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PRIME MINISTER

123/93

STATEMENT BY THE PRIME MINISTER, THE HON P J KEATING, MP COMMENT ON THE WEST AUSTRALIAN MABO LEGISLATION

The Mabo legislation introduced by the West Australian Government is draconian and discriminatory, may well be invalid in whole or in part under the RDA, and will result in massive uncertainty.

- It is a recipe for endless dispute and litigation, which will bog down land dealings and smother industry and investment

- it fails even to validate pre-1975 grants and state legislation (unlike the Commonwealth proposal); there will be considerable doubt whether this validation is successful

- there is no clear means of determining who has native title and where

- there is no clear means of determining what rights are available under native title or the statutory substitute

- the new traditional usage rights can only be defined by a court where there is a conflict; this is a recipe for increasing community disputes and ongoing uncertainty

- the Bill gives Aboriginal people only 12 months to claim compensation for extinguishment of native title; the only way for Aboriginal people to protect their rights would be to swamp the compensation system with claims whenever a grant is made

- the Bill extinguishes a title which under the High Court doctrine could run as high as exclusive possession, and replaces it with a statutory title deliberately pitched at the lowest imaginable level of rights to land

- the Bill allows freehold or leasehold to be issued where there is native title and to wipe out Aboriginal rights; this would make Aboriginal title the only form of interest in relation to land which could be taken away and given to a third party without compulsory acquisition

- due process is denied; grants may be made irrespective of any court proceedings concerning rights of traditional usage

- the shabbiness is compounded by the schedule of amendments to other WA Acts which can be used to deny holders of traditional usage rights important procedural protections available to other West Australians and give Aborigines no effective standing or avenue of appeal

- the virtually unfettered discretion for Ministers to disregard Aboriginal interests raises serious questions about appropriate checks and balances in public administration

- there has been not a shred of consultation with Aboriginal people

- the Premier misrepresents important aspects of the Commonwealth proposal, e.g. he alleges that it contains no capacity for Aboriginal people to obtain land rather than money as compensation.

The Bill is an obstacle to the achievement of what Aboriginal people, industry and the community generally needed - a just, workable and certain land management regime which took account of Mabo.

It would do damage to Australia's international reputation. It would cost the country in terms of international as well as domestic investment.

It would polarise the Australian community. It is the antithesis of reconciliation, and a throwback to an earlier era in which Aboriginal rights were steamrolled whenever governments or interest groups judged it expedient to do so.

A right which, by definition, has survived for 200 years and derives from occupation of land for thousands of years before that would be extinguished not much more than a year after being recognised by the highest Court in Australia.

It has sold out the interests of West Australians - Aboriginal and non-Aboriginal.

The Commonwealth Government cannot afford to see economic development in a third of the continent brought to a halt and will protect the national interest. Nor is the Government prepared to stand by and see Aboriginal people disposed of land to which they have native title.

I reiterate my commitment to a national approach to Mabo which will work in the interests of all Australians. The Bill shortly to be introduced into the Federal Parliament would be balanced, fair and workable.

The West Australian Government should get on board.

CANBERRA
5 November 1993