



Speech by

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Hansard 9 March 1999

LAND AND RESOURCES TRIBUNAL BILL

Mr NUTTALL (Sandgate—ALP) (4.19 p.m.): Today it gives me great pleasure to speak on the Land and Resources Tribunal Bill, which represents another solid achievement under the Premier's Native Title Strategy. It is important to remind all members of this House of what has taken place under this Government in respect of the critical issue of native title.

In July of last year, shortly after coming to Government, the Premier established and chaired the Native Title Task Force, acknowledging the complexity and the difficult challenge that native title issues present. The Premier recognised that it was necessary to end the community division which had grown up around misunderstanding of the issue, and it was vitally important to the State's job generation policy to give industry a straightforward, unambiguous process so that development projects could proceed with confidence.

The Premier's response reflected the fundamental shift in policy away from litigation to the promotion of negotiated agreements as a practical way of managing the native title issue. Interestingly, as has been commented on many times in this House, this was the first time that all interested parties had been brought together anywhere in Australia to develop a cooperative solution to the native title issue. As members of the House would be aware, after three months of intensive consultation and negotiations, the Government formulated its response, which was built on the following two propositions: firstly, a principle acknowledgment of native title rights which included a limited right to negotiate over a proposed mining development; and, secondly, the clear understanding that the mining industry required a process that was straightforward, less costly and less time consuming.

This Government then moved quickly to introduce the three pieces of native title legislation that would establish the native title regime in this State. The first piece of legislation that was introduced into this Parliament was the Native Title (Queensland) State Provisions Bill, which provided for the validation of the "intermediate period acts". This legislation achieved a level of certainty by validating those leases and confirming that native title on those leases was extinguished either totally or partially depending on the nature of the pastoral lease involved, which had been thrown into doubt by the High Court in the Wik decision. That then gave miners, fishermen, pastoralists and other lease and permit holders the complete security that their tenures were legally valid. In addition, this Act makes it clear that native title holders whose rights and interests were extinguished are entitled to compensation.

The second piece of legislation which flowed from the Premier's Native Title Task Force was introduced into this House on 21 October last year. The Native Title (Queensland) State Provisions Amendment Bill integrated the way in which the State deals with native title matters into the Mineral Resources Act. Once again, this piece of legislation was the result of the Premier's comprehensive process of consultation with all major groups. This legislation provided the way through the impasse that had stalled activity in the mining industry, which is a major driving force of this State's economy and will be critical to this Government's desire to achieve its stated priority for job creation—a priority which every member of this House no doubt would support.

That second piece of native title legislation provided for an appropriate balance between principled respect for native title holders and their rights and interests, and a commonsense acknowledgment of the mining industry's practical need for a fair and unambiguous process with strict time lines. As has been stated in the literature that has been produced to assist an understanding of what is a fairly complex piece of legislation, the legislation states clearly the detailed processes that are

to apply in the different circumstances depending upon the proposed activity and the type of land tenure involved. Central to this piece of legislation is the establishment of an independent tribunal to make final determinations as to whether an activity should proceed where negotiations between the native title holders and the miners have failed to secure an agreement.

That now brings me to the Land and Resources Tribunal Bill. The Commonwealth Native Title Act ensures that any State based regime for dealing with native title will include an independent body that hears objections and makes the final determinations as to whether a proposed activity can proceed. Importantly, the Land and Resources Tribunal will absorb the functions of the Mining Wardens Court and will also take on the responsibility for native title matters, including the hearing of objections, the making of determinations and the ruling on compensation where no agreement is reached.

The tribunal will be headed by a president who, in addition to having to meet the same qualifications as someone who can be appointed to the Supreme Court of this State, must have particular knowledge or experience of indigenous issues. In addition to the president, there will be two or more deputy presidents, who also must be able to meet the qualification tests to be appointed as a judge of this State. Again, they must have particular knowledge or experience of indigenous issues. The Bill provides that within this group of presiding members there will also be knowledge and experience of mining, petroleum or land issues. The previous speaker mentioned the composition of the tribunal, namely, the three referees. I do not intend to go into that in detail other than to re-emphasise that there will be an indigenous referee, a mediation referee and a mining referee, each with their own particular expertise, as was outlined by the previous speaker. Further, strict deadlines are provided for the tribunal's determinations, with no matter anticipated to take longer than six months to be decided. The tribunal's decision is subject to ministerial override, but only where it can be demonstrated clearly to be in the best interests of all Queenslanders.

The Land and Resources Tribunal is a concrete step in the development of this Government's response to the native title issue over the past nine months—a response which is based on fairness of principle and fairness in process. I commend the Bill to the House.
