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21 February 2025

Australian Law Reform Commission
PO Box 209
Flinders Lane VIC 8009

By email: nativetitle@alrc.gov.au

Dear Commission,

RE: Issues Paper: Review of the Future Acts Regime

As the peak body for Queensland's 77 local governments, the Local Government Association of Queensland (LGAQ) welcomes the opportunity to provide feedback to the Australian Law Reform Commission (ALRC) on the *Issues Paper: Review of the Future Acts Regime* (Issues Paper), released for consultation in November 2024.

The LGAQ has been advising, supporting, and representing local councils since 1896, enabling them to improve their operations and strengthen relationships with their communities.

Queensland's local governments are significant stakeholders in the future acts regime, and overall support the principles of native title legislation. However, in the years since the *Native Title Act 1993* (NTA) was introduced, councils have experienced a range of challenges with the operation of the current framework.

Unlike other non-government proponents, local government activities primarily relate to providing critical facilities and services to the public. Accordingly, it is in the public interest to ensure that local governments can comply with requirements of the regime in a timely and efficient manner, while respecting the rights and interests of the Native Title parties.

The LGAQ has identified several key issues of relevance to Queensland councils that should be considered and addressed as part of the ALRC review. These issues are discussed in detail in our enclosed submission and are summarised below:

- Issues regarding the costs for councils and other stakeholders associated with the future acts regime, including the costs associated with authorising ILUAs and providing funding to both proponents (including local government) and Native Title parties.
- The need to address challenges associated with the renewal of quarry sales permits or the granting of new permits that comply with the NTA, that have arisen in Queensland and adversely impacted on council operations.
- The need for an expanded, centralised registry to record information on all future acts processes, to provide transparency and ensure Native Title is appropriately and consistently addressed (by local government) over time.
- The need to ensure the classes of infrastructure provided in section 24KA (i.e. future acts that are specifically prescribed) are fit for purpose, appropriate, and broadened to include facilities that are commonly provided by local governments, particularly those in rural and remote locations.
- The need to reinstate Commonwealth Attorney General Funding (or other Government source) for Native Title respondent parties in the Native title determination process, including support for councils.



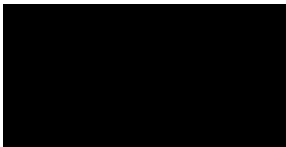
- The interrelationship between Commonwealth native title legislation and State based Aboriginal and Torres Strait Islander cultural heritage acts.
- The need for extensive, detailed and in-person consultation and engagement with councils as part of Phase 2 of the Review once the Discussion Paper is released.

In response to the Issues Paper, the LGAQ has put forward eight recommendations for the ALRC's consideration in developing the Discussion Paper that will be released later in 2025.

The LGAQ strongly welcomes further discussion and engagement with the ALRC as it prepares its final report for the Federal Governments by 8 December 2025.

Please do not hesitate to contact Crystal Baker, Manager – Strategic Policy via [REDACTED] or Jen Johnson, Lead – Regional Development and Economic Policy via [REDACTED] or phone 1300 542 700 should you wish to discuss any aspect of this submission.

Yours sincerely,



Alison Smith
CHIEF EXECUTIVE OFFICER



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Issues Paper: Review of the Future Acts Regime

Submission to the Australian Law
Reform Commission

February 2025

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About the Local Government Association of Queensland (LGAQ)

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association established solely to serve councils and their needs.

The LGAQ has been advising, supporting, and representing local councils since 1896, enabling them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and providing them with the means to achieve community, professional and political excellence.

Issues Paper: Review of the Future Acts Regime

1.0 Executive Summary

The LGAQ welcomes the opportunity to provide feedback to the Australian Law Reform Commission (ALRC) on the *Issues Paper: Review of the Future Acts Regime* (the Issues Paper), released for consultation in November 2024.

The LGAQ notes that this is the first comprehensive review of the future acts regime since its introduction, thus presenting an important opportunity for local government to provide their views on how it currently operates, as well as ideas for reform that would support not only the efficient operation of local government, but also the effective delivery of important community infrastructure and services.

Queensland's local governments are significant stakeholders in the future acts regime and overall support the principles of native title legislation. However, in the years since the *Native Title Act 1993* was introduced, councils have experienced a range of challenges with the operation of the current framework.

Unlike other non-government proponents, local government activities primarily relate to providing critical facilities and services to the public. Accordingly, it is in the public interest to ensure that local governments can comply with requirements of future acts regime in a timely and efficient manner, while respecting the rights and interests of the Native Title parties.

It is noted that the ALRC is conducting this review in multiple stages, with the initial release of the Issues Paper in November 2024, to be followed by the release of a Discussion Paper and a further call for submissions in the first half of 2025.

The LGAQ has provided detailed feedback in this submission on the critical issues affecting Queensland councils that we would like to see considered and addressed through the ALRC review and will be working with its members to provide a detailed submission in response to the Discussion Paper at the appropriate time.

We look forward to, and strongly support, the ALRC undertaking in-depth, in-person consultation as part of this important work.

1.1 Recommendations

In total, the LGAQ has made 8 recommendations for consideration of the ALRC in developing the Discussion Paper, outlined as follows:

- **Recommendation 1:** The LGAQ recommends the ALRC review considers the need for an expanded, centralised registry to record information on all future acts processes, provide transparency and support all stakeholders, including local government, to search for, understand and interpret any previous future acts validations.
- **Recommendation 2:** The LGAQ recommends the ALRC review includes detailed consideration of the costs for councils and other stakeholders associated with the future acts regime, including the costs associated with authorising ILUAs and providing funding to proponents (including local government) and Native Title parties.

- **Recommendation 3:** The LGAQ recommends the ALRC review considers whether the classes of infrastructure provided in section 24KA could be broadened to include facilities that are commonly provided by local governments, particularly those in rural and remote locations.
- **Recommendation 4:** The LGAQ recommends the ALRC review considers amendments to the NTA to provide greater clarity that acts associated with sections 24KA and 24GE (such as the right to access quarry materials for vital community infrastructure such as roads), are also considered to be a validated future act under the NTA and therefore not requiring an ILUA.
- **Recommendation 5:** The LGAQ recommends the ALRC review considers how the regimes for the protection and management of Aboriginal and Torres Strait Island cultural heritage across different States and Territories apply and interrelate with the NTA, with a view to identifying options to clarify, streamline and minimise costs facing affected parties, including local government.
- **Recommendation 6:** The LGAQ recommends the ALRC review supports the reinstatement of the Attorney General's Native Title Respondent Financial Assistance Scheme as part of the Native Title determination process.
- **Recommendation 7:** The LGAQ recommends the ALRC review considers the need to establish a funding regime to include future act processes, for both local government proponents and Native Title parties, to ensure all parties have the capacity to effectively participate and comply with the future act regime.
- **Recommendation 8:** The LGAQ recommends the ALRC provides appropriate consultation timeframes and undertake in-depth, in-person consultation across all states to support the release of the Discussion Paper.

The LGAQ welcomes further engagement by the ALRC on the review as this work is progressed throughout 2025.

Please do not hesitate to contact Crystal Baker, Manager – Strategic Policy via crystal_baker@lgaq.asn.au or Jen Johnson, Lead – Regional Development and Economic Policy via jen_johnson@lgaq.asn.au, or phone 1300 542 700 should you wish to discuss any aspect of this submission.

2.0 Introduction

Since the commencement of the native title claim system under the *Native Title Act 1993*, Queensland local governments have participated constructively as both respondent parties in claim resolution and as parties to innovative native title agreements, particularly Indigenous Land Use Agreements (ILUAs).

Consistent with the LGAQ Policy Statement, Queensland councils acknowledge and support the principles, processes and procedures contained within Federal and State government native title legislation. However, local governments as the level of government closest to the community have also experienced firsthand, a number of challenges with the operation, scope and interpretation of the current future acts regime. On behalf of Queensland councils, the LGAQ seeks that these matters are considered and addressed throughout the ALRC review.

2.1 LGAQ Policy Statement and Annual Conference resolutions

The LGAQ is committed to member-driven advocacy and working with member councils to build stronger local governments and more resilient local communities.

The LGAQ Policy Statement¹ is a definitive statement of the collective voice of local government in Queensland and provides the following key policy positions of local government that are relevant in the context of the Review of the Future Acts Regime:

6.1.6 Cultural Heritage

- 6.1.6.1 Local government acknowledges and supports the recognition, protection and conservation of First Nations cultural heritage.
- 6.1.6.2 Local government supports streamlined operational processes and procedures associated with the recognition, protection and conservation of First Nations cultural heritage to ensure they are practical, effective and cost efficient.
- 6.1.6.3 Local government supports the development of First Nations protocols or other measures that assist in integrating cultural heritage values into local planning instruments and development assessment processes.

6.3.1 Native Title

- 6.3.1.1 Local government recognises, acknowledges and supports the principles, processes and procedures contained within Federal and State Native Title legislation.
- 6.3.1.2 Local government supports collaboration between the State Government, National Native Title Tribunal, Native Title representative bodies, councils and Traditional Owners to achieve consent for native title determinations. If consensus cannot be realised, local government acknowledges the need to resolve native title determinations through court processes.
- 6.3.1.3 Local government acknowledges that there are relative levels of impact on native title on rural and urban communities. Local government supports the State Government identifying and developing administrative and legislative solutions to ensure the specific needs of rural and urban communities are met.

¹ LGAQ Policy Statement (2023) – available online [here](#).

In the context of the Review of the Future Acts Regime, the following LGAQ Annual Conference resolutions passed by Queensland councils, are also directly relevant:

Resolution 27 (2023) Renewal of Quarry Sales Permits - Urgent State Government action to resolve the increasingly concerning issues surrounding the renewal of quarry sales permits to comply with the *Native Title Act 1993*

The LGAQ calls on the State Government to give the highest priority to expediting solutions for the renewal of quarry sales permits or the granting of new permits that comply with the Native Title Act 1993. The process of establishing a non-claimant application on areas where there is no Native Title Prescribed Body Corporate needs to be initiated as a priority in all relevant areas.

Resolution 28 (2022) Commonwealth Attorney General's Financial Assistance Scheme for Native Title – Continuation of Funding

The LGAQ calls on the Federal Government to continue to fund the Commonwealth Attorney General's Financial Assistance Scheme under the Native Title Act 1993 until all claims within Queensland are determined.

3.0 LGAQ Response to the Issues Paper

In preparing this submission, the LGAQ has sought advice from legal experts, Moray & Agnew, with experience in the *Native Title Act 1993* (NTA) and a strong understanding of local government operations and the Native Title framework.

The LGAQ has identified several key issues of relevance to Queensland councils that should be considered and addressed as part of the ALRC review. These issues are summarised below and include:

- Issues regarding the costs for councils and other stakeholders associated with the future acts regime, including the costs associated with authorising ILUAs and providing funding to both proponents (including local government) and Native Title Parties.
- The need to address challenges associated with the renewal of quarry sales permits or the granting of new permits that comply with the *Native Title Act 1993* (NTA) that have arisen in Queensland and adversely impacted on council operations. A review of section 24KA of the NTA is required, to clarify its application to 'future acts' (such as to the granting of a sales permit to extract quarry materials), which are associated with other 'future acts' (namely, the construction, maintenance or repair of roads), and therefore confirming these acts do not require validation by way of the ILUA process, to avoid the operation of section 24OA of the NTA.
- The need for an expanded, centralised registry to record information on all future acts processes, to provide transparency and ensure Native Title is appropriately and consistently addressed (by local government) over time.
- The need to ensure the classes of infrastructure provided in section 24KA (i.e. future acts that are specifically prescribed) are fit for purpose, appropriate, and broadened to include facilities that are commonly provided by local governments, particularly those in rural and remote locations.
- The need to reinstate Commonwealth Attorney General Funding (or other Government source) for Native Title respondent parties in the Native title determination process, including support for councils.
- The interrelationship between Commonwealth native title legislation and State based Aboriginal and Torres Strait Islander cultural heritage acts.
- The need for extensive, detailed and in-person consultation and engagement with councils as part of Phase 2 of the Review once the Discussion Paper is released.

This submission focusses on providing feedback on each of the key future acts regime issues outlined above relating to local government, that should be included within the upcoming Discussion Paper to be released later in 2025.

3.1 Overview of the future acts regime – local government context

The nature of the powers and responsibilities provided to local governments in Queensland, along with community expectations, necessitates the application of the future acts regime. Section 24AB of the NTA sets out the order in which the future act provisions must be applied. Below is a list of the future act provisions set out in Part 2, Division 3, of the NTA commonly used by Queensland local governments, particularly those in regional, rural and remote areas:

- section 24BA and 24CA – Indigenous land use agreements
- section 24FA – Consequences if section 24FA protection applies

- section 24GE – Granting rights to third parties etc. on non-exclusive agricultural or pastoral leases
- section 24HA – Management or regulation of water and airspace
- section 24JAA – Public housing etc.
- section 24JA and 24JB – Reservations and leases
- section 24KA – Facilities for services to the public

Generally, these provisions provide for an effective means for local government to validate future acts, however, as noted in the Issues Paper (pg. 27) ‘it is unclear whether governments keep centralised records of future acts’ and there is a ‘general lack of transparent data about the future acts regime’. This can make it difficult for local governments to search for, understand and interpret any previous future acts validations that have taken place, and to ‘understand the full scale of future acts activity and assess how the future acts regime is operating’.

In line with the Terms of Reference for the ALRC review, which seek to strengthen data collection and data transparency *to support the operation of the future acts regime into the future*, a central and expanded registry would also ensure local governments, as key users of the future acts regime, are supporting its effective operation.

An expansion of the public registers should include information on other future act processes that are deemed valid in the Act (but are not recorded in the existing registers), such as section 24GE, section 24HA, section 24JAA, section 24JA and 24JB – Reservations and leases and section 24KA – Facilities for services to the public.

Recommendation 1: The LGAQ recommends the ALRC review considers the need for an expanded, centralised registry to record information on all future acts processes, provide transparency and support all stakeholders, including local government, to search for, understand and interpret any previous future acts validations.

3.2 Indigenous Land Use Agreements (ILUAs)

Local governments commonly enter into ILUAs with Native Title parties. Historically, local governments routinely entered into ILUAs as part of resolving a Native Title determination which included procedures for undertaking future acts post determination.

More recently, Native Title parties have been requiring local governments to fund their ILUA negotiation costs, including meeting fees, travelling from locations far away from project areas, and daily meal allowances. These costs have been known to exceed \$2,000 per person per day; with negotiation groups often comprising up to 8 persons, this can add significant costs to local government, particularly if ILUA negotiations are protracted.

Another trend that has recently emerged is for Native Title parties seeking to include processes for identifying and managing any potential impacts on Aboriginal and Torres Strait Islander cultural heritage as part of their ILUA (as a result of State-based cultural heritage protection legislative frameworks).

The costs associated with these processes are variable with no objective benchmarks set by Federal or State government. For example, local governments are often required to engage monitors on community infrastructure projects at daily rates and allowances far in excess of the local government’s own outside staff or contractor rates. Native Title parties often seek to include additional requirements for technical advisors, where a need to engage a technical

advisor is not demonstrated, and an overall administration charge which is calculated on a percentage of gross fees.

The compensation and remuneration being sought can be equivalent to amounts negotiated pursuant to more invasive future acts, such as mining interests, which attracts the right to negotiate. Increasingly it is found that Native Title parties' economic expectations do not align with local government obligations under cultural heritage legislative regime² or local governments' capacity to pay.

While there is some legal guidance as to the reasonable remuneration for cultural heritage management services³, there is no universal standardised industrial or legislative instrument which prescribes the reasonable remuneration for the engagement of cultural heritage monitors.⁴ Accordingly, local governments face difficulty in negotiating these agreements in a way that respects the Native Title holders' rights and expectations, while simply meeting their legislative responsibilities and community expectations.

The future acts regime is not designed to be the primary vehicle for the economic and social development outcomes for Native Title parties without reference to the actual impact on native title rights and interests. Often the urgency or importance for public services is leveraged during negotiations, even where 'veto rights' do not exist.

It is considered that both Federal and State governments need to take greater responsibility for the economic and social outcomes of Native Title parties by quantifying the fair value of their native rights as these relate to the respective procedural rights under the future act regime, and therefore must fund stakeholders accordingly

Recommendation 2: The LGAQ recommends the ALRC review includes detailed consideration of the costs for councils and other stakeholders associated with the future acts regime, including the costs associated with authorising ILUAs and providing funding to proponents (including local government) and Native Title parties.

3.3 Section 24KA – facilities for services to the public

As noted in the Issues Paper (pg.41), where a future act is not done under an ILUA, it may be done validly under another subdivision of the future acts regime such as section 24KA or 24GE. Currently the list of infrastructure prescribed under section 24KA of the NTA does not reflect the breadth of local essential infrastructure operated and maintained by local government.

For example, under section 24KA – Facilities for services to the public, sewerage treatment facilities, local government operated rural airports, landfills and waste transfer stations are not included. Consequently, proposals for these facilities must go through ILUA processes which are becoming increasingly time consuming and costly for local governments to implement, prior to any works taking place and thereby impacting on community amenity.

As such, it is important that the review of the future acts regime considers whether the inclusions under these subdivisions are fit for purpose and appropriate, and whether the classes of infrastructure provided in section 24KA could be broadened to include facilities that are commonly provided by local government.

² See for example, *Aboriginal Cultural Heritage Act 2003* (Qld), s 23;

³ *Re Queensland Electricity Transmission Corporation Limited (trading as Powerlink Queensland) and Bonner & Ors* [2006] QLRT 8

⁴ Eg. Native Title Protection Conditions developed to satisfy the requirements of s 237 *Native Title Act 1993* (Cth)

Recommendation 3: The LGAQ recommends the ALRC review considers whether the classes of infrastructure provided in section 24KA could be broadened to include facilities that are commonly provided by local governments, particularly those in rural and remote locations.

3.4 Validation procedures for acts associated with future acts

In Queensland, local government is responsible for over \$150 billion in community assets, including more than 150,000km of local roads, and about 2600 bridges. This requires significant investment to ensure these assets are fit for purpose - through routine inspections and repairs to address the wear and tear that naturally occurs over time and is exacerbated by the increase of heavy vehicle movements.

A significant responsibility for most Queensland regional, rural and remote local governments is also the requirement to undertake routine maintenance and flood damage repair works to their gravel road network.⁵ In many cases, local governments are reliant on annual funding through State and Federal governments under funding arrangements such as the Disaster Recovery Funding Arrangements, Roads to Recovery and the Transport Infrastructure Development Scheme.

These works are generally undertaken in a narrow seasonal works window dictated by the weather and are also subject to funding expenditure deadlines attaching to funding. The completion of this work relies heavily on council road crews or contractors, machinery availability and access to gravel.⁶

In many locations, gravel is generally sourced from local government operated pits accessed under a sales permit which is issued to the local government by the State Government under the *Forestry Act 1959* (the *Forestry Act*), through the Department of Primary Industries.

Historically, the State Government has relied on future act provisions to renew sales permits, including in relation to non-exclusive agricultural or pastoral leases (section 24GE) and facilities for services to the public (section 24KA). The use of quarry materials sourced under a sales permit validated under section 24KA was limited to use for facilities for service to the public.

Affordable access to quarry material is critical in building and maintaining essential regional infrastructure, including state and local roads. Queensland councils are required to access quarry pits on a regular basis, with some councils having sales permits in place for over 100 quarry pits including Boulia (100), Mount Isa (147), Cook (190) and Etheridge (201).

In 2023, a change in the State Government's legislative interpretation has meant that all quarry sales permits now require an ILUA to access quarry materials. The LGAQ understands this followed a challenge by a Registered Native Title Body Corporate in North-West Queensland, as to the validity of a sales permit issued by the State Government to a rural local government.

While the intent of this approach may align with the intent of the NTA of providing "...improved social, cultural and economic outcome for First Nations people"⁷, it has created uncertainty for local governments to obtain affordable quarry material and hindered their ability to undertake their responsibilities in a timely and efficient manner.

⁵ Section 60 *Local Government Act 2009* provides that a local government has the powers and responsibility to construct maintain and improve roads within its local government area. Many local governments are also responsible for maintaining Queensland Main Roads under a Road Maintenance Performance Contract.

⁶ Kerr, A, Moray and Agnew Lawyers, <https://www.moray.com.au/insights-media-events/publications/government-directions/june-2023>

⁷ Australian Law Reform Commission ('ALRC'), Issues Paper 50, Review of the Future Acts Regime, pg 26

Transport and associated costs mean that a gravel supply zone must be no more than about 70 km from the relevant works area, otherwise transport costs become uneconomical. This necessitates a network of pits along a gravel road to maintain the road and ensure safety for road users, as well as to ensure maintenance standards are maintained.⁸ While in these cases the relevant council are not party to the ILUA, the agreements can take in excess of 12 months to be negotiated, with councils incurring significant cost increases in the interim due to having to access quarry pits much further away.

The future acts regime should clarify the upstream and downstream procedures associated with listed facilities for service to the public, for example quarry and gravel pits operated for road maintenance and construction, are also validated as a future act by the appropriate validation regime, e.g. section 24KA or section 24GE.

Specifically, the extent to which quarrying activities are included in the definition of “mine” in section 253 of the NTA could also be further clarified, and where necessary, further carve outs should be made to ensure timely and cost-effective supply of materials for essential public assets.

Recommendation 4: The LGAQ recommends the ALRC review considers amendments to the NTA to provide greater clarity that acts associated with sections 24KA and 24GE (such as the right to access quarry materials for vital community infrastructure such as roads), are also considered to be a validated future act under the NTA and therefore not requiring an ILUA.

3.5 Native Title rights and Cultural Heritage

Native Title rights include the right to maintain and protect sites and objects and maintain and protect cultural knowledge.⁹

The impetus for the review into the future acts regime, was the Joint Standing Committee on Northern Australia’s report into the destruction of Juukan Gorge.¹⁰ Notwithstanding the nexus between Native Title rights and Aboriginal and Torres Strait Islander cultural heritage, there appears to be a disconnect between the objectives of the relevant cultural heritage regime¹¹, the intended advancements of First Nations people as contemplated under the NTA¹² and the practical application to local government projects.

In Queensland, Native Title parties are increasingly seeking for substantial cultural heritage monitoring costs to be addressed following the ILUA negotiation process and prior to relevant local government projects commencing. In feedback provided to the LGAQ, some councils have highlighted these costs can comprise up to 20 per cent of total project costs, placing an unfair and unreasonable burden on local governments delivering public infrastructure.

Consideration should be given within this review to having a uniform regime for the protection and management of Aboriginal and Torres Strait Islander cultural heritage including setting reasonable benchmarks for fees and costs.

⁸ Kerr, A, Moray and Agnew, <https://www.moray.com.au/insights-media-events/publications/government-directions/june-2023>

⁹ See for example *Daniel v Western Australia* [2003] FCA 666

¹⁰ Issue Paper, pg 3; Joint Standing Committee on Northern Australia, Parliament of Australia, A Way Forward: Final Report into the Destruction of Indigenous Heritage Sites at Juukan Gorge (2021).

¹¹ *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth), s 4 provides for the purpose of the act, which includes the protection and preservation areas and object of significance. Similarly, the *Aboriginal Cultural Heritage Act 2003* (Qld), s 4 provides for the main purpose of the Act, being to provide effective recognition, protection and conservation of Aboriginal cultural heritage;

¹² *Native Title Act 1993* (Cth), Preamble.

Recommendation 5: The LGAQ recommends the ALRC review considers how the regimes for the protection and management of Aboriginal and Torres Strait Island cultural heritage across different States and Territories apply and interrelate with the NTA, with a view to identifying options to clarify, streamline and minimise costs facing affected parties, including local government.

3.6 Resources and funding

Local governments are responsible for providing critical services to their communities through the provision of facilities and services. Therefore, it is in the public interest to ensure that local governments' rights and interests are, firstly, identified during the Native Title determination phase, and secondly, appropriately addressing Native Title rights and interests when undertaking future acts. This ensures that local governments are not burdened with substantial contingent liabilities relating to invalid acts which may lead to compensation for the impairment, loss and diminution of native title rights.¹³

In 2022-23, the Federal Government abolished the Attorney General's Native Title Respondent Financial Assistance Scheme.¹⁴ Accordingly, local governments are no longer funded or externally resourced to participate in the determination process.

Noting the impacts of addressing Native Title on regional and remote local governments, many local governments in Queensland do not have the financial resources or the technical skill to participate in native title determinations and future acts regime.¹⁵ Unrepresented participants are at a significant disadvantage, and risk not having their tenure, infrastructure and other interests recognised in the determination process.¹⁶

It is critical that funding from the Attorney-General Funding is reinstated for local governments (and other proponents) participating in the future acts regime, including specifically ILUA negotiations.

Queensland councils passed a resolution in 2022 calling for this funding to be continued as the Scheme has been vital to ensure councils are able to full participate in the process. The role of councils includes the identification of their interests; the consideration of tenure history information and the extent of public works to ascertain where native title exists or is extinguished; and to reach agreement on the relationship between the exercise of native title rights and interests and councils' interests.

Consistent with the above, the review should also consider options for adequate funding to be made available to Native Title parties for future act procedures, including ILUA negotiations for essential and public infrastructure, so that local governments are not required to meet these costs on their behalf.

Recommendation 6: The LGAQ recommends the ALRC review supports the reinstatement of the Attorney General's Native Title Respondent Financial Assistance Scheme as part of the Native Title determination process.

Recommendation 7: The LGAQ recommends the ALRC review considers the need to establish a funding regime to include future act processes, for both local government

¹³ Validating future acts by way of ILUA may require a person other the Commonwealth or the State to pay compensation in relation to the act, see *Native Title Act 1993* (Qld), s 15A.

¹⁴ See *Attorney-General's Portfolio Miscellaneous Measures Act 2024* (Cth), Part 2, Assistance from Attorney-General, ss 9, 10 which repeal s 213A *Native Title Act 1993* (Cth) and disregards application under that section where no decision had been made by the Attorney-General.

¹⁵ "Forecasting long-term sustainability of local government", Queensland Audit Office, Report 2: 2016-17 at pg. 46.

¹⁶ Local Government Association Queensland, Policy Directive motion 28, 2022;

proponents and Native Title parties, to ensure all parties have the capacity to effectively participate and comply with the future act regime.

3.7 Future consultation

As this is the first comprehensive review of the future acts regime since its introduction, it presents an important opportunity for all stakeholders, including local governments, to provide their views on how the future acts regime currently operates, as well as ideas for reform that would benefit all members of the community. It is therefore critically important that the consultation period for the Discussion Paper be suitably long to allow for in-depth, in-person consultation across Queensland's regional, rural and remote communities.

Recommendation 8: The LGAQ recommends the ALRC provides appropriate consultation timeframes and undertake in-depth, in-person consultation across all states to support the release of the Discussion Paper.