

**ABORIGINAL LAND RIGHTS AMENDMENT BILL 2013**

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**Bill introduced on motion by Mr Victor Dominello, read a first time and printed.****Second Reading**

**Mr VICTOR DOMINELLO** (Ryde—Minister for Citizenship and Communities, and Minister for Aboriginal Affairs) [11.13 a.m.]: I move:

That this bill be now read a second time.

It is appropriate to first, for this piece of legislation, commence this speech by acknowledging the traditional custodians of the land on which we meet, the Gadigal people of the Eora nation. I pay my respects to their elders past and present. I also pay my respects to the elders of the other first nations of New South Wales. Almost to the day 30 years ago the historic Aboriginal Land Rights Act commenced its operation. That 30-year anniversary gives us an opportunity to make generational reform. In December 2011 I commenced a five yearly statutory review of the Aboriginal Land Rights Act to determine whether the policy objectives of the Act remain valid, and whether the terms of the Act remain appropriate for securing those objectives.

While this bill represents the initial outcomes of the review with a range of amendments that will enhance the administrative efficiency and effectiveness of the Act, more ambitious work on how the Act can better deliver outcomes for Aboriginal people in the policy areas of housing, land claims, and the regulation of land councils is presently in train. I will report those outcomes to the Parliament later this year. This bill is the first instalment of a bigger project to more fully realise the potential of the Act. This broader vision is shared by Stephen Ryan, who is the Chairman of the New South Wales Aboriginal Land Council. Chairman Ryan has made the following points:

In this the 30th anniversary year of the Aboriginal Land Rights Act 1983, it is appropriate to be taking steps to ensure that Aboriginal Land Right in NSW remains strong for the next 30 years.

The proposed amendments to the Aboriginal Land Rights Act are the first critical reforms in an ongoing process of reviewing this landmark legislation. This process has been driven by the vision of the ... [New South Wales Government], working collaboratively with the experience of the NSW Aboriginal Land Council, the Registrar of the Aboriginal Land Rights Act and Aboriginal Affairs NSW. It's a reform process that will deliver a more effective legislative framework for Aboriginal Land Rights in NSW.

The proposals set out in this bill were presented to me by an expert working group, chaired by the registrar of the Land Rights Act, which I established to review the legislation and provide me with proposals to improve it. The working group included the New South Wales council and two members of local Aboriginal land councils. Having community members directly involved in the formulation of legislative proposals was a first. Those members ensured that diverse views held by Aboriginal land councils across New South Wales—those most affected by any changes—were represented. The Director General of the Department of Primary Industries was an important addition to the group, representing a commitment by our Government to resolve the inefficiencies of the Aboriginal land claims process.

Since winning the 2011 election this Government has made special endeavour to make New South Wales number one. Fundamental to this objective has been finding ways to cut red tape to assist local decision-making and bolster prosperity in New South Wales. The amendments in this bill do just that. They promote good business administration and will make it easier for Aboriginal land councils to serve and develop their communities. The amendments cover many parts of the legislation and its regulations but can be categorised as follows: first, amendments that enhance administrative efficiency of Aboriginal land councils; secondly, amendments that will facilitate the good governance of Aboriginal land councils; and, thirdly, amendments that will reduce unnecessary costs borne by land councils. A number of the amendments will correct minor inaccuracies currently in the legislation.

While I do not have the luxury of dealing with each amendments in detail, I will provide some key examples of the amendments. Some proposals to increase administrative efficiency include a suite of amendments to clarify the delegation of functions. Without diminishing the specific powers of members, such as in the disposal and dealing of land, the new provisions will allow local Aboriginal land council boards to delegate their functions to chief executive officers, and for chief executive officers to delegate functions to other staff members. This will significantly assist the expeditious management of land councils' affairs, including asset management, in a way that is more aligned with a corporate separation of powers. The amendments provide both boards and chief executive officers with the means by which to delegate certain functions to ensure that Aboriginal land councils are running effectively and are meeting their legislative requirements, and provide the New South Wales Aboriginal Land Council with flexibility and discretion in relation to the financial and administrative reporting obligations of local Aboriginal land councils.

The Act currently requires the New South Wales Aboriginal Land Council to cease funding a local Aboriginal land council even if, for example, the local Aboriginal land council provides financial statements as little as one day after the due date set out in the Act. This imposes unnecessary administrative red tape on the New South Wales Aboriginal Land Council and is an unfair burden on the running of small bodies corporate. Many of the delays are not the fault of councils but rather external service providers such as auditors. Some proposals to facilitate good governance include an amendment to remove the overly broad power of members to delegate the exercise of any of the functions of a council to "any person or body".

Amendments that commenced in 2007 were intended to significantly improve the governance of land councils by creating a governance model that separated the power and functions of boards, chief executive officers and members. Currently the Act risks members being able to delegate the functions of the council to any person, potentially in conflict with the reasonable exercise by the board or the chief executive officer of their powers. The proposed amendment will ameliorate this risk. The amendment will also remove the current prohibition against the board delegating to the chief executive officer any aspect of the use, management or control of land. This aims to clarify the purpose of the subsection and prevent it from capturing day-to-day management.

Another example is an amendment to section 63 of the Act, which introduces the requirement that persons seeking to stand for election as board members of local land councils must have attended at least two of the council's meetings during the previous 12 months. That amendment has the support of the network as a measure to ensure elected officers have demonstrated commitment and capacity to be board members and have good corporate knowledge to help them acquit their roles. However, the amendment removes the requirement

for voters in board elections to have attended two such meetings. This measure will ensure greater member participation in board elections. The inclusion of a new section to clarify that a councillor or board member, while suspended from office, cannot exercise any functions of that office, or collect any remuneration for that office, will provide clarity regarding the exercise of functions when councillors or board members are suspended.

Some proposals to facilitate the reduction of costs include an amendment to section 153 to allow local Aboriginal land councils to choose their auditors from a list kept by the New South Wales Aboriginal Land Council rather than have them appointed directly by the New South Wales Aboriginal Land Council. The proposed amendment allows local land councils greater flexibility to choose the auditor best suited to their budget and situation, while ensuring that persons appointed are appropriately qualified. There are also a number of other very minor amendments that correct inaccuracies. These include consequential references to other Acts of Parliament that have not been updated accordingly with changes, and some references to Regional Aboriginal Land Councils that were abolished in 2007.

The broad range of the proposed amendments I present here today aims to make the day-to-day activity of Aboriginal land councils more effective in delivering social and economic outcomes for their communities. I thank the key players who have assisted me in the development of this bill. First and foremost, I thank and acknowledge the critical role of the New South Wales Aboriginal Land Council in the development of this bill. Similarly, I give special thanks to the commitment of the community members on the working group: Mr Sean Gordon, Chief Executive Officer of Darkinjung Local Aboriginal Land Council, and Ms Stacey Meredith, Aboriginal owner and member of Griffith Local Aboriginal Land Council. I also thank the registrar, in his capacity as chair of the working group, and Aboriginal Affairs NSW in providing me with expert advice. The measures provided for in this bill will significantly benefit the land rights network and Aboriginal communities throughout New South Wales. I commend the bill to the House.

**Debate adjourned on motion by Ms Linda Burney and set down as an order of the day for a future day.**