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Aboriginal Land Grant (Jervis Bay Territory) Amendment Bill 2003

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Aboriginal Land Grant (Jervis Bay Territory) Amendment
Bill 2003

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Contents

Purpose.	1
Background.	1
Origin of Bill	1
General	1
Main Provisions	3
Endnotes.	3

Aboriginal Land Grant (Jervis Bay Territory) Amendment Bill 2003

Date Introduced: 17 September 2003

House: House of Representatives

Portfolio: Immigration and Multicultural and Indigenous Affairs

Commencement: All items in this Bill commence on the day the Act receives Royal Assent

Purpose

This Bill makes a number of amendments to the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986* ('the Land Grant Act'). The amendments are designed to facilitate the operation of the Wreck Bay Aboriginal Council ('the Council').

Background

Origin of Bill

The Bill gives effect to a request by the Council for legislative changes to certain administrative requirements provided for in the Land Grant Act. It makes the Council's quorum requirements simpler to meet and gives the Council more time to provide a copy of a by-law to the Minister. It also makes changes consequential upon the Government's establishment of Aboriginal and Torres Strait Islander Services (ATSIS) as a new agency within the Immigration and Multicultural and Indigenous Affairs portfolio.

General

The Council is established under the Land Grant Act. The functions of the Council are to hold title to Aboriginal land, exercise powers as owners of Aboriginal land for the benefit of the members of the Wreck Bay Aboriginal community, make representations to the Minister in relation to land that the Council considers should become Aboriginal land, and other matters relevant to the Act.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Section 15 of the Land Grant Act provides for a Registrar of the Council, and section 16 provides that the Registrar may delegate his or her functions and powers. At present the Registrar must be an officer of the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) or the Aboriginal and Torres Strait Islander Commission (ATSIC) and the powers of the Registrar can only be delegated to a person who is an officer of DIMIA or ATSIC.

On 1 July 2003 Aboriginal and Torres Strait Islander Services (ATSIS) was established as a new agency within the Immigration and Multicultural and Indigenous Affairs portfolio. Its role is to deliver to Indigenous people those programs previously provided by ATSIC.

Sections 20-24 of the Land Grant Act provide for the holding of annual general meetings and special general meetings of the Council. At these meetings the Council elects its executive members and deals with matters relating to its functions. Eligibility for membership of the Council is also determined at meetings of the Council.

Sections 25 and 26A specify the quorum requirements for meetings of the Council. Section 25 provides that the quorum at an annual general meeting or at a special general meeting is constituted by a majority of members of the Council. This requirement has proven virtually impossible to achieve.¹ Section 26A provides for a lesser quorum requirement where an annual general meeting has been reconvened due to a failure to achieve a quorum at the initial meeting within 60 minutes of the notified time of the meeting. The lesser requirement is 40% of the members at the first reconvening of an annual general meeting, and, if it is necessary to again reconvene due to a failure to achieve a quorum within 60 minutes of the notified meeting time, 25% of the members at a subsequent reconvening of the meeting. These lesser requirements have also proved virtually impossible to achieve, making it difficult for the Council to conduct meetings and urgent business.²

Under s.52A of the Land Grant Act the Council has power to make by-laws governing matters of concern to the people of the Wreck Bay Community, including cultural activities and declaration of sacred sites. Under s.52A(10) the Council is required to provide the Minister administering the Land Grant Act with a copy of any by-law that it has made, within 7 days of making it. The requirement that the by-law be provided to the Minister within 7 days has proven difficult to work with, particularly over public holiday periods.³

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Main Provisions

The effect of **item 5 of Schedule 1** of the Bill is to substitute a new provision specifying persons who may hold the office of Registrar of the Council. The new provision would enable the Minister to appoint as Registrar an officer of ATSSIS or an officer of ATSIC.

The effect of **item 6 of Schedule 1** of the Bill is to substitute a new provision specifying persons to whom the Registrar may delegate his or her functions or powers. The new provision would enable delegation to an officer of ATSSIS or an officer of ATSIC.

Items 7, 9, and 11 of Schedule 1 of the Bill operate to make the same quorum requirements apply to all reconvened meetings of the Council, whether of an annual general meeting or a special general meeting.

Items 8 and 10 of Schedule 1 of the Bill set the quorum for a first and second reconvened meeting of the Council respectively. The quorum at a reconvened meeting is set at 40 registered members.

The period within which a copy of a by-law made by the Council must be given to the Minister is extended to 21 days by **item 12 of Schedule 1** to the Bill.

Endnotes

- 1 The Hon Philip Ruddock, MP House of Representatives, *Debates*, 17 September 2003 p.20232, referring to advice from the Council.
- 2 *ibid.*, again referring to advice from the Council.
- 3 *ibid.*

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