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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Wild Rivers (Environmental Management) Bill 2011

No. , 2011

(The Hon A. J. Abbott)

**A Bill for an Act to protect the interests of
Aboriginal people in the management, development
and use of native title land situated in wild river
areas, and for related purposes**

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1 **A Bill for an Act to protect the interests of**
2 **Aboriginal people in the management, development**
3 **and use of native title land situated in wild river**
4 **areas, and for related purposes**

5 The Parliament of Australia enacts:

6 **1 Short title**

7 This Act may be cited as the *Wild Rivers (Environmental*
8 *Management) Act 2011*.

9 **2 Commencement**

10 This Act commences on the day on which it receives the Royal
11 Assent.

3 Definitions

In this Act:

Aboriginal land means:

- (a) Aboriginal land under the *Aboriginal Land Act 1991* (Qld);
- (b) land where native title exists;
- (c) a lease under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* (Qld);
- (d) deed of grant in trust land under the *Land Act 1994* (Qld) granted for the benefit of Aboriginal people;
- (e) a reserve under the *Land Act 1994* (Qld) for a community purpose that is, or includes, Aboriginal purposes;
- (f) freehold, or a term or perpetual lease under the *Land Act 1994* (Qld), held by, or in trust for, an Aboriginal person or an Aboriginal corporation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth);
- (g) the Aurukun Shire lease under the *Local Government (Aboriginal Lands) Act 1978* (Qld).

land includes waters.

native title land means land in which native title exists.

owner means:

- (a) for Aboriginal land under the *Aboriginal Land Act 1991* (Qld)—the grantees of Aboriginal land under that Act;
- (b) for land where native title exists—native title holders under section 224 of the *Native Title Act 1993*;
- (c) a lease under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* (Qld)—the lessee;
- (d) deed of grant in trust land under the *Land Act 1994* (Qld) granted for the benefit of Aboriginal people—the grantee;
- (e) a reserve under the *Land Act 1994* (Qld) for a community purpose that is, or includes, Aboriginal purposes—the trustee of the reserve;
- (f) for freehold held by, or in trust for, an Aboriginal person or an Aboriginal corporation under the *Corporations*

- (*Aboriginal and Torres Strait Islander*) Act 2006 (Cth)—the registered proprietor under the *Land Title Act 1994* (Qld);
- (g) for a term lease or perpetual lease under the *Land Act 1994* (Qld) held by, or in trust for, an Aboriginal person or an Aboriginal corporation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth)—the lessee;
- (h) the Aurukun Shire lease under the *Local Government (Aboriginal Lands) Act 1978* (Qld)—the Aurukun Shire Council.

register means the Register established and maintained under Part 7 of the *Native Title Act 1993*.

regulated means regulation of the development or use of land and includes any prohibition of, or restriction on, the development or use of land.

relevant Queensland legislation means the *Wild Rivers Act 2005* (Qld) and includes future legislation amending, or substituted for, that Act.

wild river area means an area in which the relevant Queensland legislation regulates, or purports to regulate, the development or use of land.

wild river declaration means a declaration under relevant Queensland legislation.

4 Constitutional basis and object of Act

- (1) This Act relies on:
- (a) the Commonwealth's legislative powers under paragraph 51 (xxvi) of the Constitution; and
 - (b) any other express or implied legislative power of the Commonwealth capable of supporting the enactment of this Act.
- (2) It is the intention of the Parliament that this Act be a special measure for the advancement and protection of Australia's Indigenous people.

Section 5

- 1 (3) In particular, it is the intention of the Parliament that:
- 2 (a) this Act protect the rights of traditional owners of Aboriginal
- 3 land within wild river areas to own, use, develop and control
- 4 that land; and
- 5 (b) should the enactment of this Act result in the loss of
- 6 employment by persons employed or engaged to assist in the
- 7 management of a wild river area then the Commonwealth
- 8 Government should provide employment to those persons in
- 9 accordance with details specified in the regulations.

10 Note: Paragraph 51(xxvi) of the Australian Constitution provides that the

11 Parliament has power to make laws with respect to “the people of any

12 race for whom it is deemed necessary to make special laws”.

13 **5 Agreement of owner required**

- 14 (1) The development or use of Aboriginal land in a wild river area
- 15 cannot be regulated under the relevant Queensland legislation
- 16 unless the owner agrees in writing.
- 17 (2) For the purposes of this Act, an agreement with native title holders
- 18 in respect of native title land is taken to be an agreement with the
- 19 owner.

20 **6 Obtaining agreement of native title holders**

- 21 The agreement under section 5 of an owner of land where native
- 22 title exists may be obtained by the registration:
- 23 (a) under section 24BI of the *Native Title Act 1993*—of an
- 24 Indigenous land use agreement (body corporate
- 25 agreement) which includes a statement to the effect that
- 26 the parties agree to an area of land being regulated; or
- 27 (b) under sections 24CK or 24CL of the *Native Title Act*
- 28 1993—of an Indigenous land use agreement (area
- 29 agreement) which includes a statement to the effect that
- 30 the parties agree to an area of land being regulated.

6A Dispute resolution

- (1) For the avoidance of doubt, any dispute arising under this Act in relation to the making of an agreement or the identity of an owner is governed by section 203BF of the *Native Title Act 1993*.
- (2) Any dispute arising under this Act with an owner as defined in this Act that is not governed by the *Native Title Act 1993* is to be governed by a dispute resolution process specified in the regulations.

7 Transitional provision

Despite section 5, a wild river declaration made before the commencement of this Act continues to apply to Aboriginal land to which it is expressed to apply until the earlier of:

- (a) for an area of Aboriginal land—a new declaration is made with the agreement of the owner of the Aboriginal land; or
- (b) when 12 months elapse from the commencement of this Act or after a further period of 6 months if the Minister determines that an extension of time is warranted under the circumstances.

8 Regulations

- (1) The Governor-General may make regulations for the purposes of this Act.
- (2) Without limiting subsection (1), the regulations may prescribe procedures:
 - (a) for resolving disputes with an owner under this Act; and
 - (b) for negotiating the terms of the agreement; and
 - (c) for the continued employment of all existing Aboriginal people and other people in the implementation of the purposes of this Act.