

MASTER



## PRIME MINISTER

TRANSCRIPT OF THE PRIME MINISTER, THE HON P.J. KEATING MP  
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I thought I would give you just a few preliminary remarks and then take some questions.

As you know the Council of Australian Governments in its second meeting has met now for two days with a fairly extensive agenda which has ranged over a number of issues, the main one being the response to the High Court's decision in the Mabo case and then other micro-economic issues which are covered in the Communique which lists a fairly extensive range of issues which we considered later this morning and into the early afternoon, after we concluded the discussion on Mabo.

I am happy to take questions about those things. Let me just say a few things now about the Mabo decision and take questions from you.

There was not unanimous agreement to the package proposed by the Commonwealth and the package which we had discussed through yesterday with the States, if you like the amended proposals.

I am disappointed with this, but by the same token what must emerge from this is a comprehensive response to the Mabo decision. What we had at the meeting was undercurrents of the view that there was only a grudging recognition of the High Court's historic decision and a tendency to view Mabo not just as a problem requiring only a minimalist solution as just a problem requiring only a minimal solution. There wasn't a preparedness on the part of some of the Premiers to give effect to the principles of the Mabo decision; that is to set up the

mechanisms to hear and dispense native title - that is the principal core matter that we should have mechanisms, tribunals, set up under a framework of Commonwealth guidelines to operate in the States under State legislation to hear and award native title. The Premiers would not agree to this, in particular Premiers Kennett and Court, would not agree to this and as a consequence we were unable to advance the mechanics of a response to the High Court decision.

There a number of other issues which I'm sure you will ask me about and I will be quite happy to respond to you on.

Towards the end of the day, the end of discussions later this morning Premier Kennett and others tried to pull together a text which they wanted me to accept which of course paid no recognition to the problem at hand at all. And the point I made to them is that the COAG - the Council of Australian Governments - is an executive body charged with an executive function and they are requiring of the Commonwealth that we execute an executive act to validate titles back to 1975 and provide compensation that they would execute no executive act what so ever to give affect to the Mabo decision. In the text that Premier Kennett wrote just before I indicated to them that it was not acceptable to me or the Commonwealth government, the first point was to accept the High Court judgement in Mabo that there is native title. So they are suggesting to me as Prime Minister of the Commonwealth that we should take away from the meeting as some sort of concession from them that they accept the High Court judgement in Mabo because they were disputing the fact that the High Court can make law and I said to them, what do you want me to say, that you accept that the High Court judgement in Mabo, there is native title. Well, you have to accept it, the Court said it, there is no appeal from the Court's decision, there is no privy council, it is an absolute position.

The second part of their text was that the Commonwealth should then validate all the leases and provide compensation, but the third part and this is the point I tested them on, was that in their text they should establish procedures to hear and resolve issues raised by claims for native title and I had said to them well, hear and resolve claims for native title. No, they said no, we won't have any text which says will hear and resolve claims for native title. We'll have text which says only we will hear and resolve issues raised by claims for native title. So I said let me get this straight, you want to the Commonwealth to validate all these leases,

pay all the compensation of eighteen years of leases across the country and you want me to say, to say of to me that you will accept the High Court decision in respect of Mabo and that you will only establish procedures to hear issues, you won't give primary effect to establishing the mechanisms of hearing and awarding native title.

I know they have told some of you that we wanted to go beyond Mabo. Well, we see the Mabo decision as an opportunity to deal with policy towards Aborigines in terms of the reconciliation process and there are issues there which I am happy to talk to you about.

But the core thing was that they wouldn't agree to the primary issue and that was setting up a system of tribunals to hear and award native title and nor would they accept the principle of where ever practicable to protect native title from extinguishment. We said there is no problem about title co-existing so why say to an Aboriginal person who may have a native title that there is a mining grant been issued which may take ten years, why extinguish that persons title when in ten years time the mining is finished. Why shouldn't the title revive after the ten years? Why can't there be co-existence of title and a revival of the title when the mining is finished. No, they wouldn't accept the principle of non-extinguishment of native title.

So in the end they wouldn't give effect to the proposals which the Commonwealth put up. The Commonwealth addressed all this in a discussion paper and a 33 point document. Premier Court told me he had spent four months with legal advice on this, all Premiers told me that they had had extensive legal advice, they had our document and the 33 point plan and yet they said they couldn't agree to what were nine paragraphs of text encapsulating the core points. So I said in that case the Commonwealth, if there is no package, the Commonwealth will not be part of any partial arrangement or partial solution and that the Commonwealth would have to reconsider its position as too would the States.

I am happy to take your questions.

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