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Traditional Owner Settlement – Community Support Essential

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Mr MORRIS (Mornington) — The Traditional Owners Settlement Bill is, in large part an initiative that is worthy of support. It is certainly worthy of support in a conceptual sense, and to a large degree many of the mechanisms proposed in the bill are also worthy of support.

I think it is great pity that despite the excellent work that was done by Professor Mick Dodson and his committee, in the preparation of a report on the development of a Victorian Native Title Settlement Framework, a report handed to the government in December 2008, this bill is only now being debated. It is being debated in the shadow of the state election, it is being debated days from the federal election, and it is being debated despite the complete and utter lack of any attempt by the government to engage with the wider community.

If we are going to make the most of the opportunity that is presented by the native title debate, and I do believe there are very real opportunities there to be grasped, then whatever the outcomes they must have the ownership of all of the Victorian community.

This is a classic case of the government setting out to pervert and distort what should be — what must be — an inclusive debate. It needs to be a debate that leads to lasting reconciliation and leads to lasting settlement, but in a typical, blatant, short-term and cynical fashion the Premier has chosen to play politics with the issue. He has chosen to play politics in the Aboriginal community, and he has chosen to play politics in the wider community.

The coalition is determined that the genuine opportunity for meaningful reform of our relationship with the first Victorians not be lost, and that is why the coalition has proposed the reasoned amendment.

The reasoned amendment was proposed for precisely the reasons I have outlined. Yes, there are some concerns about some of the mechanisms, and I will refer to those later on, but the bill is basically reasonable, subject to some finetuning — perhaps extensive finetuning. It may take many amendments. It will certainly take proper deliberations. Proper deliberations are not something that it is possible to have in the current political context, and in the context of the parliamentary program for this week.

There is also an issue of wider concern. It is something that of course arises frequently, and that is the use of this Parliament as a rubber stamp. Bring it in and guillotine it through! That might perhaps be the right way to go with some matters of small detail — minor amendments to principal acts and so on. However this is a substantial new legislative framework — and as I said, it is a framework that needs to have ownership of all Victorians — it is simply a completely inappropriate way to go about it.

It is also ironic that the 56th is a Parliament that has proved itself to be capable of dealing with complex issues with sensitivity, dignity and respect, but to take that approach you need time, you need debate and you also need serious community input. It would have been possible to take that approach to this bill, but instead there has been no consultation with the wider community, no discussion with the wider community and we have had no attempt on the part of the government to get a considered result.

If anyone was in doubt about the government's motives, they only had to look to the Premier's cheesy grin when he stood to begin the second-reading debate.

Victorian parliaments have a proud history of working together. You only have to look back to the debate on the Planning and Environment Bill in the 1980s — I think it was 1987 — when the Cain government was forced to engage in genuine debate to get its legislation through. Unlike the present government, it lacked the ability to bludgeon the Parliament into submission, to stifle genuine debate, to engage in the jackboot legislative — —

Honourable members interjecting.

The ACTING SPEAKER (Mr K. Smith) — Order! The members for Eltham and Footscray!

Mr MORRIS — It lacked the ability to engage in the jackboot legislative approach that has become a hallmark of the Brumby government. It took over 300 amendments but in the end the bill that came out of that process, the bill that received royal assent, served the community well for a decade and a half. It served the community well until this government started tampering with it in the early 2000s.

That opportunity exists with this legislation — the bill before the house today — to get it right, but the government has unfortunately chosen to play politics with process. I do not intend to deal with the mechanics of the bill in detail; time does not permit me, apart from any other considerations.

I do want to acknowledge the comprehensive briefing the coalition received from both the Attorney-General's office and the Department of Sustainability and Environment. They walked us through the provisions pretty clearly, including the detail of the recognition of settlement agreements, the

relationship with indigenous land use agreements under the commonwealth legislation, the mechanics of the land agreements, the land grants and the grant of original title, the provisions relating to land use activities and agreements, the natural resource agreements and of course the consequential amendments.

As I said at the outset, I think this bill is in large part reasonable, as is the framework that is proposed, but I do have some significant concerns about the impact the bill will have on the power of the executive in the matters covered by this legislation.

If the bill proceeds in its current form, there will be as a consequence a huge transfer of power from the Parliament to the executive. Members will be aware that this morning in the Legislative Council a report was tabled that underlines the dangers of unfettered executive power. This bill will cement that unfettered power in these matters.

There are concerns about the concentration in the hands of the Attorney-General of the power to determine, without it being subject to appeal, that a particular group of people are the traditional owners. That decision will be completely unappealable. I am aware — and I think the member for Shepparton also mentioned this — of contested claims in the north and west of the state, and there has also certainly been some discussion in my Shire of Mornington Peninsula.

I am not doubting the validity of the claims on either side. I am not qualified to comment on them, but I know they are contentious matters, and I am concerned that under this bill the Attorney-General will be given unfettered power to make a decision, right or wrong, without appeal. These decisions should be subject to judicial review.

There are concerns about the ability of the minister or ministers to grant, without reference to the Parliament, Aboriginal title or freehold title. In this place we deal frequently with land legislation, whether it is related to national parks or the revocation or reservation of Crown land. Those prerogatives are reserved for the Parliament. This bill strips the Parliament of those prerogatives and transfers them to the executive. That is completely unacceptable to me.

A further point on this matter is that these very important decisions deserve not only the scrutiny but also the support of the Parliament. Each case deserves to be considered by the house, not necessarily as legislation but perhaps as a motion, to underline that the proposal has the support of the Parliament and the people of Victoria.

Some may say that would be symbolism. I do not agree. The community must have ownership of the decisions and the best way that the community can

have ownership of the decisions is the imprimatur of the Parliament of Victoria.

As I said, there are some good things about this bill. It needs extensive further consultation and community input. I certainly support the reasoned amendment of the member for Box Hill.
