

26 October 2010

## 2010 NSW Aboriginal Land Council Election – North Coast Region

### Disqualification Information for Candidates

Dear Candidate

Before standing for election in an NSW Aboriginal Land Council election it is important that you understand your rights and duties as a candidate.

If you decide to nominate to be a candidate for the North Coast Region election to be held on Saturday 11 December 2010, you are required to complete a Statutory Declaration.

#### The Statutory Declaration

By making the declaration you are saying that to the best of your knowledge you are **not** disqualified from holding office as a Councillor of the NSW Aboriginal Land Council for any of the reasons set out in Section 132 (1) of the *Aboriginal Land Rights Act 1983* ("The Land Rights Act").

The disqualification reasons are, if a candidate:

- (a) has a conviction in New South Wales or elsewhere for an offence relating to the management of a corporation that was recorded within the last 5 years, or
- (b) has a conviction for an offence under this Act that was recorded within the last 5 years, or
- (c) has a conviction in New South Wales for any other offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable that was recorded within the last 5 years, or
- (d) is a mentally incapacitated person, or
- (e) is or becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or

- (f) is or was a director or person concerned in the management of a body corporate that is the subject of a winding up order or for which a controller or administrator has been appointed under the Corporations Act 2001 of the Commonwealth during the previous 3 years, or
- (g) is disqualified from holding office in or being concerned in the management of a corporation under any law of this or any other State or Territory or the Commonwealth, or
- (h) is an employee of, or a consultant to, the Council, or
- (i) in the case of a councillor, engages in other paid employment, or
- (j) was, on 2 or more occasions before an administrator was appointed to the Council, an officer of the Council, or
- (k) fails, without a reasonable excuse, for a period of 3 months or more to comply with a written requirement by the Council to undergo training under section 125, or
- (l) is disqualified from being a Board member, other than on the ground that the person is a councillor.

Please be mindful that by completing the Statutory Declaration you are declaring under oath, that you are not disqualified from holding office. This is a serious matter and you need to be confident that you are not disqualified.

### **Importantly please note:**

- If you are knowingly untruthful in a Statutory Declaration you may be guilty of an offence.
- You may wish to seek legal advice before completing the Statutory Declaration.
- You may wish to contact the Registrar of the Land Rights Act (the Registrar) for general information about disqualification from office as a Councillor of the NSW Aboriginal Land Council.

### **Relevant Disqualifying Offences**

You may find that you are disqualified because you have been convicted of a relevant offence in the last 5 years (see offences listed at (a), (b) and (c) above). However you may still be able to stand in the election. This is because the Land Rights Act provides the Registrar with the function to determine if relevant offences may be ignored.

If you have been convicted of a relevant offence, you are disqualified unless the Registrar determines that an offence can be ignored in accordance with section 132 (2) of the Land Rights Act.

When considering if an offence can be ignored the Registrar must consider:

1. The time that has passed since the offence was committed (This is the time since the offence occurred, not the date of conviction for the offence) and;
2. The triviality of the acts or omissions giving rise to the offence.

If you believe that you have been convicted of a relevant offence and you wish to be a candidate for election as a Councillor for the NSW Aboriginal Land Council North Coast Region, you should contact the Registrar before completing the Statutory Declaration required by the nomination form.

### **Being Disqualified from holding office as a Board member of a Local Aboriginal Land Council**

You will see that the last matter in the list of reasons for disqualification (see (l) above) states that you are disqualified from holding office as a Councillor if you are disqualified from holding office as a Board member of a Local Aboriginal Land Council.

The reasons that disqualify a person from holding office as a Board member of a Local Aboriginal Land Council are substantially the same reasons that disqualify a person from holding office as a Councillor of the NSW Aboriginal Land Council.

The important difference is if you were an officer of a Local Aboriginal Land Council on two or more occasions in the last five years, before the appointment of an administrator to the Local Aboriginal Land Council, you are disqualified from holding office as a Board member (see s. 66 (1) (k) Land Rights Act).

This means that if on at least two occasions in the history of a Local Aboriginal Land Council, an administrator has been appointed to the Local Aboriginal Land Council and you were an officer of the Local Aboriginal Land Council on each occasion before the appointment of an administrator, then you are disqualified from holding office as a Board member of a Local Aboriginal Land Council and also holding office as a Councillor of the NSW Aboriginal Land Council.

In this case "officer" means a Board member of a Local Aboriginal Land Council after July 2007 and the Chairperson, Secretary or Treasurer of a Local Aboriginal Land Council before July 2007.

Please think carefully and consider if you were a Board member or a Chairperson, Secretary or Treasurer before an administrator was appointed on two occasions. That is an administrator has been appointed twice while you were an officer of a Local Aboriginal Land Council

## Key Dates

Key dates of the election process are:

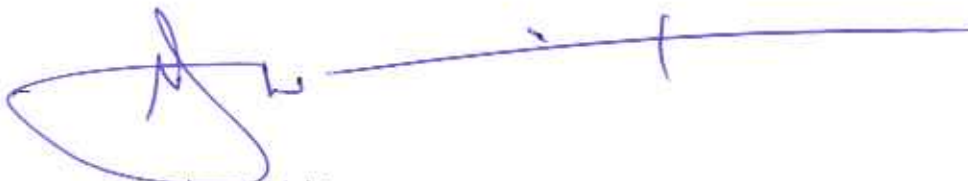
<b>Nominations Open</b>	26 October 2010
<b>Nominations Close</b>	17 November 2010 at <b><u>12 noon</u></b> .
<b>Notices of Contested Election</b>	19 November 2010
<b>Postal Vote Applications Close</b>	3 December 2010
<b>Date of Election</b>	11 December 2010 (8am to 6pm)
<b>Declaration of Poll</b>	16 December 2010
<b>Assistance</b>	

It is very important that you consider and resolve any matters that may disqualify you from holding office as a Councillor of the NSW Aboriginal Land Council before completing the Statutory Declaration.

For assistance please contact the Registrar of the ALRA on:

- (02) 9562 6327 or,
- (02) 9562 6305, or
- [Stephen.wright@oralra.nsw.gov.au](mailto:Stephen.wright@oralra.nsw.gov.au)

Yours faithfully



Stephen Wright  
Registrar  
Aboriginal Land Rights Act 1983