

NATIVE TITLE CONFERENCE 2012 KEYNOTE ADDRESS BY THE ATTORNEY-GENERAL, NICOLA ROXON MP



Above: Attorney-General Nicola Roxon and the Hon. Jenny Macklin MP.
Credit: Kerstin Styche.

On 6 June 2012, speaking at the National Native Title Conference, the Attorney-General announced that the Australian Government would progress a package of legislative reforms to the Native Title Act 1993 (Cth).

Attorney-General Nicola Roxon MP

To build on [past] reforms, today I would like to talk to you about the next steps we want to take with you to further improve native title.

Under the right to negotiate native title, agreements must be negotiated in 'good faith'. Unfortunately, many would argue that some parties have been paying little more than lip service to the good faith provision.

So, the government will seek to legislate criteria to outline the requirements for a good faith negotiation. No longer will parties be able to sit back and wait for the clock to tick down until an arbitrated outcome is available to them.

The government will consult closely with Indigenous groups, state and territory governments, farmers, miners and others on the terms of this legislative reform. Much work has already been done that now needs to be acted upon.

We've also heard, including from many people in this room, the need to make native title agreements and claim resolutions more flexible and less technical. That's why we also plan legislative change to reform Indigenous land use agreements. These voluntary agreements will be made more flexible. A wider range of topics will be able to be negotiated on between Indigenous groups and land rights holders.

Thirdly, the government will work with stakeholders to allow parties to agree to put aside issues of historical extinguishment in parks and reserves. Our discussions may even identify a wider application of this concept if there is broad support for change.

Time and money will be saved by parties forming agreements over native title, rather than just automatically resorting to litigation.

Lastly, you'll be pleased I can finally clarify the tax treatment of payments from native title agreements — income tax and capital gains tax will not apply; an issue many of you have called for and we are able to agree to today.

This will fit with strong Indigenous involvement in the reforms to the not-for-profit sector.

I want to emphasise today that the government will be listening and

AMENDMENTS TO THE NATIVE TITLE ACT 1993 (CTH)

The proposed reforms will:

- Clarify the meaning of 'good faith' under the 'right to negotiate' provisions and make associated amendments to 'right to negotiate' provisions.
- Enable parties to agree to disregard historical extinguishment of native title in areas such as parks and reserves.
- Streamline Indigenous land use agreement (ILUA) processes by simplifying the process for minor amendments to ILUAs, improving objection processes for area ILUAs, and clarifying the coverage of ILUAs.

AMENDMENTS TO TAX LAW

The proposed reforms will amend tax legislation to make it clear that native title payments and other benefits are not subject to income tax (which includes capital gains tax).

meeting with you and others about these proposed changes. I am looking forward to working with you all on how to speedily implement these important legislative reforms.

I know that there are people that have argued for more radical changes. But incremental change is lasting, and our government has shown we can deliver both short- and long-term benefits to the native title system from this strong but sensible approach.

The Attorney-General's Department will invite submissions on an exposure draft of the legislation. Details about the timing of this process will be made available on the department's website at:

<http://www.ag.gov.au/IndigenousLawandNativeTitle/NativeTitle/Pages/Nativetitlereform.aspx>.

The department welcomes any comments or input on the reform proposals through this process.