



New South Wales

# Aboriginal Land Rights Amendment Bill 2013

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Aboriginal Land Rights Act 1983* (the *principal Act*):

- (a) to clarify which functions of a Local Aboriginal Land Council (a *LALC*) may be exercised by the Board of the LALC and to alter the provisions relating to the delegation of functions by the chief executive officer of a LALC, and
- (b) to alter the requirements in relation to the advertising of staff vacancies for Aboriginal Land Councils and the qualifications of persons to fill those vacancies, and
- (c) to clarify the provisions relating to the disqualification of a person to hold the office of a member of a LALC or New South Wales Aboriginal Land Council (*NSWALC*) and the filling of vacancies in those offices, and
- (d) to change the basis on which community development levies payable in relation to certain transactions of LALCs are calculated, and
- (e) to make other miscellaneous amendments aimed at improving the administration of the principal Act and of Aboriginal Land Councils.

The Bill also makes consequential amendments to the *Aboriginal Land Rights Regulation 2002*.

The Bill also amends the *National Parks and Wildlife Act 1974* to provide that land of cultural significance to Aboriginal persons vested in more than one Aboriginal Land Council under that Act is vested in those Councils as tenants in common rather than as joint tenants.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act except for the repeal of section 163 of the principal Act which will commence on 1 January 2014.

## **Schedule 1      Amendment of Aboriginal Land Rights Act 1983 No 42**

### **Amendments relating to property and land dealings of Aboriginal Land Councils**

**Schedule 1 [2]** amends section 38 of the principal Act to remove a restriction on purchasing or leasing property (other than land) by NSWALC or a LALC that requires the purchase or lease to be connected to the use, development or improvement of land.

**Schedule 1 [4]** amends section 42D of the principal Act to remove a requirement that NSWALC must notify the Minister administering that Act and the Minister administering the Crown lands and Western lands legislation before dealing with land vested in it under section 36 (Claims to Crown lands) of the principal Act.

**Schedule 1 [5]** amends section 42E of the principal Act to remove a requirement that a LALC must notify the Minister administering that Act and the Minister administering the Crown lands and Western lands legislation before dealing with land vested in it under section 36 (Claims to Crown lands) of the principal Act.

### **Amendments relating to members of NSWALC and LALCs, Board members and staff**

**Schedule 1 [12]** amends section 55 of the principal Act to remove the restriction that prevents a voting member of a LALC from voting at an election for Board members if he or she has not attended at least 2 meetings of the Council in the preceding 12 months as a voting member.

**Schedule 1 [13]** amends section 59 of the principal Act to remove the requirement that NSWALC pay to the Registrar a contribution towards the cost of the Registrar compiling and maintaining a consolidated roll of all members of LALCs.

**Schedule 1 [15]** amends section 63 of the principal Act to provide that a person is not qualified to stand for election, or to be elected, as a member of the Board of a

LALC if he or she has not attended at least 2 meetings of the Council in the preceding 12 months. That ground for disqualification does not apply if an administrator was appointed for the LALC for all or part of the relevant 12 month period. **Schedule 1 [16]** makes a consequential amendment.

**Schedule 1 [17] and [18]** amend section 65 of the principal Act to extend the requirement for NSWALC to arrange certain training for new members of the Board of a LALC so that training will be required to be arranged for all members of the Board. NSWALC may exempt a Board member from the training if satisfied that the member has already undergone such training.

**Schedule 1 [19]** amends section 66 of the principal Act to disqualify a person from holding the office of a Board member of a LALC if the person was a Board member of the Council immediately before the appointment of an administrator for the Council at any time during the preceding 5 years.

**Schedule 1 [20]** amends section 66 of the principal Act to clarify that a person is not disqualified from holding the office of a Board member of a LALC if the person is an employee of, or consultant to NSWALC.

**Schedule 1 [21]** amends section 66 of the principal Act to provide that a person who is employed by, or is a consultant to, a LALC is not disqualified from being elected or holding office as a Board member of a LALC if the person resigns as an employee or consultant as soon as practicable after becoming aware of the result of the election.

**Schedule 1 [22]** amends section 68 of the principal Act to enable a vacancy in the office of a Board member of a LALC that has been created by the election of a person who was disqualified from holding that office to be filled in the same way as a casual vacancy in that office.

**Schedule 1 [23]** amends sections 70 and 136 of the principal Act to provide that an appeal against an order made by the Administrative Decisions Tribunal declaring a vacancy in the office of a Board member of a LALC is to be made to the Land and Environment Court rather than, as is currently the case, to the Supreme Court. It also makes a consequential amendments to sections 71 and 137 of the principal Act.

**Schedule 1 [27]** amends section 79 of the principal Act to provide that the provision preventing a member of staff of NSWALC from being employed by a LALC does not prevent the secondment of such a person.

**Schedule 1 [28]** substitutes section 79A of the principal Act to provide that a vacancy in the position of chief executive officer of a LALC must be advertised by the Board of the LALC in the manner prescribed by the regulations. A vacancy in any other position of the staff of a LALC must be advertised in the manner considered appropriate by the chief executive officer of the LALC. Currently, all such vacancies must be advertised in the manner prescribed by the regulations.

**Schedule 1 [31]** amends section 121 of the principal Act to make it clear that a person is not qualified to stand for election, or to be elected, as a councillor to represent a Region on NSWALC if the person is disqualified from holding the office of councillor.

**Schedule 1 [32]** amends section 121 of the principal Act to allow for the making of regulations relating to the nomination of persons for election as a councillor to represent a region on NSWALC.

**Schedule 1 [33]** amends section 132 of the principal Act to disqualify a person from holding the office of a councillor of NSWALC if the person was a councillor immediately before the appointment of an administrator for NSWALC at any time during the preceding 5 years.

**Schedule 1 [34]** provides that a person who is employed by, or is a consultant to, NSWALC is not disqualified from being elected or holding office as a councillor of NSWALC if the person takes a leave of absence from the time of nomination to stand for election and, if the person is elected, resigns as an employee or consultant as soon as practicable after becoming aware of the result of the election.

**Schedule 1 [35]** inserts proposed section 132A. The proposed section provides that an employee of, or consultant to, NSWALC who stands for election as a councillor of NSWALC is to take a leave of absence from the day after being nominated for election until the result of the election is declared.

**Schedule 1 [37]** amends section 133 of the principal Act so that a person who is a councillor of NSWALC will no longer vacate office if the person represents a region the area of which is changed. **Schedule 1 [36]** makes a consequential amendment.

**Schedule 1 [38]** amends section 134 of the principal Act to enable a vacancy in the office of a councillor of NSWALC that has been created by the election of a person who was disqualified from holding that office to be filled in the same way as a casual vacancy in that office.

**Schedule 1 [39]** substitutes section 143A of the principal Act to provide that a vacancy in the position of Chief Executive Officer of NSWALC must be advertised by NSWALC in the manner prescribed by the regulations. A vacancy in any other position of the staff of NSWALC must be advertised in the manner considered appropriate by the Chief Executive Officer of NSWALC. Currently, all such vacancies must be advertised in the manner prescribed by the regulations.

**Schedule 1 [40]** amends section 144 of the principal Act to include as persons who cannot be appointed as members of staff of NSWALC persons who are councillors, officers, consultants or members of staff of LALCs. This does not prevent consultants or members of staff of LALCs being seconded to NSWALC.

**Schedule 1 [48]** amends section 242 of the principal Act to provide protection from personal liability to members of staff of Aboriginal Land Councils for acts done in good faith for the purpose of executing the principal Act. **Schedule 1 [49]** makes a consequential amendment.

**Schedule 1 [50]** inserts proposed section 243A into the principal Act which provides that a person who is a councillor of NSWALC or a Board member of a LALC is not entitled to exercise the functions of that office and is not entitled to any fee or remuneration in relation to that office while the person is suspended from holding that office. **Schedule 1 [46]** makes a consequential amendment.

### **Amendments relating to financial matters**

**Schedule 1 [6]** substitutes section 42T of the principal Act to provide that community development levies currently payable by LALCs in relation to certain transactions are to be calculated at the general rate of duty payable under the *Duties Act 1997* so that premium rates of duty payable under that Act will not apply. The proposed section also modifies the operation of the *Duties Act 1997* in relation to such transactions to simplify the requirements for payment of duty and stamping where a transaction is effected by more than one instrument. **Schedule 1 [7]** and **Schedule 2.1 [5]** make consequential amendments.

**Schedule 1 [8]** amends section 44 of the principal Act to update references to a number of Acts.

**Schedule 1 [41]** amends section 149 of the principal Act to remove travelling and other allowances from the list of expenditure that may be paid out of NSWALC's account to Board members of LALCs.

**Schedule 1 [42]** amends section 152 of the principal Act to include in the expenditure that may be paid out of a LALC's account travelling and other allowances to Board members of the LALC.

**Schedule 1 [43]** amends section 153 of the principal Act to require the financial statements of a LALC to be audited by an auditor appointed by the LALC from a list of auditors kept by NSWALC. The regulations may prescribe requirements in relation to the manner of keeping the list and the qualifications of auditors. Currently, NSWALC appoints the auditor in the manner prescribed by the regulations.

**Schedule 1 [45]** omits section 163 from the principal Act which requires NSWALC to immediately cease providing funding to a LALC under a funding agreement if the LALC fails to comply with certain reporting requirements. NSWALC retains the authority to cease providing funding to a LALC that breaches a condition of a funding agreement.

### **Amendments relating to the exercise of functions by Aboriginal Land Councils and delegations**

**Schedule 1 [9]** amends section 52E of the principal Act to provide that the functions of a LALC relating to the acquisition of land may be delegated to the Board, other than the power of delegation and any function that is required by section 52G of the principal Act to be exercised by resolution of the LALC. **Schedule 1 [10]** makes a consequential amendment.

**Schedule 1 [11]** amends section 52G of the principal Act to make it clear that a LALC is not required to pass a resolution approving the contents of the annual budget and financial statements of the LALC.

**Schedule 1 [14]** amends section 62 of the principal Act to clarify that the Board of a LALC may exercise any of the functions of the LALC on behalf of the LALC, including the acquisition of land (if that function is delegated to the Board by the LALC) but not including any other function of the LALC that is expressly required by or under an Act to be exercised by resolution of the LALC.

**Schedule 1 [24]** amends section 72 of the principal Act to provide that the Board of a LALC may only delegate its functions to the chief executive officer or a person or body prescribed by the regulations. Currently, the Board of a LALC may delegate its functions to any person or body.

**Schedule 1 [25]** amends section 78A of the principal Act to enable the chief executive officer of a LALC to delegate his or her functions to any member of staff.

**Schedule 1 [30]** amends section 116 of the principal Act to remove from the list of functions of NSWALC that may not be delegated the use, management, control or holding of land vested in or acquired by NSWALC.

### **Miscellaneous amendments**

**Schedule 1 [1], [26], [47] and [52]** make amendments by way of statute law revision.

**Schedule 1 [29]** substitutes section 110 of the principal Act to replace a target for NSWALC to increase the total number of voting members of LALCs by a specified amount with a more general requirement that NSWALC include in its annual report the actions that it has taken to increase the membership of LALCs.

**Schedule 1 [51]** inserts proposed section 246A into the principal Act to enable the Chairperson of an Aboriginal Land Council to correct mistakes in resolutions of, and certificates issued by, the Council.

**Schedule 1 [53]** amends Schedule 3 to the principal Act to enable the Registrar to call a meeting of a LALC for the purpose of electing a Board if there is no existing Board and no administrator appointed for the LALC.

**Schedule 1 [54] and [55]** amend Schedule 4 to the principal Act to make provision for matters of a savings or transitional nature consequent on the enactment of the proposed Act.

## **Schedule 2 Amendment of other Act and regulation**

**Schedule 2.1** amends the *Aboriginal Land Rights Regulation 2002* as a consequence of the amendment of the principal Act. In particular, the following amendments are made to that Regulation:

**Schedule 2.1 [1]** amends clause 25G as a consequence of the amendment of section 65 of the principal Act in relation to the training of Board members of Local Aboriginal Land Councils.

**Schedule 2.1 [2] and [3]** amend clauses 31 and 91, respectively, of that Regulation to provide that vacancies in the position of chief executive officer of an Aboriginal Land Council must be advertised in a newspaper circulating in the area of the Council and in a major indigenous newspaper circulating throughout the State.

**Schedule 2.1 [4]** substitutes clause 95 of that Regulation to specify the qualifications that an auditor must have to be included on the list of auditors that may be appointed by a LALC to verify and certify the financial statements of the LALC.

**Schedule 2.1 [6]** makes an amendment by way of statute law revision.

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Explanatory note

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**Schedule 2.2** amends the *National Parks and Wildlife Act 1974* to provide that land vested in more than one Aboriginal Land Council under Part 4A of that Act is vested in those Councils as tenants in common rather than, as at present, joint tenants. **Schedule 1 [3]** makes a consequential amendment to the principal Act.





First print



New South Wales

# Aboriginal Land Rights Amendment Bill 2013

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New South Wales

# Aboriginal Land Rights Amendment Bill 2013

No. , 2013

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## A Bill for

An Act to amend the *Aboriginal Land Rights Act 1983* with respect to the functions, officers and staff of Aboriginal Land Councils; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Aboriginal Land Rights Amendment Act 2013</i> .	3
<b>2 Commencement</b>	4
(1) Except as provided by subsection (2), this Act commences on the date of assent to this Act.	5 6
(2) The repeals by this Act of sections 162 (3) and 163 of the <i>Aboriginal Land Rights Act 1983</i> commence on 1 January 2014.	7 8

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<b>Schedule 1</b>	<b>Amendment of Aboriginal Land Rights Act 1983 No 42</b>	1
		2
[1]	<b>Sections 37 (3) (c) and (4), 39 (4), 40 (4), 42D (1) (e), 42G (3) (c) and (5) (c) (ii), 47 and 48 (1) (a) and (5) (c)</b>	3
	Omit “Aborigines” wherever occurring. Insert instead “Aboriginal persons”.	4
		5
[2]	<b>Section 38 Purchase, lease etc of property</b>	6
	Omit section 38 (4).	7
		8
[3]	<b>Section 38 (5)</b>	8
	Omit “joint tenants (without the benefit of survivorship)”.	9
	Insert instead “tenants in common”.	10
		11
[4]	<b>Section 42D Land dealings by New South Wales Aboriginal Land Council</b>	11
	Omit section 42D (1) (c).	12
		13
[5]	<b>Section 42E Approval required for land dealings by Local Aboriginal Land Councils</b>	13
	Omit section 42E (3).	14
		15
[6]	<b>Section 42T</b>	16
	Omit the section. Insert instead:	17
		18
	<b>42T Amount of community development levy</b>	18
	(1) The amount of the community development levy payable for a dutiable transaction is the prescribed percentage (if any) of the amount of duty in respect of the transaction calculated as if duty were chargeable on the transaction at the rate specified in section 32 (1) of the <i>Duties Act 1997</i> .	19
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	(2) In calculating the community development levy, any arrangement for the payment of the levy by a person other than the Local Aboriginal Land Council concerned is to be disregarded.	24
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[7]	<b>Section 42W Regulations</b>	28
	Insert “(with or without modifications)” after “ <i>Duties Act 1997</i> ” in section 42W (a).	29
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<b>[8] Section 44 Proceedings for non-payment of certain rates for Aboriginal lands barred</b>	1 2
Omit section 44 (b)–(d). Insert instead:	3
(b) the <i>Sydney Water Act 1994</i> ,	4
(c) the <i>Hunter Water Act 1991</i> , or	5
(d) the <i>Water Management Act 2000</i> ,	6
<b>[9] Section 52E Delegation of functions by Local Aboriginal Land Councils</b>	7
Omit section 52E (1). Insert instead:	8
(1) A Local Aboriginal Land Council may, by resolution, delegate to the Board, any of the functions of the Council with respect to the acquisition of land other than:	9 10 11
(a) this power of delegation, and	12
(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.	13 14 15
<b>[10] Section 52G Functions exercised by Council resolution</b>	16
Omit section 52G (b).	17
<b>[11] Section 52G (2)</b>	18
Insert at the end of section 52G:	19
(2) For the avoidance of doubt, subsection (1) (f) requires a resolution of the Council confirming receipt by the Council of the annual budget and financial statements, not a resolution approving the contents of the annual budget and financial statements.	20 21 22 23 24
<b>[12] Section 55 Voting and non-voting members of Local Aboriginal Land Councils</b>	25 26
Omit section 55 (4A). Insert instead:	27
(4A) A voting member of a Local Aboriginal Land Council is not entitled to vote in elections for Board members if the member is suspended from membership of the Council or Board.	28 29 30
<b>[13] Section 59 Updating and consolidation of membership rolls</b>	31
Omit section 59 (4).	32

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<b>[14] Section 62 Functions of Boards of Local Aboriginal Land Councils</b>	1
Insert after section 62 (1):	2
(1A) Without limiting subsection (1), a Board of a Local Aboriginal Land Council may, subject to any directions of the Council, exercise:	3
(a) any of the functions of the Council on behalf of the Council, other than any function that under this or any other Act that is expressly required to be exercised by resolution of the voting members of the Council, and	4
(b) any function delegated to the Board under section 52E.	5
<b>[15] Section 63 Board members</b>	6
Omit section 63 (2). Insert instead:	7
(2) A person is not qualified to be nominated to stand for election, or to be elected, as a Board member of a Local Aboriginal Land Council if, at the time of the nomination or election, any of the following applies to the person:	8
(a) the person is not a voting member of the Council,	9
(b) the person is suspended or disqualified from holding office as a Board member or is suspended from membership of the Council,	10
(c) the person has not attended at least 2 meetings of the Council in the last 12 months.	11
(2A) Subsection (2) (c) does not apply if an administrator was appointed to perform all of the functions of the Local Aboriginal Land Council for all or part of the relevant 12-month period.	12
<b>[16] Section 63 (8)</b>	13
Insert after section 63 (7):	14
(8) Without limiting subsection (7), the regulations may make provision with respect to the nomination of persons to stand for election as a Board member of a Local Aboriginal Land Council.	15
<b>[17] Section 65 Training for Board members</b>	16
Omit “for the first time” from section 65 (1).	17
<b>[18] Section 65 (5) (a)</b>	18
Insert “has previously undergone training under this section or” before “already has”.	19

<b>[19] Section 66 Grounds for disqualification from office</b>	1
Omit section 66 (1) (k). Insert instead:	2
(k) was, within the last 5 years, an officer of the Local Aboriginal Land Council immediately before an administrator was appointed for the Council, or	3 4 5
<b>[20] Section 66 (1) (m)</b>	6
Insert “(other than on the ground that the person is an employee of, or consultant to, the New South Wales Aboriginal Land Council)” after “councillor”.	7 8 9
<b>[21] Section 66 (4)</b>	10
Insert after section 66 (3):	11
(4) Despite subsection (1) (j), a person is not disqualified from holding office as a Board member of a Local Aboriginal Land Council (and is taken not to have been disqualified from holding office at the time of the person’s nomination) on the ground that the person is an employee of, or a consultant to, the Council if the person resigns as an employee of, or as a consultant to, the Council as soon as practicable after becoming aware of the result of the election.	12 13 14 15 16 17 18 19
<b>[22] Section 68 Casual vacancy</b>	20
Insert at the end of the section:	21
(2) A casual vacancy in the office of a Board member occurs when a person who is disqualified from holding office as a Board member is declared (or purportedly declared) to have been elected to the office despite, at the time of nomination or election, not being qualified to be nominated to stand for election or to be elected.	22 23 24 25 26 27
<b>[23] Sections 70 (1), 71 (a), 136 (1) and 137 (a)</b>	28
Omit “Supreme Court” wherever occurring.	29
Insert instead “Land and Environment Court”.	30
<b>[24] Section 72 Delegation by Boards</b>	31
Omit “any person or body” from section 72 (1).	32
Insert instead “the chief executive officer of the Local Aboriginal Land Council, or to any other person or body prescribed by the regulations,”.	33 34



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<b>[25] Section 78A Chief executive officer</b>	1
Insert after section 78A (2):	2
(3) The chief executive officer may delegate to any member of staff of the Local Aboriginal Land Council any of the functions of the chief executive officer, other than this power of delegation.	3 4 5
<b>[26] Section 79 Certain persons must not be employed</b>	6
Omit “or Regional” from section 79 (2).	7
<b>[27] Section 79 (5)</b>	8
Insert after section 79 (4):	9
(5) Subsection (4) does not prevent a member of staff of the New South Wales Aboriginal Land Council from being seconded to the staff of a Local Aboriginal Land Council.	10 11 12
<b>[28] Section 79A</b>	13
Omit the section. Insert instead:	14
<b>79A Advertising vacancies</b>	15
(1) If it is proposed to make an appointment to the vacant position of chief executive officer of a Local Aboriginal Land Council (other than the appointment of a person to act in the position), the Board must ensure that the vacancy is advertised in the manner prescribed by the regulations.	16 17 18 19 20
(2) If it is proposed to make an appointment to a vacant position in the staff of a Local Aboriginal Land Council (other than the chief executive officer), the chief executive officer must advertise the vacancy in such manner as the chief executive officer considers appropriate.	21 22 23 24 25
(3) The chief executive officer need not advertise a vacant position in the circumstances prescribed by the regulations.	26 27
<b>[29] Section 110</b>	28
Omit the section. Insert instead:	29
<b>110 Report on actions to increase membership of Local Aboriginal Land Councils</b>	30 31
The New South Wales Aboriginal Land Council is to include in its annual report a report of the actions it has taken to increase the membership of Local Aboriginal Land Councils.	32 33 34

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<b>[30] Section 116 Delegation by New South Wales Aboriginal Land Council</b>	1
Omit “use, management, control, holding or” from section 116 (1) (c).	2
<b>[31] Section 121 Election of councillors</b>	3
Omit section 121 (4). Insert instead:	4
(4) A person is not qualified to be nominated to stand for election, or to be elected, as a councillor to represent a Region if, at the time of the nomination or election, either of the following applies to the person:	5
(a) the person is not a voting member of a Local Aboriginal Land Council the area of which is within the Region,	6
(b) the person is disqualified from holding office as a councillor of the New South Wales Aboriginal Land Council.	7
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<b>[32] Section 121 (7)</b>	14
Insert after section 121 (6):	15
(7) The regulations may make provision with respect to the nomination of persons to stand for election as a councillor to represent a Region.	16
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<b>[33] Section 132 Grounds for disqualification from office</b>	19
Omit section 132 (1) (j). Insert instead:	20
(j) was, within the last 5 years, an officer of the Council immediately before an administrator was appointed for the Council, or	21
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<b>[34] Section 132 (4)</b>	24
Insert after section 132 (3):	25
(4) Despite subsection (1) (h), a person is not disqualified from holding office as a councillor of the Council on the ground that the person is an employee of, or consultant to, the Council (and is taken not to have been disqualified from holding office at the time of the person’s nomination) if:	26
(a) the person takes a leave of absence from employment with the Council in accordance with section 132A, and	27
(b) if the person is elected to the Council, the person resigns from their employment with, or as a consultant to, the Council as soon as practicable after becoming aware of the result of the election.	28
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<b>[35] Section 132A</b>	1
Insert after section 132:	2
<b>132A Leave of absence for employees nominated to Council</b>	3
(1) If a person who is employed by the New South Wales Aboriginal Land Council is nominated to stand for election as a councillor, the person is required to be granted, and to take, leave of absence from the day following the day on which the person was nominated until the day on which the result of the election is declared.	4 5 6 7 8 9
(2) Unless the person is entitled to paid leave (and duly applies for such leave), any leave of absence under this section is to be leave without pay.	10 11 12
<b>[36] Section 133 Vacancy in office</b>	13
Omit “, or” from section 133 (e).	14
<b>[37] Section 133 (f)</b>	15
Omit the paragraph.	16
<b>[38] Section 134 Casual vacancy</b>	17
Insert at the end of the section:	18
(2) A casual vacancy in the office of a councillor occurs when a person who is disqualified from holding office as a councillor is declared (or purportedly declared) to have been elected to the office despite, at the time of nomination or election, not being qualified to be nominated to stand for election or to be elected.	19 20 21 22 23
<b>[39] Section 143A</b>	24
Omit the section. Insert instead:	25
<b>143A Advertising vacancies</b>	26
(1) If it is proposed to make an appointment to the vacant position of Chief Executive Officer of the New South Wales Aboriginal Land Council (other than the appointment of a person to act in the position), the Council must ensure that the vacancy is advertised in the manner prescribed by the regulations.	27 28 29 30 31
(2) If it is proposed to make an appointment to a vacant position in the staff of the New South Wales Aboriginal Land Council (other than the Chief Executive Officer), the Chief Executive Officer must advertise the vacancy in such manner as the Chief Executive Officer considers appropriate.	32 33 34 35 36

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(3)	The Chief Executive Officer need not advertise a vacant position in the circumstances prescribed by the regulations.	1 2
<b>[40]</b>	<b>Section 144 Certain persons must not be employed</b>	3
	Insert at the end of the section:	4
(2)	A person who is a councillor or an officer of a Local Aboriginal Land Council must not be employed as a member of staff of the New South Wales Aboriginal Land Council while the person is such a councillor or officer.	5 6 7 8
(3)	A person who is a consultant to a Local Aboriginal Land Council must not be employed as a member of staff of the New South Wales Aboriginal Land Council while the person is such a consultant.	9 10 11 12
(4)	A member of staff of a Local Aboriginal Land Council must not be employed as a member of staff of the New South Wales Aboriginal Land Council while the person is such a member of staff.	13 14 15 16
(5)	Subsection (4) does not prevent a member of staff of a Local Aboriginal Land Council from being seconded to the staff of the New South Wales Aboriginal Land Council.	17 18 19
<b>[41]</b>	<b>Section 149 NSW Aboriginal Land Council Account</b>	20
	Omit “travelling and other allowances to Board members and” from section 149 (4) (c).	21 22
<b>[42]</b>	<b>Section 152 Local Aboriginal Land Council Accounts</b>	23
	Insert “, including travelling and other allowances to Board members” after “this Act” in section 152 (3) (b).	24 25
<b>[43]</b>	<b>Section 153 Local Aboriginal Land Councils to keep accounts</b>	26
	Omit section 153 (3). Insert instead:	27
(3)	The financial statements must be submitted for verification and certification to an auditor appointed by the Local Aboriginal Land Council concerned from a list of auditors kept by the New South Wales Aboriginal Land Council.	28 29 30 31
(3A)	The regulations may make provision for or with respect to the following:	32 33
(a)	the manner in which the list of auditors is to be kept by the New South Wales Aboriginal Land Council,	34 35
(b)	the qualifications required for auditors included in the list.	36

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<b>[44] Section 162 Funding Agreements</b>	1
Omit section 162 (3).	2
<b>[45] Section 163 Cessation of funding</b>	3
Omit the section.	4
<b>[46] Section 181F Suspension by Registrar for misbehaviour</b>	5
Omit section 181F (3).	6
<b>[47] Section 222 Administrators—Local Aboriginal Land Councils</b>	7
Omit “, 158 or 159” from section 222 (1) (c). Insert instead “or 158”.	8
<b>[48] Section 242 Exclusion of personal liability</b>	9
Insert after section 242 (1) (c):	10
(c1) a member of staff of an Aboriginal Land Council,	11
<b>[49] Section 242 (1)</b>	12
Insert “, member of staff” after “Chief Executive Officer” where secondly occurring.	13 14
<b>[50] Section 243A</b>	15
Insert after section 243:	16
<b>243A Effect of suspension of Board members and councillors</b>	17
A councillor or Board member, while suspended from office under this Act:	18 19
(a) is not entitled to exercise any functions of the office, and	20
(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.	21 22 23
<b>[51] Section 246A</b>	24
Insert after section 246:	25
<b>246A Correction of errors in documents</b>	26
(1) This section applies to a resolution of an Aboriginal Land Council or a certificate issued under this Act by an Aboriginal Land Council.	27 28 29
(2) The Chairperson of an Aboriginal Land Council may, on the application of a person or on the Chairperson’s own initiative,	30 31

	correct any of the following in any document to which this section applies that was created or issued by that Council:	1
	(a) a clerical mistake,	2
	(b) an error arising from an accidental slip or omission,	3
	(c) a mistake in the description of any person or thing,	4
	(d) a defect of form.	5
<b>[52]</b>	<b>Section 252 Regulations</b>	6
	Omit “New South Wales Aboriginal Land Council” from section 252 (2) (l).	7
	Insert instead “Registrar”.	8
<b>[53]</b>	<b>Schedule 3 Procedure of Boards and Councils</b>	9
	Insert at the end of clause 2:	10
	(2) If there is no Board of a Local Aboriginal Land Council and there is no administrator appointed for that Council, the Registrar may call a meeting of the Council for the purpose of electing a Board.	11
<b>[54]</b>	<b>Schedule 4 Savings, transitional and other provisions</b>	12
	Insert at the end of clause 1A (1):	13
	any other Act that amends this Act	14
<b>[55]</b>	<b>Schedule 4, Part 11</b>	15
	Insert after Part 10:	16
	<b>Part 11 Aboriginal Land Rights Amendment Act 2013</b>	17
	<b>55 Definition</b>	18
	In this Part:	19
	<i>amending Act</i> means the <i>Aboriginal Land Rights Amendment Act 2013</i> .	20
	<b>56 Existing employment of staff members</b>	21
	The amendment of section 144 by the amending Act does not affect the employment of a staff member of the New South Wales Aboriginal Land Council if the employment commenced before the commencement of the amendment.	22
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<b>57 Appeals from decisions of Administrative Decisions Tribunal</b>	1
An amendment made to section 70, 71, 136 or 137 by the amending Act applies only to decisions of the Administrative Decisions Tribunal made after the commencement of the amendment.	2 3 4 5
<b>58 Community development levy</b>	6
(1) An amendment made to section 42T, or clause 113 of the <i>Aboriginal Land Rights Regulation 2002</i> , by the amending Act does not affect any liability for duty charged on a dutiable transaction that occurred before the commencement of the amendment.	7 8 9 10 11
(2) Clause 113A of the <i>Aboriginal Land Rights Regulation 2002</i> (as inserted by the amending Act) does not affect any liability for duty charged on a dutiable transaction that occurred before the commencement of that clause.	12 13 14 15

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<b>Schedule 2</b>	<b>Amendment of other Act and regulation</b>	1
<b>2.1</b>	<b>Aboriginal Land Rights Regulation 2002</b>	2
<b>[1]</b>	<b>Clause 25G Training requirements for Board members</b>	3
	Omit “The New South Wales Aboriginal Land Council must arrange training for each member elected for the first time to a Board of a Local Aboriginal Land Council” from clause 25G (1).	4 5 6
	Insert instead “For the purposes of section 65 of the Act, the training to be arranged by the New South Wales Aboriginal Land Council is training”.	7 8
<b>[2]</b>	<b>Clause 31 Staff vacancies</b>	9
	Omit clause 31 (1). Insert instead:	10
	(1) For the purposes of section 79A (1) of the Act, the manner of advertising a vacancy in the position of chief executive officer of a Local Aboriginal Land Council is to advertise the position:	11 12 13
	(a) in a newspaper circulating in the area of the Council, and	14
	(b) in a major indigenous newspaper circulating throughout the State.	15 16
<b>[3]</b>	<b>Clause 91 Staff vacancies</b>	17
	Omit clause 91 (1). Insert instead:	18
	(1) For the purposes of section 143A (1) of the Act, the manner of advertising a vacancy in the position of Chief Executive Officer of the New South Wales Aboriginal Land Council is to advertise the position:	19 20 21 22
	(a) in a newspaper circulating in the area of the Council, and	23
	(b) in a major indigenous newspaper circulating throughout the State.	24 25
<b>[4]</b>	<b>Clause 95</b>	26
	Omit the clause. Insert instead:	27
	<b>95 Auditors</b>	28
	The New South Wales Aboriginal Land Council must not include a person on the list of auditors required to be kept under section 153 of the Act unless the person is:	29 30 31
	(a) a registered company auditor, or	32
	(b) a member of the National Institute of Chartered Accountants, or	33 34



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(c) a member of CPA Australia, or	1
(d) a member of the Institute of Chartered Accountants Australia.	2 3
<b>[5] Clauses 113 and 113A</b>	4
Omit clause 113. Insert instead:	5
<b>113 Amount of community development levy</b>	6
For the purposes of section 42T of the Act, the prescribed percentage (if any) of the duty that would be payable under the <i>Duties Act 1997</i> for a dutiable transaction is the percentage set out in Schedule 6A.	7 8 9 10
<b>113A Transactions to which community development levy does not apply</b>	11 12
The community development levy does not apply to a dutiable transaction if the dutiable value of the land concerned is \$80,000 or less.	13 14 15
<b>[6] Schedule 2 Model rules for Local Aboriginal Land Councils</b>	16
Omit clause 21 (2) (c).	17
<b>2.2 National Parks and Wildlife Act 1974 No 80</b>	18
<b>[1] Section 71O Vesting and reservation of Schedule 14 lands</b>	19
Omit “joint tenants (without the benefit of survivorship)” from section 71O (2) (b).	20 21
Insert instead “tenants in common”.	22
<b>[2] Section 71P Effect of publication of proclamation</b>	23
Omit “joint tenants (without the benefit of survivorship)” from section 71P (2).	24 25
Insert instead “tenants in common”.	26
<b>[3] Schedule 3 Savings, transitional and other provisions</b>	27
Insert at the end of clause 1 (1):	28
<i>Aboriginal Land Rights Amendment Act 2013</i>	29

<b>[4] Schedule 3, Part 10</b>	1
Insert after Part 9:	2
<b>Part 10 Provision consequent on enactment of Aboriginal Land Rights Amendment Act 2013</b>	3 4 5
<b>73 Severing of joint tenancies</b>	6
On the commencement of the amendments made to sections 71O and 71P of this Act by the <i>Aboriginal Land Rights Amendment     Act 2013</i> :	7 8 9
(a) any joint tenancy in relation to land created by the operation of section 71O or 71BK and in existence immediately before that commencement is severed, and	10 11 12
(b) the Aboriginal Land Councils that were the joint tenants hold the land as tenants in common.	13 14