



New South Wales

# Aboriginal Land Rights Amendment (Elections) Regulation (No 2) 2019

under the

Aboriginal Land Rights Act 1983

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Aboriginal Land Rights Act 1983*.

DONALD HARWIN, MLC

Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts

## Explanatory note

The object of this Regulation is to amend the *Aboriginal Land Rights Regulation 2014* to make further provision with respect to the election of members to the New South Wales Aboriginal Land Council including—

- (a) postal voting, and
- (b) the appointment of polling places.

This Regulation is made under the *Aboriginal Land Rights Act 1983*, including sections 121 and 252 (the general regulation-making power).

## **Aboriginal Land Rights Amendment (Elections) Regulation (No 2) 2019**

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### **1 Name of Regulation**

This Regulation is the *Aboriginal Land Rights Amendment (Elections) Regulation (No 2) 2019*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## **Schedule 1      Amendment of Aboriginal Land Rights Regulation 2014**

### **[1]    Clause 52 Distribution of postal ballot-papers**

Omit clause 52(1)(b). Insert instead—

- (b) an envelope bearing the declaration set out in Form 1 of Schedule 5 on which the returning officer has filled in the full name of the elector and the number given to the elector's application as referred to in clause 51(4), and
- (c) an envelope bearing the address of the returning officer.

### **[2]    Clause 54 Postal voting procedure**

Omit clause 54(3)(c). Insert instead—

- (c) place the folded ballot-paper in the envelope bearing the signed Form 1 declaration and seal that envelope,
- (d) place the sealed envelope bearing the signed Form 1 declaration inside the envelope addressed to the returning officer and seal that envelope.

### **[3]    Clause 55**

Omit the clause. Insert instead—

#### **55    Preliminary scrutiny of postal votes and transmission to regional electoral officer**

- (1) This clause applies to each envelope purporting to contain a postal ballot-paper that is received by the returning officer before 6 pm on the fourth day immediately following the close of the poll.
- (2) The returning officer must, in respect of each envelope—
  - (a) check if the declaration on the envelope containing the ballot-paper has been duly signed and witnessed, and
  - (b) if the officer is satisfied that the declaration has been duly signed and witnessed, accept the ballot-paper for further scrutiny.
- (3) If a ballot-paper is accompanied by, but is not inside, an envelope bearing a declaration that has been duly signed and witnessed, the returning officer may accept the ballot-paper for scrutiny, but only if the returning officer is satisfied that the declaration relates to that ballot-paper.
- (4) If the envelope has been accepted for further scrutiny, the returning officer must—
  - (a) transmit the envelope and ballot-paper to the regional electoral officer in time to reach that officer before the close of the poll, or
  - (b) if the returning officer is of the opinion that the envelope cannot be transmitted to the regional officer in order to reach the regional officer before the close of the poll—count and inform the regional electoral officer of—
    - (i) the first preference votes which are recorded for each candidate on the ballot-papers, and
    - (ii) if necessary, the additional preference votes which are recorded on the ballot-papers.

- (5) A ballot-paper that is not accepted for further scrutiny must be set aside, together with the other ballot papers that have not been accepted for further scrutiny, without unfolding or otherwise examining the ballot-paper.

**[4] Clause 56**

Omit the clause. Insert instead—

**56 Appointment of polling places**

- (1) The returning officer is to appoint for each Local Aboriginal Land Council area as many polling places as the returning officer considers necessary for the purpose of taking a poll at an election.
- (2) A polling place for a Local Aboriginal Land Council area may be—
- (a) within the Local Aboriginal Land Council area, or
  - (b) if the returning officer is satisfied it would enhance the convenience of a large number of voters for a Local Aboriginal Land Council area—outside of the Local Aboriginal Land Council area concerned.
- (3) The returning officer may designate one or more polling places to be a special polling place.
- (4) Despite subclause (1), the returning officer is not required to appoint a polling place for a Local Aboriginal Land Council area if the returning officer is satisfied that there are no voting members residing in that Local Aboriginal Land Council area.
- (5) The returning officer may revoke the appointment of a polling place, but only if—
- (a) there will be at least one polling place remaining for the Local Aboriginal Land Council area concerned after the revocation, or
  - (b) the returning officer is satisfied that there are no voting members residing in the Local Aboriginal Land Council area concerned, or
  - (c) the returning officer determines that the polling place cannot be used due to an event (such as fire, flood, storm or earthquake) that—
    - (i) causes a failure of, or a significant disruption to, an essential service or infrastructure in the Local Aboriginal Land Council area concerned, or
    - (ii) destroys or damages, or threatens to destroy or damage, property in the Local Aboriginal Land Council area concerned, or
    - (iii) endangers, or threatens to endanger, the safety or health of persons in the Local Aboriginal Land Council area concerned.
- (6) The returning officer is to cause notice of the revocation of a polling place to be published on the Electoral Commission’s website at a time determined by the returning officer.