



New South Wales

# Aboriginal Land Rights Amendment (Housing) Bill 2011

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Aboriginal Land Rights Act 1983* to facilitate the entering into and management of residential tenancy agreements of less than 3 years, or periodic agreements, by Boards of Local Aboriginal Land Councils where the other parties to the agreements are natural persons.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

## Schedule 1      **Amendment of Aboriginal Land Rights Act 1983 No 42**

**Schedule 1 [1]** amends section 4 of the Act to define certain terms for the purposes of the Act. *Residential tenancy agreement* has the same meaning as in the *Residential Tenancies Act 2010* and a *short-term residential tenancy agreement* is

defined as a fixed term agreement of less than 3 years or a periodic agreement (within the meaning of that Act), entered into by a Local Aboriginal Land Council where the only other party to the agreement is a natural person.

**Schedule 1 [2]** amends section 42E of the Act (which prevents a Local Aboriginal Land Council from dealing with land unless the land dealing has the approval of the New South Wales Aboriginal Land Council) so as to exempt land dealings in relation to short-term residential tenancy agreements from the operation of the section. Leases of less than 3 years are already exempted.

**Schedule 1 [3]** amends section 52G of the Act to provide that a resolution of the voting members of a Local Aboriginal Land Council is not required to give approval to dealings with land and land dealing approval agreements relating to short-term residential tenancy agreements.

**Schedule 1 [5]** amends section 62 of the Act to confer directly on the Board of a Local Aboriginal Land Council the functions of entering into short-term residential tenancy agreements in relation to land vested in the Council and managing and terminating those agreements.

**Schedule 1 [4] and [6]** amend section 62 of the Act to make it clear that the Board of a Local Aboriginal Land Council must exercise all of its functions in accordance with the Act and the regulations and consistently with the community, land and business plan of the Council.

**Schedule 1 [7]** amends section 230 of the Act to make it clear that the section, which currently prevents an administrator for a Local Aboriginal Land Council from disposing of or otherwise dealing with land of the Council without the Council's approval given at a meeting of the Council, does not require the administrator to obtain the consent of the Council when entering into short-term residential tenancy agreements in relation to land vested in the Council or managing or terminating those agreements.

**Schedule 1 [8]** amends Schedule 4 to the Act to enable regulations to be made of a savings or transitional nature consequent on the enactment of the proposed Act.

**Schedule 1 [9]** amends Schedule 4 to the Act to ensure that the proposed amendments to sections 52G, 62 and 230 of the Act will extend to the future exercise of functions in relation to short-term residential tenancy agreements entered into before the commencement of those amendments.

First print



New South Wales

# Aboriginal Land Rights Amendment (Housing) Bill 2011

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New South Wales

# Aboriginal Land Rights Amendment (Housing) Bill 2011

No. , 2011

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## A Bill for

An Act to amend the *Aboriginal Land Rights Act 1983* with respect to certain residential tenancy agreements and land dealing approval requirements.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Aboriginal Land Rights Amendment (Housing) Act 2011</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent to this Act.	5

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<b>Schedule 1</b>	<b>Amendment of Aboriginal Land Rights Act 1983 No 42</b>	1
		2
<b>[1] Section 4 Definitions</b>		3
	Insert in alphabetical order in section 4 (1):	4
	<i>residential tenancy agreement</i> has the same meaning as in the <i>Residential Tenancies Act 2010</i> .	5
		6
	<i>short-term residential tenancy agreement</i> means a residential tenancy agreement:	7
		8
	(a) that is a fixed term agreement (within the meaning of the <i>Residential Tenancies Act 2010</i> ) for a term of less than 3 years (including any option to renew the agreement) or is a periodic agreement (within the meaning of that Act), and	9
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	(b) where the only parties to the agreement are a Local Aboriginal Land Council and one or more natural persons.	13
		14
<b>[2] Section 42E Approval required for land dealings by Local Aboriginal Land Councils</b>		15
		16
	Omit section 42E (2) (a). Insert instead:	17
	(a) a land dealing in relation to a lease for a period of less than 3 years (including any option to renew the lease) or a short-term residential tenancy agreement, other than a social housing management lease,	18
		19
		20
		21
<b>[3] Section 52G Functions exercised by Council resolution</b>		22
		23
	Omit section 52G (e). Insert instead:	24
	(e) approval of dealings with land (within the meaning of Division 4 of Part 2) and land dealing approval agreements (within the meaning of that Division), other than any such dealings or agreements that relate to short-term residential tenancy agreements,	25
		26
		27
		28
<b>[4] Section 62 Functions of Boards of Local Aboriginal Land Councils</b>		29
		30
	Omit “in accordance with this Act and the regulations and consistently with the community, land and business plan of the Council,” from section 62 (a).	31
<b>[5] Section 62 (c1)</b>		32
		33
	Insert after section 62 (c):	33
	(c1) without limiting paragraph (a), to enter into short-term residential tenancy agreements in relation to land vested in the Council and to manage or terminate such agreements,	34
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<b>[6] Section 62 (2)</b>	1
Insert at the end of section 62:	2
(2) The functions of the Board of a Local Aboriginal Land Council are to be exercised in accordance with this Act and the regulations and consistently with the community, land and business plan of the Council.	3 4 5 6
<b>[7] Section 230 Limitations on certain land dealings by administrator</b>	7
Insert at the end of the section:	8
(2) Despite subsection (1), the exercise by an administrator for a Local Aboriginal Land Council of any of the following functions does not require the consent of the Council:	9 10 11
(a) entering into a short-term residential tenancy agreement,	12
(b) the management of a short-term residential tenancy agreement,	13 14
(c) the termination of a short-term residential tenancy agreement.	15 16
<b>[8] Schedule 4 Savings, transitional and other provisions</b>	17
Insert at the end of clause 1A (1):	18
<i>Aboriginal Land Rights Amendment (Housing) Act 2011</i>	19
<b>[9] Schedule 4, Part 10</b>	20
Insert after Part 9:	21
<b>Part 10 Provisions consequent on enactment of Aboriginal Land Rights Amendment (Housing) Act 2011</b>	22 23 24
<b>54 Existing residential tenancy agreements</b>	25
(1) In this clause:	26
<i>amending Act</i> means the <i>Aboriginal Land Rights Amendment (Housing) Act 2011</i> .	27 28
<i>commencement date</i> means the date of assent to the amending Act.	29 30



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|-----|---|----|
| (2) | This clause applies to the following functions:   | 1  |
| (a) | the management of a short-term residential tenancy agreement,   | 2  |
|     |   | 3  |
| (b) | the termination of a short-term residential tenancy agreement.  | 4  |
|     |   | 5  |
| (3) | The amendment of section 52G, 62 or 230 by the amending Act extends to the exercise of the functions to which this clause applies in relation to a short-term residential tenancy agreement entered into before the commencement date, but only to the extent that those functions are exercised on or after the commencement date. | 6  |
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