Speech by

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MEMBER FOR BUNDABERG

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

Mrs NITA CUNNINGHAM (Bundaberg— ALP) (10.05 p.m.): We have heard a lot of divisive and almost hysterical debate on this issue, but the facts are that this Bill maintains the right of indigenous people to negotiate about mining developments on land where native title might still exist, including pastoral leases; and on unallocated State land, which represents less than 1% of the State, the full right to negotiate still applies as laid out in the Commonwealth Act. However, where native title could coexist with other types of tenure, John Howard's legislation allows States to introduce a regime which provides only rights of consultation and objection to mining projects.

This Bill exercises the discretion to upgrade a State-based regime to a right for existing and potential native title claimants to negotiate about the impact of mining developments. The negotiations must focus on the impact of the development on the enjoyment of registered native title rights and interests and may extend to more general matters affecting the local community. But negotiation has been defined in clause 590 of the Bill to ensure that both sides genuinely seek to reach agreement.

Some people have been wrongly suggesting that this Bill provides only for a two-month period for negotiation. The process outlined in this Bill identifies a 10-month period in which negotiations can take place. There are three months for notification of interested parties, three months for consultation and negotiation, and up to four months for determination by an independent tribunal, possibly including mediation. And negotiations can occur at any time throughout this 10-month period.

For low-impact mining and for exploration, the issues are more likely to revolve around concern about immediate impacts of people traversing the land rather than the effect on native title. For example, native title holders may wish explorers not to traverse certain areas of cultural significance or they may wish that exploration activities be done in a certain way to preserve the environment. The transitory nature of exploration and low-impact mining means that it is highly unlikely that cultural or other interests in the land would be subject to sustained interference to warrant extensive negotiations. Accordingly, native title claimants will have the right to be notified about the activity, to be consulted about its impact and to have any objections heard within a six-month period.

I know that some indigenous groups have expressed concern that no right to negotiate over exploration exists. They have argued that cultural heritage or environmental impacts could be ignored. But these issues can quite easily be pursued through the objection process allowed for under this Bill.

There are separate regulatory processes for cultural heritage and for environmental impact with which mining proponents would still need to comply. This native title regime does not replace existing regulation; it is complementary to it. If it comes to pass that the exploration is successful and a mining project is proposed, miners will be required to initiate more extensive negotiations, as laid out in Division 3 of this Bill. It is at this stage that the project is more likely to involve a sustained impact on the land and on the lifestyle in which native title claimants have an interest.

Clause 608 of the Bill clearly lays out the subject matter which should be canvassed in negotiations about a mining development. The tribunal has been provided with a set of criteria which may and, in some cases, must be taken into account in making a determination about the project. This clause effectively imposes an obligation on the negotiating parties to take these matters into account in their negotiations, otherwise the tribunal can impose these considerations upon the parties.

The criteria which the parties must take into account are the impact of the proposal on the enjoyment of registered native title rights and interests and the impact on the economy and other interests of those in the region. The other things which the parties may choose to negotiate about include the effect of the project on community life, for example, discussions on ways of managing increased heavy vehicle traffic around the lease area, indigenous access to the area and the carrying out of ceremonies on the leased area. Again, some people have argued that these criteria are too prescriptive, that they impose too many obligations on mining proponents. Our view, however, is that it is only fair and proper that these matters be the subject of negotiations. It is better to be definitive about the scope of negotiations than to leave that to the interpretation of the courts.

Contrary to the hypocritical and mischievous comments made by the Leader of the Opposition earlier this afternoon—an Opposition Leader who did nothing to even try to resolve these matters during his term as Premier—this Bill will allow mining proponents to have a clear indication of the extent of their obligations, a clear indication that has been sadly missing in the past. This Bill will maintain the right of indigenous people to negotiate about mining developments, a right they justly deserve. If this Bill can bring an end to the delays and the uncertainties of the past six years, then the Premier and the Government deserve full credit for progressing this issue so far in such a short time, and this Bill deserves the support of everyone in this House.

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