



Native title, land rights are different

Native title is not the same as land rights. Sometimes they are referred to as if they are the same, so it might be useful to highlight the main differences between them.

Land rights laws involve a government deciding to grant Indigenous people title to an area. When the government makes the grant, it creates a legal title over that area.

Land rights laws go back more than 30 years. In 1976, the Australian Parliament passed land rights legislation for the Northern Territory. Since then, other land rights schemes have been established under State and Territory laws. Land rights schemes, in various forms, are now in place in many parts of Australia.

A successful land rights claim usually results in the government granting special freehold title or a perpetual lease to an Indigenous community or organisation. There are restrictions on how the land can be dealt with.

Native title does not come from a government grant. It comes from the traditional laws that Indigenous people were following when the British first came, and which people have been following since then.

The Australian legal system does

Native Title and You



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not create those rights. Rather, a court recognises rights that have long been held by Indigenous people under their system of law and custom.

Native title is like a set, or bundle, of rights and interests in land or waters. It is made up of some of the traditional rights and interests that Indigenous people already have, and that they can convince a court to recognise under the *Native Title Act 1993*.

Exactly what the native title rights are for an area depends on the traditional laws and customs of the native title holders, and what other non-native title rights (such as pastoral leases) exist over that area.

Indigenous people can apply to the Federal Court to have their native title recognised, and the court decides whether they have proved that native title still exists. Often, that decision is made with the agreement of all the parties to a native title claim.

The court does not, however, hand over a title deed for that land. It recognises the rights that people have proved already exist under their traditional laws and customs.

Other differences between land rights and native title include things like what areas can be claimed, who can make a claim, and the processes for dealing with claims.

Indigenous Australians could have different rights over land or waters, depending on whether you are talking about land rights or native title.

The National Native Title Tribunal is not involved in the administration of land rights schemes. We help people to resolve native title issues over land and waters.

● For more information about native title, including maps showing where native title claims and/or native title determinations have been made, visit the Tribunal website at www.nntt.gov.au