

NATURAL RESOURCES LEGISLATION AMENDMENT BILL 1998

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the Legislation

The objectives of this legislation are to introduce a range of important amendments to the *Aboriginal Land Act 1991*, the *Torres Strait Islander Land Act 1991* and the *Land Act 1994*.

The Reasons for the Bill

The Bill makes provision for amendments to *Aboriginal Land Act 1991* and *Torres Strait Islander Land Act 1991* which will:

- exempt land trusts established under those Acts from the status of being a “statutory body” pursuant to the provisions of the *Financial Administration and Audit Act 1977*; and
- provide the Governor in Council with authority to make regulations to establish a register of land trusts and provide for a system of accountability appropriate to these bodies.

Further, clauses in the Bill make provisions for amendments to the *Land Act 1994* which will:

- provide for the management of irrigation improvements on temporarily closed roads; and
- clarify the tenure arrangements for Special Perpetual Mining Purposes Leases in Weipa.

Established Cost of Government Implementation

The implementation of the proposed amendments for the *Aboriginal*

Land Act 1991 and *Torres Strait Islander Land Act 1991* will involve no appreciable costs to the Government.

With respect to the proposed amendments to the *Land Act 1994*, there are no anticipated implementation costs of a significant nature.

Consultation

In respect of the proposed amendments to the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991*, consultation has occurred with the following agencies:

- Queensland Audit Office
- Queensland Treasury
- Department of Tourism, Small Business and Industry
- Queensland Office of Parliamentary Counsel
- Department of Families, Youth and Community Care
- Department of Natural Resources.

In respect of the road closure amendment to the *Land Act 1994*, consultation has occurred with the Department of Main Roads and the Department of Local Government and Planning and the Local Government Association.

No agencies were consulted in respect of the amendment concerning the Special Perpetual Mining Purposes Leases, although there has been considerable consultation with Comalco Aluminium Ltd. on this matter.

FUNDAMENTAL LEGISLATIVE PRINCIPLES

This Bill does not breach any fundamental legislative principles.

NOTES ON PROVISIONS

Clause 1 contains the short title

Clause 2 states the commencement day for the Bill will be fixed by

- proclamation
- Clause 3* indicates that Part 2 of the Bill amends the *Aboriginal Land Act 1991 (ALA)*
- Clause 4* This clause amends Section 3 of the ALA by inserting definitions for “Aboriginal land claim association” and for a “land trust”. Both of these corporate bodies have hitherto only been referred to in the regulations (the *Aboriginal Land Regulation 1991*) to the Act and as a matter of drafting practice should be defined in the Act.
- Clause 5* This clause inserts two new sections, Section 137A and 137B after the existing Section 137.
- Section 137A exempts land trusts from the operation of the *Financial Administration and Audit Act 1977 (FAAA)*. The section further provides for the foundation of a system by which to regulate the affairs of land trusts in the absence of the provisions of the FAAA by requiring that the land trusts must allow and assist a qualified person appointed by the land claims registrar to audit the financial accounts of the land trust.
- Section 137B provides the chief executive with authority to approve forms for use under the Act. Though a general provision, this section will allow the land claims registry to require land trust information to be provided in a complete and efficient manner. It is envisaged that there will be approved forms relating to annual financial statements, amendments to the rules of land trusts and membership lists.
- Clause 6* This clause provides for the amendment of the powers of the Governor in Council to make regulations contained in Section 138(2) of the Act. The clause includes provisions for a register of land trusts, the adoption of rules by land trusts and accounting requirements for land trusts.
- Clause 7* This clause provides for the *Land Act 1994* to be amended by Part 3.
- Clause 8* This purpose of the amendment to section 103 is to expand the sections application by allowing a road licence to be

issued to other than the adjoining owner where the temporarily closed road, for which the licence is issued, is to be used for pipe or water channels crossing a road for irrigation purposes.

Clause 9 This clause amends S104(b), which provides for the conditions of issuing road licences, to include structural improvements consisting of pipes crossing the road beneath its surface for irrigation purposes as well as water channels crossing the road for irrigation purposes in those conditions.

Clause 10 This clause inserts a new Division which includes new sections 503J and 503K after the existing section 503I.

Section 503J is to remove any doubt that special perpetual mining purposes leases issued after 1 January 1995 become perpetual leases under the *Land Act 1994* following their issue under the *Commonwealth Aluminium Corporation Pty Limited Agreement Act 1957*.

Section 503K provides for the replacement of special perpetual mining purposes lease documents with perpetual lease documents under the *Land Act 1994*.

Clause 11 provides that Part 4 of the Bill amends the *Torres Strait Islander Land Act 1991 (TSILA)*.

Clause 12 This clause amends Section 3 of the TSILA by inserting definitions for “Torres Strait Islander land claim association” and for a “land trust”. Both of these corporate bodies have hitherto only been referred to in the regulations (the *Torres Strait Islander Land Regulation 1991*) to the Act and as a matter of drafting practice should be defined in the Act.

Clause 13 This clause inserts two new sections, Section 134A and 134B after the existing Section 134.

Section 134A exempts land trusts from the operation of the *Financial Administration and Audit Act 1977 (FAAA)*. The purpose of the section is to provide the foundation of a system by which to regulate the affairs of land trusts in the absence of the provisions of the FAAA by requiring that the

land trusts must allow and assist a qualified person appointed by the land claims registrar to audit the financial accounts of the land trust.

Section 134B provides the chief executive with authority to approve forms for use under the Act. Though a general provision, this section will allow the land claims registry to require land trust information to be provided in a complete and efficient manner. It is envisaged that there will be approved forms relating to annual financial statement, amendments to the rules of land trusts and membership lists.

Clause 14 This clause provides for the amendment of the powers of the Governor in Council to make regulations contained in Section 135(2) of the Act. The clause includes provisions for a register of land trusts, the adoption of rules by land trusts and accounting requirements for land trusts.