

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) as a result of a review of the Act as follows:

- (a) to enable the provision of, and provide a framework for the provision of, benefits to Aboriginal persons by Aboriginal Land Councils and to make provision relating to existing social housing schemes,
- (b) to provide a planning framework for the management and investment of land and other assets of Aboriginal Land Councils through the preparation and implementation of community, land and business plans and other measures,
- (c) to change the management structures of Local Aboriginal Land Councils by providing for each Council to have a Board elected by members and by conferring day-to-day management functions on the chief executive officer of a Local Aboriginal Land Council,
- (d) to qualify persons listed on the Register of Aboriginal Owners in relation to land within the area of a Local Aboriginal Land Council to be members of the Council and to require a person to demonstrate a sufficient association with the area of a Council to qualify for membership of a Council,
- (e) to clarify the mechanisms for the amalgamation, re-definition and dissolution of Local Aboriginal Land Councils,
- (f) to abolish Regional Aboriginal Land Councils and to establish Regional Electoral Forums to elect councillors to the New South Wales Aboriginal Land Council rather than election of councillors by direct election, to make councillors part-time officers, to reduce the number of elected councillors from 13 to 6 and to provide for up to 2 additional appointed councillors,
- (g) to require the New South Wales Aboriginal Land Council to prepare and implement policies on community benefits, community, land and business plans and other matters,
- (h) to require the provision of training for officers and staff of Aboriginal Land Councils,
- (i) to extend the jurisdiction of the Aboriginal Land Councils Pecuniary Interest Tribunal (renamed as the Aboriginal Land Councils Pecuniary Interest and Disciplinary Tribunal (the Tribunal)) so that it may deal with misbehaviour by councillors of the New South Wales Aboriginal Land Council (councillors), Board members of Local Aboriginal Land Councils (Board members) and members of staff of Aboriginal Land Councils and to confer on the Registrar under the Act power to deal with misbehaviour,
- (j) to make changes to the appointment of administrators for Aboriginal Land Councils, including removal of the limit on the period of appointment, notice of appointment and interim appointment of administrators,
- (k) to enable advisors to be appointed to assist Local Aboriginal Land Councils,
- (l) to insert an offence relating to unauthorised land dealings and to enable directors of corporations and persons concerned in the management of corporations to be proceeded against for offences committed by corporations under the Principal Act,
- (m) to make other minor and consequential amendments and amendments of a savings and transitional nature.

The Bill also amends the Crimes Act 1900 to extend certain corruption offences to officers of Aboriginal Land Councils and makes consequential amendments to the Defamation Act 2005 and the Independent Commission Against Corruption Act 1988.

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 a day or days to be

appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the Acts specified in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the Interpretation Act 1987 provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Aboriginal Land Rights Act 1983

Local Aboriginal Land Councils

Schedule 1 [6] amends section 4 of the Principal Act to insert definitions of Board, Board member, community benefit, community benefits scheme, community, land and business plan, Region and Regional Electoral Forum.

Schedule 1 [7] amends section 4 of the Principal Act to update the definition of officer.

Schedule 1 [18] inserts proposed Division 1A of Part 5 (proposed sections 52–52H) of the Principal Act.

Proposed section 52 sets out the functions of Local Aboriginal Land Councils, re-enacting the functions currently set out in section 52 and inserting additional functions relating to financial stewardship and Aboriginal culture and heritage. The stewardship functions include preparing and implementing community, land and business plans, managing investment of assets and facilitating business enterprises.

Proposed section 52A enables a Local Aboriginal Land Council to provide community benefits schemes either directly or indirectly, with the approval of the New South Wales Aboriginal Land Council. An approval may not be given unless the scheme complies with the Principal Act and regulations, is consistent with any applicable policy of the Council and the community, land and business plan of the Local Aboriginal Land Council, is fair and equitable and will be administered in a responsible and transparent way, is not likely to prevent the Council from being able to pay its debts and the need for the benefit is not otherwise being adequately met. A Local Aboriginal Land Council must ensure that a scheme complies with the Principal Act and regulations and is consistent with any applicable policy of the New South Wales Aboriginal Land Council and the community, land and business plan of the Local Aboriginal Land Council.

Proposed section 52B requires the New South Wales Aboriginal Land Council not to approve a scheme to provide social housing unless it is satisfied that the income from any existing social housing schemes of the Local Aboriginal Land Council is or will be sufficient to meet all the expenses of the scheme, including long term maintenance requirements and it has considered the scheme's impact on the overall financial position of that Council.

Proposed section 52C enables a Local Aboriginal Land Council, with the approval of the New South Wales Aboriginal Land Council, to form or participate in the formation of a trust for the purpose of providing a community benefits scheme.

Proposed section 52D re-enacts a prohibition on transferring the income or property of a Local Aboriginal Land Council to members or staff members of, and consultants to, the Council.

Proposed sections 52E and 52F re-enact provisions relating to delegation of functions and rules of Local Aboriginal Land Councils.

Proposed section 52G sets out the functions of Local Aboriginal Land Councils that must be exercised by a resolution of voting members, including approval of members and community, land and business plans, receipt of budgets and land dealings and election of Board members.

Proposed section 52H is a formal provision that gives effect to provisions relating to meetings.

Schedule 1 [19] amends section 54 of the Principal Act to confer on the chief executive officer of a Local Aboriginal Land Council the function of preparing and maintaining the membership roll of the Council.

Schedule 1 [20] amends section 54 of the Principal Act to change the qualifications for membership of a Local Aboriginal Land Council to include having a sufficient association with the area of the Council and being a registered Aboriginal owner in relation to land within that area. The membership roll is to set out a member's grounds for membership. Schedule 1 [21] and [130] make consequential amendments.

Schedule 1 [22], [28], [29] and [32] amend sections 55 and 56 of the Principal Act to confer on the Registrar the function of notifying nominations of voting members and other related functions.

Schedule 1 [23] amends section 55 of the Principal Act to make the Local Aboriginal Land Council of the area within which a person resides the Council for which the person is a voting member if the person is a member of more than one Council and fails to nominate the Council for which the person is to be a voting member.

Currently, the Chief Executive Officer of the New South Wales Aboriginal Land Council determines which is to be the Council for which a person has voting rights in the event of a failure to nominate. Schedule 1 [30] and [31] make consequential amendments.

Schedule 1 [26] amends section 55 of the Principal Act to disentitle a voting member of a Local Aboriginal Land Council from voting in Board elections if the member has been absent for at least 2 meetings of the Council in the preceding 12 month period or is suspended from Council or Board membership. Schedule 1 [27] makes a consequential amendment.

Schedule 1 [33] amends section 56 of the Principal Act to confer on the chief executive officer of a Local Aboriginal Land Council the functions of receiving voting nominations and recording voting rights.

Schedule 1 [36] amends section 57 of the Principal Act to confer on the chief executive officer of a Local Aboriginal Land Council the function of notifying the New South Wales Aboriginal Land Council of the suspension or revocation of suspension of a member.

Schedule 1 [37] amends section 58 of the Principal Act to confer on the chief executive officer of a Local Aboriginal Land Council the function of removing names from the membership roll of the Council.

Schedule 1 [38] amends section 58 of the Principal Act to require a person to be removed from the membership roll of a Local Aboriginal Land Council if the chief executive officer is satisfied, after making reasonable inquiries, that the person's residential address is unknown.

Schedule 1 [39] substitutes section 59 of the Principal Act. The proposed section requires the chief executive officer of a Local Aboriginal Land Council to provide the Registrar with an updated and certified copy of the membership roll and to ensure that the membership roll is kept up to date. The proposed section also makes the Registrar responsible for compiling and maintaining a consolidated roll of all members of Local Aboriginal Land Councils.

Schedule 1 [40] inserts new Division 3 of Part 5 (proposed sections 61–72) and omits provisions relating to Regional Representatives and Alternate Representatives.

Proposed section 61 requires each Local Aboriginal Land Council to have a Board, with numbers of members to be determined in accordance with the regulations.

Proposed section 62 confers functions on Boards, including directing and controlling the affairs of the Council, in accordance with the Principal Act and the regulations and consistently with the community, land and business plan of the Council.

Proposed section 63 provides for the election of Board members at every second annual meeting of the Council.

Proposed section 64 provides for the election of a Chairperson and Deputy Chairperson of a Board.

Proposed section 65 requires the New South Wales Aboriginal Land Council to arrange training for Board members not later than 6 months after their election and for the suspension of members who refuse or fail to undergo training that is provided. Proposed section 66 sets out grounds for disqualification for Board members from office.

Proposed section 67 sets out the circumstances when the office of a Board member is vacated.

Proposed section 68 provides for the regulations to provide for appointments to fill casual Board vacancies.

Proposed sections 69–71 re-enact existing sections 95–97 of the Principal Act and apply them to Board members.

Proposed section 72 enables Boards to delegate functions.

Schedule 1 [41] inserts proposed sections 78A–78C into the Principal Act.

Proposed section 78A provides for the appointment of a chief executive officer for each Local Aboriginal Land Council who will have, among other functions, the day-to-day management of the Council's affairs.

Proposed section 78B sets out the persons who are not eligible to be employed or continue in employment as a chief executive officer of a Local Aboriginal Land Council. The persons include persons convicted of offences relating to the management of a corporation, offences punishable by imprisonment for 12 months or more, persons disqualified from holding office in or managing a corporation, persons who are employed by or connected with corporations that receive benefits from the Council and persons who have been dismissed on the recommendation of the Tribunal.

Proposed section 78C requires a vacancy in the position of chief executive officer to be filled immediately and sets out the circumstances when a vacancy occurs.

Schedule 1 [42] inserts proposed section 79A into the Principal Act. The proposed section requires vacancies for staff positions in Local Aboriginal Land Councils to be advertised.

Schedule 1 [43] inserts new Division 6 of Part 5 (proposed sections 82–86) of the Principal Act, setting out the requirements for community, land and business plans of Local Aboriginal Land Councils.

Proposed section 82 requires a Council to prepare and implement a community, land and business plan (a CLB Plan) and sets out the consultation requirements. The New South Wales Aboriginal Land Council may exempt Councils wholly or partly from the requirement to prepare a CLB Plan.

Proposed section 83 sets out the matters that must be included in a CLB Plan, including the Council's objectives and strategy relating to land, community benefits schemes, business enterprises and investment, Aboriginal culture and heritage and other matters. In addition, a CLB Plan is to contain details of land (and interests in land) of the Council.

Proposed section 84 requires 14 days notice to be given of a meeting of the Council to approve a CLB Plan and provides that a Plan has effect after such approval and approval by the New South Wales Aboriginal Land Council.

Proposed section 85 prohibits the New South Wales Aboriginal Land Council from approving a CLB Plan unless the plan complies with the Principal Act and the regulations under that Act and is consistent with any applicable policy. The New South Wales Aboriginal Land Council may also receive and consider and refer back to a Local Aboriginal Land Council a CLB Plan that the Council concerned has not been able to agree to approve.

Proposed section 86 provides that a failure by a Local Aboriginal Land Council to approve any Plan after a Plan is referred back to it, or a substantial failure to comply with its CLB Plan, is a substantial breach of the requirements of the Act, which is an event that may trigger the appointment of an administrator to the Council.

Schedule 1 [43] also inserts new Division 7 of Part 5 (proposed sections 87–92) of the Principal Act, setting out the circumstances when changes may be made to the area, names and constitution of Local Aboriginal Land Councils.

Proposed section 87 sets out the changes that the Minister may make, by order published in the Gazette, if empowered to do so by other provisions of the Principal Act or regulations under that Act, including changes to names and areas and amalgamation and dissolution of areas and Councils.

Proposed section 88 provides for Councils to cease to exist if they are dissolved by order of the Minister and for Board members to cease to hold office in that event.

Proposed section 89 confers on the Minister power to make an order transferring the assets, rights and liabilities of a Council affected by an order under proposed section 87. Schedule 1 [139] inserts proposed Schedule 3A into the Principal Act, which contains provisions consequential on any such transfer.

Proposed section 90 enables the Minister to make orders effecting changes on applications by Councils and other persons and provides for regulations to be made for or with respect to applications for changes.

Proposed section 91 sets out the circumstances when the Minister may make an order under proposed section 87, including that a Council has less than 50 voting members, has a membership in significant decline, cannot pay its debts, has had qualified audits or failed to provide complete financial statements or has had an administrator for 3 of the last 5 years. The Minister may also make an order on a report that the Council has ceased to function. The Minister may not make certain orders without the consent of affected Councils.

Proposed section 92 requires the Minister to give 21 days notice of action under proposed section 91 and to consider submissions received within that period.

Schedule 1 [109], [122], [125], [126], [128] and [129] make amendments consequential on the establishment of Boards.

Schedule 1 [116], [133] and [135] make amendments consequential on the enactment of proposed Division 7 of Part 5.

Regional Electoral Forums

Schedule 1 [4], [5], [9], [10], [12], [24], [25], [34], [35], [50], [53], [60], [64]–[67], [70], [72]–[77], [83]–[85], [98], [100], [101], [103], [106], [110], [112], [113], [115], [122], [132], [134] and [136] amend various sections of the Principal Act to remove references to Regional Aboriginal Land Councils, Regional Aboriginal Land Council areas and Alternate Representatives.

Schedule 1 [44] substitutes Part 6 (proposed sections 93 and 94) of the Principal Act to omit provisions relating to Regional Aboriginal Land Councils and to insert instead provisions establishing Regions and Regional Electoral Forums.

Proposed section 93 provides that the Region for a Local Aboriginal Land Council is the Region specified for the Council in Schedule 5. The Governor may, by order published in the Gazette and on the recommendation of the Minister, amend or substitute Schedule 5.

Proposed section 94 establishes a Regional Electoral Forum for each Region, consisting of the Chairpersons of the Boards of each Local Aboriginal Land Council within the Region. The members of the Forum are to elect one of the members as the councillor for that Region to the New South Wales Aboriginal Land Council.

Schedule 1 [59] and [131] omit redundant provisions relating to Regional Aboriginal Land Councils.

Schedule 1 [142] inserts proposed Schedule 5 into the Principal Act, which sets out the Regions and Councils included in Regions.

New South Wales Aboriginal Land Council

Schedule 1 [16] amends section 40D of the Principal Act as a consequence of the changes to officers of the New South Wales Aboriginal Land Council.

Schedule 1 [46] inserts new Division 2 of Part 7 (proposed sections 106–119) of the Principal Act, relating to the functions of the New South Wales Aboriginal Land Council.

Proposed section 106 sets out the functions of the Council, re-enacting the functions currently set out in section 106 and inserting additional functions relating to oversight of Local Aboriginal Land Councils, policy and advice, Regional Electoral Forums, Aboriginal culture and heritage and financial stewardship. The oversight functions include approving CLB Plans of Local Aboriginal Land Councils and assisting those Councils with Plans. The financial stewardship functions include preparing and implementing CLB Plans, managing investment of assets and facilitating business enterprises.

Proposed section 107 confers on the Council the function of providing or arranging training for councillors, Board members, members of Regional Electoral Forums and members of staff of Aboriginal Land Councils.

Proposed section 108 enables the Council to provide community benefits schemes either directly or indirectly. The Council is also to supervise community benefits schemes provided by other Aboriginal Land Councils. The Council must ensure that any of its community benefits schemes comply with the Principal Act and regulations, are consistent with any applicable policy of the Council and the CLB Plan of the Council, are fair and equitable and administered in a responsible and transparent way and will not prevent the Council from being able to meet its debts as and when they fall due.

Proposed section 109 enables the Council to provide social housing schemes by using the services, or with the assistance, of another body or agency.

Proposed section 110 requires the Council to use its best endeavours to increase the membership of Local Aboriginal Land Councils by not less than 3% per annum in the 5 years after the proposed section commences.

Proposed section 111 enables the Council to form or participate in the formation of a trust for the purposes of providing a community benefits scheme.

Proposed section 112 re-enacts a prohibition on transferring the income or property of the New South Wales Aboriginal Land Council to members or staff members of, or consultants to, the Council.

Proposed section 113 enables the Council to prepare and implement policies about matters, including CLB Plans, land dealings, business enterprises and training and community benefits schemes.

Proposed section 114 requires the Council to consult with Local Aboriginal Land Councils and to obtain the approval of the Minister before adopting a policy.

Proposed section 115 enables the Council to give Local Aboriginal Land Councils directions about CLB plans, records and other matters prescribed by the regulations.

Proposed sections 116 and 117 re-enact provisions relating to delegation of functions and rules of the Council.

Proposed section 118 enables the New South Wales Aboriginal Land Council to establish advisory committees.

Proposed section 119 provides that the Council may impose conditions on approvals given by it and requires Local Aboriginal Land Councils to comply with those conditions.

Schedule 1 [46] also inserts new Divisions 3 and 4 of Part 7 (proposed sections 120–131) of the Principal Act, relating to the membership of the New South Wales Aboriginal Land Council and removal of councillors from office.

Proposed section 120 provides that the Council is to consist of an Aboriginal councillor for each Region and up to 2 other Aboriginal councillors appointed by the

Minister, who will hold office for 4 years. All councillors other than the Chairperson are to be part-time.

Proposed section 121 provides for the election of a councillor by each Regional Electoral Forum.

Proposed section 122 provides for the appointment of councillors.

Proposed section 123 requires the councillors to elect a Chairperson and Deputy Chairperson, who are to hold office for 2 years.

Proposed section 124 sets out the role of councillors, including directing and controlling the affairs of the Council.

Proposed section 125 requires the New South Wales Aboriginal Land Council to arrange training for councillors not later than 6 months after their election and for the suspension of councillors who refuse or fail to undergo the training that is provided.

Proposed section 126 sets out grounds for disqualification of councillors from office.

Proposed section 127 sets out the circumstances when the office of a councillor is vacated.

Proposed section 128 provides for the regulations to provide for appointments to fill casual Council vacancies.

Proposed sections 129–131 re-enact existing sections 115–117 of the Principal Act and apply them to councillors.

Schedule 1 [46] also inserts new Division 5 of Part 7 (proposed sections 132–135) of the Principal Act, setting out the requirements for CLB Plans of the New South Wales Aboriginal Land Council.

Proposed section 132 requires a Council to prepare and implement a CLB Plan and sets out the consultation requirements.

Proposed section 133 sets out the matters that must be included in a CLB Plan, including the Council's objectives and strategy relating to land, community benefits, business enterprises and investment, Aboriginal culture and heritage and other matters. In addition, a CLB Plan is to contain details of land (and interests in land) of the Council.

Proposed section 134 requires 14 days notice to be given of a meeting of the Council to approve a CLB Plan and provides that it has effect after such approval.

Proposed section 135 provides that a failure by the Council to approve a CLB Plan within 3 months after a Plan is referred for approval, or a substantial failure to comply with its CLB Plan, is a ground for the appointment of an administrator to the Council.

Schedule 1 [47] inserts proposed section 138A. The proposed section sets out the categories of persons who are not eligible to be employed or continue to be employed as Chief Executive Officer of the New South Wales Aboriginal Land Council. These persons include persons convicted of offences relating to the management of a corporation or offences punishable by imprisonment for 12 months or more, persons disqualified from holding office in or managing a corporation, persons who are employed by or connected with corporations that receive benefits from the Council and persons who have been dismissed on the recommendation of the Tribunal.

Schedule 1 [48] makes a consequential amendment.

Schedule 1 [49] inserts proposed section 141A into the Principal Act to re-enact existing section 147 of that Act.

Schedule 1 [51] inserts proposed section 143A into the Principal Act. The proposed section 143A requires vacancies for staff positions in the New South Wales Aboriginal Land Council to be advertised.

Schedule 1 [45], [52], [54], [121] and [126] make amendments consequential on the amendment made by Schedule 1 [46].

Land dealings

Schedule 1 [17] inserts proposed section 42A into the Principal Act. The proposed section makes it an offence for a person to deal with land, or enter into a transaction

or arrangement to deal with land, knowing that the dealing or transaction is not authorised or permitted by the Principal Act.

Financial matters

Schedule 1 [55] amends section 149 of the Principal Act as a consequence of the Registrar, rather than the Electoral Commissioner, becoming the returning officer for the election of councillors.

Schedule 1 [55] also amends section 149 of the Principal Act to enable payment of allowances for Board members from the New South Wales Aboriginal Land Council Account.

Schedule 1 [56] and [57] amend section 150 of the Principal Act to provide that the capital value of the New South Wales Aboriginal Land Council Account that is to be retained is to be adjusted for increases in the Consumer Price Index and that losses incurred in investing money in the account are to be deducted when calculating any net gains that may be disbursed from the Account. Schedule 1 [58] makes a consequential amendment.

Schedule 1 [61] amends section 153 of the Principal Act to enable the requirements for financial statements of Local Aboriginal Land Councils to be varied.

Schedule 1 [62] amends section 153 of the Principal Act to reduce from 10 weeks to 6 weeks after the end of the financial year the period within which the financial statements of Local Aboriginal Land Councils are to be provided.

Schedule 1 [63] amends section 154 of the Principal Act to enable regulations to set out requirements for satisfactory audited financial statements and other documents of Local Aboriginal Land Councils, rather than criteria for a satisfactory finding by the New South Wales Aboriginal Land Council. Schedule 1 [11] makes a consequential amendment.

Schedule 1 [68] amends section 158 of the Principal Act to require a Local Aboriginal Land Council to include in its budget matters relating to operations funded by persons other than the New South Wales Aboriginal Land Council and other matters prescribed by the regulations.

Schedule 1 [69] substitutes section 159 of the Principal Act to remove the requirement for Local Aboriginal Land Councils to submit quarterly and six monthly expenditure reports to the New South Wales Aboriginal Land Council. Schedule 1 [71] makes a consequential amendment.

Misbehaviour and other conduct of officers, members of staff and Councils

Schedule 1 [1] changes references throughout the Principal Act to the Tribunal to reflect its change of name to the Aboriginal Land Councils Pecuniary Interest and Disciplinary Tribunal.

Schedule 1 [8] amends section 4 of the Principal Act to insert a definition of Pecuniary Interest and Disciplinary Tribunal.

Schedule 1 [79] amends section 165 of the Principal Act to extend the Registrar's investigation functions to include misbehaviour by councillors, Board members and members of staff and consultants of Aboriginal Land Councils.

Schedule 1 [82] amends section 176 of the Principal Act to insert additional conduct requirements for councillors, Board members and members of staff of Aboriginal Land Councils, including acting for proper purposes and not using an office or position for personal advantage or to the detriment of an Aboriginal Land Council.

Schedule 1 [86] amends section 178 of the Principal Act to change the name of the Aboriginal Land Councils Pecuniary Interest Tribunal to the Aboriginal Land Councils Pecuniary Interest and Disciplinary Tribunal.

Schedule 1 [87] inserts proposed Division 3A of Part 10 (proposed sections 181A–181O) to insert provisions relating to misbehaviour by members of staff (including consultants) of Aboriginal Land Councils, councillors and Board members. The provisions reflect provisions contained in the Local Government Act

1993.

Proposed section 181A defines misbehaviour to include contraventions of the Principal Act and regulations, failure to comply with codes of conduct and acts of disorder by councillors and Board members at meetings.

Proposed section 181B enables Aboriginal Land Councils to pass formal censure motions against councillors, Board members or members of staff for repeated misbehaviour.

Proposed section 181C sets out the ways in which the process for suspending a councillor or Board member or taking action against a member of staff may be initiated by a Board, an Aboriginal Land Council, the Registrar, the Ombudsman or the Independent Commission Against Corruption.

Proposed section 181D sets out the grounds for suspension or taking action.

Proposed section 181E enables the Registrar to investigate or to authorise an investigator to investigate matters raised in a request or report initiating action.

Proposed section 181F enables the Registrar to suspend a councillor or Board member for not more than 3 months for misbehaviour on the basis of a report by an investigator, the Ombudsman or the Independent Commission Against Corruption.

Proposed section 181G sets out when a Registrar's suspension order takes effect.

Proposed section 181H provides for appeals to the Tribunal against a Registrar's suspension order.

Proposed section 181I enables the Registrar to counsel, reprimand or recommend disciplinary action against or dismissal of a member of staff on the basis of a report by an investigator, the Ombudsman or the Independent Commission Against Corruption.

Proposed section 181J provides for appeals to the Tribunal against action by the Registrar against a member of staff.

Proposed section 181K enables the Registrar to refer matters to the Tribunal instead of taking suspension or other action, but only if a councillor or Board member has previously been suspended or dealt with for misbehaviour.

Proposed section 181L provides that the Registrar may, instead of taking action under the proposed Division, take no further action or issue a compliance direction or refer a matter back to an Aboriginal Land Council for other resolution.

Proposed section 181M provides for the recovery by the Registrar of his or her expenses in dealing with requests under proposed section 181C from the relevant Aboriginal Land Council.

Proposed section 181N requires the Registrar to give reasons for taking action or making referrals to the Tribunal under the proposed Division.

Proposed section 181O makes it clear that the proposed Division does not affect or limit any other proceedings or other action that may be taken in respect of a Board member, councillor or member of staff.

Schedule 1 [88] and [89] make amendments consequential on the amendment made by Schedule 1 [87].

Schedule 1 [90] inserts proposed Subdivision 2 of Division 6 of Part 10 (proposed sections 199A and 199B).

Proposed section 199A confers on the Tribunal the jurisdiction to conduct proceedings into a misbehaviour matter referred to it.

Proposed section 199B sets out the circumstances when the Tribunal may determine a misbehaviour matter without a hearing.

Schedule 1 [92] amends section 209 of the Principal Act to enable the Tribunal to direct that names of witnesses and other matters relating to misbehaviour proceedings not be disclosed. Schedule 1 [91] and [93] make consequential amendments.

Schedule 1 [95] inserts proposed section 211A which sets out the actions the Tribunal may take in misbehaviour proceedings. In the case of a Board member or

councillor this includes counselling, reprimanding, suspending and removing and disqualifying from office as a councillor or Board member. In the case of a member of staff this includes counselling, reprimanding and recommending disciplinary action or dismissal. Schedule 1 [94] makes a consequential amendment.

Schedule 1 [96] amends section 213 of the Principal Act to extend to misbehaviour proceedings provisions relating to the provision by the Tribunal of written statements of decisions.

Schedule 1 [97] amends section 214 of the Principal Act to extend to misbehaviour proceedings provisions relating to appeals to the Supreme Court against decisions of the Tribunal.

Schedule 1 [99] amends section 216 of the Principal Act to enable the Registrar to recommend (with the approval of the New South Wales Aboriginal Land Council) the appointment of an investigator to a Local Aboriginal Land Council.

Schedule [102] inserts proposed section 221A into the Principal Act. The proposed section enables the Registrar and the New South Wales Aboriginal Land Council to require the Chairperson of a Local Aboriginal Land Council or any other person who has possession or control of records of a Council to provide access to records and other information and authorities.

Schedule 1 [104] amends section 222 of the Principal Act to require the Minister to form an opinion before acting to appoint an administrator for a Local Aboriginal Land Council on the ground that the funds or other property of the Council have not been properly applied or managed.

Schedule 1 [105] amends section 222 of the Principal Act to clarify that an administrator may exercise functions of a Local Aboriginal Land Council exercised by resolution of members of the Council that are prescribed by the regulations, subject to the administrator's instrument of appointment.

Schedule 1 [107] amends section 222 of the Principal Act to enable regulations to be made specifying functions of a Local Aboriginal Land Council or a Board that an administrator of an Aboriginal Land Council may not exercise, except on a resolution of members of the Council.

Schedule 1 [108] inserts proposed sections 223A and 223B into the Principal Act. Proposed section 223A enables the Minister to give at least 14 days notice of the proposed appointment of an administrator to an Aboriginal Land Council and to take into account representations made by a person or body given notice of the appointment.

Proposed section 223B enables the Minister to prohibit a Council from exercising specified functions or taking specified actions, and to appoint an interim administrator (for not more than 3 months), pending the appointment of an administrator.

Schedule 1 [111] amends section 226 of the Principal Act to require fresh elections for Aboriginal Land Councils for which an administrator has been appointed to be held, in the manner specified by the regulations, at the conclusion of the administrator's term of office.

Schedule 1 [114] amends section 231 of the Principal Act to enable the Minister to vary the functions of an Aboriginal Land Council that may be exercised by an administrator during an extension of the administrator's term of appointment.

Schedule 1 [117] inserts proposed section 234 into the Principal Act. The proposed section enables the Minister, on the recommendation of the New South Wales Aboriginal Land Council or the Registrar, to appoint an advisor to the Board of a Local Aboriginal Land Council, if the Minister is of the opinion that the Council is in danger of failing.

Other amendments

Schedule 1 [2] and [3] amend section 3 of the Principal Act to expand the purposes of the Principal Act to include provision for the management of land and other assets

and investments by Aboriginal Land Councils, as well as the provision of community benefits schemes by or on behalf of Councils.

Schedule 1 [13]–[15] amend the Principal Act to update references to an Act.

Schedule 1 [78] amends section 165 of the Principal Act to extend the mediation and conciliation functions of the Registrar to disputes relating to the operation of the Principal Act and regulations.

Schedule 1 [80] amends section 165 of the Principal Act to confer on the Registrar the function of providing to the Minister information about the operations of Aboriginal Land Councils.

Schedule 1 [81] inserts proposed section 165A into the Principal Act to enable the Registrar to delegate his or her functions.

Schedule 1 [118] amends section 238 of the Principal Act to extend the dispute resolution provisions to disputes concerning the operation of the Principal Act or the regulations. Currently they apply to disputes concerning the administration of an Aboriginal Land Council.

Schedule 1 [119] and [120] amend section 238 of the Principal Act to make it clear that the dispute resolution provisions do not apply if the matter could constitute an offence under a regulation or provision is made for dispute resolution under a regulation.

Schedule 1 [123] and [124] amend section 242 of the Principal Act to extend protections against personal liability to members of Regional Electoral Forums and advisory committee members and advisors to Local Aboriginal Land Councils.

Schedule 1 [127] inserts proposed section 249A into the Principal Act to extend liability for offences under the Principal Act or regulations committed by corporations to directors or persons concerned in the management of corporations, if they knowingly authorised or permitted the relevant contravention.

Schedule 1 [137] inserts proposed section 252A into the Principal Act to provide for the Act to be reviewed every 5 years.

Schedule 1 [138] inserts proposed Schedule 3 into the Principal Act. The proposed Schedule contains provisions relating to proceedings of Boards, Local Aboriginal Land Councils, Regional Electoral Forums and the New South Wales Aboriginal Land Council.

Schedule 1 [140] amends Schedule 4 to the Principal Act to enable savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [141] amends Schedule 4 to the Principal Act to enact savings and transitional provisions as a consequence of the enactment of the proposed Act.

Schedule 2 Amendment of other Acts

Schedule 2.1 amends the Crimes Act 1900 to extend the operation of offences contained in section 249B (Corrupt commissions or rewards) of that Act to councillors or Board members purporting to act on behalf of Boards or Aboriginal Land Councils (in the same way that those offences extend to local government councillors).

Schedule 2.2 amends the Defamation Act 2005 to update references to the Tribunal.

Schedule 2.3 amends the Independent Commission Against Corruption Act 1988 to insert proposed section 74D. The proposed section enables the Commission to include in a report recommendations that action be taken under the proposed misbehaviour provisions to be inserted in the Principal Act.