

1999

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY)
AMENDMENT BILL (No. 2) 1999

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Minister for Aboriginal and Torres Strait Islander Affairs,
Senator the Hon John Herron)

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OUTLINE

The Bill would invalidate the deed of grant executed under section 12 of the *Aboriginal Land Rights (Northern Territory) Act 1976* in favour of the Gurungu Land Trust on 5 December 1991 to the extent that it included that area of land described as the Elliott stockyards land.

The Bill would amend the *Aboriginal Land Rights (Northern Territory) Act 1976* to dispose of Aboriginal land claims:

- (a) where an Aboriginal Land Commissioner, in his report to the Minister relating to the claim, has stated that he is unable to find any traditional Aboriginal owners of the land;
- (b) over stock routes and stock reserves, or
- (c) made after 5 June 1997, the date of the expiration of the statutory period for making land claims.

FINANCIAL IMPACT STATEMENT

It is expected that any compensation which may be payable would be nominal.

NOTES ON CLAUSES

Clause 1 - Short title

This clause provides for the Act to be cited as the *Aboriginal Land Rights (Northern Territory) Amendment Act (No. 2) 1999*.

Clause 2 - Commencement

This clause provides that:

- Other than Schedule 1 which commences on proclamation, the Bill commences 28 days after the day on which it receives Royal Assent; but
- if Schedule 1 does not commence within 12 months after the Bill receives Royal Assent then it will commence the day after that period.

A 12 month period for commencement of Schedule 1 has been allowed so that the amendments can commence at the same time as certain amendments to the Aboriginal living areas provisions of the Northern Territory *Pastoral Land Act* which have yet to be enacted by the Northern Territory legislature.

Clause 3 - Provision relating to Elliott stockyards

This clause would remedy an administrative error which occurred in 1991 when the deed of grant executed in favour of the Gurungu Land Trust was stated to include a portion of land containing public trucking yards and a public dip facility. The clause would invalidate that part of the deed of grant dated 5 December 1991 to the extent to which it relates to land described as the Elliott stockyards land.

Clause 4 - Compensation

The purpose of this clause is to ensure compliance with section 51(xxxi) of the Constitution. The clause provides that if the amendment effected by clause 3 would result in acquisition other than on just terms and would be invalid because of that section the Commonwealth would be liable to pay such compensation as is necessary to ensure acquisition on just terms.

Clause 5 – Lands Acquisition Act 1989

This clause provides that clause 3 would have effect independent of the *Lands Acquisition Act 1989*.

Clause 6 - Establishes Schedule of Amendments of the Aboriginal Land Rights (Northern Territory) Act 1976 as follows:

Items 1 and 2 – Consequential

These Items are consequential upon the amendment contained in Item 4.

Item 3 – Repeal of paragraph 67A(5)(c) and substitution of new paragraph

Item 3 would substitute a new paragraph 67A(5)(c) under which a land claim would be taken to be finally disposed of if the Aboriginal Land Commissioner reports to the Minister that there are no traditional owners of the area which is the subject of a claim or that he is unable to make a finding that there are traditional owners of that land.

Item 4 – New subsection 67A (6)

Item 4 would add a new subsection 67A(6) which provides that traditional land claims to which subsections 50(2A) and 50(2D) apply are taken to have been finally disposed of. Subsection 50(2A) applies to all land claims made after 5 June 1997. Subsection 50(2D) applies to land claims over stock routes or stock reserves, in relation to which the Aboriginal Land Commissioner had not commenced an inquiry as at 1 March 1990.