

NATIVE TITLE - PERTH METROPOLITAN AREA

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

Before I ask my question, I acknowledge the presence in the gallery today of the federal member for Stirling, Michael Keenan, MP.

I refer the Deputy Premier to his brief ministerial statement on Tuesday, 19 September, in which he said -

. . . it is only through legal clarity and certainty that the state government can set clear policy directions to ensure the timely resolution of native title matters. . . .

It is only by appealing these inconsistent Federal Court decisions that we can achieve the necessary clarity at law.

In light of these comments -

- (1) Will the government be appealing the native title decision?
- (2) Why are there different rules for the city and the country when it comes to the government's position on native title claims?

Mr E.S. RIPPER replied:

- (1)-(2) I think I should acknowledge at the outset that we are assembled on the traditional lands of the Nyoongah people of Western Australia.

Several members interjected.

The SPEAKER: Order, members!

Mr E.S. RIPPER: The government is interested in having consistent native title laws right across the country and right across the state. If there are inconsistent interpretations of native title law, injustices arise. One group of people will receive treatment that in similar circumstances is not accorded to another group of people. Also, our ability to negotiate native title agreements will be severely compromised if there is no shared understanding among the various parties of the meaning of native title law. When the government negotiates with indigenous people, it also needs agreement from the other respondents. A native title consent determination cannot be reached unless all the respondents sign off, including miners, pastoralists, fishing people, local government, the commonwealth government, Telstra and all the other people who might be respondents to that native title deal. If, for example, the indigenous group has a view of native title law based on Justice Wilcox's decision in this case, whereas a mining company has a view of native title law based on Justice French's decision in the Bardi-Jawi case, it will be very difficult to get those two parties to agree on the nature of the rights and the nature of connection that might apply in these circumstances. If we want - we do - native title agreements to be reached effectively across the state and if we want to stop other matters going to litigation, we have to get some clarity and consistency in native title law, and an appeal is the way in which the court system resolves contradictory decisions by judges in the first instance. The government has not yet made a formal decision to lodge an appeal. The government is still considering the legal advice. We have not yet received formal legal advice in writing, although we have had briefings on the matter. The government has 21 days from the date of the decision to make its formal decision, and we will use some of that time to properly examine and consider the legal advice that is presented to us.