

Australian Law Reform Commission

Review of the Future Acts Regime

Public Webinar



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Overview

1. Who is the ALRC?
2. What is our Inquiry about?
3. What are our ideas?
4. How can you get involved?
5. Questions

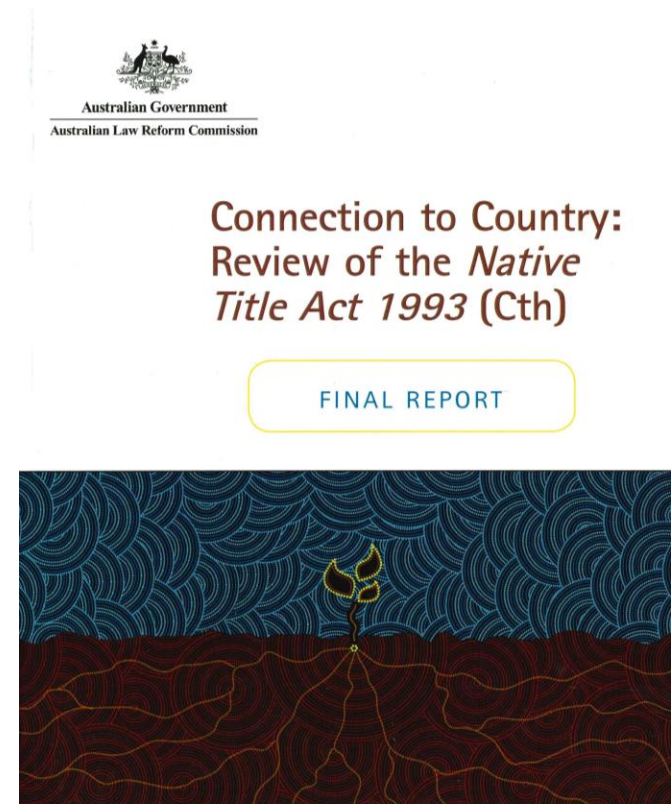


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Who is the ALRC?

- **Independent** from government
- We make **recommendations to government** about how to improve the law
- **Informed by people** and communities and **evidence** provided to us



ALRC Report 126 April 2015
Connection to Country: Review of the *Native Title Act 1993 (Cth)* (2015)



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What is the Inquiry about?

- Three key matters: Efficacy, efficiency & fairness

What does the **ideal future acts regime** look like?

- Does it look different if you are:
 - A Traditional Owner?
 - A government body?
 - Representing an exploration company?



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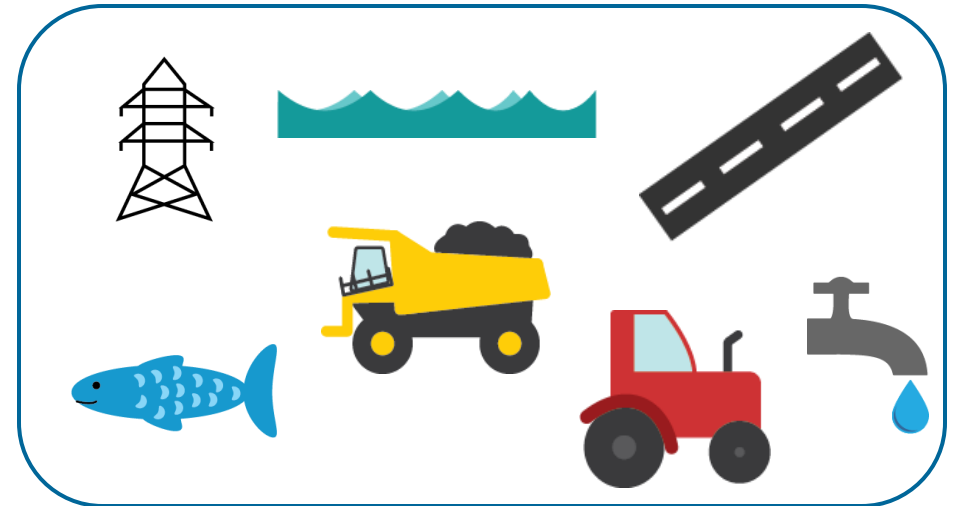
What are 'future acts'?

A 'future act' is an act that *affects* native title:

- extinguishes native title; or
- is wholly or partly inconsistent with the continued existence, enjoyment, or exercise of native title rights and interests.

Common examples are:

- Mining or exploration tenements
- Compulsory acquisition
- Pastoral leases
- Water licence



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Why is reform needed?

1998:	Today:
<ul style="list-style-type: none">• 5 determinations that native title exists• 7 Prescribed Body Corporates• 0 Registered Indigenous Land Use Agreements	<ul style="list-style-type: none">• 530 determinations that native title exists• 285 Prescribed Body Corporates• 1520 registered Indigenous Land Use Agreements

Native title law is
complex

The system is
expensive and
difficult to use

Native title holders
sometimes do not **get**
enough say in the process

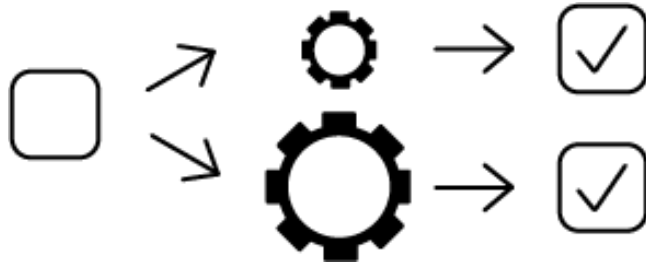
Resourcing is a
big issue



Our key ideas for reform

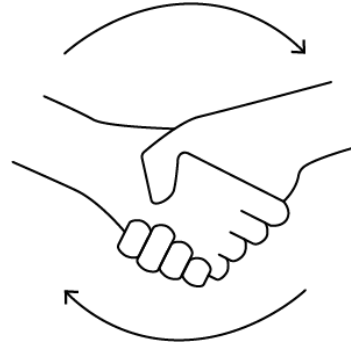
Reformed statutory procedures

Procedures aligned with the impact of future acts on native title.



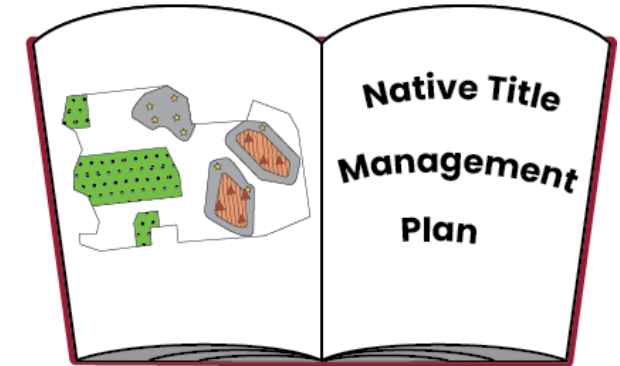
Agreement-making

Promoting fair and equitable agreements.



Native Title Management Plans

A plan that PBCs can make to explain what they would like to happen on Country.



Future acts by category?

It is overly
complex and
ambiguous

Does not consider
scale or **scope** of the
future act

Fixed in time,
doesn't consider
new and emerging
industries

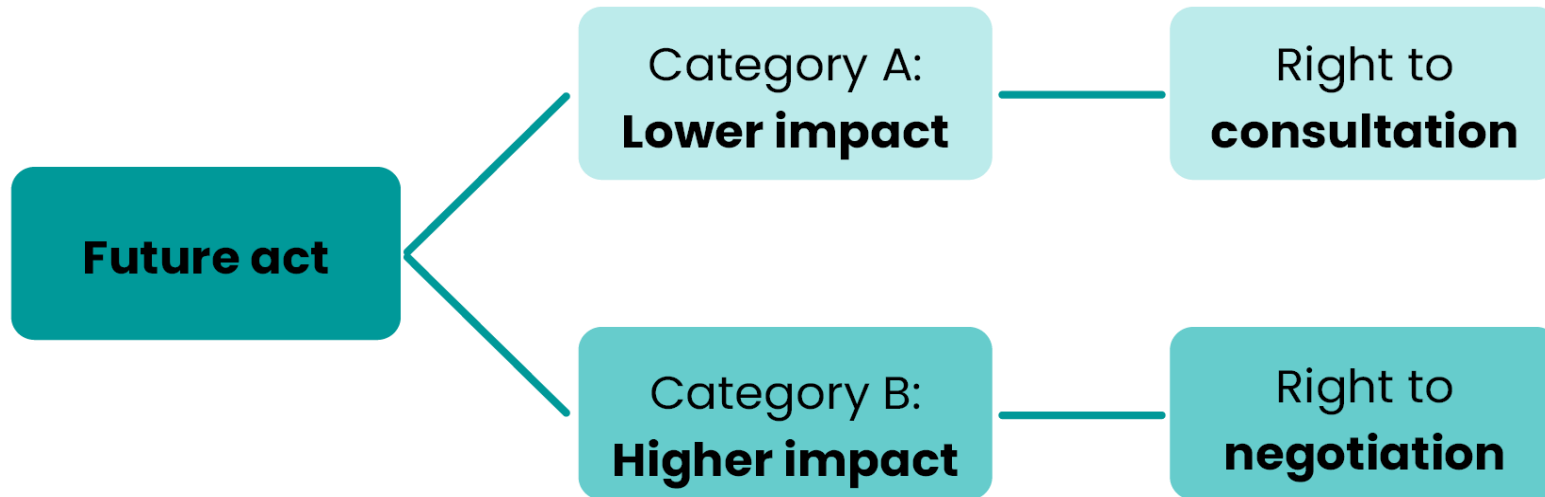
Inconsistent
application across
and within
jurisdictions

Misalignment:
impact of the future act
and the rights

- Future acts and **primary production** (Subdivision G)
- Management of **water** and **airspace** (Subdivision H)
- **Renewals** and extensions (Subdivision I)
- **Public housing** etc (Subdivision JA)
- **Reservations**, leases etc (Subdivision J)
- Facilities for **the public** (Subdivision K)
- **Low impact** future acts (Subdivision L)
- Acts **passing the freehold test** (Subdivision M)
- Acts affecting **offshore places** (Subdivision N)



What is the impact of the future act?



Impact-based characterisation:

- Nature of the future act, geographical size, or its duration
- Long-term effects of the future act
- Location of the future act (eg site of cultural sensitivity or exclusive native title)



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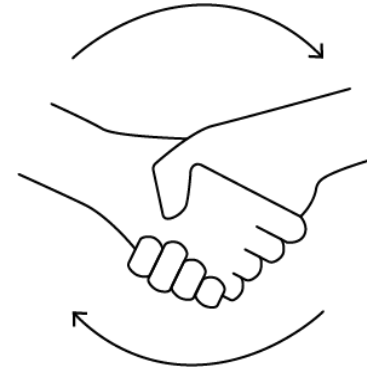
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Right to consultation, right to negotiation



Consultation

- Exchange information and seek views
 - Consider those views
- Where possible, respond to those view
- **Engagement** between the parties to minimise impact of the future act



Negotiation

- Exchange information and seek views
- Consider those views, adjust proposal
 - Exchange of draft agreements
 - Bargaining and compromise
- **Reach agreement** about how the act is done

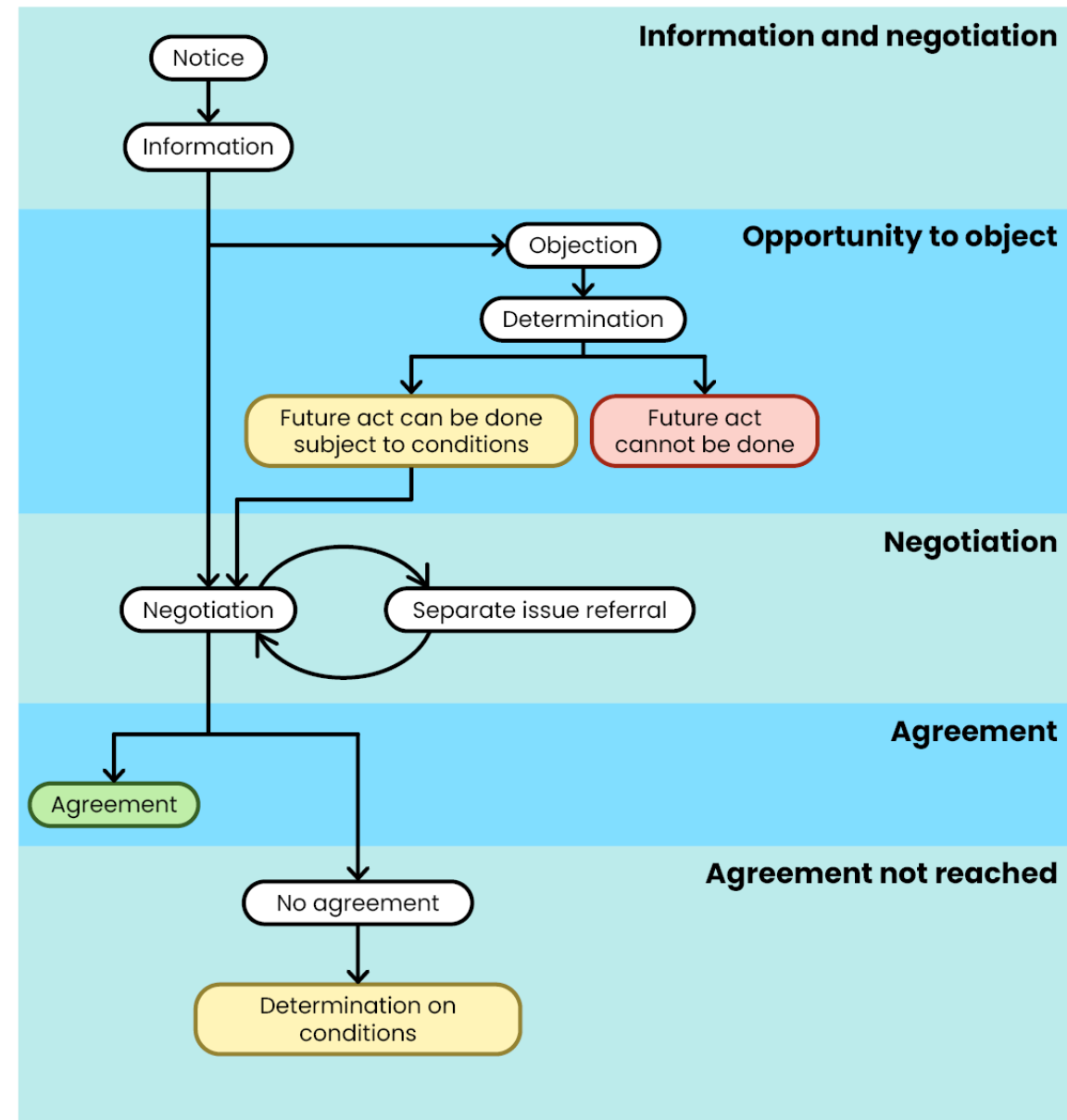


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Reformed Right to Negotiate

- Applies to higher impact future acts
- Parties are encouraged to negotiate agreements early
- New right to object for native title party
- NNTT arbitration process assists when negotiations are not progressing



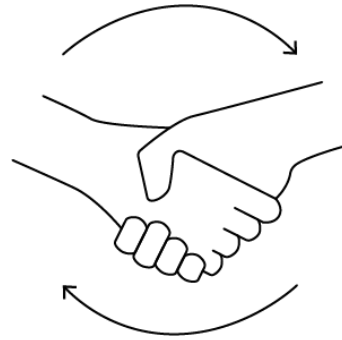
Making agreements fairer

Conduct standards:

promoting better practice in negotiations

Resolving disputes:

What happens when people don't do what they agreed to do?



Content standards:

things that **must** or **must not** be in an agreement

Transparency:

Should there be greater transparency about agreement terms?

Expanded standing instructions:

Making agreements less costly and more widely available

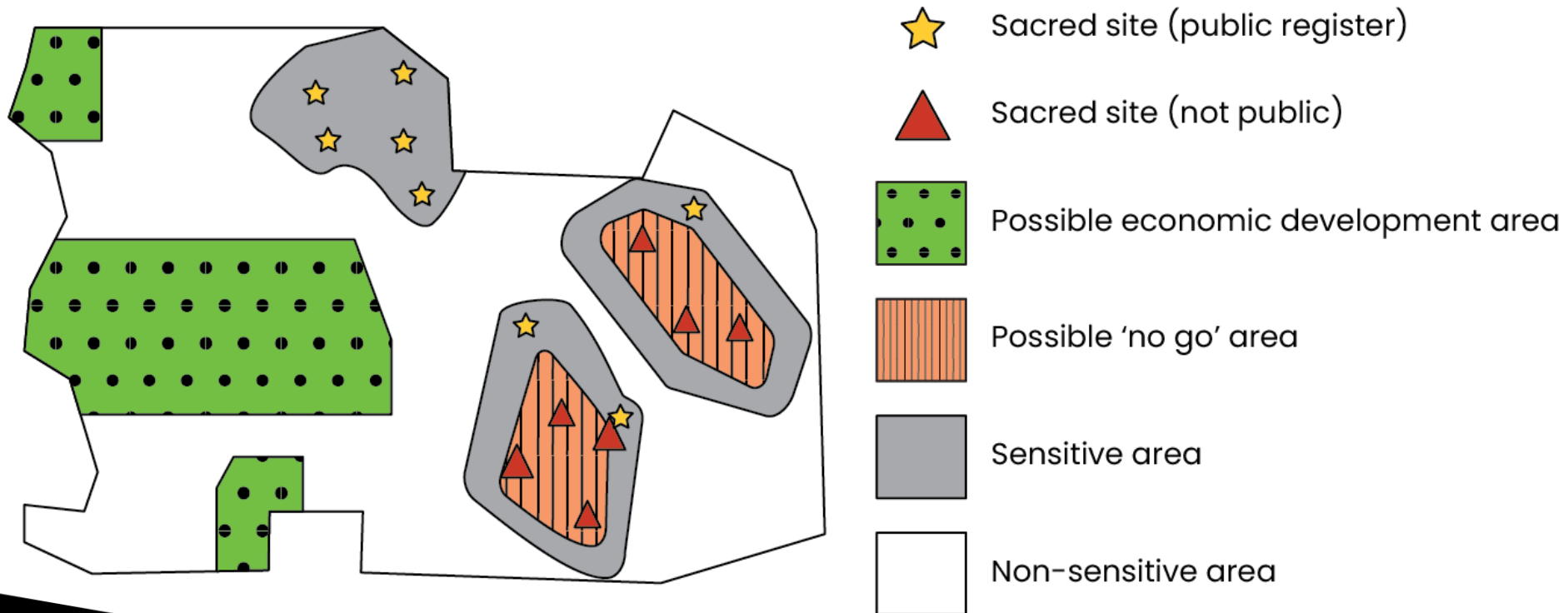


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Native Title Management Plans

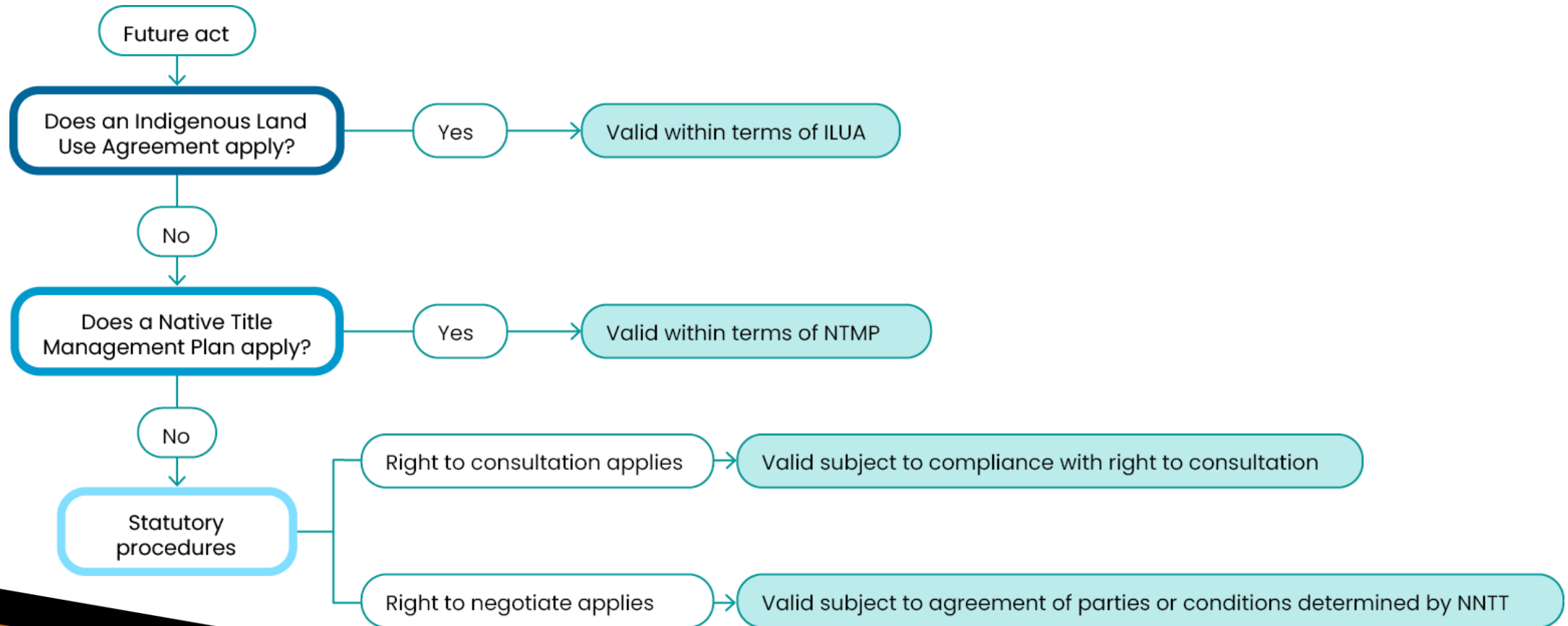
Rules about activities on Country set by the PBC for everyone else



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Future Act validity pathways



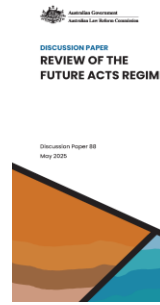
Our other ideas for reform

- Compensation and other payments
- Resourcing
- Costs
- Aboriginal and Torres Strait Islander cultural heritage



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Scan to read the
Discussion Paper, and
make a submission

Questions?

What would the ideal future acts regime
look like?

Submissions close
10 July 2025



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How do I contact the ALRC?

Make a submission via our website



**Submissions close
10 July 2025**



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