



# Full Day Hansard Transcript (Legislative Council, 28 August 2013, Proof)

## Proof

Extract from NSW Legislative Council Hansard and Papers Wednesday, 28 August 2013 (Proof).

### ABORIGINAL LAND RIGHTS AMENDMENT BILL 2013

#### Second Reading

**The Hon. MELINDA PAVEY** (Parliamentary Secretary) [4.32 p.m.], on behalf of the Hon. Michael Gallacher: I am pleased to bring before the House the Aboriginal Land Rights Amendment Bill 2013. Thirty 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 Minister Dominello 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. 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, 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 New South Wales 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 New South Wales 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 Minister Dominello by an expert working group, chaired by the registrar of the Land Rights Act. 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 a special endeavour to make New South Wales number one. Fundamental to this objective has been finding ways to cut red tape and 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 they 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.

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 amendments 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. 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 whilst 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 the regional land councils that were abolished in 2007. The broad range of the proposed amendments presented to this House aims to make the day-to-day activity of Aboriginal land councils more effective in delivering social and economic outcomes for their communities. I commend Minister Dominello for his work and his attention to these important changes. He has worked very collaboratively with all sections of the Aboriginal community. I commend the bill to the House.