EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 288

Native Title Act 1993

NATIVE TITLE (REPRESENTATIVE BODIES – AUDIT OF FINANCIAL STATEMENTS) REGULATIONS 2005

Subsection 215(1) of the *Native Title Act 1993* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Part 11 of the Act provides for the recognition, powers and functions of representative Aboriginal and Torres Strait Islander bodies. In particular, subsection 203DC(5) of the Act provides that the financial statements of representative bodies must be audited by a person having prescribed qualifications. Section 253 of the Act describes “prescribed” as meaning prescribed by the regulations. No qualifications have been prescribed to date.

The purpose of these regulations is to prescribe such qualifications. The regulations define an executive officer and a related body corporate for the purposes of the Regulations and prescribe the qualifications of a person who is qualified to audit the financial statements of a representative Aboriginal or Torres Strait Islander body.

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commenced on 1 July 2005 in order to align obligations placed upon representative bodies by section 203DC of the Act with obligations resulting from funding agreements which commenced on 1 July 2005. No individual rights would be adversely affected by this commencement date and no liabilities would be imposed on a person in respect of anything done or omitted to be done before registration of the Regulations.

Consultations took place with Native Title Representative Bodies regarding suitable qualifications of auditors.