

CHAPTER 1

Introduction

1.1 On 29 October 2009, the Senate referred the provisions of the Native Title Amendment Bill (No. 2) 2009 (Bill) to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 2 February 2010.¹ On 2 February 2010, the Senate agreed to extend the reporting date to 23 February 2010.

1.2 The Bill was introduced in the House of Representatives on 21 October 2009 by the Attorney-General, the Hon. Robert McClelland MP. It would amend Division 3 of Part 2 (the future acts regime) and Divisions 1 and 4 of Part 15 (definitions) of the *Native Title Act 1993* (Act).

Summary of key amendments

1.3 The key amendments provide a new process to assist the timely construction of public housing and a limited class of public facilities by or on behalf of the Crown, a local government body or any other statutory authority of the Crown in any of its capacities, for Indigenous communities on Indigenous-held land.²

1.4 According to the Explanatory Memorandum, an important feature of the new process is its notification and consultation procedures:

The new process ensures that the representative Aboriginal or Torres Strait Islander body and any registered native title claimants and registered native title bodies corporate in relation to the area of land or waters are notified and afforded an opportunity to comment on acts which could affect native title ('future acts'). In addition, a registered native title claimant or registered native title body corporate may request to be consulted regarding the doing of the proposed future act so far as it affects their registered native title rights and interests.³

1.5 The key amendments will ensure that: the non-extinguishment principle would apply to future acts covered by the new process, native title could revive if the future act ceases to have effect; compensation would be payable for any impact on native title rights and interests; and the new process would operate for 10 years only, matching the 10-year funding period under the current National Partnership

1 Journals of the Senate, No. 96 – 29 October 2009, p. 2691.

2 Explanatory Memorandum, p. 2.

3 Explanatory Memorandum, p. 2.

Agreements between the federal, state and territory governments on remote Indigenous housing and remote service delivery.⁴

Conduct of the inquiry

1.6 The committee advertised the inquiry in *The Australian* newspaper on 18 November 2009, 2 December 2009, 9 December 2009 and 27 January 2010. Details of the inquiry, the Bill and associated documents were placed on the committee's website. The committee also wrote to 53 organisations and individuals inviting submissions.

1.7 The committee received 17 submissions which are listed at Appendix 1. Submissions were placed on the committee's website for ease of access by the public.

1.8 The committee held a public hearing in Sydney on 28 January 2010. A list of witnesses who appeared at the hearing is at Appendix 2, and copies of the Hansard transcript are available through the internet at <http://www.aph.gov.au/hansard>.

Acknowledgement

1.9 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearings.

Scope of the report

1.10 Chapter 2 provides a brief background to the Bill, and outlines its purpose and key provisions. Chapter 3 discusses the key issues raised in submissions and evidence.

Note on references

1.11 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard transcript.