

INDIGENOUS CONSERVATION TITLE BILL 2007

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Kate Doust (Parliamentary Secretary)**, read a first time.

Second Reading

HON KATE DOUST (South Metropolitan - Parliamentary Secretary) [5.01 pm]: I move -

That the bill be now read a second time.

The purpose of the Indigenous Conservation Title Bill 2007 is to create a new form of title that recognises Indigenous interests in Rudall River National Park and the Gibson Desert Nature Reserve. The Federal Court determined that the traditional owners, the Martu and Gibson Desert people respectively, held exclusive possession native title to all areas surrounding these parks. However, due to the High Court's ruling in the Miriuwung-Gajerrong case, the vesting of a reserve is considered to extinguish native title. For this reason, Rudall River National Park, an area of particular significance to the Martu people, was excluded from the determination area since it had been vested under section 33 of the Land Act 1933, and this had wholly extinguished native title. Exclusive possession native title would have been determined over Rudall River National Park but for the extinguishing event.

In 2005 the Deputy Premier informed the Assembly of the government's intention to negotiate joint management arrangements with the traditional owners. This was and remains the only just and proper course of action under the circumstances. Native title, once extinguished, cannot normally be revived; hence this bill, which proposes the creation of an Indigenous conservation title.

This bill allows for the cancellation of the existing class A reserve status attached to Rudall River National Park and the Gibson Desert Nature Reserve. It creates a unique hybrid form of inalienable title to be transferred to the Indigenous people. This bill seeks to acknowledge, in a practical sense, the land aspirations of the traditional owners of the parks; give effect to settling the state's compensation liability under the Native Title Act 1993 for the complete extinguishment of native title in the parks; proposes to provide the foundations for the negotiation of mutually beneficial joint management arrangements between the state and the traditional owners; seeks to facilitate a balance between preserving the Indigenous cultural and heritage values of the land and preserving the conservation values of the land in the management of the parks; and proposes to formally recognise and provide tenure for two communities within Rudall River National Park.

The bill includes various conditions and restrictions to ensure the protection and maintenance of the parks. Indigenous conservation title will preserve the conservation values of the parks. Special protections which applied to the parks by virtue of their class A reserve status, including the requirement for certain proposals to be laid before each house of Parliament, will be maintained. It will protect existing public access rights. The parks will be transferred on the condition that Indigenous people are able to maintain their social, economic and religious practices consistent with the conservation and management of the flora and fauna and cultural values of the parks.

The title is inalienable and may not be sold or mortgaged. The title can only be transferred to a relevant prescribed body corporate. It may be leased and it may, by agreement, be surrendered in whole or in part to the state. If Indigenous conservation title land is used in breach of any of the proposed conditions, the title is liable to forfeiture to the state. Indigenous conservation title also forms part of a much broader package that includes an agreement for lease-back to the state government and joint management of the parks between the Department of Environment and Conservation and the traditional owners. It is proposed that the parks be leased back to the state for a term of 99 years. Instead of paying an annual lease fee, the state will allocate the funds to the Department of Environment and Conservation for the capital and operational costs associated with joint management. The department will hold the funds in specific purpose trust accounts to ensure that they are quarantined for joint management of the specific parks subject to this bill. This is identical to the arrangements agreed for the new conservation parks that are being established under the Ord final agreement. Funding in this manner will ensure that public expenditure is transparent and subject to normal government procedural checks and audit procedures. The bill proposes that after 15 years, the lease fee would be subject to review by the minister with responsibility for the Conservation and Land Management Act 1984.

The proposed joint management regime will allow for management infrastructure to be established in the parks - to date, there has been limited capital funding allocated and little or no infrastructure developed in the parks; provide training and employment under the mentored Aboriginal training and employment scheme; provide for traditional owner membership on park councils and the ability to have significant input into how their traditional

land, particularly areas of cultural heritage significance, is managed and protected; and create small business opportunities.

As Rudall River National Park and the Gibson Desert Nature Reserve were vested after the commencement of the commonwealth Racial Discrimination Act in 1975, and prior to the commencement of the Native Title Act in 1993, the state has a compensation liability under the Native Title Act for the extinguishment of native title. The transfer of Indigenous conservation title for the parks and funding for sustainable joint management regimes will assist in settling the state's compensation liability. When the lease agreements and the joint management agreements have been signed, a minute of consent determination for compensation in relation to each of the parks will be finalised and filed in the Federal Court. It is at this point that the bill will be proclaimed.

The bill fulfils the longstanding commitments made by the government to the Martu and Gibson Desert people. It will provide secure tenure to communities within Rudall River National Park and allow for the development of infrastructure within the parks, which will encourage more visitors to the region. At the heart of many native title applications is a plea for recognition and land justice by Indigenous people. The bill demonstrates the government's commitment to resolve these complex matters fairly.

I commend the bill to the house.

Debate adjourned, pursuant to standing orders.