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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.

1 **3 Definitions**

2 In this Act:

3 **Aboriginal land** means:

- 4 (a) Aboriginal land under the *Aboriginal Land Act 1991* (Qld);
- 5 (b) land where native title exists;
- 6 (c) a lease under the *Aborigines and Torres Strait Islanders*
- 7 *(Land Holding) Act 1985* (Qld);
- 8 (d) deed of grant in trust land under the *Land Act 1994* (Qld)
- 9 granted for the benefit of Aboriginal people;
- 10 (e) a reserve under the *Land Act 1994* (Qld) for a community
- 11 purpose that is, or includes, Aboriginal purposes;
- 12 (f) freehold, or a term or perpetual lease under the *Land Act*
- 13 *1994* (Qld), held by, or in trust for, an Aboriginal person or
- 14 an Aboriginal corporation under the *Corporations*
- 15 *(Aboriginal and Torres Strait Islander) Act 2006* (Cth);
- 16 (g) the Aurukun Shire lease under the *Local Government*
- 17 *(Aboriginal Lands) Act 1978* (Qld).

18 **land** includes waters.

19 **native title land** means land in which native title exists.

20 **owner** means:

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

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

10 **register** means the Register established and maintained under Part
11 7 of the *Native Title Act 1993*.

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

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

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

21 **wild river declaration** means a declaration under relevant
22 Queensland legislation.

23 **4 Constitutional basis and object of Act**

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

- 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.

1 **6A Dispute resolution**

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

9 **7 Transitional provision**

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

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

20 **8 Regulations**

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