



Speech by

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NATIVE TITLE (QUEENSLAND) STATE PROVISIONS BILL

Mr NUTTALL (Sandgate—ALP) (3.20 p.m.): Today we are debating the Native Title (Queensland) State Provisions Bill and it is not an issue of Left versus Right within the Labor Party. This is an issue of fairness and equity. This is an issue which is about what is just, right and proper for the people of Australia. Opposition speakers, by continuing to stand up in this Parliament and say that this matter is driven by the Left of the Labor Party, demonstrate an ignorance of what this issue is all about. That is a sad reflection on their view of the world.

The Native Title (Queensland) State Provisions Bill implements the first part of the Premier's native title response, and there will be more to follow. The Scrutiny of Legislation Committee has noted that the Bill is the first stage of a much larger package.

On coming to Government, the Premier quickly released his native title strategy to the people of Queensland. This included the establishment of a working party comprised of senior representatives of the indigenous people and the mining and primary producer communities. This is the first time that all these groups have been included. This inclusive approach reflects the different attitude taken by this Government from that of the former coalition Government, which was bent on litigation and sorting things out through the courts.

The key points of the strategy are the achievement of a number of objectives set out by the Premier and include the following: optimum understanding by all parties about relevant issues, options and their consequences; applying the Commonwealth amendments to the State legislation; to educate all parties including departments, departmental officers, and clients of departments on the application of native title procedures to State business; to establish a fair and equitable process that encourages mutual agreement and balances the consideration of legitimate indigenous interests, including adequate consultation to establish a framework in relation to proposals for mining and private development; and to mediate claims and undertake broader negotiations in order to halt ambit claims, remove overlapping claims and consolidate related claims which are currently in place.

In my view, the next three points are the most vital points. They are: to undertake strategic negotiations to resolve or avoid litigation arising out of misunderstanding or lack of consultation; to have a policy shift away from reliance on Commonwealth legislation and winning test cases towards an agreement-based solution to individual native title issues; and to obtain the most beneficial financial assistance from the Commonwealth for native title compensation.

This is a complex issue and, despite the best intentions to legislate, it will not be resolved regardless of what legislation we put in place. At the end of the day, despite the best intentions of Parliaments, the only way that we will resolve the question of native title is to have people sit down around a table, negotiate through the issues and come to an agreement. That is the only way in which we will be able to achieve certainty of title for those people. We need to take a step back and move away from reliance on the courts to solve the problems that we face in this country because the only people who benefit are those who represent the various parties in our courts.

The Bill before the House provides that the State validates those intermediate period acts which may have been invalid. This is necessary to achieve certainty. Jobs will flow from certainty with respect to these land tenures and development will follow. It is important to get the State moving again and this

Bill, by providing certainty, will achieve that objective. State development assists all parties, particularly remote indigenous communities which are desperately looking to improve themselves after the long period of neglect by successive conservative Governments in the 1960s, the 1970s, the 1980s and in the past two and a half years.

The Bill provides for the confirmation of the extinguishing effect of previous exclusive and non-exclusive possession acts on native title. Exclusive tenures are those which are defined in the Commonwealth Schedule. The Scrutiny of Legislation Committee recognised that it is not universally conceded by legal commentators that all the categories of grants and other activities listed in the Schedule actually have the effect at common law under the legal principles in the Mabo and Wik decisions of extinguishing native title. Unfortunately, the nature of native title law has been an area of uncertainty. It is the purpose of this Bill to remove uncertainty for all parties. However, the Bill provides that where native title is extinguished by acts of the State, compensation will be paid on just terms.

The Bill omits provisions from the Queensland Native Title Act which, because of the Commonwealth amendments, are no longer relevant. It is important to note that the Bill does not implement any regime of alternative State provisions. This will be done by further legislation at a later date. The working group is working on the policy options and is consulting with stakeholders. It is the Premier's desire to incorporate native title into the State's system of land management in a seamless way which minimises cost and maximises certainty for all parties. The whole community is desirous of a genuine outcome in relation to Wik. This requires tolerance and understanding. It requires us all to be sensible and to put the interests of this State first and not to play politics on such an important issue. This is a challenge to Government and to all the participants in the process. This is a challenge for all of us to ensure that it succeeds.
