members, or

[25] Section 55 (4), note

Omit the note.

[26] Section 55 (4A)

Insert after section 55 (4):

(4A) A voting member of a Local Aboriginal Land Council is not entitled to vote in elections for Board members if:

- (a) the member has not attended at least 2 meetings of the Council in the preceding 12 months as a voting member, or
- (b) the member is suspended from membership of the Council or Board.

[27] Section 55 (5)

Insert “or a member referred to in subsection (4A)” after “Council”.

[28] Section 56 Nomination of voting area

Omit “Chief Executive Officer of the New South Wales Aboriginal Land Council” wherever occurring.

Insert instead “Registrar”.

[29] Section 56 (3) and (5)

Omit “Chief Executive Officer” where secondly occurring in section 56 (3) and where occurring in section 56 (5).

Insert instead “Registrar”.

[30] Section 56 (4)

Omit the subsection. Insert instead:

- (4) If a nomination is not made within the time required under subsection (3), the Local Aboriginal Land Council in relation to which the person has voting rights is to be the Council for the area within which the person resides.

[31] Section 56 (5)

Omit “or of a determination”.

Insert instead “or of a failure to make a nomination”.

- [32] Section 56 (5)**
Omit “Secretary of the New South Wales Aboriginal Land Council”.
Insert instead “Registrar”.
- [33] Section 56 (5) and (6)**
Omit “Secretary” where secondly occurring in section 56 (5) and where occurring in section 56 (6).
Insert instead “chief executive officer”.
- [34] Section 57 Suspension of members from attending Council meetings**
Omit “an officer or Regional or Alternate Representative” from section 57 (1).
Insert instead “a Board member”.
- [35] Section 57 (1), note**
Omit the note.
- [36] Section 57 (4)**
Omit “Secretary”. Insert instead “chief executive officer”.
- [37] Section 57 (4)**
Omit “Chief Executive Officer of the New South Wales Aboriginal Land Council”.
Insert instead “Registrar”.
- [38] Section 58 Removal of person’s name from membership roll**
Omit “Secretary”. Insert instead “chief executive officer”.
- [39] Section 58 (d)**
Insert at the end of section 58 (c):
 , or
 (d) the chief executive officer is satisfied, after making reasonable inquiries, that the residential address of the person is unknown.

[40] Section 59

Omit the section. Insert instead:

59 Updating and consolidation of membership rolls

- (1) The chief executive officer of each Local Aboriginal Land Council must:
 - (a) within such period as may be prescribed by the regulations, send a copy of the Council's membership roll, certified as correct by the chief executive officer, to the Registrar, and
 - (b) advise the Registrar in writing of any changes to the membership roll that have occurred since a copy was last sent to the Registrar.
- (2) The chief executive officer of a Local Aboriginal Land Council is to ensure, so far as practicable, that the membership roll of the Council is kept up to date.
- (3) The Registrar is to compile and maintain a consolidated roll of all members of Local Aboriginal Land Councils.
- (4) The New South Wales Aboriginal Land Council must, at the request of the Registrar, pay to the Registrar a contribution, of an amount approved by the Minister, for the cost of the exercise of the Registrar's functions under this section.

[41] Part 5, Division 3

Omit Divisions 3 and 4 of Part 5. Insert instead:

Division 3 Boards of Local Aboriginal Land Councils

61 Local Aboriginal Land Councils to have Boards

- (1) Each Local Aboriginal Land Council is to have a Board consisting of not less than 5, and not more than 10, members.
- (2) The number of Board members for each Local Aboriginal Land Council is to be determined in accordance with the regulations.
- (3) Part 2 of Schedule 3 has effect with respect to the procedure of Boards of Local Aboriginal Land Councils.
- (4) The regulations may prescribe additional requirements with respect to meetings.

62 Functions of Boards of Local Aboriginal Land Councils

A Board of a Local Aboriginal Land Council has the following functions:

- (a) to direct and control the affairs of the Council, in accordance with this Act and the regulations and consistently with the community, land and business plan of the Council,
- (b) to facilitate communication between the Council's members and the New South Wales Aboriginal Land Council,
- (c) to review the performance of the Council in the exercise of its functions and the achievement of its objectives,
- (d) any other functions conferred on the Board by or under this Act.

63 Board members

- (1) The Board members are to be elected at every second annual meeting of a Local Aboriginal Land Council.
- (2) A person is not qualified to stand and be elected as a Board member of a Local Aboriginal Land Council:
 - (a) unless the person is a voting member of the Council, or
 - (b) if the person is suspended or disqualified from holding office as a Board member or is suspended or disqualified from membership of the Council.
- (3) The term of office of a Board member commences on the Board member's election and ends on the election of the next Board at the second annual meeting of the Council following the member's election.
- (4) A Board member is entitled to be paid such travelling and other allowances as the Minister may from time to time determine in respect of the member.
- (5) A Board member is eligible for re-election, subject to this Act.
- (6) The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner, is to be the returning officer for an election.
- (7) Elections for Board members are to be conducted in accordance with the regulations.

64 Chairperson and Deputy Chairperson

- (1) A Chairperson and Deputy Chairperson of the Board of a Local Aboriginal Land Council are to be elected from among the Board members at the first meeting of the Board after its election.
- (2) The Chairperson and Deputy Chairperson of a Board have the functions conferred on the Chairperson or Deputy Chairperson by or under this Act.
- (3) In the absence of the Chairperson of a Board, the Deputy Chairperson:
 - (a) is, if available, to act in the place of the Chairperson, and
 - (b) while so acting, has all the functions of the Chairperson and is taken to be the Chairperson of the Board.
- (4) If a Chairperson of a Board becomes a councillor, the person ceases to be the Chairperson and a new Chairperson is to be elected.
- (5) Elections for Chairperson and Deputy Chairperson are to be conducted in accordance with the regulations.

65 Training for Board members

- (1) The New South Wales Aboriginal Land Council must arrange training in relation to the matters prescribed by the regulations for each member elected for the first time to a Board of a Local Aboriginal Land Council.
- (2) The training is to be provided not later than 6 months after the date of election of a Board member.
- (3) A Board member must not refuse or fail to undergo training provided under this section when required to do so by the New South Wales Aboriginal Land Council.
- (4) If a Board member refuses or fails to undergo training provided under this section when required to do so by the New South Wales Aboriginal Land Council, the Board member is, on written notice being given to the Board member by the Council, suspended from office as a Board member until the person undergoes the training.
- (5) The New South Wales Aboriginal Land Council may:
 - (a) exempt a Board member wholly or partly from the requirement to undergo training provided under this section, if the Council is satisfied that the Board member already has sufficient expertise, skills and experience to carry out his or her functions as a Board member, or

- (b) extend the period within which training is to be provided to a Board member under this section.

66 Grounds for disqualification from office

- (1) A person is disqualified from holding office as a Board member of a Local Aboriginal Land Council if the person:
 - (a) has a conviction in New South Wales or elsewhere for an offence relating to the management of a corporation, that was recorded within the last 5 years, or
 - (b) has a conviction for an offence under this Act that was recorded within the last 5 years, or
 - (c) has a conviction in New South Wales for any other offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable that was recorded within the last 5 years, or
 - (d) ceases to be a voting member of the Council, or
 - (e) becomes a councillor of the New South Wales Aboriginal Land Council, or
 - (f) is a mentally incapacitated person, or
 - (g) is or becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (h) is or was a director or person concerned in the management of a body corporate that is the subject of a winding up order or for which a controller or administrator has been appointed under the *Corporations Act 2001* of the Commonwealth during the last 3 years, or
 - (i) is disqualified from holding office in or being concerned in the management of a corporation under any law of this or any other State or Territory or the Commonwealth, or
 - (j) is an employee of, or a consultant to, the Council, or
 - (k) was, on 2 or more occasions before an administrator was appointed to the Council, an officer of the Council, or
 - (l) fails, without a reasonable excuse, for a period of 3 months or more to comply with a written requirement by the New South Wales Aboriginal Land Council to undergo training under section 65, or
 - (m) is disqualified from holding office as a councillor.

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- (2) The Registrar may determine that an offence committed by a person should be ignored for the purposes of this section because of the time that has passed since the offence was committed or because of the triviality of the acts or omissions giving rise to the offence.
 - (3) The Registrar may determine that a person is not disqualified on the ground set out in subsection (1) (k) if the Registrar is satisfied that it is appropriate in the circumstances that the person not be disqualified on that ground.

67 Vacancy in office

A person who is a Board member of a Local Aboriginal Land Council vacates office if the person:

- (a) dies, or
- (b) is absent from 2 consecutive meetings of the Board or the Council of which reasonable notice has been given to the person personally or by post, except on leave granted by the Board or unless the person is excused by the Board for having been absent from those meetings, or
- (c) completes a term of office and is not re-elected, or
- (d) resigns the office by instrument in writing addressed to the Council, or
- (e) becomes disqualified from holding office as a Board member under this Act.

68 Casual vacancy

A person is to be appointed in accordance with the regulations to fill a casual vacancy in the office of a Board member for the remainder of the term of office.

69 ADT may declare particular offices of Local Aboriginal Land Council vacant (cf section 329 of Local Government Act 1993)

- (1) Any person may apply to the Administrative Decisions Tribunal for an order declaring that a particular office of a Board member of a Local Aboriginal Land Council has become vacant under this Act.
- (2) The Tribunal may award costs under section 88 of the *Administrative Decisions Tribunal Act 1997* in respect of proceedings commenced by an application made under this section.

70 Appeals to Supreme Court against order (cf section 330 of Local Government Act 1993)

- (1) A person whose office has been declared vacant by order of the Administrative Decisions Tribunal may appeal against the order, on a question of law, to the Supreme Court.
- (2) Such an appeal may not be made more than 28 days after the date on which the order is made.

71 Effect of order declaring vacancy (cf section 331 of Local Government Act 1993)

An order declaring a vacancy in an office made by the Administrative Decisions Tribunal under this Division takes effect:

- (a) if no appeal to the Supreme Court is made against the order, at the end of the period during which such an appeal may be made, or
- (b) if such an appeal is made within that period and the order is confirmed on appeal, when the order is confirmed, or
- (c) if, within that period, the person against whom the order is made serves on the Chief Executive Officer of the New South Wales Aboriginal Land Council written notice of intention not to appeal against the order, when the notice is lodged.

72 Delegation by Boards

- (1) A Board may delegate to any person or body any of the functions of the Board other than this power of delegation and any matter under this Act or the regulations that also requires the approval of the New South Wales Aboriginal Land Council.
- (2) A Board must, once every year and immediately after an election of the Board, review all its delegations.

[42] Sections 78A–78C

Insert after section 78:

78A Chief executive officer

- (1) A Local Aboriginal Land Council must employ a member of staff to exercise the functions of the chief executive officer of the Council for the purposes of this Act.

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- (2) The chief executive officer has the following particular functions:
- (a) the day-to-day management of the Council's affairs,
 - (b) the exercise of such functions of the Board as are delegated by the Board to the chief executive officer,
 - (c) the appointment of staff in accordance with the approval of the Board,
 - (d) the direction and dismissal of members of staff,
 - (e) such other functions as may be conferred or imposed on the chief executive officer by or under this or any other Act.

78B Certain persons must not be employed as chief executive officers

- (1) The following persons must not be or continue to be employed as the chief executive officer of a Local Aboriginal Land Council:
- (a) a person who is a Board member of the Council or a councillor,
 - (b) a person who has a conviction in New South Wales or elsewhere for an offence relating to the management of a corporation that was recorded within the last 5 years,
 - (c) a person who has a conviction in New South Wales for an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, that was recorded within the last 5 years,
 - (d) a person who is disqualified from holding office in or being concerned in the management of a corporation under any law of this or any other State or Territory or the Commonwealth,
 - (e) a person who has an interest in, or is an employee of or concerned in the management of, a corporation that receives a benefit from the Council,
 - (f) a person who is already engaged as a consultant to the Council,
 - (g) a person who is a member of staff of the New South Wales Aboriginal Land Council,
 - (h) a person who has been dismissed on the recommendation of the Pecuniary Interest and Disciplinary Tribunal within the last 5 years,

- (i) a person who is disqualified under this Act from being a Board member or a councillor (other than on the grounds of employment by the Council or ceasing to be a voting member of a Local Aboriginal Land Council).
- (2) The Registrar may determine that an offence committed by a person should be ignored for the purposes of this section because of the time that has passed since the offence was committed or because of the triviality of the acts or omissions giving rise to the offence.

78C Filling of vacancy in position of chief executive officer

- (1) If a vacancy occurs in the position of chief executive officer, the Local Aboriginal Land Council must immediately appoint a person under section 78A to the vacant position or appoint a person to act in the vacant position.
- (2) A vacancy occurs in the position of chief executive officer if the chief executive officer:
 - (a) dies, or
 - (b) completes the term of his or her contract and is not re-appointed, or
 - (c) resigns from the position, or
 - (d) becomes a mentally incapacitated person and is removed from the position by the Council because of that mental incapacity, or
 - (e) is removed from the position on a ground set out in section 78B or for any other reason.

[43] Section 79A

Insert after section 79:

79A Advertising vacancies

- (1) If it is proposed to make an appointment to a vacant position in the staff of a Local Aboriginal Land Council, the chief executive officer must advertise the vacancy in the manner prescribed by the regulations.
- (2) The chief executive officer need not advertise a vacant position in the circumstances prescribed by the regulations.

[44] Part 5, Divisions 6 and 7

Omit the Divisions. Insert instead:

Division 6 Community, land and business plans

82 Community, land and business plans

- (1) A Local Aboriginal Land Council must prepare and implement a community, land and business plan.
- (2) A Local Aboriginal Land Council preparing a community, land and business plan must consult with the following persons:
 - (a) members of the Council,
 - (b) persons who have a cultural association with the land within the Council's area,
 - (c) any other persons required to be consulted by the regulations or a policy of the New South Wales Aboriginal Land Council.
- (3) A Local Aboriginal Land Council may amend a community, land and business plan.
- (4) The provisions of this Division apply to any proposed amendment in the same way as they apply to the preparation and approval of a plan.
- (5) The New South Wales Aboriginal Land Council may exempt a Local Aboriginal Land Council wholly or partly from the requirement to prepare a community, land and business plan, if the New South Wales Aboriginal Land Council is satisfied that, having regard to the limited operations of the Local Aboriginal Land Council, compliance is not appropriate.
- (6) For the purposes of this section, a person has a cultural association with land if the person is an Aboriginal owner in relation to land within the area of the Local Aboriginal Land Council concerned or is a person of a class prescribed by the regulations for the purposes of this subsection.

83 Matters covered by plans

- (1) A community, land and business plan of a Local Aboriginal Land Council must contain the following matters:
 - (a) the objectives and strategy of the Council for the acquisition, management and development of land and other assets,

- (b) the objectives and strategy of the Council for the provision and management of community benefits schemes,
 - (c) the objectives and strategy of the Council for carrying out business enterprises and investment,
 - (d) the objectives and strategy of the Council in relation to Aboriginal culture and heritage,
 - (e) if the plan contains particular proposals related to the strategies in paragraph (a), (b) or (c), strategies for the development or acquisition of human resources and skills to implement the proposals,
 - (f) timelines for the achievement of proposed strategies and proposals in the plan,
 - (g) particulars of the assets and liabilities of the Council,
 - (h) any matter required to be included by a policy of the New South Wales Aboriginal Land Council,
 - (i) any other matter prescribed by the regulations.
- (2) A community, land and business plan must contain the following matters in relation to land:
- (a) the identity of, and particulars of any encumbrance affecting, any parcel of land of the Council,
 - (b) the particulars of any other interest in land of the Council,
 - (c) whether, and what, land is subject to the restriction contained in section 40AA or to Part 4A of the NPW Act,
 - (d) any conditions affecting land of the Council under section 36 or 39,
 - (e) any other matters prescribed by the regulations.

84 Approval of community, land and business plans

- (1) A community, land and business plan is adopted by a Local Aboriginal Land Council if it is approved by a meeting of the members of the Council, of which not less than 14 days notice was given.
- (2) A Local Aboriginal Land Council must submit a proposed community, land and business plan to the New South Wales Aboriginal Land Council not less than 28 days before any such meeting.
- (3) A Local Aboriginal Land Council must make available to its members, on request, for a period of not less than 14 days before any such meeting and at the meeting, a summary of the proposed community, land and business plan or a copy of the plan.

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- (4) The summary is to contain the matters prescribed by the regulations.
 - (5) More than one meeting may be called to enable approval of a community, land and business plan.
 - (6) A community, land and business plan approved by a Local Aboriginal Land Council takes effect when it is approved by the New South Wales Aboriginal Land Council.
 - (7) A community, land and business plan has effect for the period (not exceeding 5 years) specified in the plan or until it is replaced, whichever occurs first.
 - (8) Failure to comply with a requirement of this Division for the preparation or approval of a community, land or business plan does not affect the validity of the plan.

85 Approval of plan by New South Wales Aboriginal Land Council

- (1) The New South Wales Aboriginal Land Council must not approve a community, land and business plan unless it is satisfied that the plan complies with this Act and the regulations and is consistent with any applicable policy of the Council.
- (2) If a Local Aboriginal Land Council is not able to reach agreement on a proposed community, land and business plan within 3 months after it is first proposed for approval at a meeting of the Council, the Chairperson of the Board may refer the proposed plan to the New South Wales Aboriginal Land Council.
- (3) The New South Wales Aboriginal Land Council may amend or replace a proposed community, land and business plan referred to it under subsection (2) and may refer the amended or replaced plan to the Local Aboriginal Land Council for approval.

86 Administration may follow plan failure

- (1) A failure by a Local Aboriginal Land Council to approve the same or another proposed community, land and business plan after a plan is referred to it by the New South Wales Aboriginal Land Council under section 85 (3) is, for the purposes of section 222 (1) (e), a substantial breach of the requirements of this Act.
- (2) A substantial failure by a Local Aboriginal Land Council to comply with its community, land and business plan is, for the purposes of section 222 (1) (e), a substantial breach of the requirements of this Act.

Note. The effect of a substantial breach is that an administrator may be appointed for the Local Aboriginal Land Council.

Division 7 Changes to Local Aboriginal Land Councils and areas of Local Aboriginal Land Councils

87 Changes to Local Aboriginal Land Council areas

- (1) The Minister may, by order published in the Gazette, do any one or more of the following:
 - (a) change the name of a Local Aboriginal Land Council area,
 - (b) change the boundaries of a Local Aboriginal Land Council area,
 - (c) amalgamate 2 or more Local Aboriginal Land Council areas and constitute the amalgamated area as a Local Aboriginal Land Council area,
 - (d) without limiting paragraph (b) or (c), include the whole of the area of a Local Aboriginal Land Council within the area of one or more other Local Aboriginal Land Councils,
 - (e) dissolve a Local Aboriginal Land Council.
- (2) If the Minister makes an order under subsection (1) (b), (c), (d) or (e), the Minister may, in the same order, specify the Councils to which members of existing Councils affected by the order may (with the members' consent) be allocated, or a method of determining the allocation of members (with the members' consent).
- (3) The Minister may make an order under subsection (1) only if the order concerned is permitted or required by or under this Act or the regulations.
- (4) The regulations may make provision of a savings or transitional nature consequent on the making of orders under this section, including (but not limited to) construing references to Local Aboriginal Land Council areas and Councils and elections for Boards of new Local Aboriginal Land Councils.

88 Effect of dissolution

On the day an order dissolving a Local Aboriginal Land Council takes effect, the Council ceases to exist and the Board members of the Council cease to hold office.

89 Transfer of assets, rights and liabilities

- (1) If the Minister makes an order under section 87 (1), the Minister may, after consulting with the New South Wales Aboriginal Land Council, by order in writing, direct that all or part of the assets,

rights and liabilities be transferred to an Aboriginal Land Council specified in the order.

- (2) An order under this section may be subject to specified terms and conditions.
- (3) More than one order may be made in respect of the same assets, rights and liabilities following the making of an order referred to in subsection (1).
- (4) Schedule 3A has effect with respect to the transfer of assets, rights and liabilities under this section.
- (5) Words and expressions used in this section have the same meanings as they have in Schedule 3A.
- (6) Despite any other provision of this section, lands vested in a Local Aboriginal Land Council under Part 4A of the NPW Act vest in accordance with that Part.

Note. Part 4A of the NPW Act deals with lands reserved or dedicated under that Act that are vested in an Aboriginal Land Council or Councils and are leased by that Council or Councils to the Minister administering that Act.

90 Voluntary changes

- (1) The Minister may make an order under section 87 in relation to a Local Aboriginal Land Council area or a Local Aboriginal Land Council on application made by an Aboriginal Land Council or a person in accordance with the regulations.
- (2) For the purposes of this section, regulations may be made for or with respect to the following matters:
 - (a) the persons who may apply for an order under section 87,
 - (b) applications for the making of an order,
 - (c) procedures for approval of applications,
 - (d) the making of recommendations to the Minister with respect to proposals to change Local Aboriginal Land Council areas,
 - (e) determination of applications,
 - (f) the functions of the Registrar in relation to applications,
 - (g) the lodging of objections against the refusal of applications,
 - (h) the reference to the Court of any such objections and the hearing and determination of any such objections.

91 Changes on initiative of Minister

- (1) The Minister may make an order under section 87 in relation to a Local Aboriginal Land Council area or a Local Aboriginal Land Council if the Minister is satisfied that the Council:
 - (a) has less than 50 voting members, or
 - (b) has less than 3% of the potential members who reside in its area, as determined from the most recent available Australian census data, or
 - (c) has a membership that is in significant decline, or
 - (d) has not, for a period of not less than 3 months, been able to elect the required number of Board members, or
 - (e) cannot pay its debts as and when they fall due, or
 - (f) has had qualified audits or has failed to provide complete financial statements for any 3 of the last 5 years, or
 - (g) has had an administrator appointed under this Act for any 3 of the last 5 years, or
 - (h) is the subject of a report by an investigator or administrator under this Act, the New South Wales Aboriginal Land Council or the Local Aboriginal Land Council that has found that the Local Aboriginal Land Council has ceased to function.
- (2) The Minister may take action on a ground specified subsection (1) (a)–(f) on the basis of a report by the Registrar.
- (3) The Minister may not make an order on a ground specified in subsection (1):
 - (a) in the case of an order amalgamating one or more Local Aboriginal Land Councils—except with the consent of the Councils, or
 - (b) in the case of an order including the area of a dissolved Local Aboriginal Land Council in the area of one or more other Councils—except with the consent of those other Councils.

92 Objections to Minister's changes

- (1) Before taking action on a ground under section 91, the Minister must notify the following persons of the proposed action and of their rights under this section:
 - (a) the New South Wales Aboriginal Land Council,
 - (b) the Board of any Local Aboriginal Land Council affected,

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- (c) the members of any such Council,
 - (d) any investigator appointed to investigate the affairs of any such Council,
 - (e) any administrator of any such Council.
- (2) A person notified of a proposed action may make submissions, within 21 days of being notified, to the Minister about the proposed action.
- (3) Before determining whether to take the action, the Minister must consider any submissions received under this section.

[45] Part 6

Omit the Part. Insert instead:

Part 6 Regions

93 Regions

- (1) The Region for a Local Aboriginal Land Council is the Region specified for the Council in Schedule 5.
- (2) The Governor may, by order published in the Gazette, amend or substitute Schedule 5.
- (3) An order that has the effect of changing the area of a Region may not be made except on the recommendation of the Minister.
- (4) The Minister must not make a recommendation unless the Minister is satisfied that any Local Aboriginal Land Council affected, and the New South Wales Aboriginal Land Council, consent to the change of Region.
- (5) Subsection (4) does not apply if the change results from an order made under section 87.
- (6) The New South Wales Aboriginal Land Council or a Local Aboriginal Land Council may at any time request the Minister to change the name of a Region or the Council areas included in the Region.
- (7) Regulations may be made for or with respect to elections for councillors and other matters consequential on changes to Regions.

[46] Part 7, Division 1, heading

Omit “**and functions**”.

[47] Part 7, Divisions 2–5

Omit section 106 and Divisions 2–8 of Part 7. Insert instead:

Division 2 Functions of New South Wales Aboriginal Land Council

106 Functions of New South Wales Aboriginal Land Council

(1) The New South Wales Aboriginal Land Council has the functions conferred or imposed on it by or under this or any other Act.

(2) **Land acquisition**

The New South Wales Aboriginal Land Council has the following functions in relation to the acquisition of land and related matters:

- (a) in accordance with this Act and the regulations, to acquire land on its own behalf or on behalf of or to be vested in a Local Aboriginal Land Council and to use, manage, control, hold, transfer to a Local Aboriginal Land Council or dispose of, or otherwise deal with, land vested in or acquired by the Council,
- (b) functions relating to the acquisition of land and any other functions conferred on it by or under Part 4A of the NPW Act,
- (c) to submit proposals for the listing in Schedule 14 to the NPW Act of lands of cultural significance to Aboriginal persons that are reserved under the NPW Act,
- (d) to negotiate the lease by the Council or by the Council and one or more other Aboriginal Land Councils of lands to which section 36A applies to the Minister administering the NPW Act,
- (e) when exercising its functions with respect to land that is the subject of a lease, or proposed lease, under Part 4A of the NPW Act, to act in the best interests of the Aboriginal owners of the land,
- (f) to make claims to Crown lands, either on its own behalf or, if requested by a Local Aboriginal Land Council, on behalf of that Council,
- (g) to compile and maintain a register of all land held by Local Aboriginal Land Councils and to make the information available on request to the members of the Council concerned.

(3) Oversight of Local Aboriginal Land Councils

The New South Wales Aboriginal Land Council has the following functions in relation to Local Aboriginal Land Councils:

- (a) with the agreement of a Local Aboriginal Land Council, to manage any of the affairs of the Council,
- (b) to assist Local Aboriginal Land Councils in complying with this Act in respect of the establishment and keeping of accounts and the preparation and submission of budgets and financial reports,
- (c) to assist Local Aboriginal Land Councils in the preparation and implementation of community, land and business plans,
- (d) to approve community, land and business plans of Local Aboriginal Land Councils,
- (e) to assist Local Aboriginal Land Councils in conducting elections in accordance with this Act for Board members,
- (f) to determine and approve or disapprove of the terms and conditions of agreements proposed by Local Aboriginal Land Councils to allow mining or mineral exploration on land,
- (g) to mediate, conciliate and arbitrate disputes relating to the operation of this Act or the regulations between Aboriginal Land Councils, between those Councils and individuals and between individual members of those Councils and to refer such disputes to the Registrar or independent mediators, conciliators and arbitrators.

(4) Policy and advice

The New South Wales Aboriginal Land Council has the following functions in relation to policy and advice:

- (a) to advise the Minister on matters relating to Aboriginal land rights,
- (b) to prepare and implement policies relating to its functions under this Act and the functions of Local Aboriginal Land Councils under this Act.

(5) Administration of statutory accounts

The New South Wales Aboriginal Land Council is to administer the New South Wales Aboriginal Land Council Account and the Mining Royalties Account established under this Act.

(6) **Native title**

The New South Wales Aboriginal Land Council is to exercise the functions conferred or imposed, by the Commonwealth Native Title Act, on a representative Aboriginal/Torres Strait Islander body (within the meaning of that Act) if the Council is determined to be such a body by the relevant Commonwealth Minister under that Act.

(7) **Aboriginal culture and heritage**

The New South Wales Aboriginal Land Council has the following functions in relation to Aboriginal culture and heritage:

- (a) to take action to protect the culture and heritage of Aboriginal persons in New South Wales, subject to any other law,
- (b) to promote awareness in the community of the culture and heritage of Aboriginal persons in New South Wales.

(8) **Financial stewardship**

The New South Wales Aboriginal Land Council has the following functions in relation to financial management and business planning:

- (a) to prepare and implement policies relating to community, land and business plans required to be adopted by Aboriginal Land Councils,
- (b) to prepare and implement, in accordance with this Act, a community, land and business plan,
- (c) to manage, in accordance with this Act, the investment of any assets of the Council,
- (d) to facilitate business enterprises, in accordance with this Act,
- (e) to grant funds for the payment of the costs and expenses of Local Aboriginal Land Councils (whether under funding agreements with Local Aboriginal Land Councils or otherwise).

(9) **Other functions prescribed by regulations**

The New South Wales Aboriginal Land Council has any other functions prescribed by the regulations.

107 Training

- (1) The New South Wales Aboriginal Land Council is to provide or arrange training, in accordance with the regulations, for the purpose of developing the capacity of the following persons to exercise functions under this Act or the regulations:
 - (a) councillors,
 - (b) Board members,
 - (c) members of staff of Aboriginal Land Councils.
- (2) The New South Wales Aboriginal Land Council is to prepare and implement a capacity development plan for the purposes of carrying out its functions under this section.
- (3) Regulations may be made for or with respect to requirements for a capacity development plan.

108 Community benefits schemes

- (1) The New South Wales Aboriginal Land Council has the following functions in relation to community benefits schemes:
 - (a) directly or indirectly, to provide community benefits under community benefits schemes,
 - (b) to supervise the community benefits schemes of Local Aboriginal Land Councils,
 - (c) to consider and approve the provision of community benefits schemes by or on behalf of Local Aboriginal Land Councils,
 - (d) to make grants or lend money to, or invest money for or on behalf of, Aboriginal persons,
 - (e) without limiting paragraph (a), to provide, acquire, construct, upgrade or extend residential accommodation for Aboriginal persons in the State,
 - (f) without limiting paragraph (a), with the approval of the Minister, to make grants or lend money to a funeral benefits scheme established for the benefit of Aboriginal persons,
 - (g) to maintain a register of approvals by the Council of community benefits schemes and to notify the Minister of any such approvals.
- (2) The New South Wales Aboriginal Land Council must ensure that any community benefits scheme under which community benefits are provided by it or on its behalf:

- (a) complies with this Act and the regulations, and
 - (b) is consistent with any applicable policy of the Council, and
 - (c) is consistent with the community, land and business plan of the Council, and
 - (d) is fair and equitable and administered in a responsible and transparent way, and
 - (e) will not prevent the Council from being able to meet its debts as and when they fall due.
- (3) The New South Wales Aboriginal Land Council may provide community benefits under a community benefits scheme to Aboriginal persons within the area of one or more Local Aboriginal Land Councils and may provide community benefits in conjunction with one or more Local Aboriginal Land Councils.

109 Social housing schemes

- (1) This section applies to a community benefits scheme in relation to the acquisition and provision by or on behalf of the New South Wales Aboriginal Land Council of residential accommodation for Aboriginal persons and to the construction, upgrading and extension of any such accommodation (a *social housing scheme*).
- (2) The New South Wales Aboriginal Land Council may provide benefits under a social housing scheme by using the services of another body or agency, or with the assistance of another body or agency.
- (3) The New South Wales Aboriginal Land Council must not provide benefits under a social housing scheme unless:
- (a) before the scheme commenced, it considered the likely impact of the scheme on the Council's overall financial position, and
 - (b) it is satisfied that the Council will be able to meet all the expenses of the scheme, including long term maintenance requirements.

110 Increased membership of Local Aboriginal Land Councils

- (1) The New South Wales Aboriginal Land Council must use its best endeavours to increase the total number of voting members of Local Aboriginal Land Councils in the State by not less than 3% per annum, for the 5 year period commencing at the beginning of the first financial year after the commencement of this section.

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- (2) The New South Wales Aboriginal Land Council is to include in its annual report a report on the steps taken to meet the target established under this section.

111 Trusts

- (1) The New South Wales Aboriginal Land Council may establish, or participate in the establishment of, a trust for the purpose of providing a community benefits scheme.
- (2) Regulations may be made for or with respect to financial and reporting obligations of trusts established by the New South Wales Aboriginal Land Council.

112 Duty of New South Wales Aboriginal Land Council not to transfer land or other assets to councillors, staff or consultants

- (1) The New South Wales Aboriginal Land Council must ensure that no part of the income or property of the Council is transferred directly or indirectly by way of dividend or bonus or otherwise by way of profit to councillors or any member of staff of, or consultant to, the Council.
- (2) Nothing in this section prevents:
- (a) the provision of a benefit in good faith to a councillor, member of staff or consultant in accordance with this Act, or
 - (b) the payment in good faith of remuneration to any such councillor, member of staff or consultant.

113 Policies relating to Aboriginal Land Council functions

- (1) The New South Wales Aboriginal Land Council may prepare and implement policies about the following matters:
- (a) the contents, preparation and approval of community, land and business plans of Local Aboriginal Land Councils,
 - (b) land dealings by Aboriginal Land Councils, including assessment and approval of land dealings,
 - (c) business enterprises and investments of Aboriginal Land Councils, including assessment and approval of business enterprises and investments,
 - (d) the provision of training to members of staff, Board members and councillors,
 - (e) community benefits schemes,
 - (f) financial and reporting requirements for Aboriginal Land Councils,

- (g) fees for assessments conducted by the Council,
 - (h) any other matters prescribed by the regulations.
- (2) Without limiting subsection (1), a policy relating to community benefits schemes that provide residential accommodation is to include criteria for determining applications for approval that have been determined after consultation with the Aboriginal Housing Office.
 - (3) The New South Wales Aboriginal Land Council must review all of its policies every 5 years.
 - (4) The New South Wales Aboriginal Land Council must make copies of its policies publicly available.

114 Procedure for making policies

- (1) Before the New South Wales Aboriginal Land Council adopts a policy it must:
 - (a) refer the policy to each Local Aboriginal Land Council for comment, and
 - (b) consider any submissions made by any Local Aboriginal Land Council within 30 days of the referral of the policy, and
 - (c) obtain the approval of the Minister to the policy.
- (2) A policy takes effect on its publication in the Gazette or on a later day specified in the policy.
- (3) A policy may be amended or revoked in the same way as a policy may be made.

115 New South Wales Aboriginal Land Council may give other Councils directions regarding certain matters

- (1) The New South Wales Aboriginal Land Council may give directions to Local Aboriginal Land Councils with respect to the following:
 - (a) the form, contents and method of preparation of community, land and business plans,
 - (b) the keeping of records (including records relating to land and other assets),
 - (c) any other matters prescribed by the regulations.
- (2) A Local Aboriginal Land Council must comply with a direction given under this section.

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- (3) A direction must not be inconsistent with this Act or the regulations or any applicable policy of the New South Wales Aboriginal Land Council.

116 Delegation by New South Wales Aboriginal Land Council

- (1) The New South Wales Aboriginal Land Council may delegate to the Chief Executive Officer or any other person or body (not including another member of staff of the Council) any of the functions of the Council, other than the following:
- (a) the administration of the New South Wales Aboriginal Land Council Account and the Mining Royalties Account established under this Act,
 - (b) the granting of funds for the payment of the costs and expenses of Local Aboriginal Land Councils and advisory committees of the Council,
 - (c) the acquisition of land on the Council's behalf, or on behalf of a Local Aboriginal Land Council, and the transfer of such land to a Local Aboriginal Land Council and the use, management, control, holding or disposal of, or otherwise dealing with, land vested in or acquired by the Council,
 - (d) the negotiation of the acquisition by the Council, or by one or more Local Aboriginal Land Councils, of land of cultural significance to Aboriginal persons that is listed in Schedule 14 to the NPW Act and the lease of that land to the Minister administering that Act,
 - (e) the negotiation of the lease by the Council, or by one or more Local Aboriginal Land Councils, of land to which section 36A applies to the Minister administering the NPW Act,
 - (f) the determination and approval of terms and conditions of agreements proposed by Local Aboriginal Land Councils to allow mining or mineral exploration on land,
 - (g) approval of community, land and business plans,
 - (h) advising the Minister on matters relating to Aboriginal land rights,
 - (i) this power of delegation,
 - (j) any function under this or any other Act that is expressly required to be exercised by resolution of the Council.
- (2) The New South Wales Aboriginal Land Council must, once every year, review all of its delegations.

117 Rules of the New South Wales Aboriginal Land Council

- (1) The purpose of this section is to provide rules for the New South Wales Aboriginal Land Council relating to the Council's functions and operations.
- (2) The rules prescribed by the regulations as model rules are the rules for the New South Wales Aboriginal Land Council.
- (3) However, the New South Wales Aboriginal Land Council may prepare its own rules and submit them to the Registrar for approval.
- (4) On approval by the Registrar, the rules prepared by the New South Wales Aboriginal Land Council, to the extent that they are not inconsistent with this Act or the regulations, become the rules of the Council to the exclusion of the model rules.
- (5) The New South Wales Aboriginal Land Council's rules may, with the approval of the Registrar, be amended, repealed or replaced from time to time.
- (6) The New South Wales Aboriginal Land Council may appeal to the Court against the Registrar's refusal to approve of rules or to approve of an amendment, a repeal or a replacement of its rules.
- (7) On the hearing of an appeal under subsection (6), the Court may direct the Registrar to approve of rules, or an amendment, a repeal or a replacement of rules, specified in the direction.

118 Advisory committees

- (1) The New South Wales Aboriginal Land Council may from time to time appoint such advisory committees as the Council considers appropriate for the purpose of advising the Council, carrying out consultations with Aboriginal persons or facilitating discussion about issues arising under this Act.
- (2) An advisory committee has such functions as the Council may from time to time determine in respect of it.
- (3) An advisory committee consists of such persons appointed by the Council as the Council thinks fit.
- (4) A committee member holds office for such period as is specified in the instrument of appointment of the committee member, but any such appointment may be terminated by the Council at any time.
- (5) One of the committee members, in and by the instrument of appointment of the committee member, is to be appointed as chairperson of the committee.

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- (6) The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings is to be as determined by the Council or (subject to any determination of the Council) by the committee.
 - (7) A committee member is entitled to be paid such travelling and other allowances as the Minister may from time to time determine in respect of the committee member.

119 Approvals

- (1) The New South Wales Aboriginal Land Council may impose conditions on any approval given by the Council under this Act.
- (2) Without limiting subsection (1), an approval may impose a time within which a condition must be complied with.
- (3) A Local Aboriginal Land Council must comply with the conditions of an approval given to the Council by the New South Wales Aboriginal Land Council.
- (4) The New South Wales Aboriginal Land Council may revoke an approval given by the Council under this Act.

Division 3 Councillors of NSW Aboriginal Land Council

120 Membership of New South Wales Aboriginal Land Council

- (1) The New South Wales Aboriginal Land Council is to consist of an Aboriginal councillor elected for each Region.
- (2) The councillors (other than the Chairperson of the Council) are to be full-time.
- (3) Subject to this Act, a councillor holds office for a period beginning on the councillor's election and expiring:
 - (a) on the councillor's election for another term, or
 - (b) on the election of the councillor's successor.
- (4) A councillor is eligible (if otherwise qualified) for re-election.
- (5) A councillor is entitled to be paid remuneration in accordance with the *Statutory and Other Offices Remuneration Act 1975*.
- (6) A councillor is entitled to be paid such travelling and other allowances as the Minister may from time to time determine in respect of the councillor.
- (7) Part 3 of Schedule 3 has effect. The regulations may prescribe additional requirements for or with respect to meetings.

121 Election of councillors

- (1) Each councillor is to be elected in the manner specified in this Division to represent a Region.
- (2) The regulations may make provision for or with respect to the election of councillors.
- (3) The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner, is to be the returning officer for elections of councillors.
- (4) A person is not qualified to stand for election, or to be elected, as a councillor representing a Region unless the person is a voting member of a Local Aboriginal Land Council the area of which is within the Region.
- (5) A person is entitled to vote at an election for a councillor to represent a Region if the person is a voting member of a Local Aboriginal Land Council the area of which is within the Region.
- (6) A person is only entitled to cast his or her vote in respect of the Local Aboriginal Land Council area in which the person has voting rights.

122 Timing of elections

- (1) Elections of all councillors are to be held:
 - (a) not sooner than 3 years and 9 months, and
 - (b) not later than 4 years and 3 months, after the previous election of all councillors.
- (2) The Minister, in consultation with the New South Wales Aboriginal Land Council, is in accordance with this section to determine a date for the election of all councillors and is to notify the returning officer of that date.

123 Declaration of election

If the returning officer for an election of councillors is advised by a regional electoral officer that the result of the counting of votes is that a candidate has been elected, the returning officer must immediately publicly declare the candidate elected as a councillor.

124 Councillors pending determination of disputed return

- (1) Section 123 applies even if the election of the candidate (or of any other candidate in the election) is the subject of an application under section 125 disputing the validity of the election of the candidate.
- (2) A candidate who is publicly declared elected as a councillor by the returning officer holds that office until the determination of any proceedings disputing the validity of the election of the candidate.
- (3) A candidate referred to in subsection (2) is taken to hold office, and is competent to carry out all the functions and duties of a duly elected councillor, from the date on which the returning officer declares the candidate elected, until:
 - (a) the Court hearing an application under section 125 disputing the validity of the election of the candidate determines otherwise, or
 - (b) the term of office of the councillor expires or becomes vacant,whichever is the earlier.
- (4) The New South Wales Aboriginal Land Council in which a candidate referred to in subsection (2) holds office is not invalidly constituted for that reason.

125 Method of disputing elections and returns

- (1) The validity of an election for a councillor to represent a Region, or of any return or statement showing the voting in any such election, may be disputed by an application to the Court, and not otherwise.
- (2) Any person may make an application to the Court under this section within 28 days after the returning officer has publicly declared the result of the election that is the subject of the application.
- (3) In determining an application under this section, the Court has the same powers as are conferred by section 161 of the *Parliamentary Electorates and Elections Act 1912* on the Court of Disputed Returns.
- (4) The returning officer is entitled to be represented at the hearing of an application under this section.

126 Procedure

- (1) The procedure of the Court on an application under section 125 is to be determined by rules of Court, or in the absence of rules of Court, by the Court or a Judge of the Court.
- (2) The Court is not bound by the rules or practice of evidence and can inform itself on any matter in such manner as it considers appropriate.
- (3) Despite section 125 (3), the Court may make an order for costs in respect of an application under section 125 only if the Court is satisfied that there are exceptional circumstances that warrant the making of such an order.

127 Immaterial errors not to invalidate election

- (1) An election of councillors of the New South Wales Aboriginal Land Council, or any return or statement showing the voting in an election, is not invalid because of:
 - (a) any delay in taking the votes of the electors or in making any statement or return, or
 - (b) the absence of any officer, or
 - (c) the error or omission of any officer,that could not have affected the result of the election.
- (2) If a person was prevented from voting in an election because of the absence of any officer, or the error or omission of any officer, the Court must not admit any evidence of the way the person intended to vote in order to determine whether or not the absence, error or omission could have affected the result of the election.

128 Decisions to be final

- (1) A decision of the Court in respect of an application under section 125 is final and conclusive and without appeal, and is not to be questioned in any way.
- (2) Section 58 of the *Land and Environment Court Act 1979* does not apply to any such decision of the Court.

129 Chairperson and Deputy Chairperson

- (1) The councillors of the New South Wales Aboriginal Land Council are to elect a Chairperson and a Deputy Chairperson at the first meeting of the Council following the election of councillors.

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- (2) The Chairperson and Deputy Chairperson are to hold office for a term of 2 years and are eligible (if otherwise qualified) for re-election.
 - (3) The Deputy Chairperson is to act in the office of Chairperson during the illness or absence of the Chairperson, and the Deputy Chairperson while so acting, has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.

130 Role of councillors of NSW Aboriginal Land Council

- (1) The role of a councillor is, as a member of the governing body of the Council:
 - (a) to direct and control the affairs of the Council in accordance with this Act, and
 - (b) to participate in the allocation of the Council's resources for the benefit of Aboriginal people, and
 - (c) to participate in the creation and review of the Council's policies and objectives, and
 - (d) to review the performance of the Council in the exercise of its functions and the achievement of its objectives.
- (2) The role of a councillor is, in addition:
 - (a) to represent the interests and respond to the concerns of Local Aboriginal Land Council members, and
 - (b) to facilitate communication between the Local Aboriginal Land Council members and the New South Wales Aboriginal Land Council.

131 Training for councillors

- (1) The New South Wales Aboriginal Land Council must arrange training in relation to the matters prescribed by the regulations for each councillor elected for the first time to the Council.
- (2) The training is to be provided not later than 6 months after the date of election of the councillor.
- (3) A councillor must not refuse or fail to undergo training provided under this section when required to do so by the New South Wales Aboriginal Land Council.
- (4) If a councillor refuses or fails to undergo training provided under this section when required to do so by the New South Wales Aboriginal Land Council, the councillor is, on written notice being given to the councillor by the Council, suspended from office as a councillor until the person undergoes the training.

- (5) The New South Wales Aboriginal Land Council may:
- (a) exempt a councillor wholly or partly from the requirement to undergo training provided under this section, if the Council is satisfied that the councillor already has sufficient expertise, skills and experience to carry out his or her functions as a councillor, or
 - (b) extend the period within which training is to be provided to a councillor under this section.

Division 4 Removal from office

132 Grounds for disqualification from office

- (1) A person is disqualified from holding office as a councillor of the New South Wales Aboriginal Land Council if the person:
- (a) has a conviction in New South Wales or elsewhere for an offence relating to the management of a corporation that was recorded within the last 5 years, or
 - (b) has a conviction for an offence under this Act that was recorded within the last 5 years, or
 - (c) has a conviction in New South Wales for any other offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable that was recorded within the last 5 years, or
 - (d) is a mentally incapacitated person, or
 - (e) is or becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (f) is or was a director or person concerned in the management of a body corporate that is the subject of a winding up order or for which a controller or administrator has been appointed under the *Corporations Act 2001* of the Commonwealth during the previous 3 years, or
 - (g) is disqualified from holding office in or being concerned in the management of a corporation under any law of this or any other State or Territory or the Commonwealth, or
 - (h) is an employee of, or a consultant to, the Council, or
 - (i) in the case of a councillor, engages in other paid employment, or

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- (j) was, on 2 or more occasions before an administrator was appointed to the Council, an officer of the Council, or
 - (k) fails, without a reasonable excuse, for a period of 3 months or more to comply with a written requirement by the Council to undergo training under section 125, or
 - (l) is disqualified from being a Board member, other than on the ground that the person is a councillor.
- (2) The Registrar may determine that an offence committed by a person should be ignored for the purposes of this section because of the time that has passed since the offence was committed or because of the triviality of the acts or omissions giving rise to the offence.
- (3) The Registrar may determine that a person is not disqualified on the ground set out in subsection (1) (j) if the Registrar is satisfied that it is appropriate in the circumstances that the person not be disqualified on that ground.

133 Vacancy in office

A person who is a councillor of the New South Wales Aboriginal Land Council vacates office if the person:

- (a) dies, or
- (b) is absent from 2 consecutive meetings of the Council of which reasonable notice has been given to the person personally or by post, except on leave granted by the Council or unless the person is excused by the Council for having been absent from those meetings, or
- (c) completes a term of office and is not re-elected, or
- (d) resigns the office by instrument in writing addressed to the Council, or
- (e) becomes disqualified from holding office as a councillor under this Act, or
- (f) represents a Region the area of which is changed.

134 Casual vacancy

A person is to be appointed in accordance with the regulations to fill a casual vacancy in the office of a councillor for the remainder of the term of office.

135 ADT may declare particular offices of New South Wales Aboriginal Land Council vacant (cf section 329 of Local Government Act 1993)

- (1) Any person may apply to the Administrative Decisions Tribunal for an order declaring that a particular office of a councillor has become vacant under this Act.
- (2) The Tribunal may award costs under section 88 of the *Administrative Decisions Tribunal Act 1997* in respect of proceedings commenced by an application made under this section.

136 Appeals to Supreme Court against order (cf section 330 of Local Government Act 1993)

- (1) A person whose office has been declared vacant by order of the Administrative Decisions Tribunal may appeal against the order, on a question of law, to the Supreme Court.
- (2) Such an appeal may not be made more than 28 days after the date on which the order is made.

137 Effect of order declaring vacancy (cf section 331 of Local Government Act 1993)

An order declaring a vacancy in an office made by the Administrative Decisions Tribunal under this Division takes effect:

- (a) if no appeal to the Supreme Court is made against the order, at the end of the period during which such an appeal may be made, or
- (b) if such an appeal is made within that period and the order is confirmed on appeal, when the order is confirmed, or
- (c) if, within that period, the person against whom the order is made serves on the Chief Executive Officer of the New South Wales Aboriginal Land Council written notice of intention not to appeal against the order, when the notice is lodged.

Division 5 Community, land and business plans

137A Community, land and business plans

- (1) The New South Wales Aboriginal Land Council must prepare and implement a community, land and business plan.
- (2) The Council when preparing a community, land and business plan must consult with the following persons:

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- (a) persons who have a cultural association with land within the State,
 - (b) any other persons required to be consulted by the regulations or a policy of the Council.
- (3) The New South Wales Aboriginal Land Council may amend a community, land and business plan.
- (4) The provisions of this Division apply to any proposed amendment in the same way as they apply to the preparation and approval of a plan.
- (5) For the purposes of this section, a person has a cultural association with land if the person is an Aboriginal owner or a person of a class prescribed by the regulations for the purposes of this subsection.

137B Matters covered by plans

- (1) A community, land and business plan of the New South Wales Aboriginal Land Council must contain the following matters:
- (a) the objectives and strategy of the Council for the acquisition, management and development of land and other assets,
 - (b) the objectives and strategy of the Council for the provision and management of community benefits schemes,
 - (c) the objectives and strategy of the Council for carrying out business enterprises and investment,
 - (d) the objectives and strategy of the Council in relation to Aboriginal culture and heritage,
 - (e) if the plan contains particular proposals related to the strategies in paragraph (a), (b) or (c), strategies for the development or acquisition of human resources and skills to implement the proposals,
 - (f) timelines for the achievement of proposed strategies and proposals in the plan,
 - (g) particulars of the assets and liabilities of the Council,
 - (h) any matter required to be included by a policy of the Council,
 - (i) any other matter prescribed by the regulations.
- (2) A community, land and business plan must contain the following matters in relation to land:

- (a) the identity, and particulars of any encumbrance affecting, any parcel of land of the Council,
- (b) the particulars of any other interest in land of the Council,
- (c) whether, and what, land is subject to the restriction contained in section 40AA or to Part 4A of the NPW Act,
- (d) any conditions affecting land of the Council under section 36 or 39,
- (e) any other matters prescribed by the regulations.

137C Approval of community, land and business plans

- (1) A community, land and business plan is adopted by the New South Wales Aboriginal Land Council if it is approved by a meeting of the Council, of which not less than 14 days notice was given.
- (2) The Chief Executive Officer of the New South Wales Aboriginal Land Council must make available to its councillors, on request, for a period of not less than 14 days before any such meeting and at the meeting, a summary of the proposed community, land and business plan or a copy of the plan.
- (3) The summary is to contain the matters prescribed by the regulations.
- (4) More than one meeting may be called to enable approval of a community, land and business plan.
- (5) The New South Wales Aboriginal Land Council must not approve a community, land and business plan unless it is satisfied that the plan complies with this Act and the regulations and is consistent with any applicable policy of the Council.
- (6) A community, land and business plan takes effect when it is approved by the New South Wales Aboriginal Land Council.
- (7) A community, land and business plan has effect for the period (not exceeding 5 years) specified in the plan or until it is replaced, whichever occurs first.
- (8) Failure to comply with a requirement of this Division for the preparation or approval of a community, land or business plan does not affect the validity of the plan.

137D Administration may follow plan failure

- (1) A failure by the New South Wales Aboriginal Land Council to approve a proposed community, land and business plan within 3 months after the plan is first referred to a meeting of the Council

for approval is, for the purposes of section 223, a ground that justifies the appointment of an administrator (without any requirement for a report referred to in section 223 (3)).

- (2) A substantial failure by the New South Wales Aboriginal Land Council to comply with its community, land and business plan is, for the purposes of section 223, a ground that justifies the appointment of an administrator (without any requirement for a report referred to in section 223 (3)).

[48] Section 138A

Insert after section 138:

138A Certain persons must not be employed as Chief Executive Officer

- (1) The following persons must not be or continue to be employed as the Chief Executive Officer of the New South Wales Aboriginal Land Council:
- (a) a person who is a Board member or a councillor,
 - (b) a person who has a conviction in New South Wales or elsewhere for an offence relating to the management of a corporation that was recorded within the last 5 years,
 - (c) a person who has a conviction in New South Wales for any offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable that was recorded within the last 5 years,
 - (d) a person who is disqualified from holding office in or being concerned in the management of a corporation under any law of this or any other State or Territory or the Commonwealth,
 - (e) a person who has an interest in, or is an employee of or concerned in the management of, a corporation that receives a benefit from the Council,
 - (f) a person who is already engaged as a consultant to the Council,
 - (g) a person who is a member of staff of a Local Aboriginal Land Council,
 - (h) a person who has been dismissed on the recommendation of the Pecuniary Interest and Disciplinary Tribunal within the last 5 years,

- (i) a person who is disqualified under this Act from being a Board member or a councillor (other than on the grounds of employment by the Council or ceasing to be a voting member of a Local Aboriginal Land Council).
- (2) The Registrar may determine that an offence committed by a person should be ignored for the purposes of this section because of the time that has passed since the offence was committed or because of the triviality of the acts or omissions giving rise to the offence.

[49] Section 141 Filling of vacancy in position of Chief Executive Officer

Omit section 141 (2) (e). Insert instead:

- (e) becomes a person who is not eligible to continue to be employed on a ground referred to in section 138A, or

[50] Section 141A

Insert after section 141:

141A Delegations by Chief Executive Officer

- (1) The Chief Executive Officer may delegate to any person or body any of the functions of the Chief Executive Officer, other than this power of delegation.
- (2) The Chief Executive Officer may sub-delegate a function delegated to the Chief Executive Officer by the New South Wales Aboriginal Land Council to any person or body (including another member of staff of the Council).

[51] Section 142 Staff organisation structure

Omit section 142 (1) (a) (ii).

[52] Section 143A

Insert after section 143:

143A Vacancies to be advertised

- (1) If it is proposed to make an appointment to a vacant position in the staff of the New South Wales Aboriginal Land Council, the Chief Executive Officer must advertise the vacancy in the manner prescribed by the regulations.
- (2) The Chief Executive Officer need not advertise a vacant position if the Registrar approves.

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- [53] **Part 7, Division 11**
Omit the Division.
- [54] **Section 149 NSW Aboriginal Land Council Account**
Omit “Regional Aboriginal Land Councils” from section 149 (3) (a).
Insert instead “advisory committees”.
- [55] **Section 149 (4) (a)**
Omit “the councillors and”.
- [56] **Section 149 (4) (b) and (c)**
Omit section 149 (4) (b). Insert instead:
- (b) the cost of the election of councillors (including the costs incurred by the Electoral Commissioner for New South Wales), and
 - (c) the payment of amounts for travelling and other allowances to Board members and remuneration and allowances to councillors.
- [57] **Section 151 Regional Aboriginal Land Council Accounts**
Omit the section.
- [58] **Section 153 Local Aboriginal Land Councils to keep accounts**
Omit “and each Regional Aboriginal Land Council” from section 153 (1).
- [59] **Section 153 (2A)**
Insert after section 153 (2):
- (2A) Section 41BA of the *Public Finance and Audit Act 1983* applies to financial statements required to be prepared under this section in the same way that it applies to financial reports required to be prepared under that Act.
- [60] **Section 153 (4)**
Omit “10 weeks”. Insert instead “6 weeks”.
- [61] **Section 154 Regulations may set requirements to judge satisfactory financial statements**
Omit “criteria by which”.
Insert instead “the requirements that must be met by audited financial statements and other documents”.

[62] Section 154

Omit “or Regional”.

[63] Section 155 Local Aboriginal Land Councils may request special auditor

Omit “or Regional” wherever occurring.

[64] Section 158 Budget of Local Aboriginal Land Councils

Omit “and Regional” from section 158 (1).

[65] Section 158 (2)

Omit “or Regional”.

[66] Section 158 (3)

Omit the subsection. Insert instead:

- (3) The budget prepared and submitted under this section is to include details of a Council’s proposed operations, including operations to be funded by persons or bodies other than the New South Wales Aboriginal Land Council, and is to contain any matters prescribed by the regulations.

[67] Section 159

Omit the section. Insert instead:

159 Quarterly and six monthly reports by New South Wales Aboriginal Land Council

- (1) The New South Wales Aboriginal Land Council must, if directed to do so by the Minister, prepare and submit to the Minister within 10 weeks after the end of each quarter of each financial year a report specifying:
 - (a) the amounts of funds granted during the quarter by that Council to Local Aboriginal Land Councils and the purposes for which the funds were granted, and
 - (b) whether the Local Aboriginal Land Councils concerned have complied with the financial obligations imposed by this Part in relation to those grants.
- (2) The New South Wales Aboriginal Land Council must prepare and submit to the Minister within 10 weeks after the end of each 6-month period ending on 30 June and 31 December in each year a report specifying:

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- (a) the amounts of funds granted during the 6-month period by that Council to Local Aboriginal Land Councils and the purposes for which the funds were granted, and
 - (b) whether the Local Aboriginal Land Councils concerned have complied with the financial obligations imposed by this Part in relation to those grants.
- (3) The regulations may prescribe the form and content of such reports.

[68] Section 160 NSW Aboriginal Land Council may give other Councils directions regarding accounting

Omit “and Regional” from section 160 (1).

[69] Section 160 (1) (b)

Omit “and quarterly reports”.

[70] Section 160 (2)

Omit “or Regional”.

[71] Sections 161 and 165 (c)

Omit “and Regional” wherever occurring.

[72] Part 8, Division 3, heading

Omit “and Regional”.

[73] Section 162 Funding agreements

Omit “or Regional” wherever occurring in section 162 (1) and (2).

[74] Section 163 Cessation of funding

Omit “or Regional” wherever occurring.

[75] Section 165 Functions of Registrar

Omit “Regional Aboriginal Land Council areas and the changing of names of Regional Aboriginal Land Councils” from section 165 (e).

Insert instead “Regions and the changing of names of Regions”.

[76] Section 165 (g)

Omit “administration of Aboriginal Land Councils”.

Insert instead “operation of this Act and the regulations”.

[77] Section 165 (h)

Insert “, misbehaviour by councillors, Board members and members of staff of, and consultants to, Aboriginal Land Councils” after “pecuniary interests”.

[78] Section 165 (h1)

Insert after section 165 (h):

- (h1) at the request of the Minister, to provide to the Minister information as to the operations of an Aboriginal Land Council,

[79] Section 165A

Insert after section 165:

165A Delegation

The Registrar may delegate the exercise of any function of the Registrar under this Act (other than this power of delegation) to:

- (a) any member of staff of the Department of Aboriginal Affairs, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

[80] Section 176 Conduct of councillors, Board members and staff of Aboriginal Land Councils

Omit section 176 (1). Insert instead:

- (1) Every councillor, Board member and member of staff of an Aboriginal Land Council or an advisory committee, must:
 - (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, and
 - (b) act for a proper purpose in carrying out his or her functions under this or any other Act, and
 - (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.

[81] Section 177 Codes of conduct

Omit “and Regional” from section 177 (1).

[82] Section 177 (5) (a)

Omit “an officer or Regional or Alternate Representative”.

Insert instead “a Board member”.

[83] Section 177 (5) (b)

Omit the paragraph.

[84] Section 178 Establishment of Pecuniary Interest and Disciplinary Tribunal

Omit “Aboriginal Land Councils Pecuniary Interest Tribunal”.

Insert instead “Aboriginal Land Councils Pecuniary Interest and Disciplinary Tribunal”.

[85] Part 10, Division 3A

Insert after Division 3:

Division 3A Misbehaviour

181A Interpretation (cf section 440F of Local Government Act 1993)

(1) In this Division:

member of staff means a member of staff of, or a consultant to, an Aboriginal Land Council.

misbehaviour of a person means any of the following:

- (a) a contravention by the person of this Act or the regulations,
- (b) a failure by the person to comply with an applicable code of conduct,
- (c) if the person is a councillor or a Board member—an act of disorder committed by a councillor at a meeting of the New South Wales Aboriginal Land Council or by a Board member at a meeting of the Board or of the Local Aboriginal Land Council,

but does not include a contravention of the disclosure requirements of Division 4.

(2) A reference in this Division to *misbehaviour* or an *incident of misbehaviour* includes a reference to misbehaviour that consists of an omission or failure to do something.

181B Formal censure for misbehaviour (cf section 440G of Local Government Act 1993)

- (1) The New South Wales Aboriginal Land Council may by resolution at a meeting formally censure a councillor or a member of staff of the Council for misbehaviour.
- (2) A Local Aboriginal Land Council or a Board of a Council may by resolution at a meeting formally censure a Board member or member of staff of the Council for misbehaviour.
- (3) A formal censure resolution may be passed only if the Council or Board is satisfied that the person has misbehaved on one or more occasions.
- (4) The Council or Board must specify in the formal censure motion the grounds on which it is satisfied that the person should be censured.

181C Process for initiating suspension or other action (cf section 440H of Local Government Act 1993)

- (1) The process for the suspension of, or taking action against, a person is initiated by:
 - (a) a request made by the New South Wales Aboriginal Land Council or Local Aboriginal Land Council or Board by resolution communicated to the Registrar, in which the Council or Board states its belief that grounds may exist that warrant a councillor's or Board member's expulsion or action being taken against a member of staff of the Council concerned, or
 - (b) a request made by the Registrar to the Council or Board for a report from the Council or Board in relation to a councillor's or Board member's or member of staff's alleged misbehaviour, or
 - (c) a report made by the Ombudsman in which the Ombudsman states that the Ombudsman is satisfied that grounds exist that warrant the councillor's or Board member's suspension or action being taken against a member of staff, or
 - (d) a report made by the Independent Commission Against Corruption in which the Commission recommends that consideration be given to suspending a councillor or Board member or taking action against a member of staff under this Division.

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- (2) The Council or Board must make a report to the Registrar requested under subsection (1) (b) before the date specified in the Registrar's request or any later date allowed by the Registrar.
 - (3) This section authorises such requests and reports to be made, and a reference in this section to a report made by the Independent Commission Against Corruption or the Ombudsman is a reference to a report made to the Registrar under the authority of this subsection or under any other provisions of this or any other Act.
 - (4) Nothing in this section affects any function under any other provision of this or any other Act that authorises the making of a report or recommendation concerning suspension of a councillor or Board member or taking action against a member of staff.

181D Grounds on which a person may be suspended or action taken
(cf section 440I of Local Government Act 1993)

- (1) The grounds on which a councillor or Board member may be suspended from office or action taken against a member of staff under this Division are as follows:
 - (a) the person's behaviour has:
 - (i) been disruptive over a period, and
 - (ii) involved more than one incident of misbehaviour during that period,and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the person's suspension or the action being taken,
 - (b) the person's behaviour has involved one incident of misbehaviour that is of such a nature as to warrant the person's suspension or the action being taken.
- (2) The process for the suspension of or taking other action against a person cannot be initiated by a request made by an Aboriginal Land Council or a Board unless:
 - (a) where subsection (1) (a) applies—the person has:
 - (i) on 2 or more occasions been formally censured for incidents of misbehaviour that occurred during the period concerned, or
 - (ii) in the case of a councillor or Board member—on at least one occasion been expelled from a meeting of the Council or Board for an incident of misbehaviour during the period concerned, or

- (b) where subsection (1) (b) applies—the person has:
 - (i) been formally censured for the incident of misbehaviour concerned, or
 - (ii) in the case of a councillor or Board member—been expelled from a meeting of the Council or Board for the incident of misbehaviour concerned.
- (3) Subsection (2) does not affect the Registrar’s power to initiate the process for the suspension of a person or to take action against a member of staff.
- (4) Furthermore, subsection (2) does not prevent the Registrar from initiating the process for the suspension of a person as a result of a request or report referred to in section 181C.

181E How requests and reports are to be dealt with (cf section 440J of Local Government Act 1993)

- (1) The Registrar may conduct an investigation into any or all of the matters raised by or connected with a request or report referred to in section 181C or authorise an investigator referred to in section 216 to conduct such an investigation and to prepare a report into those matters.
- (2) The conduct of an investigation by the Registrar or the preparation of a report by an investigator is a prerequisite to a decision by the Registrar to suspend the councillor or Board member from office or take action against a member of staff, but is not necessary if the Independent Commission Against Corruption or the Ombudsman states in a report that the Commission or Ombudsman is satisfied that grounds exist that warrant the person’s suspension or action being taken.

181F Suspension by Registrar for misbehaviour (cf section 440K of Local Government Act 1993)

- (1) The Registrar may by order in writing suspend a councillor or Board member from office for a period not exceeding 3 months:
 - (a) if the Registrar has conducted an investigation or considered an investigator’s report into the matters concerned and is satisfied that grounds exist that warrant the person’s suspension, or
 - (b) if the Independent Commission Against Corruption or the Ombudsman states in a report that the Commission or Ombudsman is satisfied that grounds exist that warrant the councillor’s or Board member’s suspension.

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- (2) A copy of the order must be served on the councillor or Board member.
 - (3) A councillor or Board member, while suspended from office under this section:
 - (a) is not entitled to exercise any functions of the office, and
 - (b) is not entitled to any fee or other remuneration to which he or she would otherwise be entitled as the holder of the office.

181G When suspension order takes effect (cf section 440L of Local Government Act 1993)

The period of suspension under an order made by the Registrar commences on the date 7 days after the service of the order on the councillor or Board member or the date specified in the order for the commencement of the period of suspension, whichever is the later.

181H Appeals against suspension (cf section 440M of Local Government Act 1993)

- (1) A councillor or Board member against whom an order of suspension is made by the Registrar may appeal against the order to the Pecuniary Interest and Disciplinary Tribunal.
- (2) Such an appeal may not be made more than 28 days after the date the order was served on the councillor.
- (3) The Tribunal may stay the order of suspension until such time as the Tribunal determines the appeal.
- (4) The Tribunal may:
 - (a) confirm the order, or
 - (b) quash the order, or
 - (c) amend the order consistently with the powers of the Registrar.
- (5) If the order is quashed, any fee or other remuneration withheld is payable to the councillor or Board member.
- (6) If the order is amended, the order as amended has effect as if it had been made in that form by the Registrar.
- (7) The regulations may make provision for or with respect to the making, hearing and determination of appeals under this section.

181I Actions by Registrar against members of staff for misbehaviour

- (1) The Registrar may take action under this section in relation to a member of staff:
 - (a) if the Registrar has conducted an investigation or considered an investigator's report into the matters concerned and is satisfied that grounds exist that warrant the action, or
 - (b) if the Independent Commission Against Corruption or the Ombudsman states in a report that the Commission or Ombudsman is satisfied that grounds exist that warrant the taking of action.
- (2) The Registrar may:
 - (a) counsel the member of staff, or
 - (b) reprimand the member of staff, or
 - (c) recommend that the Council take disciplinary action against the member of staff (including counselling or reprimanding the member of staff), or
 - (d) recommend dismissal of the member of staff.

181J Appeals against action against members of staff

- (1) A member of staff against whom a decision is made by the Registrar to take action may appeal against the decision to the Pecuniary Interest and Disciplinary Tribunal.
- (2) Such an appeal may not be made more than 28 days after the date notice of the decision was served on the member of staff.
- (3) The Tribunal may stay the decision until such time as the Tribunal determines the appeal.
- (4) The Tribunal may:
 - (a) confirm the decision, or
 - (b) quash the decision, or
 - (c) amend the decision consistently with the powers of the Registrar.
- (5) If the decision is amended, the decision as amended has effect as if it had been made in that form by the Registrar.
- (6) The regulations may make provision for or with respect to the making, hearing and determination of appeals under this section.

181K Referral of matters to Pecuniary Interest and Disciplinary Tribunal

(cf section 440N of Local Government Act 1993)

- (1) The Registrar may refer a matter that is the subject of a request or report referred to in section 181C for consideration by the Pecuniary Interest and Disciplinary Tribunal instead of suspending the councillor or Board member or taking action against the member of staff concerned under this Division.
- (2) However, a matter that is the subject of a request by an Aboriginal Land Council or Board may not be referred to the Tribunal unless the councillor or Board member concerned has previously been suspended or dealt with under this Division for misbehaviour.
- (3) The conduct of an investigation on the preparation and consideration of an investigator's report is not a prerequisite to a decision by the Registrar to refer a matter to the Tribunal, but the Registrar may take into consideration any such investigation or any investigator's report if one is prepared.
- (4) A matter is referred to the Tribunal under this section by means of a report presented to the Tribunal by the Registrar. A report may contain or be accompanied by such material and observations as the Registrar thinks fit.
- (5) The regulations may make provision for or with respect to the reference of matters to the Tribunal under this section.

181L Alternatives to suspension or referral to Pecuniary Interest and Disciplinary Tribunal (cf section 440O of Local Government Act 1993)

- (1) The Registrar may, after conducting an investigation or considering a request or report made under section 181C and any relevant investigation or investigator's report prepared under section 181E, decide to take no further action on the request or report, whether or not an investigation or a report by an investigator has been authorised, started or completed, if satisfied that no further action is warranted.
- (2) The Registrar may, at any time, exercise the power to issue a compliance direction to a councillor or Board member or member of staff under this Act.
- (3) The Registrar may, instead of suspending a councillor or Board member from office under this Division or taking action in relation to a member of staff or referring the matter to the Pecuniary Interest and Disciplinary Tribunal, refer the matter to the Aboriginal Land Council or Board of a Local Aboriginal Land Council with recommendations as to how the Council or

Board might resolve the matter, by alternative dispute resolution or otherwise.

181M Expenses to be borne by Aboriginal Land Councils (cf section 440P of Local Government Act 1993)

- (1) The Registrar may recover the reasonable expenses incurred by or in respect of the Registrar considering and dealing with a request made under section 181C, including the expenses of any investigation by the Registrar or an investigator and investigator's report into the matters raised by or connected with the request.
- (2) The Registrar may make a determination of the amount of the expenses referred to in subsection (1) and serve a notice requiring the amount so determined to be paid in recovery of the Registrar's expenses on:
 - (a) in the case of a councillor or a member of its staff—the New South Wales Aboriginal Land Council, or
 - (b) in the case of a Board member or a member of its staff—the Local Aboriginal Land Council.
- (3) An amount equal to the expenses as so determined is payable to the Registrar as a debt by the Council concerned, except as determined by the Minister.
- (4) The Council may apply to the Administrative Decisions Tribunal for a review of whether any part of the expenses so determined are not reasonable expenses.
- (5) The Registrar must give effect to any decision of that Tribunal on a review of the determination of the amount of the expenses.
- (6) A reference in this section to expenses incurred includes a reference to remuneration paid to the investigator.

181N Reasons to be given (cf section 440Q of Local Government Act 1993)

- (1) The Registrar is required to prepare a written statement of reasons for:
 - (a) imposing or deciding not to impose a period of suspension or taking or deciding not to take action in relation to a member of staff, or
 - (b) referring a matter to the Pecuniary Interest and Disciplinary Tribunal.
- (2) The statement of reasons is to be provided to the councillor, Board member or member of staff concerned.

1810 Other proceedings or actions not affected

Nothing in this Division affects or limits any proceedings or other action that may be taken in respect of a councillor, Board member or member of staff.

[86] Part 10, Division 5, Subdivisions 1 and 2, headings

Omit the headings.

[87] Part 10, Division 6, heading

Insert after section 197:

Division 6 Proceedings before the Pecuniary Interest and Disciplinary Tribunal

Subdivision 1 Proceedings relating to pecuniary interest matters

[88] Part 10, Division 6, Subdivision 2

Insert after section 199:

Subdivision 2 Proceedings relating to misbehaviour

199A Pecuniary Interest and Disciplinary Tribunal to decide whether or not to conduct proceedings into a referred matter relating to misbehaviour (cf section 470A of Local Government Act 1993)

- (1) After considering a report presented to it under section 181K in relation to a referred matter, the Pecuniary Interest and Disciplinary Tribunal may decide to conduct proceedings into the matter.
- (2) If the Pecuniary Interest and Disciplinary Tribunal decides not to conduct proceedings into a referred matter, it must provide a written statement of its decision, and the reasons for its decision:
 - (a) to the person to whom the report relates, and
 - (b) to the Council or Board concerned, and
 - (c) to the Registrar.
- (3) To avoid doubt, a decision by the Pecuniary Interest and Disciplinary Tribunal not to conduct proceedings is not a decision to which section 213 or 214 applies.
- (4) The Registrar is to be a party to any proceedings conducted by the Pecuniary Interest and Disciplinary Tribunal into a referred matter.

199B Circumstances in which Pecuniary Interest and Disciplinary Tribunal may dispense with hearing (cf section 470B of Local Government Act 1993)

- (1) After considering a report presented to it under section 181K and any other document or other material lodged with or provided to the Tribunal in relation to the report, the Pecuniary Interest and Disciplinary Tribunal may determine the proceedings without a hearing if:
 - (a) the Registrar and the person to whom the report relates have agreed that the proceedings may be determined without a hearing, and
 - (b) there are no material facts in dispute between the Registrar and person, and
 - (c) in the opinion of the Tribunal, public interest considerations do not require a hearing.
- (2) To avoid doubt, a decision by the Pecuniary Interest and Disciplinary Tribunal to determine proceedings in a referred matter without a hearing is not a decision to which section 213 or 214 applies.

Note. Section 213 requires the Pecuniary Interest and Disciplinary Tribunal to inform certain parties of decisions in proceedings before it.

Subdivision 3 General provisions

[89] Section 209 Release of information

Insert “in the case of a complaint—” before “direct” in section 209 (1) (b).

[90] Section 209 (1) (c)

Insert at the end of section 209 (1) (b):

, or

- (c) in the case of proceedings in relation to a matter referred to the Tribunal under section 181K—direct that all or any of the following matters are not to be published:
 - (i) the name and address of any witness,
 - (ii) the name and address of the person to whom the referred matter relates,
 - (iii) any specified evidence,
 - (iv) the subject-matter of the referred matter.

[91] Section 209 (3) (b)

Insert “, or the person to whom the referred matter relates” after “made”.

**[92] Section 211 Decision of Pecuniary Interest and Disciplinary Tribunal—
interest matters**

Omit “holding office in an Aboriginal Land Council” from section 211 (1) (d).

Insert instead “holding office as a councillor or a Board member”.

[93] Section 211A

Insert after section 211:

**211A Decision of Pecuniary Interest and Disciplinary Tribunal—
misbehaviour matters**

- (1) This section applies where a matter has been referred to the Pecuniary Interest and Disciplinary Tribunal under section 181K.
- (2) The Tribunal may, if it finds that the behaviour concerned of a councillor or Board member warrants action under this section:
 - (a) counsel the councillor or Board member, or
 - (b) reprimand the councillor or Board member, or
 - (c) suspend the councillor or Board member from office for a period not exceeding 6 months, or
 - (d) if the referral relates to a councillor who is an officer of the New South Wales Aboriginal Land Council, remove the councillor from that office, or
 - (e) disqualify the councillor or Board member from holding office as a councillor or Board member for a period not exceeding 5 years.
- (3) The Tribunal may, if it finds that the behaviour concerned of a member of staff of an Aboriginal Land Council warrants action under this section:
 - (a) counsel the member of staff, or
 - (b) reprimand the member of staff, or
 - (c) recommend that the Council take specified disciplinary action against the member of staff (including counselling or reprimanding the member of staff), or
 - (d) recommend the dismissal of the member of staff, or
 - (e) disqualify the member of staff from holding office in an Aboriginal Land Council for a period not exceeding 5 years.
- (4) In this section, *member of staff* has the same meaning as it has in Division 3A.

[94] Section 213 Pecuniary Interest and Disciplinary Tribunal to provide details of its decisions

Insert “(or to the relevant Aboriginal Land Council in the case of a matter that has been referred to the Tribunal under section 181K)” after “initial complaint” in section 213 (1).

[95] Section 214 Appeals to Supreme Court

Insert “, other than a decision of the Tribunal determining an appeal to the Tribunal under section 181H,” after “proceeding” where secondly occurring in section 214 (1).

[96] Section 216 Appointment of investigator into Aboriginal Land Councils

Omit “or Regional” wherever occurring in section 216 (2) and (5).

[97] Section 216 (2)

Insert “or on the recommendation of the Registrar with the approval of that Council” after “New South Wales Aboriginal Land Council”.

[98] Section 220 Minister may extend term of office of investigator

Omit “or Regional” from section 220 (2).

[99] Section 221 Minister may remove an investigator

Omit “or Regional” from section 221 (2).

[100] Section 221A

Insert after section 221:

221A Provision of information to Registrar and New South Wales Aboriginal Land Council

- (1) The Chairperson of an Aboriginal Land Council and any other person who has possession or control of any records of the Council must, if required to do so by the Registrar, provide the Registrar with:
 - (a) access to such of the records as relate to the operations of the Council requested by the Registrar, and
 - (b) information that the Chairperson or other person is able to give in relation to those records and operations, and
 - (c) authorities or orders on bankers and others that relate to those records or operations and that the Chairperson or other person is able to provide.

Maximum penalty (subsection (1)): 10 penalty units.

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- (2) The Chairperson of a Local Aboriginal Land Council and any other person who has possession or control of any records of the Council of the Council must, if required to do so by the New South Wales Aboriginal Land Council, provide the Council with:
- (a) access to such of the records as relate to the operations of the Local Aboriginal Land Council requested by the New South Wales Aboriginal Land Council, and
 - (b) information that the Chairperson or other person is able to give in relation to those records and operations, and
 - (c) authorities or orders on bankers and others that relate to those records or operations and that the Chairperson or other person is able to provide.

Maximum penalty (subsection (2)): 10 penalty units.

- (3) If a record:
- (a) is not in writing, or
 - (b) is not written in the English language, or
 - (c) is not decipherable on sight,
- a requirement to provide access to the record is not complied with unless access is provided to a statement, written in the English language and decipherable on sight, that contains all the information in the record.

[101] Section 222 Administrators—Local Aboriginal Land Councils

Omit “or Regional” from section 222 (1).

[102] Section 222 (1) (d)

Omit the paragraph. Insert instead:

- (d) if the Minister is of the opinion, on the receipt of a report by an investigator appointed in accordance with Division 1, or otherwise, that the funds or other property of the Council have not been properly applied or managed, or

[103] Section 222 (4)

Omit the subsection. Insert instead:

- (4) The administrator has, during the period of his or her appointment, to the exclusion of the Council:
 - (a) all, or such part as is specified in the administrator’s instrument of appointment, of the functions of the Board of the Council conferred or imposed by or under this Act, and

- (b) the functions of the Council and the members of the Council exercised by resolution of the members of the Council that are prescribed by the regulations (except as provided by the administrator's instrument of appointment).

[104] Section 222 (5)

Omit "or Regional".

[105] Section 222 (7)

Insert after section 222 (6):

- (7) Without limiting subsection (6), the regulations may:
 - (a) specify functions that the administrator must not exercise, except on a resolution of members of the Council, and
 - (b) specify functions of the Board of the Council that the administrator must not exercise, except on a resolution of members of the Council.

[106] Sections 223A and 223B

Insert after section 223:

223A Notice of appointment of administrator

- (1) The Minister may, before appointing an administrator of an Aboriginal Land Council under this Division, give not less than 14 days notice in writing of the appointment to:
 - (a) in the case of a Local Aboriginal Land Council—each Board member and the New South Wales Aboriginal Land Council, and
 - (b) in the case of the New South Wales Aboriginal Land Council—each councillor.
- (2) The Minister must, before appointing an administrator, take into account any written representations received from any person or body to whom notice was given under this section.

223B Interim actions pending appointment of administrator

- (1) The Minister may, by notice in writing to an Aboriginal Land Council, take any of the following actions, pending the appointment of an administrator of the Council:
 - (a) prohibit the Council from exercising certain specified functions or taking specified actions, except with the approval of the Minister, for a specified period,

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- (b) appoint a person to act as an interim administrator of the Council, with specified functions, for a specified period (not exceeding 3 months).
 - (2) A notice under this section ceases to have effect if an administrator is appointed under this Division or if the Minister decides not to appoint an administrator under this Division.
 - (3) The Minister must notify the Aboriginal Land Council in writing if the Minister decides not to appoint an administrator.
 - (4) The Minister may revoke or vary a notice given under this section.
 - (5) An Aboriginal Land Council must not fail to comply with a notice given under this section.

[107] Section 225 Certain persons ineligible to be administrators

Omit section 225 (b). Insert instead:

- (b) a Board member,

[108] Section 226 Removal of office holders on appointment of administrator

Omit “or Regional Aboriginal Land Council, the officers of the Council” from section 226 (1).

Insert instead “Aboriginal Land Council, the Board members of the Council”.

[109] Section 226

Omit “at the time and in the manner specified by the regulations” wherever occurring.

Insert instead “, in the manner specified by the regulations, so as to enable vacancies to be filled at the conclusion of the administrator’s term of office”.

[110] Section 229 Administrator to report monthly

Omit “or Regional” from section 229 (1) wherever occurring.

[111] Section 231 Minister may extend term of office of administrator

Omit “or Regional” from section 231 (2).

[112] Section 231 (3)

Insert after section 231 (2):

- (3) The Minister may, by further instrument of appointment, vary the functions of the Council that may be exercised by an administrator during the extension of the administrator’s term of appointment.

[113] Section 232 Minister may remove administrator

Omit “or Regional” from section 232 (2).

[114] Part 11, Division 3, heading

Omit “dissolution of Aboriginal Land Councils”.

Insert instead “assistance to Local Aboriginal Land Councils”.

[115] Section 234

Omit the section. Insert instead:

234 Appointment of advisors

- (1) The Minister may, on the recommendation of the New South Wales Aboriginal Land Council or the Registrar, appoint an advisor to the Board of a Local Aboriginal Land Council, if the Minister is of the opinion that the Council is in danger of failing.
- (2) An advisor is to be appointed from a list of persons jointly prepared by the Director-General and the New South Wales Aboriginal Land Council.
- (3) Notice of the appointment of an advisor is to be published in the Gazette.
- (4) An advisor is to be appointed for a term specified by the Minister in the advisor’s instrument of appointment.
- (5) An advisor has, subject to any limitations specified in the advisor’s instrument of appointment, the following functions:
 - (a) to advise and assist the Board of the Local Aboriginal Land Council and the Council in the exercise of their functions,
 - (b) to report to the New South Wales Aboriginal Land Council and the Minister, when requested to do so by that Council or the Minister or at the advisor’s discretion, as to the operations of the Local Aboriginal Land Council.
- (6) The appointment of an advisor ceases to have effect if an administrator is appointed for the Local Aboriginal Land Council.

[116] Section 238 Application of Part

Omit “administration of an Aboriginal Land Council” from section 238 (1).

Insert instead “operation of this Act or the regulations”.

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- [117] **Section 238 (2) (a)**
Insert “or the regulations” after “this Act”.
- [118] **Section 238 (2) (b)**
Insert “or the regulations” after “Part 12”.
- [119] **Section 238, note**
Omit the note.
- [120] **Section 242 Exclusion of personal liability**
Omit “Local or Regional Aboriginal Land Council” from section 242 (1) (b).
Insert instead “Local Aboriginal Land Council or Board member or chief executive officer of a Local Aboriginal Land Council”.
- [121] **Section 242 (1) (b1) and (b2)**
Insert after section 242 (1) (b):
 (b1) a member of an advisory committee,
 (b2) an advisor to a Local Aboriginal Land Council,
- [122] **Section 242 (1)**
Insert “advisor,” after “member,”.
- [123] **Section 246 Proof of certain matters not required**
Omit “member of a Local or Regional Aboriginal Land Council” from section 246 (c).
Insert instead “Board member”.
- [124] **Section 246 (d)**
Omit the paragraph. Insert instead:
 (d) the holding of office by a person as an officer of the New South Wales Aboriginal Land Council or as the Chairperson or Deputy Chairperson of a Board, or
- [125] **Section 249A**
Insert after section 249:
- 249A Offences by corporations**
- (1) If a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the

management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

- (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or has been convicted under the provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act or the regulations.

[126] Section 250 Establishment of new Local Aboriginal Land Councils

Omit “Council” from section 250 (1) (c). Insert instead “Board”.

[127] Section 250 (1) (d)

Omit the paragraph. Insert instead:

- (d) at the first meeting of the Council, the members are to elect the Board of the Council.

[128] Section 250 (2) (a) (ii)

Omit the subparagraph. Insert instead:

- (ii) have a sufficient association with that area or are Aboriginal owners of land in that area, and

[129] Section 251 Establishment of new Regional Aboriginal Land Councils

Omit the section.

[130] Section 252 Regulations

Omit “and Regional Aboriginal Land Council areas” from section 252 (2) (a).

[131] Section 252 (2) (b)–(e)

Omit the paragraphs.

[132] Section 252 (2) (g)

Omit the paragraph.

[133] Section 252 (3)

Omit “subsection (2) (a) or (b) may apply to the matters referred to in those paragraphs”.

Insert instead “subsection (2) (a) may apply to the matters referred to in that paragraph”.

[134] Section 252 (3)

Omit “or Regional Aboriginal Land Council areas”.

[135] Section 252A

Insert after section 252:

252A Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to the *Aboriginal Land Rights Amendment Act 2006* and as soon as possible after the end of every period of 5 years thereafter.
- (3) A report on the outcome of a review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

[136] Schedule 3

Insert after Schedule 2:

Schedule 3 Procedure of Boards and Councils

(Sections 52H, 61 (3) and 120 (7))

Part 1 Procedure of Local Aboriginal Land Councils

1 Frequency of meetings

- (1) Subject to subclause (2), a Local Aboriginal Land Council is to hold meetings at such time as the Board of the Council determines.
- (2) A Council must:
 - (a) hold not less than 3 ordinary meetings a year, at intervals of not more than 4 calendar months, and
 - (b) hold annual meetings at the times, or within the periods, prescribed by the regulations.

2 General procedure

The procedure for the calling of meetings of a Local Aboriginal Land Council and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Council.

3 Quorum

The quorum for a meeting of a Local Aboriginal Land Council is 10 per cent of the total number of voting members of the Council.

4 Presiding member

- (1) The Chairperson of the Board (or, in the absence of the Chairperson, the Deputy Chairperson of the Board, or in the absence of both the Chairperson and the Deputy Chairperson, a person elected by the members of the Local Aboriginal Land Council who are present at a meeting of the Council) is to preside at a meeting of the Council.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.
- (3) If an administrator is appointed to the Council, the administrator is to preside at meetings of the Council.

5 Voting

- (1) A decision supported by a majority of the votes cast at a meeting of a Local Aboriginal Land Council at which a quorum is present is the decision of the Council.
- (2) The attendance of each person who is a voting member at a meeting of the Council is to be recorded on the membership roll.

6 Minutes

- (1) The Local Aboriginal Land Council must cause minutes to be kept of the proceedings of each meeting of the Council.
- (2) The minutes are to include a record of the following:
 - (a) motions put to the meeting,
 - (b) amendments to such motions,
 - (c) the names of the movers and seconders of those motions and amendments,
 - (d) the resolutions passed by the meeting.

Part 2 Procedure of Boards of Local Aboriginal Land Councils

1 Frequency of meetings

- (1) A Board must meet at intervals not longer than every 2 calendar months.
- (2) The Chairperson may, at the request of a majority of the members of the Board, call a meeting of the Board at any time.

2 General procedure

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

3 Quorum

The quorum for a meeting of the Board is a majority of its members for the time being.

4 Presiding member

- (1) The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson, or in the absence of both the Chairperson and the Deputy Chairperson, a person elected by the members of the Board who are present at a meeting of the Board) is to preside at a meeting of the Board.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

5 Voting

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

6 Transaction of business by telephone

- (1) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (2) For the purposes of a meeting held in accordance with subclause (1), the presiding member and each Board member have the same voting rights as they have at an ordinary meeting of the Board.

- (3) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.
- (4) Papers may be circulated among the Board members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

7 Authentication of documents

Any document requiring authentication by the Board is sufficiently authenticated if it is signed by:

- (a) the Board member who presided at the meeting that dealt with the proceedings with respect to which the document was prepared, or
- (b) in the absence of that Board member, any other member who was present at that meeting.

8 First meeting

The chief executive officer of the Council or, if there is no chief executive officer, the Registrar may call the first meeting of the Board in such manner as he or she thinks fit.

9 Minutes

- (1) The Board must cause minutes to be kept of the proceedings of each meeting of the Board.
- (2) The minutes are to include a record of the following:
 - (a) motions put to the meeting,
 - (b) amendments to such motions,
 - (c) the names of the movers and seconders of those motions and amendments,
 - (d) the resolutions passed by the meeting.

Part 3 Procedure of New South Wales Aboriginal Land Council

1 Frequency of meetings

- (1) The New South Wales Aboriginal Land Council is to hold its first meeting after each election of all councillors in accordance with the regulations at a time (being a time as soon as practicable after the election) and place arranged by the Registrar.

-
- (2) The New South Wales Aboriginal Land Council must hold ordinary meetings at least once every 3 calendar months.
 - (3) The Chairperson must call an extraordinary meeting of the Council if requested to do so by a majority of the councillors for the time being.
 - (4) The Chairperson may call an extraordinary meeting of the Council at any time.

2 General procedure

The procedure for the calling of meetings of the New South Wales Aboriginal Land Council and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Council.

3 Quorum

The quorum for a meeting of the New South Wales Aboriginal Land Council is a majority of the councillors constituting the Council for the time being.

4 Presiding member

- (1) The Chairperson of the New South Wales Aboriginal Land Council (or, in the absence of the Chairperson or Deputy Chairperson, a person elected by the members of the Council who are present at a meeting of the Council) is to preside at a meeting of the Council.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.
- (3) If an administrator is appointed to the Council, the administrator is to preside at meetings of the Council.

5 Voting

A decision supported by a majority of the votes cast at a meeting of the New South Wales Aboriginal Land Council at which a quorum is present is the decision of the Council.

6 Minutes

- (1) The New South Wales Aboriginal Land Council must cause minutes to be kept of the proceedings of each meeting of the Council.
- (2) The minutes are to include a record of the following:
 - (a) motions put to the meeting,

- (b) amendments to such motions,
- (c) the names of the movers and seconders of those motions and amendments,
- (d) the resolutions passed by the meeting.

[137] Schedule 3A

Insert before Schedule 4:

Schedule 3A Transfer of assets, rights and liabilities

(Section 89 (6))

1 Definitions

In this Schedule:

assets means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

instrument means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

liabilities means any liabilities, debts or obligations (whether present or future and whether vested or contingent).

transfer order means an order made under section 89.

2 Vesting of undertaking in transferee

When any assets, rights or liabilities are transferred by a transfer order, the following provisions have effect (subject to the order):

- (a) those assets of the transferor vest in the transferee by virtue of this Schedule and without the need for any conveyance, transfer, assignment or assurance,
- (b) those rights and liabilities of the transferor become by virtue of this Schedule the rights and liabilities of the transferee,
- (c) all proceedings relating to those assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee,

- (d) any act, matter or thing done or omitted to be done in relation to those assets, rights or liabilities before the transfer by, to or in respect of the transferor is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee,
- (e) a reference in any Act, in any instrument made under any Act or in any document of any kind to the transferor or a predecessor of the transferor is (to the extent that it relates to those assets, rights or liabilities but subject to regulations or other provisions under Schedule 4), to be read as, or as including, a reference to the transferee.

3 Operation of Schedule

- (1) The operation of this Schedule is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (2) The operation of this Schedule is not to be regarded as an event of default under any contract or other instrument.
- (3) No attornment to the transferee by a lessee from the transferor is required.
- (4) The operation of this Schedule includes the making of a transfer order.

4 Date of vesting

A transfer order takes effect on the date specified in the order.

5 Consideration for vesting

- (1) A transfer order may specify the consideration on which the order is made and the value or values at which the assets, rights or liabilities are transferred.
- (2) The consideration and value or values cannot exceed the optimised deprivation value of those assets, rights or liabilities.

- (3) In this clause, *optimised deprivation value* means a value determined by the application of the Guidelines on Accounting Policy for Valuation of Government Trading Enterprises prepared by the Steering Committee on National Performance Monitoring of Government Trading Enterprises, agreed on by the Commonwealth and States and published in October 1994.

6 Duties

Duty under the *Duties Act 1997* is not chargeable in respect of:

- (a) the transfer of assets, rights and liabilities to a person by a transfer order, or
- (b) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or registration of an interest in land).

7 Transfer of interest in land

- (1) A transfer order may transfer an interest in respect of land vested in the transferor without transferring the whole of the interests of the transferor in that land.
- (2) If the interest transferred is not a separate interest, the order operates to create the interest transferred in such terms as are specified in the order.
- (3) This clause does not limit any other provision of this Schedule.

8 Determinations of Minister for purposes of orders

For the purposes of any transfer order, a determination by the Minister as to which entity to which any assets, rights or liabilities relate is conclusive.

9 Confirmation of vesting

- (1) The Minister may, by notice in writing, confirm a transfer of particular assets, rights and liabilities by operation of this Schedule.
- (2) Such a notice is conclusive evidence of that transfer.

[138] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1A (1):

Aboriginal Land Rights Amendment Act 2006

[139] **Schedule 4, Part 7**

Insert after Part 6:

Part 7 Aboriginal Land Rights Amendment Act 2006

40 Definition

In this Part:

amending Act means the *Aboriginal Land Rights Amendment Act 2006*.

41 Existing officers of Local Aboriginal Land Councils

- (1) A person who was an officer of a Local Aboriginal Land Council immediately before the commencement of Division 3 of Part 5 of the Act, as inserted by the amending Act, ceases to hold office on that commencement.
- (2) An officer of a Local Aboriginal Land Council is not entitled to any remuneration or compensation because of the loss of office.
- (3) Nothing in this clause prevents a former officer of a Local Aboriginal Land Council from seeking election as a Board member.

42 First elections of Boards of Local Aboriginal Land Councils

- (1) For the purpose of enabling Boards of Local Aboriginal Land Councils to be constituted on or after the commencement of Division 3 of Part 5 of the Act, as inserted by the amending Act, regulations may be made, elections for Board members may be held and any other act, matter or thing may be done before that commencement as if the whole of the amending Act, and any regulations relating to the elections, commenced on the date of assent to that Act.
- (2) If elections for Board members are not held in accordance with this Act, as amended by the amending Act, before the term of office of the current officers of the Local Aboriginal Land Council, or of an administrator of the Council, expires, the term of office of the officers or administrator, as the case may be, is extended until the Board members are elected.
- (3) Nothing in this clause prevents the appointment of an administrator from being revoked in accordance with this Act or an administrator from being appointed for a Council.

43 First meetings

- (1) For the purpose of enabling councillors to be elected on or after the commencement of Part 6 of the Act, as inserted by the amending Act, regulations may be made, elections for councillors may be held and any other act, matter or thing may be done before that commencement as if the whole of the amending Act, and any regulations relating to the elections, commenced on the date of assent to that Act.
- (2) If elections for councillors are not held in accordance with this Act, as amended by the amending Act, before the term of office of the administrator of the New South Wales Aboriginal Land Council expires, the term of office of the administrator is extended until the councillors are elected.
- (3) Nothing in this clause prevents the appointment of the administrator from being revoked in accordance with this Act.

44 Regional Aboriginal Land Councils

- (1) A Regional Aboriginal Land Council constituted under this Act immediately before the commencement of Part 6, as inserted by the amending Act, ceases to exist on that commencement and the officers of the Council cease to hold office.
- (2) An officer of the Council is not entitled to any remuneration or compensation because of the loss of the office.

45 Existing social housing

- (1) This clause applies to residential accommodation provided by Local Aboriginal Land Councils to Aboriginal persons that was provided immediately before the commencement of this clause (an *existing social housing scheme*).
- (2) A Local Aboriginal Land Council must not operate an existing social housing scheme, after 18 months after the commencement of this clause, except in accordance with an approval of the New South Wales Aboriginal Land Council.
- (3) The New South Wales Aboriginal Land Council must not approve an existing social housing scheme unless it is satisfied that:
 - (a) the scheme complies with this Act and the regulations, and
 - (b) the scheme is consistent with any applicable policy of the New South Wales Aboriginal Land Council, and

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- (c) the scheme is consistent with the community, land and business plan (if any) of the Local Aboriginal Land Council, and
 - (d) the scheme is fair and equitable and will be administered in a responsible and transparent way, and
 - (e) the income (including any subsidies and grants) from the existing social housing scheme is or will be sufficient to meet all the expenses of the scheme, including long term maintenance requirements, and
 - (f) it has considered the impact of the scheme on the overall financial position of the Local Aboriginal Land Council.
- (4) The New South Wales Aboriginal Land Council may impose conditions on an approval under this clause.
 - (5) Without limiting subclause (4), the New South Wales Aboriginal Land Council may make it a condition of an approval under this clause that the Local Aboriginal Land Council operate the existing social housing scheme by using the services of another body or agency, or with the assistance of another body or agency, approved by the New South Wales Aboriginal Land Council.
 - (6) A Local Aboriginal Land Council that fails to obtain the approval of the New South Wales Aboriginal Land Council to operate an existing social housing scheme under this clause may, with the approval of that Council, enter into an agreement or other arrangement with another body or agency for that body or agency to operate the existing social housing scheme.

46 Other existing community benefits

- (1) This section applies to a community benefits scheme (other than an existing social housing scheme) under which community benefits were provided by Local Aboriginal Land Councils to Aboriginal persons immediately before the commencement of this clause (an *existing community benefits scheme*).
- (2) A Local Aboriginal Land Council may continue to operate an existing community benefits scheme despite any other provision of this Act.
- (3) The New South Wales Aboriginal Land Council may review an existing community benefits scheme, to determine whether or not:
 - (a) it is fair and equitable and is administered in a responsible and transparent way, or

- (b) it is likely to prevent the Local Aboriginal Land Council from being able to meet its debts as and when they fall due.
- (4) On a review, the New South Wales Aboriginal Land Council may impose conditions on the provision of an existing community benefits scheme by a Local Aboriginal Land Council.
- (5) Any such condition is to be consistent with any applicable policy of the New South Wales Aboriginal Land Council.
- (6) A Local Aboriginal Land Council must comply with any conditions imposed on it after a review under this clause.

47 Preparation of community, land and business plans

- (1) Despite any other provision of this Act, a Local Aboriginal Land Council is to prepare and adopt a community, land and business plan, in accordance with this Act, not later than 18 months after the commencement of Division 6 of Part 5.
- (2) The New South Wales Aboriginal Land Council may extend the period within which a Local Aboriginal Land Council is to prepare and adopt a plan, and may waive the requirement wholly or partially in an appropriate case.
- (3) Despite any other provision of this Act, the New South Wales Aboriginal Land Council is to prepare and adopt a community, land and business plan, in accordance with this Act, not later than 18 months after the commencement of Division 5 of Part 7.
- (4) The Minister may extend the period within which the New South Wales Aboriginal Land Council is to prepare and adopt a plan.

48 References to Aboriginal Land Councils Pecuniary Interest Tribunal

A reference in any Act, instrument or other document to the Aboriginal Land Councils Pecuniary Interest Tribunal is taken to be a reference to the Aboriginal Land Councils Pecuniary Interest and Disciplinary Tribunal.

[140] Schedule 5

Insert after Schedule 4:

Schedule 5 Regions

(Section 93 (1))

Central Region

The Central Region consists of the following Local Aboriginal Land Council areas:

Dubbo, Gilgandra, Mudgee, Narromine, Nyngan, Quambone, Trangie, Warren Macquarie, Weilwan, Wellington.

Central Coast Region

The Central Coast Region consists of the following Local Aboriginal Land Council areas:

Birpai, Bowraville, Bunyah, Coffs Harbour, Forster, Karuah, Kempsey, Nambucca, Purfleet/Taree, Stuart Island Tribal Elders Descendants, Thungutti, Unkya.

Northern Region

The Northern Region consists of the following Local Aboriginal Land Council areas:

Amaroo, Anaiwan, Armidale, Ashford, Coonabarabran, Dorrigo Plateau, Glen Innes, Guyra, Moombahlene, Nungaroo, Red Chief, Tamworth, Walhallow, Wanaruah.

North Coast Region

The North Coast Region consists of the following Local Aboriginal Land Council areas:

Baryugil, Birrigan Gargle, Bogal, Casino, Grafton-Ngerrie, Gugin Gudduba, Jali, Jana Ngalee, Jubullum, Muli Muli, Ngulingah, Tweed Byron, Yaegl.

North Western Region

The North Western Region consists of the following Local Aboriginal Land Council areas:

Baradine, Brewarrina, Collarenabri, Coonamble, Goodooga, Lightning Ridge, Moree, Mungindi, Murrawari, Narrabri, Nulla Nulla, Pilliga, Toomelah, Walgett, Wee Waa, Weilmoringle.

South Coast Region

The South Coast Region consists of the following Local Aboriginal Land Council areas:

Batemans Bay, Bega, Bodalla, Cobowra, Eden, Illawarra, Jerrinja, Merrimans, Mogo, Ngunnawal, Nowra, Ulladulla, Wagonga.

Sydney and Newcastle Region

The Sydney and Newcastle Region consists of the following Local Aboriginal Land Council areas:

Awabakal, Bahtaba, Darkinjung, Deerubbin, Gandangara, Koombahtoo, La Perouse, Metropolitan, Mindaribba, Tharawal, Worimi.

Western Region

The Western Region consists of the following Local Aboriginal Land Council areas:

Balranald, Broken Hill, Cobar, Dareton, Ivanhoe, Menindee, Mutawintji, Tibooburra, Wanaaring, Wilcannia, Winbar.

Wiradjuri Region

The Wiradjuri Region consists of the following Local Aboriginal Land Council areas:

Albury and District, Bathurst, Brungle/Tumut, Condobolin, Cowra, Cummergunja, Deniliquin, Griffith, Hay, Leeton and District, Moama, Murrin Bridge, Narrandera, Onerwal, Orange, Peak Hill, Pejar, Wagga Wagga, Wamba Wamba, West Wyalong, Young.

Schedule 2 Amendment of other Acts

(Section 4)

2.1 Crimes Act 1900 No 40

Section 249A Definitions

Insert at the end of paragraph (e) of the definition of *agent*:

, and

- (f) a councillor within the meaning of the *Aboriginal Land Rights Act 1983* (and in this case a reference in this Part to the agent's principal is a reference to the New South Wales Aboriginal Land Council), and
- (g) a Board member of a Local Aboriginal Land Council within the meaning of the *Aboriginal Land Rights Act 1983* (and in this case a reference in this Part to the agent's principal is a reference to the Local Aboriginal Land Council).

2.2 Defamation Act 2005 No 77

[1] Schedule 1 Additional publications to which absolute privilege applies

Omit "Aboriginal Land Councils Pecuniary Interest Tribunal" wherever occurring in clause 31.

Insert instead "Aboriginal Land Councils Pecuniary Interest and Disciplinary Tribunal".

[2] Schedule 2 Additional kinds of public documents

Omit "Aboriginal Land Councils Pecuniary Interest Tribunal" from clause 6.

Insert instead "Aboriginal Land Councils Pecuniary Interest and Disciplinary Tribunal".

[3] Schedule 3 Additional proceedings of public concern

Omit "Aboriginal Land Councils Pecuniary Interest Tribunal" from clause 16.

Insert instead "Aboriginal Land Councils Pecuniary Interest and Disciplinary Tribunal".

2.3 Independent Commission Against Corruption Act 1988 No 35

Section 74D

Insert after section 74C:

74D Reports relating to Aboriginal Land Councils

- (1) The Commission is authorised to include in a report under section 74 a recommendation that consideration be given to:
 - (a) the suspension of a councillor or Board member from office under Division 3A of Part 10 of the *Aboriginal Land Rights Act 1983*, or
 - (b) the taking of action against a member of staff of an Aboriginal Land Council under that Division.
- (2) The Commission is not to make a recommendation under this section unless the Commission is of the opinion that prompt action is required in the public interest.
- (3) This section does not limit any other recommendation that the Commission is authorised to include in a report under section 74 in relation to a councillor, Board member or member of staff.
- (4) This section extends to a report in relation to a matter that has been the subject of an investigation conducted before the commencement of this section.

[Second reading speech made in—

Legislative Assembly on 24 October 2006

Legislative Council on 21 November 2006]

BY AUTHORITY