

Land Titles Validation Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 states the purpose of the Act.

Clause 2 sets the commencement date for the provisions of the Act.

Clause 3 defines “Commonwealth Act” as being the Commonwealth’s Native Title Act 1993.

Clause 4 applies definitions in the Commonwealth Act to the Land Titles Validation Act, except to the extent that context or subject matter otherwise indicates. The main definitions adopted (with relevant section from the Commonwealth Act in brackets) are: “past act” (section 228), “category A past act” (section 229), “category B past act” (section 230), “category C past act” (section 231), “category D past act” (section 232) and “non-extinguishment principle” (section 238).

Clause 5 provides that the Act binds the Crown.

PART 2—VALIDATION OF PAST ACTS

Clause 6 provides that every “past act” of the State, as defined in section 228 of the Commonwealth Act, is valid.

Clause 7 provides that a Category A past act attributable to the State that is not a public work extinguishes native title.

Clause 8 provides that category A past acts of the State to which section 229 (4) of the Commonwealth Act (which deal with public works) extinguish native title in relation to the land or waters on which the public work was or is situated.

Clause 9 provides that Category B past acts of the State extinguish native title to the extent of any inconsistency.

Clause 10 applies the non-extinguishment principle to all Category C and D past acts of the State.

Clause 11 provides that the extinguishment of native title under Part 2 does not confer a right to eject aboriginal person who reside or exercise access over land or waters covered by a pastoral lease.

Clause 12 preserves any reservations or conditions for the benefit of Aboriginal peoples, notwithstanding validation of past acts under Part 2.

Clause 13 sets out the compensation entitlement of native title holders for the validation of a past act of the State.

PART 3—CONFIRMATION OF RIGHTS

Clause 14 confirms State ownership of and access to various natural resources, in accordance with section 212 (1) of the Commonwealth Act.

Clause 15 confirms public access to beaches and waterways, in accordance with section 212 (2) of the Commonwealth Act.

Clause 16 relates to the effect of confirmation.

PART 4

Clause 17 repeals the **Land Titles Validation Act 1993**.