

NATIVE TITLE - PERTH METROPOLITAN AREA

698. Mr P.D. OMODEI to the Deputy Premier:

I refer to the recent decision in the Federal Court by Justice Wilcox on a native title determination over the lands of the Perth metropolitan area in which he said in his statement attached to that decision that the applicants excluded from their claim all land and waters over which native title had been extinguished by a past act of the commonwealth or state governments.

- (1) Can the Deputy Premier advise the people of Western Australia whether those lands have been identified and whether it is possible for those areas of land to be the subject of native title claim in the future?
- (2) Justice Wilcox further said that the effect of the exclusion is to omit from the application all freehold land in the claim area and probably most leasehold land. Has the Deputy Premier identified which leasehold land will be the subject of the determination, given the claimants have rights to access, control access and live on legally available areas?

Mr E.S. RIPPER replied:

We have seen a new tack from the opposition in today's question time. I think the opposition has decided to develop a scare campaign on this Nyoongah native title issue. The tenor of the questions is quite disturbing. At a time when the government, and indeed our whole community, is wrestling, on the one hand, with inconsistency in native title law and the implications that might have for settlement of native title by agreement right across the state and, on the other hand, with the very real claims of the Nyoongah people to be recognised as the traditional owners of the south west of Western Australia and with their feelings about their identity and their culture as members of our community, I do not think it is appropriate for anyone in this Parliament to generate a scare campaign about this issue. We have seen a maturing of public understanding of native title issues over the past five or six years. We can be proud of the way in which the Western Australian community has responded to this issue. I do not want to see that response compromised by what might be an apparent strategic decision of the opposition to get back into the scare campaign tactics of Richard Court.

Mr P.D. Omodei: We just want some answers to questions.

Mr E.S. RIPPER: They just want some answers to questions. How disingenuous! I know what the Leader of the Opposition is doing and I do not support it.

- (1)-(2) I turn to the questions that have been asked. Once again, there seems to be a misunderstanding of the stages of the case. The first stage of the case is to determine whether or not there is connection. Of course the Nyoongahs are the traditional owners of the south west of Western Australia. The court has to determine whether that can be recognised by Australian native title law. The second part of the court's normal approach is to look at the question of extinguishment. Where has the native title been extinguished if it has been found? That requires a forensic and detailed examination of every parcel of land that might be affected. It is a very long and complicated process that requires a lot of research by the state but that occurs at the second stage of the hearing. The other issue which is different about this court case is that the judge has not been entirely specific about the type of rights that he has found to exist.

Ms S.E. Walker: He has.

Mr E.S. RIPPER: He has not been entirely specific about the nature of the rights that he has found might potentially exist and he has left it open for the extent and level of those rights to be determined with regard to each parcel of land. An additional element of uncertainty has been injected into this case beyond the normal level of uncertainty that we get with a connections case first up and an extinguishment case second. The opposition ought to get some briefings. There are plenty of native title experts around. It should gain an understanding of how this system works and not descend to a destructive scare campaign that undermines what our community wants, which is reconciliation between indigenous and non-indigenous Western Australians.