



PRIME MINISTER 16 MARCH

STATEMENT BY THE PRIME MINISTER, THE HON PJ KEATING MP HIGH COURT DECISION ON THE CHALLENGE TO THE NATIVE TITLE ACT

The High Court has upheld the validity and legitimacy of the Native Title Act, one of the most far reaching pieces of legislation enacted since Federation.

In doing so it has endorsed this Government's approach to recognising and protecting native title, while ensuring that workable processes exist for land management across every state and territory.

The High Court has delivered a clear rebuff to the approach adopted by the Western Australian Government.

Premier Court attempted to extinguish inherent rights and replace them with statutory rights which were much more vulnerable to interference and extinguishment by Governments than the property rights held by other Australians.

The WA Government now has no choice but to fall into line and accept that the High Court in Mabo recognised the existence of a new set of property rights; rights which pre-dated the acquisition of sovereignty by the Crown, and continued in place after that time.

This decision makes it impossible for the Federal Coalition to maintain its stated opposition to our balanced approach to Native Title Legislation and policy. It will force John Howard to accept that the Coalition's opposition to the Native Title Act was wrong and misguided.

Will Mr Howard now repudiate statements made by his predecessor who threatened to repeal the Native Title Act?

The Commonwealth is concerned about the uncertainty created by the Western Australian Government relating to the new titles issued in WA since 1993. Premier Court has deliberately ignored the processes set down in the Native Title Act and must take ultimate responsibility for the effect of this decision in Western Australia.

The Commonwealth Government is nevertheless prepared to work with the Western Australian Government to ensure that issues arising from this decision can be addressed cooperatively.

Preliminary talks have already been initiated at Ministerial level with the Court Government.

We will want to ensure that Western Australians are not disadvantaged by the actions to date of the Court Government but we will not backtrack on the fundamental principles which are embodied in the Native Title Act.

CANBERRA

16 MARCH 1995

Key components of the Native Title Act

- it recognises and protects native title
- it provides a mechanism to establish the existence of native title
- it establishes a regime for dealing with future acts which affect native title
- it provides a mechanism for states and territories to validate existing interests with complete certainty
- it provides for a 'right to negotiate process' for mining activities on native title land
- it provides for a non-extinguishment principle to apply in certain circumstances
- it provides for States and Territories to put in place their own Tribunals and regulatory regimes providing they adhere to principles set down in the Native Title Act
- it provides for compensation to native title holders whose title is extinguished as a result of validation.

The Act represents a balancing of interests across the Australian community but is premised on the fair and equal treatment of Aboriginal people

It will increasingly be recognised that the Australian people, in enacting this landmark legislation, have effected an extraordinary achievement.

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