



Speech by

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MEMBER FOR COOK

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CAPE YORK PENINSULA HERITAGE BILL

Mr O'BRIEN (Cook—ALP) (12.36 pm): I rise to support the Cape York Peninsula Heritage Bill. I am pleased to have this opportunity to talk about my electorate in parliament today. I said in my maiden speech, and I have said it a couple of times in this parliament, that the question of our age is how we find a balance between economic development and protecting our environment. That is the question that this generation of people and its leaders must answer if this species of humans that exists here now exists into the future. Unless we can find a response to that, then our species really is damned. That is what we are trying to do here today with the legislation that is before the House: strike the right balance between protecting the wonderful environmental values of Cape York Peninsula and finding an economic future in a modern world for people who have existed in that environment for 40,000 years.

This bill is a result of an agreement between a number of groups and the resolution of extending land tenure management issues on Cape York Peninsula. Land tenure on Cape York Peninsula is very complicated. There are myriad different forms of tenure. For the uninitiated it can be quite daunting to try to get your head around exactly who has what rights where on the cape. There is native title, Aboriginal freehold, other forms of freehold and leases—mining leases, cattle leases and other forms of perpetual leases for things like the tourism industry. There is quite a complicated array of tenure arrangements.

I would like to talk about native title because it has been 16 years since one of the state's key pieces of Indigenous land rights legislation, the Aboriginal Land Act, became law in Queensland. Two years later the Commonwealth passed the Native Title Act 1993. In Cape York these have been two important pieces of legislation because they have recognised that Indigenous people have had a continuous link to that land for over 40,000 years and it recognises it in Australian and Queensland law.

In 1997, by the consent of all parties, the Federal Court recognised native title over an area of about 110,000 hectares of the Hope Vale DOGIT near Cooktown. This determination was notable as it was Australia's first mediated recognition of native title under the Native Title Act since the act came into force four years earlier. Nine other transfers have occurred in the Cape York region under the Aboriginal Land Act. I will mention all nine of them for no other reason than to put the traditional names on the record. I think it is important that we do recognise traditional words and traditional names if we are going to recognise the traditional culture.

Those nine were: the Balnggarrawarra Land Trust over more than 10,000 hectares at Melsonby; the Darrba Land Trust near Starcke over 9,000 hectares; the Imjim Land Trust over the Laura Aboriginal Reserve of 11 hectares—and I was there for that handover; the Injinoo Land Trust, known as the Apunipima, established over a very large area of the then Injinoo Deed of Grant in Trust known as the McDonnell Telegraph Station, which is an area of approximately 346,000 hectares—it is a huge tract of land that takes up the very tip of Cape York Peninsula; the Yuku-Baja-Muliku Land Trust over 500 hectares at Archer Point—and I attended the handover there with the then Premier late last year, I think it was; the Kalpowar Aboriginal Land Trust over 200 hectares of land near the Kalpowar lease—and I was very pleased to be there for that handover in Cooktown late last year; the Silver Plains Kulla Land Trust was recognised as having ownership over 190,000 hectares; the Lockhart River deed was transferred to the

Mangkuma Land Trust, and that was 349,000 hectares of land; and, lastly, the Pul Pul Land Trust over another part of the Lockhart River DOGIT of a relatively small area of 4,860 hectares.

Under the Beattie administration, there were a number of determinations under the Commonwealth Native Title Act by the Federal Court. This includes the most recent determination of native title in favour of the Strathgordon Mob which adjoins the two determinations made in favour of the Wik and Wik Way peoples. As members will remember, the High Court's Wik decision—that native title may continue to exist on land that has been subject to a pastoral lease—did not determine whether the Wik people had native title over their traditional lands. This took two decisions of the Federal Court. The first in 2000 recognised that the Wik and Wik Way people had native title rights over more than 6,000 square kilometres, or about half a million hectares. The second in 2004 recognised native title over an additional 1.2 million hectares of the Wik and Wik Way peoples' traditional lands on western Cape York Peninsula. The latter determination was the first time in Queensland that native title was recognised as continuing to coexist with privately held pastoral leases. When that determination was made, 22 of the 29 consent determinations recognising native title in Australia had been made in Queensland.

I thank the National Party spokesperson today for his comments in relation to this matter. It marks an important point, which we should recognise here, in how far the National Party has come in terms of its response to native title since the original Mabo decision and the Wik decision. I remember well the Premier of the day espousing a one-point plan for native title—that is, the extinguishment of native title in this state and this country. I remember well Mr Borbidge making that comment. I remember very well the horror that was struck right through the Cape York Peninsula and the Torres Strait when Mr Borbidge made those comments.

But it is worth noting today how far the National Party has come. We can see from the outline I just gave of the native title determinations that have occurred in my electorate alone that the sky has not fallen and the world has not come to an end. Indigenous people now have a recognised stake in their land at law and they will continue to manage that land for the benefit of not just their people but all Australians.

I want to turn quickly to some of the changes in the legislation regarding the Vegetation Management Act. The purpose of the Vegetation Management Act was obviously to control the clearing of vegetation in a way that conserves remnant vegetation, conserves declared areas and ensures clearing does not cause land degradation, therefore preventing the loss of biodiversity and maintaining ecological processes.

In this bill, the minister can allow a relevant landholder to clear vegetation for a special Indigenous purpose. This can occur in an area declared as an Indigenous community use area via a gazetted notice. Applications for development in this area must be accompanied by a property development plan. While this bill will introduce a new relevant purpose for clearing to the Vegetation Management Act, the objectives of this bill will complement the purposes of the act. I will not go through the objectives. I think people are well aware of what we are trying to achieve here. As I said in my opening remarks, it is about finding a balance between economic development and environmental preservation.

This bill provides two ways for the minister to be satisfied that clearing is for a special Indigenous purpose. The minister can be satisfied if it is a clearing on Aboriginal land, Aurukun shire lease land or deed of grant in trust land on Cape York Peninsula. The minister can be satisfied where the clearing does not involve endangered or of concern regional ecosystems, is not for the purpose of planting high-risk species or for woodchip for export, and is of a minor nature and would not result in a significant impact on the environment. Assessment of minor clearing proposals will be by a special clearing code under the Vegetation Management Act which will set requirements for maximum sizes, buffers to watercourses and other conditions.

The minister must consult with the regional advisory committee and scientific and cultural advisory committee established under this bill about the proposed declaration of an area as an Indigenous community use area prior to it being declared. The scientific and cultural advisory committee will play a role in identifying areas where the least impact on natural and cultural values on the land use can be achieved.

I would like to turn quickly to the issue of wild rivers. The wild rivers legislation has had an interesting history in this parliament. As I reminded the member for Lockyer a moment ago, it was supported by all members of this House at the second reading stage. Certainly at the time of the second reading debate, nobody decided that they wanted to divide—

Ms Lee Long interjected.

Mr O'BRIEN: Nobody, including the member for Tablelands, took the opportunity during the second reading debate to put their opposition to this bill on the record. We do it every day. We did it for a minor procedural matter here this morning. The Lord knows why we did that, but we did it anyway on an insignificant procedural matter. But we had significant legislation concerning rivers in my electorate and right through Queensland and not one member of this House who may have spoken against it, who may have raised some concerns in their speeches during the second reading debate, decided to put their

opposition to that bill on the record of this House. Nobody, including the member for Tablelands and the member for Lockyer, decided to oppose it. They opposed one minor clause that had to do with public consultation. So I think it is important that we remember that there was an initial consensus about wild rivers in this parliament.

Again, the National Party has shifted in its response. There have been some subsequent amendments to the Wild Rivers Act which have been opposed by National Party members. I think they opposed it during the second reading debate the second time around when Mr Seeney took over the leadership of the National Party. We brought in some amendments which, again, tried to clarify certain matters and allow economic development, particularly for Indigenous people, and those measures were opposed. So there really has been a lack of coherent policy response to the government's proposal on wild rivers.

Thankfully today we are all on the same page again I think—or maybe not, as we are yet to hear from the member for Tablelands so perhaps I speak too soon. Certainly, in the past there has been support for wild rivers from right across this parliament—as well there should be. I travel throughout Queensland and I travel throughout the world and all of your rivers down here are buggered—excuse me, I withdraw that, and I do apologise for that. All of your rivers down here are degraded, all of your rivers down here have been overused, and all of mine in my electorate are in pristine condition. That is why we should take steps to keep them that way. That is why we should learn from the mistakes of the past, member for Tablelands, and ensure that we do not make the same mistakes that have been made in other catchments.

Ms Lee Long: You're misleading the House because not all the rivers are degraded.

Mr O'BRIEN: Not all of them. They are not all totally degraded but certainly they are not in the same pristine condition as the rivers on Cape York Peninsula. I for one want to keep them in pristine condition. I for one think there is an economic value—not just a 'look and enjoy' value but an economic value—in having those rivers in pristine condition, because people will want to see those rivers in pristine condition. Nobody wants to come and see degraded rivers. Nobody wants to wander through eroded, cleared, overused river systems. What they want to do nowadays—and they will come from all corners of the globe—is to see rivers, like the ones I have in my electorate, in pristine condition. That is why I am happy to support the amendments before the House that will keep these wild rivers in pristine condition but allow for the economic future of people who have lived along those rivers for over 40,000 years.

There was some concern from Indigenous people that the wild river declaration might impact on native title rights. When we put the last lot of amendments before the parliament a year or two ago, I raised this concern about native title. It has always been the government's position that native title will not be affected by the declaration of wild rivers. But even so we have taken the unprecedented step of formally recognising this in the legislation so that all parties can now be assured that their native title rights are not affected by the declaration of wild rivers.

There are a couple of other points I would like to make. Firstly, I join with the member for Gregory in congratulating the pastoral industry for its response to the legislation. I think we have finally got something on the table that is not just agreeable to one party or to another; we now have something on the table that is agreeable to all parties. In 2004 when I first stood for the seat of Cook my opponent was Graham Elmes, the National Party candidate for Cook. I think Graham would be well known to most people in this House—certainly to most people involved in the pastoral industry in Queensland. I recently attended an AgForce meeting at Musgrave Station which Graham chaired as the chapter head of AgForce in that region. He supported the bill and defended government policy to some of his members who were raising some concerns which they had about the bill. I must admit that I nearly fell off my chair when Graham did that.

Mr Johnson: He's a good bloke.

Mr O'BRIEN: He is a very good bloke and a very good advocate for his industry and for the cape. What he showed me that day is that he is a reasonable person and he knows that when there is a good deal on the table he should take it. Graham Elmes is also a very shrewd businessman and he knows a good deal when he sees one. What we have on the table today is also a good deal for the pastoral industry. For the first time it gives some certainty that their industry will continue to exist on the cape.

Ms Lee Long interjected.

Mr O'BRIEN: Well, they did not seem to think so. Certainly that was not the view that they were putting. They did not feel that they had certainty. That is why when the government was negotiating with them it was AgForce that put this proposal forward to give them some certainty. Anyway, I look forward to the member for Tablelands's contribution, as I always do. Perhaps she can explain her position then.

Providing pastoral leaseholders with an opportunity to have a 75-year lease gives them an enormous amount of certainty. It also drives value into that lease. It increases the value of that lease exponentially and gives them and their families an ongoing stake, or an option if they want to sell that lease to a third party.

Finally, I would like to speak briefly about the aspirations of the Pormpuraaw community to harvest wild crocodile eggs. That has been an aspiration of the Pormpuraaw community for a very long time—well over 10 years, I think. The community has tried using various mechanisms over the years to harvest wild crocodile eggs in and around its community and on traditional lands. Unfortunately it did not have any luck with the former champion of that community, James Purtell, who was also the Director-General of the Environmental Protection Agency. It did not have any luck under him when he was their champion.

I must admit I was a bit disappointed to learn that there was going to be a baseline study of how sustainable this was going to be. I thought, 'Is this going to mean further delays for the long-held aspirations of these incredibly patient people?' I was a bit disappointed because I know that in the Northern Territory where they have been harvesting wild crocodile eggs for over 30 years people complain that they now have more crocodiles than ever. I do not think that is true, but I do think their crocodile population has increased significantly since it was nearly wiped out in the 1970s.

I am a person who supports sustainability. We must make sure that it is sustainable. It will be sustainable, let me assure the House. There is no shortage of crocodiles in and around the Pormpuraaw community. One only has to go a kilometre up the road to see plenty of crocodiles. I suppose I enjoy irony, but the irony is that those traditional owners can eat every crocodile egg in a nest if they choose to but they cannot harvest them for commercial purposes. I urge the relevant minister to expedite that research and make sure that the people of Pormpuraaw can start earning money from this industry. I commend the bill to the House.