

NATIVE TITLE OFFER — SOUTH WEST ABORIGINAL LAND AND SEA COUNCIL

9. Mrs L.M. HARVEY to the Attorney General:

Will the Attorney General please outline the parameters that will now guide the negotiations for the recent native title offer to the South West Aboriginal Land and Sea Council?

Mr C.C. PORTER replied:

I thank the member for her question. It is a very helpful and timely question.

In the view of the government, what we are seeking to achieve with the South West Aboriginal Land and Sea Council is so obviously and rationally the proper and best way to resolve the issue we now face with native title in the south west that the more people who know as much detail as possible about what we are trying to achieve—particularly the opinion leaders in this Parliament—and who can disseminate that information, the higher the prospect that we will draw this negotiation to a conclusion.

I seek to give some broad idea about how this settlement is hoped to be achieved. There are presently six different claimant groups: one over the Perth metropolitan area; the second over the Jurien–Moora–Lancelin–Gingin area; the third over Mandurah, Bunbury and Donnybrook; the fourth over Busselton, Dunsborough, Margaret River, Pemberton and Nannup; the fifth over Katanning and Albany; and the sixth and final over York, Northam, Hyden and Kondinin. Members will see that the six claimant groups represent a claim over a massive area of land. The claims are complicated in their respective legal bases and strength, and they are complicated by the fact that they are overlapping. The government is seeking to bring all those claims to a once-and-for-all final resolution, and it is doing that in a way that is inherently practical and inherently contractual. The government will do something, and do something very significant, to try to reach an agreement. It will do three things. Let me start first with the native title claimants and the three things that they appear willing to do at this stage. The native title claimants will enter into consent determinations with the view that the agreement would be that no native title exists in relation to any of those six claim areas. That is the first thing.

The second thing is that, in doing that, the native title claimants would agree to the resolution of all overlapping native title claims in the south west region. The third thing that native title claimants would agree to is that all compensation liabilities arising from the south west claims would be fully and finally discharged by any agreement that is reached. These are significant concessions for Nyoongah people to be willing to make. In recognition of those potential concessions, the government is also willing to contribute in a very substantial way.

The way in which the final agreement would be reached is through a variety of Indigenous land use agreements. If members like, they would form the actual contractual document in which the Indigenous people would make those three significant concessions, and the government would agree to six things in those ILUAs. Firstly, there would be an agreement from the government for a very significant financial contribution to an investment trust to be paid over a period of 10 years. While those payments are going into the trust over the 10 years, the trust could not be drawn down upon in any way—not in capital or in interest—so that the 10-year period would allow that trust to build up.

Secondly, the government, in addition to building up that trust fund over 10 years, would make direct financial contributions to the administration of a governance structure for the Nyoongah people and those six claimant groups. That would also take place over a period of time. Very briefly and in core summary, that government structure would have a central Nyoongah administration and coordination body, six regional Nyoongah councils and a local office of administration for each, representing the six claimant groups, and a Nyoongah trust managing the assets and land arising from the south west settlement. The trust would be the peak body that would eventually determine how interest on the trust funds would be expended. Perhaps in another question we can go into some more detail about that issue.

The third thing the government has indicated a willingness to do is create a Nyoongah land estate in addition to those two types of financial compensation that I mentioned. That is a process of negotiation that we are in at the moment to identify land parcels, which, as soon as practicable upon the execution of the ILUAs, could be transferred into the ownership of the trust. There would also be a process, identified by agreement, in which ongoing parcels of land could be identified and transferred.

The fourth thing is joint management of conservation estate and access to other state lands. It is again a very important concession on the part of the government.

The fifth thing is that we have taken the opportunity in the process of these already quite complicated negotiations to present streamlined Aboriginal heritage protocols. That system works in a very clunky way at the moment. The goodwill of the Nyoongah people is such that they are willing to look at that issue in the context of this resolution.

Sixthly, the government has indicated a willingness to establish a Nyoongah cultural and interpretive centre. All of this is a very practical act of reconciliation. The one significant symbolic measure in all of this would be an act, potentially of this Parliament, to recognise Nyoongah people as the traditional custodians and owners of the land, over which native title would, by agreement, be extinguished.

The Premier spoke at the first of the negotiation meetings. Should this deal occur, it would be, first of all, historic. Secondly, it has taken a colossal amount of work to get this far. I thank the South West Aboriginal Land and Sea Council, the Department of the Attorney General and the Office of Native Title, although there is much work to do.

I close by saying that for all members present I will be arranging by email full briefings from the Office of Native Title on exactly how the details of this package are structured. I would hope that that could serve the bipartisan purpose as follows: to understand what we are trying to do as a Parliament with respect to these six complicated and overlapping claims, the great welfare benefits it can engender for Nyoongah people and the final certainty it can give both to Nyoongah people and to a whole range of landowners in the region we have talked about and to understand the parameters of this deal and communicate that deal to people who are at the moment, at Heirisson Island and other places, protesting against that deal. The government considers that if people actually knew what this could achieve, it would be very difficult to rationally oppose it.