



Speech by

Mr D. BRISKEY

MEMBER FOR CLEVELAND

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NATIVE TITLE (QUEENSLAND) STATE PROVISIONS AMENDMENT BILL (No. 2)

Mr BRISKEY (Cleveland—ALP) (8.40 p.m.): I rise to support the Bill, which demonstrates that only Labor Governments have the capacity to resolve the complexities surrounding native title issues in the interests of the whole community and in a manner that ensures that economic development and the rights and needs of native title holders are promoted. The Bill creates jobs for Queenslanders in the important mining sector, while ensuring that native title holders have the right to negotiate future mining activity, excluding exploration.

Premier Beattie deserves to be congratulated on devising the Bill and for setting a positive tone for the resolution of native title issues in Queensland. In just three months the Premier brought all the competing parties together and worked out a set of procedures to deal with the native title issues that arise from mining activity. The Bill delivers a process for dealing with native title issues in the context of mining activity to ensure the future prosperity of this State. This is a significant achievement, particularly when contrasted with the divisiveness and uncertainty that characterised the previous Government's litigious approach to this complex issue.

Native title is an issue that the Liberal and National Parties in Australia struggle to understand. They refuse to acknowledge that indigenous property rights pre-exist and survive colonisation. Their policies in this area are a recipe for failure. Native title has been the most contentious political issue of the 1990s. This issue has sadly and unnecessarily divided the nation. The issues involved have stirred strong emotions and, unfortunately, conservative politicians in this country have irresponsibly fuelled attention by exaggerating what native title in fact means. The approach of the Liberals and, particularly, the Nationals has been to inflame the situation, to create instability and uncertainty, and to put one group against another. Certainly they have been flagitious in their approach to the native title issue.

Mr Musgrove interjected.

Mr BRISKEY: They have most certainly been flagitious. They have constantly opposed indigenous claimants' rights to negotiate. Their propensity for litigation and their malevolence have damaged the social fabric of our nation. In fact, they have hurt the very people they claim to represent. The Leader of the Opposition will go down in Queensland and Australian history as the most divisive, mean-spirited and ignorant politician to handle native title issues. On this score, our Prime Minister, Mr Howard, has something to thank the Queensland National Party leader for because while he was around Mr Howard's malevolence appeared a little tempered. The writers of our history will cast the Leader of the Opposition and the Prime Minister as the arch villains in this part of Australia's coming of age story.

Mr Musgrove: It's certainly flagitious.

Mr BRISKEY: It is most certainly flagitious. Indigenous property rights pre-exist and have survived colonisation. Native title must be treated equally before the law with other titles flowing from the Crown. The challenge for us as legislators is to develop mechanisms that accommodate native title in our land management system. Those mechanisms must protect native title rights while also encouraging mining development and creating jobs.

The Bill is evidence of the Beattie Government's inclusive approach, which accommodates the interests of all Queenslanders. We on this side of the Chamber are not captives of the miners or the pastoralists. We do not put forward the interests of one group in our society at the expense of another. We have put our efforts into finding workable solutions based on agreements between the parties, not into putting the Queensland taxpayers' dollars into wasteful and divisive legal campaigns—the latter being the preferred approach of members opposite. The Bill recognises that the best way to get a speedy resolution to native title issues is to get the parties away from the courts and around a negotiating table so that they can reach an agreement. Litigation is expensive. It unnecessarily delays the process and it has failed in practical terms to clarify the day-to-day impact of native title.

The Native Title (Queensland) State Provisions Amendment Bill (No. 2) 1998 implements Stage 2 of the Premier's native title strategy in respect of the mining sector. It is Queensland's response to the Howard Government's changes to the Commonwealth Native Title Act. It deals with those tenures where native title has not been extinguished totally and where mining rights can be granted. It establishes a process that is fair, clear and as streamlined as possible to resolve native title issues in relation to all future activity on land where native title has been determined as existing, or claimed but yet to be determined, and which is held under non-exclusive possession.

The legislation deals with the grant of mining exploration and with mining development approvals. In detail, it sets out native title procedures that must be complied with before a grant of tenure can be issued or exercised where native title may exist. It also establishes appropriate procedures for exploration to happen in a way that is consistent with the requirements of the Commonwealth Native Title Act, with the practical aspects of mining exploration and with the articulation of native title cultural heritage. A general description of the various procedures for each type of mining is set out in the explanatory memorandum.

It is Labor Party policy to maintain the rights of indigenous people to negotiate on resource developments. In 1993, the Keating Government's Native Title Act gave Aboriginal people a right to negotiate in relation to mining developments on land over which they had a native title interest. The Howard Government's aim was to completely remove that right to negotiate where pastoral lease land was concerned. The Commonwealth Native Title Act provides only the bare minimum procedural rights for native title holders. It is an approach that unnecessarily pushes the parties into a legal battle.

The Beattie Government's aims are clear. We want to encourage investment and mining development in Queensland that respects the rights of native title holders. However, the policy options open to us to achieve this aim are constrained because they must be consistent with the Commonwealth Native Title Act. The approach that is laid out in this legislation will provide a process for dealing with native title issues in future land activity by encouraging all players in the process to work together, away from the courts, to reach agreement. We believe that comprehensive agreements negotiated in good faith and with goodwill by all interested parties are the way to go. This approach imposes procedural obligations on all parties to engage in the process sensibly and not to attempt to subvert it.

The approach also places on the Government a responsibility to provide practical assistance to secure agreements. The Government will provide this assistance in three specific ways: firstly, through the expansion of the Government's negotiating services, which will now include a larger team of specialist negotiators and mediators to facilitate negotiations; and, secondly, through changes to the operation of the Historical and Anthropological Unit. That unit has changed its focus from simply assessing and evaluating the veracity of connection reports to actively assisting claimants to source material available from Government records relating to their claims. This will significantly improve the process and hopefully speed up final settlements of claims. I am pleased also that the unit will conduct workshops around Queensland outlining what records exist, how claimants can find them and what other historical material is available. Thirdly, the Government will provide assistance through the establishment of a Communication Unit within Native Title Services. This unit will hopefully minimise the misunderstanding and confusion that has characterised native title issues—misinformation, I might add, that members opposite take great delight in peddling.

A Government member: Outrageous.

Mr Musgrove: Hideous villains.

Mr BRISKEY: Indeed.

The primary function of this unit will be to ensure that clear, user-friendly information is disseminated to the stakeholders likely to be involved in future native title claims. These practical

forms of assistance are long overdue and will be of particular assistance to my constituents who are currently working on the Quandamooka native title claim.

I take the opportunity provided in this debate to praise the work being done by many dedicated people in my electorate to reach a native title agreement with the Quandamooka people. The approach that has been adopted in my local area mirrors in many ways the approach set out in this Bill. It is a grassroots approach. It relies on bringing the parties together and discussing the issues in a fair, open and informed manner. As part of the process to reach this agreement, the State Government is currently negotiating with the Quandamooka Land Council on a framework agreement on native title determinations, which will set out the broad principles and time lines for negotiations and consequently assist both parties to negotiate the native title claim.

These State/land council negotiations follow the signing of a process agreement between the Quandamooka Land Council and the Redland Shire Council last year, which set out a course that recognises the Quandamooka as the traditional owners of North Stradbroke Island and affirms the shire's local government role. The agreement means that the Quandamooka people will have a key role in the development of a comprehensive management plan for North Stradbroke Island.

The President of the Native Title Tribunal, Justice Robert French, attended the signing ceremony for this process agreement and heralded it as an example of "how a well informed and positive approach can create opportunity out of the lodging of a native title claim" and how agreements can be reached that are beneficial to all members of the community.

The work that is being done in my electorate on native title demonstrates that, when the parties come together in an informed and open manner, solutions that benefit all parties can be found. This is the approach that is at the heart of this legislation. It is legislation that provides the road map for all parties to find their way speedily to a final agreement on native title claims, and once the agreement has been reached this legislation provides the individuals involved with certainty—certainty which stimulates investment and, most importantly, job creation.
