



# Now is the time to have your say



## Native Title and You

With Tribunal  
Member Bob Faulkner

**T**HE year has started with many changes under way for Indigenous Australians. Now is the time to have a say about proposed changes to Indigenous rights to land.

Last year there was a lot of talk in the media about changes to land rights legislation and we also heard about upcoming changes to the Native Title Act 1993 and native title representative bodies. The Federal Government announced its intention to improve the efficiency of the native title system.

With parallel processes in place to change the land rights and native title legislation, the distinction between land rights and native title can become blurred.

Land rights schemes are in place in the Northern Territory, Queensland, New South Wales and South Australia. Under land rights, the Crown grants a form of title to land – sometimes leases but usually freehold – that cannot be transferred to other groups. This land is held by a body on behalf of a group or community. Generally this land can't be sold or mortgaged and the Crown can only acquire it in certain circumstances.

Native title, on the other hand, is not a form of title to land and is not granted by the Crown. It is recognition under Australian law that a group has native title rights and interests which have existed since before European settlement.

### Rights and interests

Where Indigenous people's traditional connection to land and waters has been maintained and where government acts have not removed it, the law recognises this as native title. It is made up of the communal, group or individual rights and interests in relation to land that the common law of Australia has recognised. Native title can only be transferred to other Indigenous Australians under

traditional laws or customs – or to the Crown by surrender.

The National Native Title Tribunal operates under the Native Title Act, but not under land rights legislation. The Government has released a range of possible amendments to the Native Title Act. You have the opportunity to comment on a discussion paper until January 31. The paper and more information about the proposed reforms can be found at: [www.ag.gov.au/nativetitlesystemreform](http://www.ag.gov.au/nativetitlesystemreform).

The Government has also released options for changes to native title representative bodies, as well as draft guidelines for funding to respondent parties. Comments on these documents can be made until February 10. Information on the proposed NTRB reforms is on the Office of Indigenous Policy Coordination (OIPC) website. <http://www.oipc.gov.au/>

These changes are separate to those occurring to the land rights legislation. Late last year the Federal Government announced changes to the Northern Territory Land Rights Act. There is a whole raft of changes that you can read about if you visit the Government's website at [www.atsia.gov.au/media/media05/summary.htm](http://www.atsia.gov.au/media/media05/summary.htm). There are also reviews of land rights under way in Queensland, NSW and South Australia.

These reviews are occurring to help solve the problems people experience with the current processes and schemes.

At this stage we can't say what the changes to the native title system will actually be. However, whatever changes are made to the system, we look forward to working with all parties to reaching just and agreed outcomes.

For more information about native title, visit the NNTT website at [www.nntt.gov.au](http://www.nntt.gov.au)