



# PRIME MINISTER

28 April 1997

**TRANSCRIPT OF THE PRIME MINISTER  
THE HON. JOHN HOWARD MP  
PRESS CONFERENCE - PARLIAMENT HOUSE  
FOLLOWING PREMIERS' MEETING ON NATIVE TITLE**

E & OE.....

Ladies and gentlemen, can I first say on the anniversary of the Port Arthur tragedy on the 28th of April last year, naturally the thoughts of the entire nation are very much with those people who were left devastated by that unmitigated tragedy, for the community around Port Arthur and more generally for the people of Tasmania. Memorials have been built to all those who died. Collectively as a nation the greatest memorial to those who lost their lives so tragically and so unwillingly on the 28th of April last year, perhaps the greatest memorial for them would be a renewed determination by all of the Australian people to shun all forms of violence within our midst, whether it is violence in the home, violence against the more vulnerable in our community including women and children and violence on the playing field, violence in the pub, violence in any walk of life and if there could be a collective resolve by the Australian community to forsake the culture of violence within our midst it would be a more fitting memorial than any I can conceive to those people who died in such tragic circumstances a year ago this afternoon.

I might mention, ladies and gentlemen, that so far under the gun buy back campaign, the campaign that's been under way now for some time, that 383 175 firearms have been handed in, that over \$190 million has been paid out in compensation. In Victoria, the largest number of guns has been handed in and that is 164 000 with about \$77 million handed out in compensation. That process is of course still going on.

We had a meeting of Premiers this morning - that meeting has now ended - to discuss the Commonwealth's response to the decision of the High Court in the decision of the Wik case. It was a good meeting. Progress was made. It was conducted in a very positive and constructive atmosphere in which everybody recognised that this was a particularly difficult issue. There is a desire to find a solution that delivers certainty to the pastoral community of Australia which that community is entitled to have and was

entitled to expect at all times but also to respect the existence of native title and to deliver a just outcome for the Aboriginal and Torres Strait Islander people.

There was a detailed discussion about the Commonwealth's ten point plan. What I intend to do now is to discuss that plan with the members of the Government Backbench Committee and subject to approval through the due processes of the Government I would propose at an early date to draft legislation to give effect to that ten point plan and that legislation will of course be drafted in close consultation with the states because it intimately involves the use of state mechanisms. I will also closely consult the Aboriginal people regarding the drafting of that legislation and I, and my officials, will hold further talks with indigenous representatives over the next couple of weeks.

It is fair to say that some of the states still have some reservations. It is also fair to say that there was a recognition today that the plan I put forward went a long way towards meeting the legitimate concerns of the pastoral community. As far as I am concerned, at all times I have been interested in achieving a practical, workable outcome. I am interested in practical solutions, not rhetorical mirages. The proposal I have put forward is one that ought to be supported by the Parliament. It removes in my view all of the reasonable concerns of the pastoral community of Australia. Importantly, it will allow any pastoral leaseholder in this country to carry on all of the activities defined as primary production in the Income Tax Act, and that is a very wide definition indeed, they always are in the Tax Act, and that of course goes far beyond pastoral activities that are customarily sanctioned under pastoral leases and those activities will be able to be carried on without any let or hindrance from either native title claimants or indeed any other section of the Australian community.

It's a fair outcome because it guarantees that titleholders, whether they are indigenous titleholders or other titleholders, will be treated in a completely fair and equal fashion. There will be no detrimental treatment of one group in the community compared with another. There were some concerns raised by the States today regarding one or two aspects of the package. Some of those concerns were reasonable. Others in my view, on further examination are probably not reasonable objections. I will discuss again the whole package with the indigenous community. I remain hopeful that it is a package that can get the broad assent of the major stakeholders. In the end of course the Government has to decide, has the responsibility of deciding what path it is going to go down. I am convinced that the ten point plan of mind is the fairest, best, most practicable way of delivering certainty and security to farmers and justice to the Aboriginal community.

There are many features of extinguishment which I don't think people have properly understood. Extinguishment may look a simple, easy option. It has a number of drawbacks. One of them is the potential cost of the compensation involved. It could deliver an enormous deal to the Australian taxpayer. I have no idea what it would run into but if you extinguished all native title in one sweep over every pastoral leasehold in Australia, the potential of that is very high indeed. I am unconvinced that such action would be completely immune from High Court challenge. Any extinguishment of native title, so I am told, would have to take place using the race power of the Commonwealth Constitution. The High Court is currently constituted, it could well

decided that the race power as currently phrased does not support a detrimental act in relation to one particular race within the Australian community. To effectively extinguish native title the Government would have to pass legislation which extinguished the title rights alone of one section of the Australian community. That has political implications and I guess philosophical implications as well as the other implications that are mentioned.

Now, I can't rule out any options at the end of the road in relation to this very difficult issue. I clearly believe that my model is the better way, the fairer way, the way more likely to deliver an early sense of security and stability than the alternatives that have been urged on me.

The Aboriginal community must understand that the Wik decision went far beyond the expectations of the rest of the Australian community. And indeed if they are completely candid, their own expectations. It was the general belief of the Australian community until the High Court brought down its judgment in December of last year that the grant of a pastoral lease extinguished native title. Paul Keating said that, the recital of the *Native Title Act* said that, it was acknowledged by Aboriginal leaders, it was in fact one of the bases of one of the \$1.5 billion land fund that was established to compensate people who were not entitled under Mabo to make native title claims.

So, the backdrop of this is that, yes we need an outcome that is fair and respects native title. We also need an outcome that respects the fact that pastoralists are entitled to feel cheated by the Wik decision. The value of my approach is that it balances that sense on their part which I think is legitimate with the desire on my part to respect the existence of native title. And I think what the 10 point plan does is to recognise these competing interests and that is why I think it is the approach that overwhelmingly deserves the support of the Australian community and that is why I have put it forward.

Are there any questions?

**JOURNALIST:**

Mr Borbidge has just said that on his understanding of today's meeting it is only Queensland that is now holding out against your ten point plan. Is that your understanding?

**PRIME MINISTER:**

Well, I don't know what he said publicly. I understand the feeling in Queensland and I have to say to Queenslanders my plan will give you security.

**JOURNALIST:**

Mr Howard did you compromise at all on your ten point plan in the meeting and if so in what areas?

**PRIME MINISTER:**

Not on major principles, anymore than in talking to the Aboriginal community did I compromise on major principles. I haven't put this forward as some kind of ambit claim. I spent an enormous amount of time and energy thinking about this issue and I've developed this plan which I think gives to pastoralists in Queensland and elsewhere complete security, without offending the basic principles of native title, and that's an important balance to be struck in the Australian community.

**JOURNALIST:**

Will the states have to pick up any compensation that may come from their activity or their ...

**PRIME MINISTER:**

Compensation was raised and we have agreed to get some advice on how it might operate and I've said that I don't expect the States to pick up all of the compensation but equally I'm not prepared to write a blank cheque for the Commonwealth to pick it up either. It's a question of probably sharing it in proportions yet to be determined.

**JOURNALIST:**

Would you expect the land fund to be used for that purpose?

**PRIME MINISTER:**

I want to have a look again at the circumstances under which the land fund was established. I don't want to make a statement on the run in relation to that.

**JOURNALIST:**

Mr Howard, .... you to predict even in the broadest terms the extent to which Common law native title rights and pastoral leases could co-exist in practice under your plan. Will there be a broad ability for a common law right to Native Title...

**PRIME MINISTER:**

Will there be a what?

**JOURNALIST:**

Will they have them on a broad basis in Australia. Will there be a broad ability for co-existence of those two rights?

**PRIME MINISTER:**

I'm not quite sure I understand, I'm not being offensive, I'm quite sure I understand your point.

**JOURNALIST:**

The point is your plan has been called in some quarters effective extinguishment - that it sets the hurdles so high that there wouldn't be in practice much of a chance for a common law native title right to...

**PRIME MINISTER:**

Well, there's nothing under my plan that prevents people demonstrating establishing native title, but what my plan does do is to guarantee that a pastoralist can get on with his business and guarantee that somebody can run and manage their pastoral property which they have been doing for decades and that is the objective that they have.

**JOURNALIST:**

But in forming the plan did you envisage that there would be co-existing native title rights in very many circumstances?

**PRIME MINISTER:**

Well, I can envisage some circumstances in which current co-existence arrangements continue. As I understand the way the amendments would operate, if you don't now have some kind of physical connection with the land your chances of establishing native title even under some interpretations of the current native title act, your chances wouldn't be all that great.

**JOURNALIST:**

Could you explain the impact of your plan on the current right to negotiate process in relation to development on pastoral leases e.g mining?

**PRIME MINISTER:**

Well it significantly alters the right to negotiate and I don't apologise for that. The existing right to negotiate has constituted a very very significant brake on economic development in this country and changes to the right to negotiate were needed even before the Wik decision.

**JOURNALIST:**

How long ago did you decide that legislative extinguishment was not on? At what stage in this process?

**PRIME MINISTER:**

Well I haven't said that. I'm just pointing out that my approach is superior for the reasons that I've enumerated, but I've said before I concluded my opening remarks, but I haven't completely ruled out extinguishment, I'm just explaining to you that it is

a bit of mirage to imagine that the lure of extinguishment is going to deliver a better result than what I've put forward. See what I'm putting forward is more likely to be delivered earlier than extinguishment. It does respect the principle of native title, it does deliver security to pastoralists and therefore I think it is much better. I mean, I am backing it because it is better. It's better for pastoralists, it is better for Aborigines, and it is better for the whole community and that's why I'm backing it, it is as simple as that.

**JOURNALIST:**

Why are you not ruling out extinguishment?

**PRIME MINISTER:**

Well you never rule out anything until you get to the last moment.

**JOURNALIST:**

Is this contingent upon what happens in the Senate?

**PRIME MINISTER:**

Look I'm just simply saying to you I don't rule it out but my preference is very very clear.

**JOURNALIST:**

What would actually force you to again look at the extinguishment option?

**PRIME MINISTER:**

Hypothetical.

**JOURNALIST:**

... and possibly accepting...

**PRIME MINISTER:**

Hypothetical and I'm not answering ....

**JOURNALIST:**

What's the cost to the revenue Mr Howard of this extension of the definition of pastoral activities to the income tax definition?

**PRIME MINISTER:**

It'll have no impact. It doesn't effect your assessable income. It effects your capacity to do things without having to get the permission of native title claimants.

**JOURNALIST:**

Surely you must have some ... on the definition of what you are doing on the property.

**PRIME MINISTER:**

No. It might enhance it, but it won't be to its detriment. Catherine Job.

**JOURNALIST:**

Thank you. Do you expect to get Mr Borbidge's agreement in the long run or in the end will you have to go ahead without Queensland's agreement and can you?

**PRIME MINISTER:**

I will continue to talk on a regular basis to Mr Borbidge and I believe that Queenslanders will see that my plan gives them the certainty they think extinguishment will deliver without some of the costs. That's why they ought to support it. I mean, I would say to all Queensland pastoralists, the security you want can be delivered under my plan. My plan has advantages which the alternatives don't.

**JOURNALIST:**

To what extent does your plan, without extinguishing Native Title, raise the prospect of compensation ...

**PRIME MINISTER:**

Compensation has got to be payable, no matter what happens. We understand that. I mean people have got to understand a few simple things about this issue and that is that once the courts of Australia have found that a common law title right exists, if that title is in any way resumed or extinguished by direct legislative or executive act or by operation of law, then some compensation properly assessed is payable, and nobody has disputed that. At no stage through the whole of this debate has there been any denial by any of the Premiers or any denial by the Commonwealth about the fact that compensation is payable. I mean this idea that you can sort of snuffle out a title and not pay anything is just not on. You can't do that. And that applies whether you extinguish or you do something else. Now, why therefore wouldn't you go down the path that I'm advocating. It's far more sensible. It's more likely in a practical sense to achieve the result that you want. But I mean, let's face it, the court has said that title exists and absent some kind of retrospective amendment to the constitution, you can't take that away.

**JOURNALIST:**

What's your best estimate on how much it will cost...

**PRIME MINISTER:**

I have no idea, and this is one of the difficulties of this. I have no idea. Nobody has any idea. It could be big, it could end up being small. I don't know.

**JOURNALIST:**

Could you also tell us whether your 10 point plan means any over-riding of the Racial Discrimination Act?

**PRIME MINISTER:**

As I'm advised at the present time, my 10 point plan is RDA compatible, I think is the language, or RDA consistent, or RDA sensitive. I think RDA compatible, but I have said that I would not be reluctant to amend the Racial Discrimination Act in some relevantly minor way if that were necessary to facilitate a settlement of this issue. Remember that Keating did that, and there's nothing sacrosanct about the Racial Discrimination Act. There is something sacrosanct about racial equality, but not the Act which for the time being you express that aspiration through.

**JOURNALIST:**

Prime Minister at what stage do you intend to begin negotiating with the other parties in the Senate.

**PRIME MINISTER:**

I've been negotiating with them. I mean for example I spent four hours with the President of the National Farmers Federation yesterday.

**JOURNALIST:**

In the Senate.

**PRIME MINISTER:**

In the Senate?

**JOURNALIST:**

Yes. The Labor Party, the Greens, the Democrats.



**PRIME MINISTER:**

Well Mr Carr was there today. He's the most successful Labor man in Australia at the moment isn't he?

**JOURNALIST:**

Well given that Premier Borbidge says that one of the points you made to him last Thursday was the difficulty of getting extinguishment through the Senate.

**PRIME MINISTER:**

I will be talking to the Australian Democrats and the Australian Labor Party after I've spoken to my own party room about the matter. The normal thing is you talk to the Premiers, you talk to the ....

**JOURNALIST:**

But before the legislation is written?

**PRIME MINISTER:**

I'd be happy to talk to them. I think I'd probably be happy to talk to them before the legislation is written although I notice that last night my opposite number said that what I had to do was produce a piece of legislation.

**JOURNALIST:**

What's the time-frame?

**PRIME MINISTER:**

As soon as possible. I think the time for....We've had a lot of discussion. We've had an enormous amount of negotiation and an enormous amount of rhetoric, and I want as quickly as possible, subject to due processes, I want as quickly as possible to get a bit of legislation on the table that conforms with the 10 principles so that people can have a look at it and see if they're satisfied. I don't expect anybody to sign off on this thing completely until they've seen the final form of the legislation.

**JOURNALIST:**

Would you like to outline for us what the 10 points are Mr Howard. We've been having this very long debate about it, but we've never actually heard you describe what the 10 point plan is.

**PRIME MINISTER:**

Well if I can remember all of them, and 10 is a lot to remember, the first one consists - and one of my helpers who is here might give me a copy while I talk. Grahame? The

first one says that you validate everything that's been issued between the first of January 1994 and the 23rd of December 1996, that was the date of the Wik decision. The second principle is that you confirm that Native Title has been extinguished by what I've called exclusive tenures. And that is freehold, commercial and residential and certain agricultural leases, where quite clearly it was the intent when the instrument was granted, or the deed was made by the Crown that there should be exclusive possession then obviously they should be extinguished. That is in line with the law. And then there's a provision in relation to towns and cities and municipal services. This is very technical and complicated Laura - don't you want a copy of it instead?

**JOURNALISTS:**

Yes.

**PRIME MINISTER:**

We can probably get one out to you fairly soon. I've just got to get a few things cleaned up and then we'll get it out to you.

**JOURNALIST:**

In the meantime, if your 10 point plan is in fact accepted, what impact will it have on the hundreds and thousands - the several hundred claims that are already in before the Native Title Tribunal.

**PRIME MINISTER:**

Those claims will be dealt with in accordance with the amendments that are already in the Parliament. And those amendments require a tougher registration test and under those amendments whenever the right to negotiate is triggered, in relation to any of those claims, then the claim will have to run the gauntlet of the tougher registration test. But that's already provided for in the bill that Senator Minchin has so ably got into the Parliament.

**JOURNALIST:**

So this 10 point plan.....

**PRIME MINISTER:**

This 10 point plan is consistent with those amendments. It doesn't over-ride it, it is consistent and compatible with those amendments.

**JOURNALIST:**

Prime Minister, given Mr Borbidge's position today, what do you expect will be the reaction of the Federal Queensland National Party members who have been so vocal in their calls for full extinguishment.

**PRIME MINISTER:**

I believe that when everybody hears my plan and understands it, I don't believe that any reasonable person could doubt that this is the best way to go.

**JOURNALIST:**

Mr Howard, does that mean you believe you can hold all your numbers in the Senate?

**PRIME MINISTER:**

Oh Michelle let's not start talking about votes in the Senate.

**JOURNALIST:**

They're pretty important.

**PRIME MINISTER:**

Well yeah, but it's the other ones I want.

**JOURNALIST:**

Mr Howard, given the aboriginal negotiators concerns about your right to negotiate and your threshold test under your 10 point plan, what makes you think that they won't drag it back into the courts?

**PRIME MINISTER:**

Well nobody, no matter what you do in this, can be accompanied by a guarantee that people won't take you to court. No matter what you do.

**JOURNALIST:**

They so that goes right to the heart of the issue.

**PRIME MINISTER:**

Well, I'm not quite sure about the logic of that proposition. There's no way that you can ever deliver any kind of change in this area that is immune to a court challenge. I mean you can't in our kind of society say that people can never go to court. I believe that my approach is less vulnerable to court challenge than any alternative.

**JOURNALIST:**

Prime Minister will you proceed to legislate whether or not you get Queensland on board at the end of the day?

**PRIME MINISTER:**

Oh let's not take it beyond what I've said. I intend to do what I've said I'm going to do and I am hopeful that I will have widespread support in the Party.

**JOURNALIST:**

And you can do it without Queensland being on board?

**PRIME MINISTER:**

I believe that I'll have widespread support in the Party for what I am proposing to do.

**JOURNALIST:**

(inaudible) Senate parties, the ALP and the Democrats, would you consider amendments to your plan?

**PRIME MINISTER:**

I won't consider amendments that alter the principles of the 10 point plan, no. But people must understand that this is not an ambit claim. I'm not asking people to accept it sight unseen. But people should understand that I'm not putting forward this plan to have it hacked away by some kind of Senate committee. I'm putting it forward because I think it is a bona fide compromise. Obviously if people have got amendments that don't violate the principles of the plan then we'll have a look at those, of course we will.

**JOURNALIST:**

When you meet Mr Hashimoto this evening, will you be pressing Australia's position of opposition to binding global greenhouse reduction targets. And will you be citing the latest ABARE studies on the economic impacts on Australia and also a study of the impacts on Japan?

**PRIME MINISTER:**

Yes, yes. I think consideration surrounding the climate change imposed one of the more significant medium term economic threats to this country that we have had for a long time. This is a situation where Australia is atypical. Australia is a highly developed net exporter of energy. There are few other countries in the world that have the same description as that. Our interests in this area are very different from those of the United States and the European Union. We should never have got aboard this particular truck in the first place at the Rio Conference, and those that put us aboard this truck didn't understand the national interest. And the economic implications of remaining on that truck are quite serious for Australia. I will push the principle of differentiation on every available occasion before every available world leader in every forum that I can find. Because this is very much a case of Australia alone having to

stick up for Australian interests and we shouldn't mince any words about it or doubt the serious threat that adoption of this poses to Australia's economic future.

**JOURNALIST:**

Mr Howard do you think there's the possibility of a double dissolution in some of your talks with the stakeholders if you couldn't get you plan through the Parliament?

**PRIME MINISTER:**

Oh, I think in these sorts of discussions the full gamut of political possibilities is always canvassed.

**JOURNALIST:**

So that is a possibility?

**PRIME MINISTER:**

Well the answer is the answer I've just given.

**JOURNALIST:**

You expressed the hope at the start of the conference, that Australia might foresake the culture of violence as part of the Port Arthur legacy. How optimistic are you about that, and I know you've already done - we've had the gun reforms and you've done a number of things on violence on the screen. Do you have any more thoughts on how the government can take a lead in that (inaudible).

**PRIME MINISTER:**

Well, I think all governments can continue to do as much as they can in relation to domestic violence. I have to say I take some exception to the comments made by Mrs Fay Lo Po at the weekend regarding our approach to domestic violence. We in fact put more resources into programmes combating domestic violence than the previous government. I'm not poking a stick at the previous government but her attack was quite wrong and quite ignorant. We are very strongly committed to effective programs to combat domestic violence but it really lies very much in educating children from a very early age that physical violence is not a solution to argument, not a solution to dispute. It also means that every possible support should be given to sporting organisations who seek to stamp out violence on the field. And I applaud the attempts of those who administer football in Australia and I applaud their attempts to stamp out violence on the field. I think it does set an appalling example and it is very important that governments voice their support, but it really is not only a question of money and that was the other mistake that the lady from New South Wales made at the weekend. She sounded as though she thought money was all you had to provide in order to get rid of domestic violence. It really involves trying to inculcate within the community an abhorrence of violence as a solution to differences of opinion and disputation between individuals and that's a very big ask and I'm not suggesting that a Prime Ministerial

declaration alone is going to sort of solve the problem. I wouldn't be so presumptuous to suggest that but I do think we should understand as a community that we too readily embrace, even if by neglect and indifference, violence is a solution to problems and it's not just for domestic violence but of course that's one of the more ugly manifestations of it. It almost invariably means physical violence or threats of violence being directed against women and children which all decent people ought to find completely sickening and abhorrent.

Any more questions? No. Thank you.