



New South Wales

Aboriginal Land Rights Amendment Bill 2022

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*) in relation to the following matters—

- (a) land dealings by a Local Aboriginal Land Council (an *LALC*) and the amendment by the New South Wales Aboriginal Land Council (*NSWALC*) of the approval of land dealings,
- (b) the refund of community development levy amounts paid for cancelled dutiable transactions,
- (c) the preparation and approval of community, land and business plans of Aboriginal Land Councils,
- (d) the financial reporting obligations of NSWALC and other governance and administrative matters relating to the operations of Aboriginal Land Councils,
- (e) officers of Aboriginal Land Councils, including suspension from office, grounds for disqualification from office, vacancies in office, and employment and training of officers,
- (f) the administration of elections of councillors of NSWALC,
- (g) the employment of staff and the advertising of staff vacancies of an Aboriginal Land Council,
- (h) the functions under the principal Act of Aboriginal Land Councils and the Minister for Aboriginal Affairs,
- (i) the rectification of the Register of Aboriginal Owners by the Registrar under the principal Act,

- (j) the transaction of business of NSWALC outside meetings or by telephone or other electronic means,
- (k) updating the Preamble to the principal Act to reflect the importance of waters to Aboriginal persons, in addition to the existing recognition of lands,
- (l) other minor or consequential matters.

The Bill also makes consequential amendments to the *Aboriginal Land Rights Regulation 2020* and the *Government Sector Finance Regulation 2018*.

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.

Schedule 1 Amendments relating to land dealings and community benefits

Schedule 1[1] makes it clear that the power of the Registrar to refuse to refer a claim for land made in contravention of an undertaking given in an Aboriginal Land Agreement applies only if the agreement is recorded in the register of Aboriginal Land Agreements under the principal Act.

Schedule 1[2] and [3] provide for further exceptions to the restriction on an LALC purchasing land. Currently, an LALC can purchase land only if the purchase price is not more than 5% above the assessed market value of the land or NSWALC has given its written approval to the purchase. Schedule 1[2] allows an LALC to purchase land for more than 5%, but not more than 15%, above the assessed market value of the land. Schedule 1[3] allows an LALC to purchase land for nominal consideration.

Schedule 1[4] enables NSWALC to amend an approval of a land dealing on the application of the LALC concerned if the land dealing has not been completed and certain instruments giving effect to or forming part of the land dealing have not been registered under the *Real Property Act 1900* or the *Conveyancing Act 1919*. **Schedule 1[5]–[8]** make consequential amendments.

Schedule 1[9] provides for the amount of community development levy paid by the Chief Commissioner of State Revenue to NSWALC for a dutiable transaction to be refunded to the LALC concerned if the transaction is cancelled. The amendment also provides that NSWALC may obtain a refund of the amount contributed to the New South Wales Aboriginal Land Council Community Fund by NSWALC for the transaction. **Schedule 1[14]** makes a consequential amendment.

Schedule 1[10] removes the requirement for NSWALC to have regard to the limited operations of an LALC when considering whether to exempt the LALC from the requirement to prepare a community, land and business plan.

Schedule 1[11] removes the requirement for a community, land and business plan of NSWALC to contain certain matters in relation to land.

Schedule 1[12] removes the requirement for 14 days' notice to be given of a meeting of NSWALC at which a community, land and business plan of NSWALC is to be approved.

Schedule 1[13] repeals provisions requiring the Chief Executive Officer of NSWALC to make available a summary or copy of a proposed community, land and business plan containing matters prescribed by regulations under the principal Act. The amendment also repeals a provision allowing more than one meeting to be called to enable approval of a community, land and business plan of NSWALC. **Schedule 4.2[4]** makes a consequential amendment.

Schedule 2 Amendments relating to office holders

Schedule 2.1[2] requires travelling and other allowances for a Board member of an LALC to be determined by resolution of the voting members of the LALC, rather than by the Minister for Aboriginal Affairs. **Schedule 2.1[1]** makes a consequential amendment.

Schedule 2.1[3] inserts provisions about the election and term of office of Board members of an LALC for which an administrator has been appointed. The term of office of a Board member appointed to fill a vacancy as a result of the appointment of an administrator ends on the election of the next Board. The timing of the election of the next Board is subject to whether the elections to fill the vacancies were held before, or during, the period of 12 months before the next Board election would have been held had the administrator not been appointed.

Schedule 2.1[4] removes the power of NSWALC to exempt a Board member of an LALC from a requirement to undergo certain training arranged by NSWALC if the member has previously undergone the training.

Schedule 2.1[5] provides that a conviction for an offence disqualifies a person from holding office as a Board member of an LALC only if the offence is punishable by imprisonment for 5 years or more. Currently, disqualification applies in relation to offences punishable by imprisonment for 12 months or more.

Schedule 2.1[6] provides that a person is disqualified from holding office as a Board member of an LALC if, within the last 5 years, the person has been the subject of a finding by the Independent Commission Against Corruption of serious corrupt conduct.

Schedule 2.1[7] provides that a person is disqualified from holding office as a Board member of an LALC if the person is or was concerned in the management of a body corporate that is the subject of a winding up order or for which a controller or administrator, other than a special administrator, has been appointed under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* of the Commonwealth within the last 3 years.

Schedule 2.1[8] provides that a person who is a contractor to an LALC is disqualified from holding office as a Board member of the LALC. **Schedule 2.1[10] and [11]** make consequential amendments.

Schedule 2.1[9] provides that a person who was a Board member of an LALC for which an administrator has been appointed is disqualified from holding the office if the person held the office at a time that was both—

- (a) within 2 years before the appointment, and
- (b) within the last 5 years.

Schedule 2.1[12] provides for an exception to disqualification from office as a Board member of an LALC for certain short-term work. The exception applies to work of a kind specified in a policy prepared in accordance with the directions of NSWALC and approved by resolution of the voting members of the LALC. The employment, consultancy or contract concerned must also be approved by resolution of the voting members of the LALC or, if required by the approved work policy, the Board. The policy may not specify, as approved work, the functions of the chief executive officer of the LALC or work performed on a permanent basis.

Schedule 2.1[13] provides that a vacancy in the office of a Board member of an LALC does not arise as a result of the member's absence from 2 consecutive meetings of the Board until the Board has resolved not to excuse the member for the absences.

Schedule 2.1[17] inserts new provisions dealing with the administration of elections of councillors of NSWALC as follows—

- (a) proposed section 121A requires NSWALC to decide whether elections will be administered by the Electoral Commissioner or by an electoral services provider engaged by NSWALC,

- (b) proposed section 121B contains provisions relating to the administration of elections by the Electoral Commissioner,
- (c) proposed section 121C contains provisions relating to the administration of elections by an electoral services provider.

Schedules 2.1[15], [16], [19] and [26] and 2.2 make consequential amendments.

Schedule 2.1[18] provides that NSWALC, rather than the Minister for Aboriginal Affairs, must decide the date for the election of all councillors of NSWALC. The date must be determined in consultation with the Electoral Commissioner in certain circumstances. The amendment also provides that if an election of all councillors of NSWALC is not held on the date determined by NSWALC for the election, the Minister for Aboriginal Affairs may decide a new date and appoint a returning officer for the election.

Schedule 2.1[20] provides that a conviction for an offence disqualifies a person from holding office as a councillor of NSWALC only if the offence is punishable by imprisonment for 5 years or more. Currently, disqualification applies in relation to offences punishable by imprisonment for 12 months or more.

Schedule 2.1[21] provides that a person is disqualified from holding office as a councillor of NSWALC if, within the last 5 years, the person has been the subject of a finding by the Independent Commission Against Corruption of serious corrupt conduct.

Schedule 2.1[22] provides that a person is disqualified from holding office as a councillor of NSWALC if the person is or was concerned in the management of a body corporate that is the subject of a winding up order or for which a controller or administrator, other than a special administrator, has been appointed under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* of the Commonwealth within the last 3 years.

Schedule 2.1[23] provides that a person is disqualified from holding office as a councillor of NSWALC on the ground of engaging in other paid work only if the work is done without the approval of NSWALC. Schedule 2.1[14] makes a related amendment to provide that NSWALC may not delegate the function of approving the paid work.

Schedule 2.1[24] provides that a vacancy in the office of a councillor of NSWALC does not arise as a result of the councillor's absence from 2 consecutive meetings of NSWALC until NSWALC has resolved not to excuse the councillor for the absences.

Schedule 2.1[25] allows the Registrar to decide in certain circumstances that an offence committed by a person may be disregarded for the purposes of a prohibition on employment with NSWALC.

Schedule 3 Amendments relating to conduct and disciplinary matters

Schedule 3[4] repeals and re-enacts, with modifications, Part 10 of the principal Act. The proposed Part contains the following provisions about conduct and disciplinary matters—

- (a) proposed Division 1 defines certain words and expressions used in the proposed Part, and **Schedule 3[1]** makes a consequential amendment,
- (b) proposed Division 2 contains provisions about codes of conduct for members, officers and members of staff of Aboriginal Land Councils, and **Schedule 4.2[6]–[9]** make consequential amendments,
- (c) proposed Division 3 sets out the duties of officers and members of staff of Aboriginal Land Councils, including the duty to disclose pecuniary interests,
- (d) proposed Division 4 contains provisions about formal censure, complaints, investigations and disciplinary action, and **Schedule 3[2] and [3]** make consequential amendments,

- (e) proposed Division 5 contains provisions about proceedings before the NSW Civil and Administrative Tribunal relating to misconduct and other complaints and allegations.

Schedule 3[5] extends the power of the Registrar to issue a compliance direction to enable the Registrar to issue a direction to the chief executive officer of an Aboriginal Land Council. Currently, the Registrar may only issue a compliance direction to an officer of an Aboriginal Land Council.

Schedule 3[6] provides that an officer of an Aboriginal Land Council who is suspended from office under the principal Act is not to be counted as a voting member of NSWALC or the Board of NSWALC for the purposes of determining the quorum required for a meeting of NSWALC or the Board.

Schedule 4 Miscellaneous amendments

Schedule 4.1[1]–[4] amend the Preamble to the principal Act, which currently recognises the importance of land to Aboriginal persons. The amendments extend the recognition so that it reflects the importance of waters to Aboriginal persons.

Schedule 4.1[5] extends the objects of LALCs to include the relief of poverty, sickness, suffering, distress, misfortune, destitution and helplessness of Aboriginal persons within the LALC's area. The amendment makes the objects of an LALC consistent with the objects of NSWALC relating to persons within NSWALC's area.

Schedule 4.1[6] provides that a Board of an LALC must review its delegations within 12 months after an election of the Board, rather than every year and immediately after an election of the Board.

Schedule 4.1[7] allows the Board of an LALC to advertise a vacancy for the position of chief executive officer of the LALC in a way it decides to be sufficient to enable suitably qualified persons to apply for the position, rather than in the way prescribed by the regulations. **Schedule 4.2[1]** makes a consequential amendment.

Schedule 4.1[8] allows a vacancy in the staff of an LALC to be filled without advertisement with the approval of the Board. Currently, a vacancy may be filled without advertisement only in the circumstances prescribed by the regulations.

Schedule 4.1[9] extends the functions of NSWALC in relation to policy and advice to include advising the Minister for Aboriginal Affairs on matters relating to the interests of Aboriginal persons.

Schedule 4.1[10] requires NSWALC to make its policies relating to Aboriginal Land Council functions publicly available on the website of NSWALC.

Schedule 4.1[11] removes the requirement for NSWALC to obtain the approval of the Minister for Aboriginal Affairs before adopting a policy.

Schedule 4.1[12] amends a provision dealing with the commencement of policies of NSWALC to provide that a policy takes effect on the day specified in the policy, but no earlier than the day it is published on the website of NSWALC.

Schedule 4.1[13] corrects a cross-reference.

Schedule 4.1[14] prohibits a person who is not an Aboriginal person from being employed as the Chief Executive Officer of NSWALC. **Schedule 4.1[15]** makes a consequential amendment.

Schedule 4.1[16] allows NSWALC to advertise a vacancy for the position of Chief Executive Officer of NSWALC in a way it decides to be sufficient to enable suitably qualified persons to apply for the position, rather than in the way prescribed by the regulations. **Schedule 4.2[4]** makes a consequential amendment.

Schedule 4.1[17] allows a vacancy in the staff of NSWALC to be filled without advertisement with the approval of the Chairperson of NSWALC. Currently, a vacancy may be filled without advertisement only in the circumstances prescribed by the regulations.

Schedule 4.1[19] provides that the value of the assets of NSWALC, rather than the capital value of the New South Wales Aboriginal Land Council Account, must be maintained above the capital value of the account as at 31 December 1998. **Schedule 4.1[18] and [20]** make consequential amendments.

Schedule 4.1[21] inserts provisions relating to the financial reporting obligations of NSWALC. **Schedule 4.3[1]** makes a related amendment to the *Government Sector Finance Regulation 2018* to exclude NSWALC from the application of the financial reporting requirements of the *Government Sector Finance Act 2018*. **Schedules 4.1[22], [24] and [25], 4.2[5] and 4.3[2]–[5]** make consequential amendments.

Schedule 4.1[23] makes discretionary a requirement for NSWALC to appoint a special auditor on the request of an LALC to examine the financial affairs of the LALC.

Schedule 4.1[26] updates a reference to a Department.

Schedule 4.1[27] and [28] make it clear that the obligation of the Registrar to enter names of Aboriginal persons in the Register of Aboriginal Owners is limited to entering the names of Aboriginal persons who have a cultural association with land in the State, determined on request under the principal Act.

Schedule 4.1[29] corrects an inconsistency in terminology used in reference to the original Aboriginal inhabitants of land in a provision specifying the eligibility requirements for entering the name of an Aboriginal person in the Register of Aboriginal Owners.

Schedule 4.1[30] enables the Registrar to amend information on, or remove information from, the Register of Aboriginal Owners if the Registrar considers the information is false, erroneous or misleading. The Registrar must first give the Aboriginal person to whom the information relates written notice and an opportunity to make submissions about the proposed change. An Aboriginal person who considers the amendment is incorrect may request the Registrar to rectify the Register, and may appeal to the Land and Environment Court if the Registrar fails to rectify the Register within 6 months. **Schedule 4.1[31]** makes a consequential amendment.

Schedule 4.1[32] removes the requirement for NSWALC to submit to the Minister for Aboriginal Affairs for approval the list of persons who may be appointed by the Minister as an administrator for an LALC.

Schedule 4.1[33] requires the Minister for Aboriginal Affairs to prepare a report of the Minister's reasons for appointing an administrator of NSWALC and table the report in Parliament.

Schedule 4.1[34] updates a provision relating to the execution of documents by an Aboriginal Land Council without a common seal consequent on changes to the constitution of LALCs.

Schedule 4.1[36] provides for the transaction of business of NSWALC outside meetings or by telephone or other electronic means. **Schedules 4.1[35] and 4.2[2] and [3]** make consequential amendments.

Schedule 5 Amendment relating to savings and transitional provisions

Schedule 5 makes an amendment of a savings and transitional nature consequent on the amendments made by Schedule 1.



New South Wales

Aboriginal Land Rights Amendment Bill 2022

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New South Wales

Aboriginal Land Rights Amendment Bill 2022

No. , 2022

A Bill for

An Act to amend the *Aboriginal Land Rights Act 1983* in relation to land dealings and community benefits, office holders of Aboriginal Land Councils, membership of Local Aboriginal Land Councils, conduct and disciplinary matters and other miscellaneous matters; and for other purposes.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Aboriginal Land Rights Amendment Act 2022*.

3

2 Commencement

4

This Act commences as follows—

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- (a) for Schedules 2.1[15]–[19] and [26] and 2.2—on a day or days to be appointed by proclamation,
- (b) otherwise—on the date of assent to this Act.

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Schedule 1 Amendments relating to land dealings and community benefits 1
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Amendment of Aboriginal Land Rights Act 1983 No 42 3

[1] Section 36 Claims to Crown lands 4

Insert “recorded in the register of Aboriginal Land Agreements” after “Agreement”
wherever occurring in section 36(4A)(b) and (4E)(b). 5
6

[2] Section 38 Purchase, lease etc of property 7

Omit “5%” from section 38(1A)(a). Insert instead “15%”. 8

[3] Section 38(1A)(c) 9

Insert at the end of section 38(1A)(b)— 10

, or 11

(c) the purchase is for nominal consideration. 12

[4] Section 42IA 13

Insert after section 42I— 14

42IA Amendment of land dealing approvals 15

(1) A Local Aboriginal Land Council for which a land dealing has been approved
may make an application to the New South Wales Aboriginal Land Council
for an amendment of the approval. 16
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(2) The New South Wales Aboriginal Land Council may— 19

(a) amend the approval, or 20

(b) refuse to amend the approval. 21

(3) The New South Wales Aboriginal Land Council must not amend the approval
if— 22
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(a) the land dealing has been completed, or 24

(b) a registrable instrument has been registered in reliance on the approval. 25

(4) The New South Wales Aboriginal Land Council must give the Local
Aboriginal Land Council a written statement of the reasons for its decision in
relation to the application if— 26
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(a) the decision is to refuse to amend the approval, and 29

(b) the Local Aboriginal Land Council requests the written statement. 30

(5) The written statement must be given within 28 days after the Local Aboriginal
Land Council makes the request. 31
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(6) The regulations may make provision about the amendment of an approval,
including— 33
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(a) applications for amendments of approvals, and 35

(b) grounds for amendments of approvals, and 36

(c) fees for amendments of approvals. 37

(7) In this section— 38

amend an approval includes amend the conditions of the approval, including
by— 39
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(a)	imposing new conditions on the approval, or	1
(b)	substituting a condition of the approval, or	2
(c)	omitting or amending a condition of the approval.	3
[5]	Section 42J, heading	4
	Omit “ Amendment and revocation ”. Insert instead “ Revocation ”.	5
[6]	Section 42J(1)	6
	Omit “amend or”.	7
[7]	Section 42J(1), note	8
	Omit “amend or”.	9
[8]	Section 42K Certificates for dealings by Local Aboriginal Land Councils	10
	Insert after section 42K(3)—	11
(3A)	If the approval to which a dealing approval certificate relates is amended under section 42IA—	12
(a)	the dealing approval certificate and the registration approval certificates, if any, relating to the approval cease to have effect, and	13
(b)	the Local Aboriginal Land Council must, within 14 days after the amendment, return to the Chief Executive Officer of the New South Wales Aboriginal Land Council—	14
(i)	the dealing approval certificate, and	15
(ii)	if a registration approval certificate has been given for an instrument relating to the land dealing—each registration approval certificate, and	16
(c)	the Chief Executive Officer must, within 14 days after the amendment, give to the Local Aboriginal Land Council a new dealing approval certificate for the land dealing to which the amended approval relates, and	17
(d)	if the Chief Executive Officer is satisfied as to the matters referred to in subsection (2)(a)–(c) for an instrument to which the land dealing relates—the Chief Executive Officer must give to the Local Aboriginal Land Council a new registration approval certificate for the instrument.	18
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[9]	Section 42UA	31
	Insert after section 42U—	32
42UA	Refund of levy for cancelled transactions	33
(1)	This section applies to a dutiable transaction for which—	34
(a)	a Local Aboriginal Land Council is liable to pay the community development levy, and	35
(b)	an amount of community development levy has been paid to the New South Wales Aboriginal Land Council by the Chief Commissioner of State Revenue.	36
(2)	If the New South Wales Aboriginal Land Council is satisfied that the dutiable transaction has been cancelled, the New South Wales Aboriginal Land Council—	37
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(a)	must refund to the Local Aboriginal Land Council the amount of community development levy paid by the Chief Commissioner of State Revenue to the New South Wales Aboriginal Land Council for the dutiable transaction, and	1 2 3 4
(b)	may recover from the New South Wales Aboriginal Land Council Community Fund the amount paid by the New South Wales Aboriginal Land Council to the Fund under section 42U(5) for the dutiable transaction.	5 6 7 8
(3)	In this section— <i>cancelled</i> means rescinded, annulled or terminated without completion.	9 10
[10]	Section 82 Community, land and business plans	11
	Omit “that, having regard to the limited operations of the Local Aboriginal Land Council,” from section 82(5).	12 13
[11]	Section 137B Matters covered by plans	14
	Omit section 137B(2).	15
[12]	Section 137C Approval of community, land and business plans	16
	Omit “, of which not less than 14 days notice was given” from section 137C(1).	17
[13]	Section 137C(2)–(4) and (8)	18
	Omit the subsections.	19
[14]	Section 149A NSW Aboriginal Land Council Community Fund	20
	Insert after section 149A(2)(d)—	21
	(d1) amounts that become payable under section 42UA, and	22

Schedule 2	Amendments relating to office holders	1
2.1	Amendment of Aboriginal Land Rights Act 1983 No 42	2
[1]	Section 52G Functions exercised by Council resolution	3
	Insert after section 52G(1)(g)—	4
	(g1) approval of travelling and other allowances of Board members under section 63,	5 6
	(g2) approval of a policy, employment or consultancy for the purposes of section 66A,	7 8
[2]	Section 63 Board members	9
	Omit section 63(3) and (4). Insert instead—	10
	(3) A Board member is entitled to be paid travelling and other allowances decided by resolution of the voting members of the Local Aboriginal Land Council.	11 12
[3]	Sections 63A and 63B	13
	Insert after section 63—	14
63A	Term of office of Board members	15
	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 fourth annual meeting of the Council following the member's election.	16 17 18
	Note— See section 63B for provisions dealing with the term of office of Board members elected to fill vacancies following the appointment of an administrator for a Local Aboriginal Land Council.	19 20 21
63B	Effect of appointment of administrator	22
	(1) This section applies if elections have been held to fill vacancies as required by section 226 on the appointment of an administrator for a Local Aboriginal Land Council.	23 24 25
	(2) The term of office of a Board member appointed to fill a vacancy as required by section 226 ends on the election of the next Board.	26 27
	(3) If the elections required by section 226 have been held more than 12 months before the start of the next election period, the election of the next Board must be held during the next election period.	28 29 30
	(4) If the elections required by section 226 have been held within the period of 12 months before the start of the next election period, the election of the next Board must be held during the subsequent election period.	31 32 33
	(5) In this section—	34
	next election period means the period during which the election of the next Board would have been required under this Act to have been held had the administrator not been appointed.	35 36 37
	Note— Section 63 requires Board members to be elected at every fourth annual meeting of a Local Aboriginal Land Council. Regulations made under this Act specify the period during which a Local Aboriginal Land Council must hold an annual meeting.	38 39 40
	subsequent election period means the period of 4 months commencing 4 years after the last day of the next election period.	41 42

[4] Section 65 Training for Board members	1
Omit “has previously undergone training under this section or” from section 65(5)(a).	2
[5] Section 66 Grounds for disqualification from office	3
Omit “12 months” from section 66(1)(c). Insert instead “5 years”.	4
[6] Section 66(1)(c1)	5
Insert after section 66(1)(c)—	6
(c1) has, within the last 5 years, been the subject of a finding by the Independent Commission Against Corruption that the person has engaged in serious corrupt conduct, or	7 8 9
[7] Section 66(1)(h)	10
Omit the paragraph. Insert instead—	11
(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 either of the following has been appointed during the last 3 years—	12 13 14
(a) a controller or administrator under the <i>Corporations Act 2001</i> of the Commonwealth,	15 16
(b) a controller or administrator, other than a special administrator, under the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> of the Commonwealth, or	17 18 19
[8] Section 66(1)(j)	20
Insert “or contractor” after “consultant”.	21
[9] Section 66(1)(k)	22
Omit the paragraph. Insert instead—	23
(k) was an officer of the Local Aboriginal Land Council at a time that was both—	24 25
(i) within the last 5 years, and	26
(ii) within 2 years before an administrator was appointed for the Council, or	27 28
[10] Section 66(1)(m)	29
Insert “or contractor” after “consultant”.	30
[11] Section 66(4)	31
Omit “to, the Council if the person resigns as an employee of, or as a consultant”.	32
Insert instead “or contractor to, the Council if the person resigns from employment with, or ceases to be a consultant or contractor”.	33 34
[12] Section 66A	35
Insert after section 66—	36
66A Exception to disqualification—approved short-term work	37
(1) Despite section 66(1)(j), a person is not disqualified from holding office as a Board member of a Local Aboriginal Land Council on the ground that the person is an employee of, or a consultant or contractor to, the Council if the employment, consultancy or contract meets the requirements of this section.	38 39 40 41

(2)	The employment, consultancy or contract must involve the performance of work of a kind specified in a policy (an <i>approved work policy</i>)—	1
	(a) prepared in accordance with the directions of the New South Wales Aboriginal Land Council, and	2
	(b) approved by resolution of the voting members of the Local Aboriginal Land Council.	3
(3)	The employment, consultancy or contract must be approved by—	4
	(a) resolution of the voting members of the Local Aboriginal Land Council, or	5
	(b) if the approved work policy requires the Board of the Local Aboriginal Land Council to approve the employment, consultancy or contract—the Board.	6
(4)	An approved work policy may not specify either of the following as approved work—	7
	(a) work involving the exercise of the functions of the chief executive officer of a Local Aboriginal Land Council,	8
	(b) work to be performed on a permanent basis.	9
[13]	Section 67 Vacancy in office	10
	Insert at the end of the section—	11
	(2) A vacancy does not arise under subsection (1)(b) until the Board has—	12
	(a) given the member reasonable notice of the Board’s intention to consider at a meeting of the Board whether to excuse the member for the absences, and	13
	(b) resolved at the meeting not to excuse the member for the absences.	14
[14]	Section 116 Delegation by New South Wales Aboriginal Land Council	15
	Insert after section 116(1)(f1)—	16
	(g) approval of paid work for the purposes of section 132(1)(i),	17
[15]	Section 120A	18
	Insert before section 120—	19
	120A Definitions	20
	In this Division—	21
	<i>election administrator</i> , in relation to an election of councillors, means—	22
	(a) if the New South Wales Aboriginal Land Council has engaged an electoral services provider to administer the election—the electoral services provider, or	23
	(b) otherwise—the Electoral Commissioner.	24
	<i>election arrangement</i> —see section 121A.	25
	<i>Electoral Commissioner</i> means the person for the time being holding or acting in the office of Electoral Commissioner under the <i>Electoral Act 2017</i> .	26
[16]	Section 121 Election of councillors	27
	Omit section 121(3).	28

[17] Sections 121A–121C	1
Insert after section 121—	2
121A NSW Aboriginal Land Council to plan for administration of elections	3
(1) The New South Wales Aboriginal Land Council must resolve that the next election for the election of councillors will be administered—	4
(a) by the Electoral Commissioner under an arrangement (an <i>election arrangement</i>), or	5
(b) by an electoral services provider engaged by the Council.	6
(2) The resolution must be made at least 12 months before the earliest date on which the election may be held.	7
(3) The resolution must include the following information if it provides for the election to be administered by an electoral services provider—	8
(a) whether the Council has identified the provider,	9
(b) if the provider has been identified—the name of the provider,	10
(c) other information required by the regulations.	11
(4) The New South Wales Aboriginal Land Council must give written notice of the resolution to the Electoral Commissioner as soon as practicable after it has been made.	12
(5) The New South Wales Aboriginal Land Council may enter into an election arrangement in accordance with the resolution if—	13
(a) the arrangement is entered into at least 9 months before the earliest date on which the election may be held, or	14
(b) the Electoral Commissioner is satisfied there are exceptional circumstances that make it necessary or desirable for the election to be administered by the Electoral Commissioner.	15
(6) An election arrangement may be by contract or otherwise.	16
121B Elections administered by Electoral Commissioner	17
(1) This section applies to an election of councillors administered by the Electoral Commissioner.	18
(2) The Electoral Commissioner must appoint a returning officer and a substitute returning officer.	19
(3) The returning officer may appoint a regional electoral officer for a Region to assist in taking the poll for an election of a councillor to represent the Region.	20
(4) The regional electoral officer may appoint one or more deputy electoral officers to assist in taking the poll.	21
(5) The returning officer must conduct the election on behalf of, and under the direction of, the Electoral Commissioner.	22
(6) The substitute returning officer must exercise the functions of the returning officer in the absence of the returning officer.	23
(7) A person nominated for election as a councillor must not hold the following offices in relation to the election and, if the person held the office before the nomination, the person ceases to hold the office—	24
(a) returning officer,	25
(b) substitute returning officer,	26

(c)	regional electoral officer,	1
(d)	deputy electoral officer.	2
(8)	A member of staff of the New South Wales Aboriginal Land Council must not be appointed as—	3 4
(a)	a returning officer, or	5
(b)	a substitute returning officer.	6
(9)	The following persons must not vote at the election—	7
(a)	the Electoral Commissioner,	8
(b)	the returning officer for the election,	9
(c)	the substitute returning officer for the election.	10
(10)	For the purpose of conducting the election, the Electoral Commissioner must decide any matter not provided for by this Act or the regulations.	11 12
121C	Elections administered by electoral services provider	13
(1)	This section applies to an election of councillors administered by an electoral services provider engaged by the New South Wales Aboriginal Land Council.	14 15
(2)	The electoral services provider must appoint a returning officer and a substitute returning officer.	16 17
(3)	The returning officer may appoint a regional electoral officer for a Region to assist in taking the poll for an election of a councillor to represent the Region.	18 19
(4)	The regional electoral officer may appoint one or more deputy electoral officers to assist in taking the poll.	20 21
(5)	The substitute returning officer must exercise the functions of the returning officer in the absence of the returning officer.	22 23
(6)	A person nominated for election as a councillor must not hold the following offices in relation to the election and, if the person held the office before the nomination, the person ceases to hold the office—	24 25 26
(a)	returning officer,	27
(b)	substitute returning officer,	28
(c)	regional electoral officer,	29
(d)	deputy electoral officer.	30
(7)	A member of staff of the New South Wales Aboriginal Land Council must not be appointed as—	31 32
(a)	a returning officer, or	33
(b)	a substitute returning officer.	34
(8)	The following persons must not vote at the election—	35
(a)	the returning officer for the election,	36
(b)	the substitute returning officer for the election.	37
(9)	For the purpose of conducting an election, the returning officer must decide any matter not provided for by this Act or the regulations.	38 39
[18]	Section 122 Timing of elections	40
	Omit section 122(2). Insert instead—	41
(2)	The New South Wales Aboriginal Land Council must—	42

(a)	set the date for the election in accordance with subsection (1), and	1
(b)	give written notice of the date to—	2
(i)	the Minister, and	3
(ii)	the Electoral Commissioner, and	4
(iii)	if an electoral services provider has been engaged to administer the election—the electoral services provider.	5 6
(3)	The New South Wales Aboriginal Land Council must consult with the Electoral Commissioner before setting the date unless the Council has made a resolution under section 121A for the election to be administered by an electoral services provider engaged by the Council.	7 8 9 10
(4)	The Minister may, in consultation with the Electoral Commissioner, set a date for the election if the Minister is satisfied that—	11 12
(a)	the date set by the New South Wales Aboriginal Land Council is not in accordance with subsection (1), or	13 14
(b)	the election was not held on the date set by the New South Wales Aboriginal Land Council.	15 16
(5)	The date set under subsection (4)(b) must be as soon as practicable after the date set by the New South Wales Aboriginal Land Council.	17 18
(6)	If the Minister sets the date for the election, the Minister—	19
(a)	may appoint the Electoral Commissioner, or a person nominated by the Electoral Commissioner, as the returning officer for the election, and	20 21
(b)	must notify the returning officer of the date as soon as practicable.	22
[19]	Section 125 Method of disputing elections and returns	23
	Omit section 125(3). Insert instead—	24
(3)	For the purposes of deciding an application under this section—	25
(a)	the Court has the same powers as are conferred by the <i>Electoral Act 2017</i> , section 225 on the Court of Disputed Returns, and	26 27
(b)	a reference in that section to the Electoral Commission is taken to include an electoral services provider engaged by the New South Wales Aboriginal Land Council to administer the election.	28 29 30
[20]	Section 132 Grounds for disqualification from office	31
	Omit “12 months” from section 132(1)(c). Insert instead “5 years”.	32
[21]	Section 132(1)(c1)	33
	Insert after section 132(1)(c)—	34
(c1)	has, within the last 5 years, been the subject of a finding by the Independent Commission Against Corruption that the person has engaged in serious corrupt conduct, or	35 36 37
[22]	Section 132(1)(f)	38
	Omit the paragraph. Insert instead—	39
(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 either of the following has been appointed during the last 3 years—	40 41 42
(a)	a controller or administrator under the <i>Corporations Act 2001</i> of the Commonwealth,	43 44

	(b) a controller or administrator, other than a special administrator, under the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> of the Commonwealth, or	1 2 3
[23]	Section 132(1)(i)	4
	Omit “employment”.	5
	Insert instead “work without the approval of the New South Wales Aboriginal Land Council”.	6 7
[24]	Section 133 Vacancy in office	8
	Insert at the end of the section—	9
	(2) A vacancy does not arise under subsection (1)(b) until the Council has—	10
	(a) given the person reasonable notice of the Council’s intention to consider at a meeting of the Council whether to excuse the person for the absences, and	11 12 13
	(b) resolved at the meeting not to excuse the person for the absences.	14
[25]	Section 144 Certain persons must not be employed	15
	Insert after section 144(1)—	16
	(1A) The Registrar may decide that an offence committed by a person may be disregarded for the purposes of subsection (1) because of—	17 18
	(a) the time that has passed since the offence was committed, or	19
	(b) the triviality of the acts or omissions giving rise to the offence, or	20
	(c) the nature and circumstances of the proposed employment.	21
[26]	Section 149 NSW Aboriginal Land Council Account	22
	Omit “costs incurred by the Electoral Commissioner for New South Wales” from section 149(4)(b).	23 24
	Insert instead “payment of amounts to the Electoral Commissioner for New South Wales and electoral services providers”.	25 26
2.2	Amendment of Aboriginal Land Rights Regulation 2020	27
[1]	Clause 3 Definitions	28
	Omit “under clause 57(2)” and “under clause 57(1)” wherever occurring in clause 3(1), definitions of <i>deputy electoral officer</i> and <i>regional electoral officer</i> .	29 30
[2]	Clause 55 Notice of election of New South Wales Aboriginal Land Council	31
	Omit “being notified of the date of an election of all councillors under section 122(2) of” from clause 55(1).	32 33
	Insert instead “becoming aware that an election of councillors is required to be held under”.	34
[3]	Clause 57 Officers to assist returning officer	35
	Omit the clause.	36
[4]	Clause 65 Contested election	37
	Omit clause 65(3)(a). Insert instead—	38
	(a) on the website of the election administrator, and	39

[5] Clause 66 Order of candidates' names on ballot-papers	1
Omit "New South Wales Electoral Commission". Insert instead "election administrator".	2
[6] Clause 74 Appointment of polling places	3
Omit "New South Wales Electoral Commission's website" from clause 74(7).	4
Insert instead "website of the election administrator".	5
[7] Clause 96 Notification of result of election	6
Omit "New South Wales Electoral Commission's website" from clause 96(b).	7
Insert instead "website of the election administrator".	8
[8] Clause 99, heading	9
Omit the heading. Insert instead—	10
99 Advertising by election administrator	11
[9] Clause 99(1)	12
Omit "New South Wales Electoral Commission may, at the times the Commission thinks fit, publish electoral information the Commission".	13
Insert instead "election administrator may publish electoral information as and when the election administrator".	14
[10] Clause 99(1)(c)	17
Insert at the end of clause 99(1)(b)(iii)—	18
, and	19
(c) other information about the administration of an election.	20
[11] Clause 99(2)	21
Omit "New South Wales Electoral Commission's website or in any other manner the Commission".	22
Insert instead "website of the election administrator or in another way the election administrator".	23
	24
	25

Schedule 3	Amendments relating to conduct and disciplinary matters	1
		2
	Amendment of Aboriginal Land Rights Act 1983 No 42	3
[1]	Section 4 Definitions	4
	Omit section 4(1), definition of <i>authority</i> .	5
[2]	Section 67 Vacancy in office	6
	Omit section 67(f). Insert instead—	7
	(f) is removed from office by the Council for the breach of a dismissal provision of a code of conduct under section 182, or	8
	(g) is removed from office by the Registrar under Part 10, Division 4.	9
[3]	Section 133 Vacancy in office	10
	Omit section 133(f). Insert instead—	11
	(f) is removed from office by the Council for the breach of a dismissal provision of a code of conduct under section 182, or	12
	(g) is removed from office by the Registrar under Part 10, Division 4.	13
[4]	Part 10	14
	Omit the Part. Insert instead—	15
	Part 10 Conduct and disciplinary matters	16
	Division 1 Interpretation	17
	176 Definitions	18
	(1) In this Part—	19
	<i>authority</i> means—	20
	(a) the Ombudsman, or	21
	(b) the Independent Commission Against Corruption, or	22
	(c) the Commissioner of Police, or	23
	(d) the Director of Public Prosecutions.	24
	<i>dismissal provision</i> —see section 178.	25
	<i>misconduct</i> includes the following—	26
	(a) a contravention of a provision of this Act or the regulations,	27
	(b) a contravention of an applicable code of conduct,	28
	(c) a contravention of a direction under section 197,	29
	(d) a contravention of a compliance direction under Part 12 by an officer of an Aboriginal Land Council, the Chief Executive Officer of the New South Wales Aboriginal Land Council or the chief executive officer of a Local Aboriginal Land Council,	30
	(e) an act of disorder committed by—	31
	(i) a councillor at a meeting of the New South Wales Aboriginal Land Council, or	32
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(ii)	a Board member of a Local Aboriginal Land Council at a meeting of the Board or of the Local Aboriginal Land Council.	1 2
	<i>pecuniary interest</i> —see section 184.	3
	<i>Tribunal</i> means the Civil and Administrative Tribunal.	4
(2)	A reference in this Part to <i>misconduct</i> includes a reference to misconduct consisting of an omission or failure to do something.	5 6
Division 2	Codes of conduct	7
177	Preparation of codes of conduct	8
(1)	Every Local Aboriginal Land Council must prepare—	9
(a)	a code of conduct to be observed by all officers and members of staff of the Council, and	10 11
(b)	a code of conduct to be observed by all members of the Council.	12
(2)	The New South Wales Aboriginal Land Council must prepare a code of conduct to be observed by all councillors and members of staff of the Council.	13 14
(3)	A code of conduct prepared under this section must be submitted to the Registrar for approval.	15 16
(4)	The code must be prepared and submitted within the time directed by the Registrar.	17 18
178	Dismissal provisions	19
	A code of conduct prepared under section 177 may declare a specified provision of the code to be a <i>dismissal provision</i> for this Division.	20 21
179	Model code of conduct	22
(1)	The Registrar may prepare and issue a model code of conduct.	23
(2)	A Council may, but need not, adopt the model code.	24
180	Prescribed code of conduct	25
(1)	The regulations must prescribe a code of conduct for Aboriginal Land Councils (the <i>prescribed code of conduct</i>).	26 27
(2)	The prescribed code of conduct is the code of conduct for an Aboriginal Land Council until a code of conduct is approved for the Aboriginal Land Council under this Division.	28 29 30
181	Amendment and replacement	31
	An Aboriginal Land Council may, with the approval of the Registrar, amend or replace a code of conduct.	32 33
182	Breach of dismissal provision	34
(1)	An Aboriginal Land Council may, by resolution at a meeting, remove an officer from office if the Council is satisfied that the officer has breached a dismissal provision of the code of conduct for the Council.	35 36 37
(2)	The Aboriginal Land Council must not remove an officer from office under this section unless the Council has—	38 39
(a)	at least 14 days before the meeting, given the officer notice of the Council’s intention to consider the alleged breach, and	40 41

(b)	given the officer an opportunity to make submissions about the alleged breach.	1 2
(3)	A notice of intention to consider an alleged breach must specify—	3
(a)	the date of the meeting at which the matter is to be considered, and	4
(b)	particulars of the alleged breach.	5
(4)	This section does not affect other action that may be taken under this Part in relation to an alleged breach of a dismissal provision.	6 7
Division 3 Duties of officers and staff of Aboriginal Land Councils		8
Subdivision 1 General		9
183	General duties	10
(1)	A person who is an officer or member of staff of an Aboriginal Land Council or an advisory committee must—	11 12
(a)	act honestly, in good faith and in the best interests of the Aboriginal Land Council, and	13 14
(b)	exercise a reasonable degree of care and diligence in carrying out the person's functions under this or another Act, and	15 16
(c)	act for a proper purpose in carrying out the person's functions under this or another Act, and	17 18
(d)	not use the person's position for personal advantage.	19
(2)	This section does not give rise to, and cannot be taken into account in, a civil cause of action.	20 21
Subdivision 2 Duty to disclose pecuniary interests		22
184	Pecuniary interests	23
(1)	For the purposes of this Subdivision, a pecuniary interest is an interest a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided by this section.	24 25 26 27
(2)	A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter.	28 29 30
(3)	A person has a pecuniary interest in a matter if the pecuniary interest is the interest of—	31 32
(a)	the person, or	33
(b)	another person with whom the person is associated as provided by this section.	34 35
(4)	A person is taken to have a pecuniary interest in a matter if—	36
(a)	the person's spouse or de facto partner, a relative of the person or a partner or employer of the person has a pecuniary interest in the matter, or	37 38 39
(b)	the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.	40 41
	Note— <i>De facto partner</i> is defined in the <i>Interpretation Act 1987</i> , section 21C.	42

(5)	However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (4)—	1 2
(a)	if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or	3 4 5
(b)	just because the person is a member of, or is employed by, a local council or a statutory body or is employed by the Crown, or	6 7
(c)	just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.	8 9 10 11
185	Duty of officers and staff to disclose pecuniary interests	12
(1)	A person who is an officer or member of staff of an Aboriginal Land Council must disclose the nature of a pecuniary interest in a matter if—	13 14
(a)	the Council is considering or discussing the matter, and	15
(b)	the person is present at a meeting of the Council, or the Board of the Council, at which the matter is being considered or discussed.	16 17
(2)	The person must make the disclosure to the meeting as soon as practicable.	18
(3)	The disclosure must be recorded in the minutes of the meeting.	19
(4)	Unless the Aboriginal Land Council decides otherwise, the person must not be present at, or in sight of, the meeting of the Aboriginal Land Council—	20 21
(a)	when the matter is being considered or discussed by the Council, or	22
(b)	when the Council is voting on a question in relation to the matter.	23
(5)	A person does not breach this section if the person did not know and could not reasonably be expected to have known that the matter considered or discussed was a matter in which the person had a pecuniary interest.	24 25 26
186	General disclosure	27
(1)	An officer or member of staff of an Aboriginal Land Council may give a written notice (a <i>general disclosure notice</i>)—	28 29
(a)	to a meeting of the Aboriginal Land Council, and	30
(b)	to the effect that the officer or member of staff, or the officer's or staff member's spouse, de facto partner or relative, is—	31 32
(i)	a member or employee of a specified company or other body, or	33
(ii)	a partner or employee of a specified person.	34
(2)	A general disclosure notice given and not withdrawn is sufficient disclosure of the matters disclosed in the notice for the purposes of future meetings of the Aboriginal Land Council.	35 36 37
187	Duty of consultants to disclose pecuniary interests	38
(1)	A consultant who is engaged by an Aboriginal Land Council and who gives advice on a matter at a meeting of the Council must disclose the nature of each pecuniary interest the person has in the matter to the meeting at the time the advice is given.	39 40 41 42
(2)	The person is not required to disclose the person's interest as a consultant.	43

(3)	A person does not breach this section if the person did not know and could not reasonably be expected to have known that the matter on which the advice was given was a matter in which the person had a pecuniary interest.	1 2 3
Division 4	Disciplinary action	4
Subdivision 1	Preliminary	5
188	Definitions	6
	In this Division—	7
	<i>disciplinary action</i> —see section 196.	8
	<i>member of staff</i> means—	9
	(a) a member of staff, or former member of staff, of an Aboriginal Land Council, or	10 11
	(b) a consultant, or former consultant, to an Aboriginal Land Council.	12
	<i>officer</i> of an Aboriginal Land Council includes a former officer of the Aboriginal Land Council.	13 14
189	Formal censure for misconduct	15
(1)	An Aboriginal Land Council or a Board of a Local Aboriginal Land Council may, by resolution at a meeting, formally censure an officer or member of staff of the Council for misconduct.	16 17 18
(2)	A formal censure resolution may be passed only if the Council or Board is satisfied that the officer or member of staff has engaged in misconduct on one or more occasions.	19 20 21
(3)	The procedure for consideration of a formal censure motion is as follows—	22
	(a) notice of the motion must be included in the notice given for the next meeting of the Council,	23 24
	(b) the notice of the motion must specify the grounds on which the Council or Board is satisfied that the officer or member of staff should be censured,	25 26 27
	(c) the officer or member of staff to whom the motion relates must be—	28
	(i) notified of the motion, and	29
	(ii) allowed to—	30
	(A) address the meeting, or	31
	(B) give a written explanation that must be read to the meeting,	32
	(d) voting on the question of the formal censure must be by secret ballot.	33
(4)	The Council or Board is taken to have formally censured the officer or member of staff if at least a majority of the members of the Council or Board attending the meeting vote in favour of the formal censure of the officer or member of staff.	34 35 36 37
190	Complaints	38
(1)	A person may make a complaint to the Registrar that an officer or member of staff of an Aboriginal Land Council has engaged in misconduct.	39 40
(2)	A complaint need not be in writing.	41

- (3) The Registrar may request a person who makes a complaint to provide, within a specified period, further information in relation to a matter arising from the complaint. 1
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Subdivision 2 Investigations of misconduct 4

191 Investigations 5

- (1) The Registrar may conduct an investigation for the purpose of deciding whether an officer or member of staff of an Aboriginal Land Council has engaged in misconduct and should be subject to disciplinary action. 6
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8
- (2) The Registrar may conduct the investigation— 9
- (a) on the Registrar’s own initiative, or 10
 - (b) on the basis of a complaint made to the Registrar that the officer or member of staff has engaged in misconduct, or 11
12
 - (c) on the basis of a report by the Independent Commission Against Corruption, or 13
14
 - (d) on the basis of a report by the Ombudsman. 15
- (3) The Registrar may request the Aboriginal Land Council to provide the Registrar with a report in relation to the alleged misconduct of the officer or member of staff. 16
17
18
- (4) This section authorises the Independent Commission Against Corruption or the Ombudsman to make a report to the Registrar for the purposes of this section or another provision of this Act. 19
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21

192 Decision not to investigate complaint 22

- (1) The Registrar may decide not to conduct an investigation in relation to a complaint, including if satisfied of the following— 23
24
- (a) the alleged misconduct is trivial or does not warrant investigation or further investigation, 25
26
 - (b) the alleged misconduct has been investigated by another authority or is the subject of other proceedings under this or another Act, 27
28
 - (c) the alleged misconduct should be referred to another authority for investigation or it is not appropriate that the Registrar investigate the alleged misconduct, 29
30
31
 - (d) the alleged misconduct should not be the subject of disciplinary action under this Division or that no further action is warranted, 32
33
 - (e) the alleged misconduct occurred more than 2 years before the complaint or allegation was made and the Registrar is not satisfied as to the reasons for the delay in making the complaint or allegation, 34
35
36
 - (f) there are insufficient particulars provided in relation to the alleged misconduct to allow the Registrar to investigate the alleged misconduct, 37
38
 - (g) the complaint was not made in good faith, 39
 - (h) the person making the complaint has not responded to a request by the Registrar for further information within the time specified by the Registrar. 40
41
42
- (2) If the Registrar decides not to conduct an investigation in relation to a complaint, the Registrar must give written notice of the decision to the person who made the complaint. 43
44
45

193	Decision to investigate	1
(1)	The Registrar must give written notice to an officer or member of staff of an Aboriginal Land Council if the Registrar decides to conduct an investigation in relation to the alleged misconduct of the officer or member of staff.	2 3 4
(2)	The notice must—	5
(a)	notify the person about the decision to conduct the investigation, and	6
(b)	describe the nature of the complaint or allegation under investigation.	7
194	Decision to terminate investigation	8
(1)	The Registrar may decide to terminate an investigation and take no further action in relation to the alleged misconduct to which the investigation relates.	9 10
(2)	The Registrar must give written notice of the decision to—	11
(a)	each person who made a written complaint about the alleged misconduct, and	12 13
(b)	the officer or member of staff to whom the investigation relates.	14
195	Suspension during investigation	15
(1)	This section applies if the Registrar decides to conduct an investigation in relation to an officer of an Aboriginal Land Council.	16 17
(2)	The Registrar may, by written notice, suspend the officer from holding office if the Registrar is satisfied the alleged misconduct is so serious as to threaten the proper operation of the Aboriginal Land Council.	18 19 20
(3)	The suspension has effect until whichever of the following occurs first—	21
(a)	the end of the period of 6 months after the date of the notice of suspension,	22 23
(b)	the Registrar decides not to take disciplinary action against the officer,	24
(c)	the Registrar decides to take disciplinary action against the officer.	25
(4)	Subsection (3) does not apply if the Registrar refers the alleged misconduct to the Tribunal under Subdivision 4.	26 27
	Subdivision 3	
	Disciplinary action	28
196	Registrar may take disciplinary action	29
(1)	The Registrar may take action under this Subdivision (<i>disciplinary action</i>) against an officer or member of staff of an Aboriginal Land Council if the Registrar is satisfied that—	30 31 32
(a)	the officer or member of staff has engaged in misconduct, and	33
(b)	the disciplinary action is warranted.	34
(2)	The Registrar must give written notice to the officer or member of staff of a decision of the Registrar to take disciplinary action, including a statement of reasons for the decision.	35 36 37
197	Disciplinary action against officer	38
(1)	The Registrar may take one or more of the following actions against an officer of an Aboriginal Land Council—	39 40
(a)	counsel or reprimand the officer,	41
(b)	direct the officer to cease engaging in the misconduct,	42

(c)	direct the officer to apologise for the misconduct in the way required by the Registrar,	1
		2
(d)	direct the officer to undertake training,	3
(e)	direct the officer to participate in mediation,	4
(f)	suspend the officer from office,	5
(g)	remove the officer from office or recommend that the Aboriginal Land Council remove the officer from office,	6
		7
(h)	if the officer holds office as Chairperson or Deputy Chairperson of the Aboriginal Land Council—remove the officer from the office,	8
		9
(i)	disqualify the officer from holding office in an Aboriginal Land Council for a period of not more than 2 years,	10
		11
(j)	recommend that the Aboriginal Land Council take other action against the officer.	12
		13
(2)	If the Registrar decides to suspend an officer under subsection (1)(f), the Registrar must give the officer written notice of—	14
		15
(a)	the period of suspension, which must not be more than 2 years, and	16
(b)	the date on which the suspension commences, which must be at least 7 days after the date the notice is given to the officer.	17
		18
(3)	The Registrar must not remove an officer from office under subsection (1)(g) or (h) unless the Registrar has—	19
		20
(a)	given the officer written notice of the intention to remove the officer from office, and	21
		22
(b)	considered submissions made by the officer within 14 days after receiving the notice, and	23
		24
(c)	consulted with the Aboriginal Land Council.	25
198	Disciplinary action against member of staff	26
	The Registrar may take one or more of the following actions against a member of staff of an Aboriginal Land Council—	27
		28
(a)	counsel or reprimand the member of staff,	29
(b)	disqualify the member of staff from holding office in an Aboriginal Land Council for a period of not more than 2 years,	30
		31
(c)	recommend that the Aboriginal Land Council dismiss the member of staff,	32
		33
(d)	recommend that the Aboriginal Land Council take other action against the member of staff,	34
		35
(e)	if the member of staff is the chief executive officer of a Local Aboriginal Land Council or the Chief Executive Officer of the New South Wales Aboriginal Land Council—	36
		37
		38
(i)	direct the member of staff to undertake training, or	39
(ii)	direct the member of staff to participate in mediation.	40
199	Appeals against disciplinary action by Registrar	41
(1)	An officer or member of staff of an Aboriginal Land Council may appeal to the Tribunal against a decision of the Registrar to take disciplinary action against the officer or member of staff.	42
		43
		44
	Note— An appeal under this section is an external appeal to the Tribunal for the purposes of the <i>Civil and Administrative Tribunal Act 2013</i> .	45
		46

- (2) For the purposes of subsection (1), a decision to take disciplinary action includes a decision to suspend an officer of an Aboriginal Land Council from holding office during the investigation of alleged misconduct. 1
2
3
- (3) An appeal may not be made more than 28 days after the date notice of the decision was given to the officer or member of staff. 4
5
- (4) The Tribunal may stay the decision until the Tribunal determines the appeal. 6
- (5) The Tribunal may— 7
 - (a) confirm the decision, or 8
 - (b) quash the decision, or 9
 - (c) amend the decision consistently with the powers of the Registrar. 10
- (6) If the decision is amended, the amended decision has effect as if it had been made by the Registrar. 11
12
- (7) If a decision to suspend an officer is quashed, any fee or other remuneration withheld during the period of suspension is payable to the officer. 13
14

Subdivision 4 Referral to Tribunal 15

200 Referral of matters to Tribunal 16

- (1) The Registrar may refer the alleged misconduct of an officer or member of staff of an Aboriginal Land Council for the consideration of the Tribunal instead of taking disciplinary action. 17
18
19
- (2) The Registrar must give written notice of the referral to the officer or member of staff. 20
21
- (3) The referral must occur by a report (the *referral report*)— 22
 - (a) presented to the Tribunal by the Registrar, and 23
 - (b) containing or accompanied by material and observations the Registrar considers appropriate. 24
25

201 Suspension pending Tribunal determination 26

- (1) The Registrar may, by written notice, suspend an officer of an Aboriginal Land Council from holding office if— 27
28
 - (a) the Registrar decides to refer alleged misconduct of the officer to the Tribunal under this Subdivision, and 29
30
 - (b) the Registrar is satisfied the alleged misconduct is so serious as to threaten the proper operation of the Council. 31
32
- (2) The suspension continues until the Tribunal— 33
 - (a) determines the matter, or 34
 - (b) decides not to conduct proceedings into the matter, or 35
 - (c) revokes the suspension under subsection (3). 36
- (3) The Tribunal may, if it considers it appropriate, revoke the suspension of an officer under this Division. 37
38

Subdivision 5	Miscellaneous	1
202	Other proceedings or actions not affected	2
	This Division does not affect or limit proceedings or other action that may be taken in relation to an officer or member of staff.	3 4
Division 5	Proceedings before Tribunal	5
203	Definitions	6
	In this Division—	7
	<i>officer</i> and <i>member of staff</i> of an Aboriginal Land Council have the same meanings as in Division 4.	8 9
	<i>referral report</i> , for a referred matter, means the report of the Registrar under section 200 that referred the matter to the Tribunal.	10 11
	<i>referred matter</i> means a matter referred to the Tribunal under Subdivision 4.	12
204	Tribunal to decide whether or not to conduct proceedings	13
(1)	The Tribunal must decide whether or not to conduct proceedings into a referred matter having considered—	14 15
(a)	the referral report for the matter, and	16
(b)	other matter the Tribunal considers relevant.	17
(2)	If the 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, to—	18 19 20
(a)	the officer or member of staff of an Aboriginal Land Council to whom the referral report relates, and	21 22
(b)	the Aboriginal Land Council or Board of the Aboriginal Land Council, and	23 24
(c)	the Registrar.	25
(3)	The Registrar must be a party to proceedings conducted by the Tribunal into a referred matter.	26 27
205	Circumstances in which Tribunal may dispense with hearing	28
	The Tribunal may determine a referred matter without a hearing if—	29
(a)	the Tribunal has considered—	30
(i)	the referral report for the matter, and	31
(ii)	other matter the Tribunal considers relevant, and	32
(b)	the Registrar and the person to whom the referral report relates have agreed that the proceedings may be determined without a hearing, and	33 34
(c)	there are no material facts in dispute between the Registrar and the person, and	35 36
(d)	in the opinion of the Tribunal, public interest considerations do not require a hearing.	37 38
206	Suspension during Tribunal consideration	39
	The Tribunal may suspend an officer of an Aboriginal Land Council from holding office pending the determination of a referred matter if—	40 41
(a)	the referred matter relates to the alleged misconduct of the officer, and	42

(b)	the alleged misconduct is so serious as to threaten the proper operation of the Council, and	1 2
(c)	there appears to be sufficient evidence to support the allegation.	3
207	Decision of Tribunal	4
(1)	The Tribunal may do one or more of the following if it finds that the conduct of an officer of an Aboriginal Land Council to which a referred matter relates warrants action under this section—	5 6 7
(a)	counsel or reprimand the officer,	8
(b)	direct the officer to cease engaging in the misconduct,	9
(c)	direct the officer to apologise for the misconduct in the way required by the Tribunal,	10 11
(d)	direct the officer to undertake training,	12
(e)	direct the officer to participate in mediation,	13
(f)	suspend the officer from office,	14
(g)	disqualify the officer from holding office in an Aboriginal Land Council for a period of not more than 5 years,	15 16
(h)	order the officer to pay a pecuniary penalty of up to \$11,000,	17
(i)	order the officer to reimburse the Aboriginal Land Council for any loss incurred by the Council,	18 19
(j)	remove the officer from office or recommend that the Aboriginal Land Council remove the officer from office,	20 21
(k)	if the officer holds office as Chairperson or Deputy Chairperson of the Aboriginal Land Council—remove the officer from the office,	22 23
(l)	recommend that the Aboriginal Land Council take other action against the officer.	24 25
(2)	The Tribunal may do one or more of the following if it finds that the conduct of a member of staff of an Aboriginal Land Council to which a referred matter relates warrants action under this section—	26 27 28
(a)	counsel or reprimand the member of staff,	29
(b)	recommend that the Council take specified disciplinary action against the member of staff, including counselling or reprimanding the member of staff,	30 31 32
(c)	disqualify the member of staff from holding office in an Aboriginal Land Council for a period of not more than 5 years,	33 34
(d)	recommend that the Aboriginal Land Council dismiss the member of staff,	35 36
(e)	recommend that the Aboriginal Land Council take other action against the member of staff,	37 38
(f)	if the member of staff is the chief executive officer of a Local Aboriginal Land Council or the Chief Executive Officer of the New South Wales Aboriginal Land Council—	39 40 41
(i)	direct the member of staff to undertake training, or	42
(ii)	direct the member of staff to participate in mediation.	43

208	Additional complaints and allegations	1
(1)	The Tribunal may deal with one or more complaints or allegations about a person in the same proceedings.	2 3
(2)	The Tribunal may deal with conduct of a person as if a complaint or allegation (the additional complaint or allegation) had been made about the conduct and referred to the Tribunal if—	4 5 6
(a)	the Tribunal is conducting proceedings under this Part in relation to a complaint or allegation against the person (the original complaint or allegation), and	7 8 9
(b)	information about the conduct has arisen in the proceedings, and	10
(c)	in the opinion of the Tribunal, a complaint or allegation could have been made against the person about the conduct.	11 12
(3)	The Tribunal may deal with the additional complaint or allegation—	13
(a)	whether or not the additional complaint or allegation could have been made against the person instead of or in addition to the original complaint or allegation, and	14 15 16
(b)	whether or not the additional complaint or allegation could have been made by the person who made the original complaint or allegation.	17 18
(4)	The Tribunal may deal with an additional complaint or allegation after an adjournment, if any, the Tribunal considers just and equitable in the circumstances.	19 20 21
(5)	The Tribunal may do one or more of the following in relation to an additional complaint or allegation—	22 23
(a)	reconsider a decision under section 205 to determine proceedings on the original complaint or allegation without a hearing,	24 25
(b)	recommence proceedings by way of hearing for—	26
(i)	the original complaint or allegation, or	27
(ii)	the original complaint or allegation and the additional complaint or allegation,	28 29
(c)	decide, in accordance with section 205, to determine proceedings without a hearing in relation to either or both of the following—	30 31
(i)	the original complaint or allegation,	32
(ii)	the additional complaint or allegation.	33
209	Referral of matters by Tribunal	34
	The Tribunal may refer a matter before it under this Act to an authority if—	35
(a)	the Tribunal considers that it is more appropriate that the authority deal with the matter, and	36 37
(b)	the authority agrees to the referral.	38
[5]	Section 235 Registrar may issue compliance directions	39
	Insert after section 235(3)—	40
(4)	In this section—	41
	officer , in relation to an Aboriginal Land Council, includes—	42
(a)	for a Local Aboriginal Land Council—the chief executive officer of the Council, and	43 44

(b) for the New South Wales Aboriginal Land Council—the Chief Executive Officer of the Council. 1
2

[6] Section 243A Effect of suspension of Board members and councillors 3

Insert at the end of section 243A(b)— 4

, and 5

(c) is not to be counted as a voting member of the Council or Board for the 6
purposes of determining the quorum required for a meeting of the 7
Council or Board. 8

Schedule 4	Miscellaneous amendments	1
4.1	Amendment of Aboriginal Land Rights Act 1983 No 42	2
[1]	Preamble	3
	Omit “Land in the State of New South Wales was”.	4
	Insert instead “Land and waters in the State of New South Wales were”.	5
[2]	Preamble	6
	Omit “Land is”. Insert instead “Land and waters are”.	7
[3]	Preamble	8
	Omit “which land has for Aboriginal persons and the need of Aboriginal persons for land”.	9
	Insert instead “land and waters have for Aboriginal persons and the need of Aboriginal persons for land and waters”.	10 11
[4]	Preamble	12
	Omit “land set”. Insert instead “land and waters set”.	13
[5]	Section 51	14
	Omit the section. Insert instead—	15
	51 Objects of Local Aboriginal Land Councils	16
	The objects of each Local Aboriginal Land Council are—	17
	(a) to improve, protect and foster the best interests of Aboriginal persons within the Council’s area and other persons who are members of the Council, and	18 19 20
	(b) to relieve poverty, sickness, suffering, distress, misfortune, destitution and helplessness of Aboriginal persons within the Council’s area.	21 22
[6]	Section 72 Delegation by Boards	23
	Omit section 72(2). Insert instead—	24
	(2) A Board must review all its delegations within 12 months after an election of the Board.	25 26
[7]	Section 79A Advertising vacancies	27
	Omit “the manner prescribed by the regulations” from section 79A(1).	28
	Insert instead “a way decided by the Board to be sufficient to enable suitably qualified persons to apply for the position”.	29 30
[8]	Section 79A(3)	31
	Omit the subsection. Insert instead—	32
	(3) The chief executive officer of a Local Aboriginal Land Council may appoint a person to a vacant position in the staff of the Council without first advertising the vacancy—	33 34 35
	(a) if the Board gives approval to the filling of the vacancy, or vacancies of that kind, without advertisement of the vacancy, or	36 37
	(b) in other circumstances prescribed by the regulations.	38

[9] Section 106 Functions of New South Wales Aboriginal Land Council	1
Omit “land rights” from section 106(4)(a).	2
Insert instead “land rights and the interests of Aboriginal persons”.	3
[10] Section 113 Policies relating to Aboriginal Land Council functions	4
Insert “on the website of the Council” after “publicly available” in section 113(4).	5
[11] Section 114 Procedure for making policies	6
Omit “and” from section 114(1)(b) and omit (c).	7
[12] Section 114(2)	8
Omit the subsection. Insert instead—	9
(2) A policy takes effect—	10
(a) on the day on which it is published on the website of the New South Wales Aboriginal Land Council, or	11 12
(b) if a later day is specified in the policy—on the later day.	13
[13] Section 132 Grounds for disqualification from office	14
Omit “section 125” from section 132(1)(k). Insert instead “section 131”.	15
[14] Section 138A Certain persons must not be employed as Chief Executive Officer	16
Insert before section 138A(1)(a)—	17
(aa) a person who is not an Aboriginal person,	18
[15] Section 138A(4)	19
Insert after section 138A(3)—	20
(4) Subsection (1)(aa) has effect despite anything to the contrary in the <i>Anti-Discrimination Act 1977</i> .	21 22
[16] Section 143A Advertising vacancies	23
Omit “the manner prescribed by the regulations” from section 143A(1).	24
Insert instead “a way decided by the Council to be sufficient to enable suitably qualified persons to apply for the position”.	25 26
[17] Section 143A(3)	27
Omit the subsection. Insert instead—	28
(3) The Chief Executive Officer of the New South Wales Aboriginal Land Council may appoint a person to a vacant position in the staff of the Council without first advertising the vacancy—	29 30 31
(a) if the Chairperson of the Council gives approval to the filling of the vacancy, or vacancies of that kind, without advertisement of the vacancy, or	32 33 34
(b) in other circumstances prescribed by the regulations.	35
[18] Section 150, heading	36
Omit the heading. Insert instead—	37
150 Preservation of NSW Aboriginal Land Council assets	38

[19] Section 150(1)	1
Omit the subsection. Insert instead—	2
(1) The value of the assets of the New South Wales Aboriginal Land Council must be maintained above the capital value, as at 31 December 1998, of the New South Wales Aboriginal Land Council Account.	3 4 5
[20] Section 150(3)	6
Omit “capital value of the New South Wales Aboriginal Land Council Account”.	7
Insert instead “value of the assets of the New South Wales Aboriginal Land Council”.	8
[21] Part 8, Division 1A	9
Insert after Part 8, Division 1—	10
Division 1A Financial reporting and management—NSW Aboriginal Land Council	11 12
152A Application	13
(1) Financial statements and reports under this Division of the New South Wales Aboriginal Land Council and its controlled entities may be consolidated in a way that conforms with the Australian Accounting Standards concerning the preparation and presentation of financial statements and reports by similar entities.	14 15 16 17 18
(2) An entity is a <i>controlled entity</i> of the New South Wales Aboriginal Land Council if the entity is controlled by the Council, with control being determined in accordance with—	19 20 21
(a) section 50AA of the <i>Corporations Act 2001</i> of the Commonwealth, or	22
(b) the Australian Accounting Standards.	23
(3) A Local Aboriginal Land Council is not a controlled entity of the New South Wales Aboriginal Land Council.	24 25
152B Definitions	26
In this Division—	27
<i>annual reporting information</i> —see section 152F.	28
<i>Australian Accounting Standards</i> means the standards issued by the Australian Accounting Standards Board, as in force from time to time.	29 30
152C Budget of NSW Aboriginal Land Council	31
The New South Wales Aboriginal Land Council must, not less than 6 weeks before the commencement of each financial year, prepare a detailed budget relating to its proposed operations during the financial year.	32 33 34
152D Accounts and records	35
The New South Wales Aboriginal Land Council must ensure that accounts and records are kept for the Council that—	36 37
(a) properly record and explain the Council’s transactions, cash flows, financial position and financial performance, and	38 39
(b) allow for the preparation and audit of financial statements or financial reports.	40 41

152E	Financial statements	1
(1)	The New South Wales Aboriginal Land Council must—	2
(a)	prepare financial statements for the financial year, and	3
(b)	give the prepared statements to the Auditor-General for auditing.	4
(2)	The prepared statements must be given to the Auditor-General within the following period after the end of the financial year—	5
(a)	2 months,	6
(b)	if the regulations prescribe a different period—the prescribed period.	7
(3)	The financial statements must—	8
(a)	be prepared in accordance with the Australian Accounting Standards and other requirements specified by this Act or the regulations, and	9
(b)	present fairly the Council’s financial position, financial performance and cash flows.	10
(4)	The financial statements must include a statement by the New South Wales Aboriginal Land Council as to whether the statements comply with subsection (3).	11
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		16
152F	Annual reporting information	17
(1)	The <i>annual reporting information</i> is the following information about the New South Wales Aboriginal Land Council’s activities during a financial year—	18
(a)	financial statements,	19
(b)	the audit report relating to the financial statements,	20
(c)	information relating to the performance of the Council of a kind prescribed by the regulations,	21
(d)	the total remuneration, including travelling expenses, paid to each councillor by the New South Wales Aboriginal Land Council,	22
(e)	the total funds granted to each Local Aboriginal Land Council by the New South Wales Aboriginal Land Council,	23
(f)	other information prescribed by the regulations.	24
(2)	The regulations may make provision about the preparation, content and presentation of annual reporting information.	25
		26
		27
		28
		29
		30
		31
152G	Publication of annual reporting information	32
	The New South Wales Aboriginal Land Council must, within 4 months, or another period prescribed by the regulations, after the end of the financial year—	33
(a)	give the annual reporting information to the Minister, and	34
(b)	publish the annual reporting information on the website of the New South Wales Aboriginal Land Council.	35
		36
		37
		38
152H	Reports relating to funding of Local Aboriginal Land Councils	39
(1)	The Minister may direct the New South Wales Aboriginal Land Council to prepare and submit a report containing the reportable information for—	40
(a)	each quarter of each financial year, or	41
(b)	each 6-month period ending on 30 June and 31 December in each year.	42
		43

(2)	The New South Wales Aboriginal Land Council must comply with the direction and submit each report to the Minister within 10 weeks after the end of the period to which the report relates.	1 2 3
(3)	The regulations may prescribe the form and content of the reports.	4
(4)	In this section— <i>reportable information</i> , for a period, means—	5 6
(a)	the amounts of funds granted during the period by the New South Wales Aboriginal Land Council to Local Aboriginal Land Councils, and	7 8
(b)	the purposes for which the funds were granted, and	9
(c)	whether the Local Aboriginal Land Councils concerned have complied with the financial obligations imposed by this Division in relation to the grants.	10 11 12
[22]	Part 8, Division 2, heading Omit the heading. Insert instead—	13 14
	Division 2 Financial reporting—Local Aboriginal Land Councils	15
[23]	Section 155 Local Aboriginal Land Councils may request special auditor Omit “must, on the request of a Local Aboriginal Land Council”. Insert instead “may, if the Council considers it appropriate and on the request of a Local Aboriginal Land Council”.	16 17 18 19
[24]	Sections 157 and 159 Omit the sections.	20 21
[25]	Section 161 Annual reports Omit section 161(3).	22 23
[26]	Section 165A Delegation Omit “Department of Education and Communities” from section 165A(a). Insert instead “Department of Premier and Cabinet”.	24 25 26
[27]	Section 171 Contents of Register of Aboriginal Owners Omit “use the Registrar’s best endeavours to” from section 171(1).	27 28
[28]	Section 171(1)(a) Omit “the name of every Aboriginal person who has”. Insert instead “the names of Aboriginal persons who have”.	29 30 31
[29]	Section 171(2)(b) Omit “inhabitants of the land”. Insert instead “inhabitants of the cultural area in which the land is situated”.	32 33 34
[30]	Section 174 Rectification of Register Omit section 174(1). Insert instead—	35 36

(1)	The Registrar may amend information on, remove information from or otherwise rectify the Register of Aboriginal Owners in accordance with this section.	1 2 3
(1A)	The Registrar may amend information on, or remove information from, the Register of Aboriginal Owners if the Registrar considers the information is false, erroneous or misleading.	4 5 6
(1B)	Before amending or removing information relating to an Aboriginal person under subsection (1A), the Registrar must give the Aboriginal person—	7 8
	(a) written notice of the proposed change, and	9
	(b) an opportunity to make submissions in relation to the proposed change.	10
(1C)	The Registrar may rectify the Register of Aboriginal Owners at the request of an Aboriginal person who—	11 12
	(a) considers the Aboriginal person’s name has been wrongly entered on or omitted from the Register, or	13 14
	(b) considers an amendment made by the Registrar under subsection (1A) is incorrect.	15 16
[31]	Section 174(2)	17
	Omit “or group of Aboriginal persons who has or have made a request under subsection (1)”.	18 19
	Insert instead “who has made a request under subsection (1C)”.	20
[32]	Section 222 Administrators—Local Aboriginal Land Councils	21
	Omit “and submitted to the Minister for approval” from section 222(1).	22
[33]	Section 223 Administrators—New South Wales Aboriginal Land Council	23
	Insert after section 223(3)—	24
	(3A) The Minister must prepare a written report of the Minister’s reasons for appointing an administrator under this section.	25 26
	(3B) The Minister must table a copy of the report in each House of Parliament as soon as practicable after the administrator is appointed.	27 28
[34]	Section 245	29
	Omit the section. Insert instead—	30
245	Execution of documents	31
(1)	The New South Wales Aboriginal Land Council may execute a document without using a common seal if the document is signed by—	32 33
	(a) the Chairperson of the Council, or	34
	(b) a councillor or member of staff of the Council authorised by the Chairperson.	35 36
(2)	A Local Aboriginal Land Council may execute a document without using a common seal if the document is signed by—	37 38
	(a) the Chairperson of the Board of the Local Aboriginal Land Council, or	39
	(b) a Board member or member of staff of the Local Aboriginal Land Council authorised by the Chairperson.	40 41

[35] Schedule 3 Procedure of Boards and Councils	1
Omit Part 2, clause 6. Insert instead—	2
6 Transaction of business outside meetings or by electronic means	3
(1) The Board may transact its business by circulating papers, electronically or otherwise, among all members of the Board.	4 5
(2) A written resolution for which written approval is given by a majority of the members—	6 7
(a) is taken to be a decision of the Board made at a meeting of the Board, and	8 9
(b) must, subject to the regulations, be recorded in the minutes of the meetings of the Board.	10 11
(3) The Board may transact its business at a meeting at which some or all members participate by telephone or other electronic means if a member who speaks on a matter before the meeting can be heard by the other members.	12 13 14
(4) The presiding member and each other member have the same voting rights as they have at an ordinary meeting of the Board for the purposes of—	15 16
(a) the approval of a resolution under subclause (2), and	17
(b) a meeting held in accordance with subclause (3).	18
[36] Schedule 3, Part 3, clause 5A	19
Insert after Part 3, clause 5—	20
5A Transaction of business outside meetings or by electronic means	21
(1) The New South Wales Aboriginal Land Council may transact its business by circulating papers, electronically or otherwise, among all members of the Council.	22 23 24
(2) A written resolution for which written approval is given by a majority of the members—	25 26
(a) is taken to be a decision of the Council made at a meeting of the Council, and	27 28
(b) must, subject to the regulations, be recorded in the minutes of the meetings of the Council.	29 30
(3) The Council may transact its business at a meeting at which some or all members participate by telephone or other electronic means if a member who speaks on a matter before the meeting can be heard by the other members.	31 32 33
(4) The presiding member and each other member have the same voting rights as they have at an ordinary meeting of the Council for the purposes of—	34 35
(a) the approval of a resolution under subclause (2), and	36
(b) a meeting held in accordance with subclause (3).	37
4.2 Amendment of Aboriginal Land Rights Regulation 2020	38
[1] Clause 49 Staff vacancies	39
Omit the clause.	40
[2] Clause 50 Meetings	41
Omit clause 50(1).	42

[3] Clause 50(5)	1
Omit “place for the meeting and the date on which it is to be held”.	2
Insert instead “date for the meeting”.	3
[4] Clauses 52 and 53	4
Omit the clauses.	5
[5] Schedule 2 Model rules for New South Wales Aboriginal Land Council	6
Omit clause 14(b).	7
[6] Schedule 3, heading	8
Omit “ Model ”. Insert instead “ Prescribed ”.	9
[7] Schedule 3, clause 1	10
Omit the clause. Insert instead—	11
1 Application of Schedule—the Act, s 180(1)	12
The code of conduct set out in this Schedule is the prescribed code of conduct for all Local Aboriginal Land Councils.	13 14
[8] Schedule 4, heading	15
Omit “ Model ”. Insert instead “ Prescribed ”.	16
[9] Schedule 4, clause 1	17
Omit the clause. Insert instead—	18
1 Application of Schedule—the Act, s 180(1)	19
The code of conduct set out in this Schedule is the prescribed code of conduct for the New South Wales Aboriginal Land Council.	20 21
4.3 Amendment of Government Sector Finance Regulation 2018	22
[1] Clause 4 Prescribed GSF agencies—the Act, s 2.4(1)(l)	23
Omit clause 4(4A).	24
[2] Clause 4(5)	25
Omit “(4A)”. Insert instead “(4)”.	26
[3] Clause 6AA Employees of NSW Aboriginal Land Council not government officers	27
Omit the clause.	28
[4] Clause 11B Prescribed delegates for NSW Aboriginal Land Council	29
Omit the clause.	30
[5] Schedule 2 Transitional annual reporting arrangements	31
Omit “New South Wales Aboriginal Land Council” from Part 1.	32

Schedule 5	Amendment relating to savings and transitional provisions	1
		2
	Amendment of Aboriginal Land Rights Act 1983 No 42	3
	Schedule 4 Savings, transitional and other provisions	4
	Insert at the end of the Schedule, with appropriate Part and clause numbering—	5
Part	Provisions consequent on the enactment of the Aboriginal Land Rights Amendment Act 2022	6
		7
	Definition	8
	In this Part—	9
	<i>amending Act</i> means the <i>Aboriginal Land Rights Amendment Act 2022</i> .	10
	Amendment of land dealing approvals	11
	Section 42IA, as inserted by the amending Act, extends to an approval granted but not completed before the commencement of the section.	12
		13
	Refund of levy for cancelled transactions	14
	Section 42UA, as inserted by the amending Act, extends to a dutiable transaction entered into but not completed before the commencement of the section.	15
		16
		17