Queensland Small Miners Council
C/- PO Box 210
Quilpie Q 4480
Email: - mail@qsmc.org.au
Website: - www.qsmc.org.au

To - **Australian Law Reform Commission** **20/07/2025**

Reference **ALRC - Consultation on Future Acts Regime**

Introduction

On behalf of our 3500 members, the Queensland Small Miners Council welcome the opportunity to now provide the ALRC feedback on the review into the NT Act's, Future Acts regime, which currently provides the processes for mining tenures to be granted by the State on areas subject to Native title.

As the ALRC correctly summarised , *"there appears to be a misalignment between the design and intention of the future acts regime and the practicalities of operating with it!", and, as the ARLC express that "your ideas are important to us",* the QSMC now provide feedback so we can finally positively contribute to changes which are so desperately needed so as to provide a fair and equitable solution to all parties, and improve these Australian Laws.

The current Future Act regime has decimated the country's once vibrant small scale mining sector since its inception, and will only continue to do so unless urgent action is taken by governments.

The QSMC are hopeful now that the ALRC will consult further with our organisation delegates as the consultation and draft proposals move forward with consideration of the QSMC proposals contained herein.

About the Queensland Small Miners Council (QSMC)

The Queensland Small Miners Council (QSMC) was formed in 2001 and is a collective of small-scale mining associations which collaborate on matters which affect our industries on behalf of our members.

The QSMC is currently made up of five (5) mining associations which represent small mining representing opal, gem and gold producers and currently consists of the following incorporated associations:-

Queensland Sapphire Miners Association
North Queensland Miners Association
Queensland Boulder Opal Association
Queensland Opal Miners Association
Yowah Opal Miner Community Association

These representative groups independently address the Native Title Future Acts regime processes for their members with the relevant Native Title Party in the regions where their members operate, and have been responsible for many registered current and expired Area Indigenous Land Use agreements and Right to Negotiate agreements, and our collective record is testament that good will can achieve mutually assured and beneficial outcomes for all parties, albeit with the unnecessarily long and protracted current processes.

ALRC Review of Future Acts, consultation and the need for reform

Alarmingly, to date, many of Australia's small scale mining representative group peak bodies have not yet been consulted regarding this, ALRC *Review of the Future Act regime*, and only in the last weeks have our Associations been made aware of this important and long overdue review into the Future Act processes.

In our, small scale mining context, the current processes of the NT Act and Future Act regime are poorly designed and inadequately funded for all party's and achieve a very slow result, if any!

Since the inception of the NT Act Future Act regime, small scale miners have only been able to watch on as our nations small scale mining industries have been decimated from these untimely and costly processes of the current Future Acts regimes.

The current NT Act- Future Acts regime was developed by people who had a poor understanding, *(if any at all)* of the national contribution of our historic small scale industries and their operations, and therefore we have borne testament to the burden of seeing our industries gradual demise due to the lack of consultation from the powers that be, resulting from the poorly drafted current futures act legislation and regime!

Ideally when drafting the NT Act Future Acts regime, small scale mining representative groups should have been widely consulted about the proposed legislation and had opportunity to provide legislators an understanding of the nation's complex and diverse small mining types and the idiosyncrasies of the mineral formations sought.

Excluding small scale miners from this process resulted in a culpable and poorly designed Section 26, and other processes which have contributed to the widespread demise of Australian small-scale mining and quarrying operations once owned and operated by many tens of thousands of Australian working families.

So, the QSMC now look forward to seeing if the ALRC will actually take heed of our plight and support our recommendations, which we perceive will finally assist small scale miners throughout the nation, and begin to rectify the injustices from the detrimental impacts of the current Future Acts regime and the financial disparity which also fails to support proponents.

Small scale mining peak bodies and our members can certainly vouch to the fact that the Future Acts regime is not operating fairly, and in fact, if the current system is left unchanged that it is doubtful that small scale mining will exist outside existing areas already operating under proclaimed areas under section 26c of the NT Act until some epiphany is finally realised with Federal Government to help to preserve these industries and way of life.

The QSMC and our interstate equivalents are interested in reforms which work fairly for all Australians, which aspire to recognise and respect the native title rights of aboriginal party's and ensure that they are balanced with the rights and reservations of the State and the aspirations of the proponent.

Funding

It is the QSMC's understanding and our experience that native title parties are generally funded by the Federal Attorney Generals through the Native Title Party's, Aboriginal Native Title Representative bodies and the National Indigenous Australians Agency (NIAA), which provides funding for PBC capacity building, including support for Future Act processes.

On the other hand, Small scale mining associations are not able to secure funding for negotiating future acts since the removal of this Attorney Generals Future Act funding by the Abbott Liberal Government, and now this work is generally solely provided by associations, without any funding, by volunteers, who have no real capacity to navigate the legal minefield of the current Futures Act regime, as we are unable to afford legal advice on this matter to assist our once vibrant industries.

The Native Title Act Future Act regime currently imposes burdening costs on the Small Scale Mining Associations and their volunteers who are mostly ill equipped, both financially and with schooling, to deal with not only the burden of negotiations and significant costs, but the sickening pressure from having to partake in these processes to assist our members, generally funded on our own time, and to the detriment out of our own pockets!

The imbalance between legal funding party's available for Future Act processes, which we believe is made freely available for Native Title Party's, are abundantly apparent, as by and large proponents who operate in the small scale mining sector are denied such funding, therefore resulting in discrimination against the small scale miners, denying them the right to work, unless one totally yields to the Model agreement drafted by the Aboriginal Native Title Rep Body.

This funding imbalance needs addressing with funding from the Attorney Generals also resuming for the Mining Associations representing proponents, so as to be able to provide proper legal support for future acts for their members, in a "fair and equitable" manner.

Meetings with Native Title Party's and Good faith

It is from the QSMC's delegates vast experience that adding the *"legal fraternity,"* to represent either the Grantee Party or Native Title Party during early negotiations only add layers of delay, generally caused from over enthusiastic lawyers, who either want to automatically reject option's and/or seek unrealistic costs and conditions as dictated by preconceived Native Title Representative body's -model ancillary agreements!

It is our collective experience that Aboriginal Rep Body's- "*Model Ancillary Agreements,"* generally far exceed the Native Title Party's, *"rights and interests"*, and provide basis for dissension and only contribute to significant cost and delays during the Right to Negotiate phase.

This habit can wastefully devour funding provided by the Attorney General's department (or more correctly the taxpayer) but also consumes time, often leading to proponents opting for the "determination process" with the NNTT.

This domineering control displayed by some Aboriginal Rep Body's by providing proponents, "*Model Ancillary Agreements",* purportedly drafted on behalf of the PBC's or their native title clients, prior to any discussion between the Native Title Party and the proponent, is paternal, and lacks a display of confidence between the Rep Body and the PBC or Native Title Party to actually be able to negotiate in Good faith and project their own wishes and aspirations.

The QSMC are confident that over the passage of time since the inception of the native title act, that all parties are more familiar with the NT Act, regimes including the aboriginal parties, and “good will” is best displayed agreement can be reached, and not based on an overzealous model agreement/s which conditions and terms frequently exceed the Native title rights and Interests of the traditional land claimants or owners !

The QSMC delegates would recommend that proponents are able to directly discuss any Future acts with the PBC’s/ Native Title Party’s, as is the case when a proponent is discussing a future act with any other landowner.

The small-scale miners would suggest that Future Act agreements can be readily made when face to face meetings are held with the actual native title party’s or PBC representatives, and that “good will” can prevail through these meetings, generally leading to positive outcomes for all party’s when these meetings can be facilitated or even sometimes mediated with the NNTT.

The QSMC is very supportive of mediation and the National Native Title Tribunal most positive role in the mediation process as it has provided information and alternative means and views which assist in amicable agreement making.

Native Title Management Plans

Small scale mining operations can generally can ill afford the costs associated with Native Title Management Plans or Cultural Heritage Management Plans generically designed by Native Title representative services legal entities, who purport they represent Prescribed Body Corporation's (PBC’s)

Native Title Management Plans and Ancillary Agreements are almost always generically drafted by the Native Title Representative Body on behalf of the PBC, not as in Figure 3 at point 65.

The costs commanded by Native Title Representative Bodies on behalf of their Native Title Holders / claimants for any future act, are generally extortionate or at best disproportionate, given the impact for small scale mining operations.

Additionally, after much discussion with our interstate counterparts in Victoria who advised they have been forced to use these NTMP’s, and are now mortified and excluded, because of third party consultants and their costs who have interjected themselves into the NTMP process, feeding on their unwilling host like parasites.

Sterilising land by objection

The small-scale mining sector at large would not be supportive of any federal government which allowed legislation for broad brush sterilising of land by allowing native title parties the right of withholding consent, regardless of whether the Native Title rights are exclusive let alone non- exclusive, without any tangible evidence and rationale behind the sterilisation of any lands provided by the Native Title parties.

The general public would certainly find this proposal a preposterous for any Future Acts, including mining tenure and land tenure development.

If small scale proponents are forced to provide funding for native title party's participation in negotiations as proposed, then this proposal put a halt to all Future Acts for the nations small scale mining sector.

Utilising this proposed path and the costs for funding "discussions," are generally excessive for small scale operations to bear and offers nothing other than depleted pockets and no likely guarantee of an outcome, despite the expense.

Small scale miners are unable to afford proposed meeting costs generally dictated by Native Title Representative Body's already and will be even more if the ALRC's proposal is introduced with these proposed NTMP's.

It is likely that in the event this proposal is legislated, NTMP's will only meet the same demise as Area ILUA's, which were once the "go to process," for Native Title Future Acts, despite the exorbitant Native Title Party authorisation process costs and which were poorly designed for the current NT Act.

Only wealthy large mining companies with much to gain could possibly afford to engage in this proposed process, as their shareholders are mostly oblivious to these real costs, and the Executive Managements income are not directly affected.

Reshaping the statutory procedures.

Since the demise of Area ILUA's, the Small-Scale Mining Industry at large have had many tenure applications granted using the current RTN Process, and proportionately, only the odd few having to be deliberated by determination in the NNTT determination process.

Most of these RTN's are achieved by party's acting in good faith as already defined under the current right to negotiate process, and in many instances, negotiations far exceeded the timeline of the six-month notification period, as the anticipation and hope of reaching an agreement, when progress is being made, is still better than the option of starving to death waiting!

Small scale miners generally work hand to mouth, and any delay in undertaking operations is food of the table for their families, and although the current NT Act processes have already killed off a greater portion of the nation's once abundant small scale miners and their industries, we can see no rationale reason to want to extend that period, particularly given the funding that is provided to the Native Title Parties would further add to the countries tax burden and our remaining industries demise

For certainty, small scale miners require prompt efficient and fair processes which currently offers a fair go and real opportunistic timeframes for parties to agree …. or not!

In the small-scale mining context, the current process of 6-month negotiation period for the RTN process is both fair and effective.

The Small-Scale Mining sector would not support extending the timeline for this process at least for our small-scale mining industries, without consent between both parties as is currently the case, and the State is rigorous with ensuring parties are contacting each other to ensure the RTN process is working effectively and as intended!

The QSMC would support the Federal Government providing more direct funding to PBC's for Future Acts away from the controls of the Aboriginal Representative Body's.

Impact based model

In our small-scale mining context, it is difficult to distinguish any difference between the current Right to Negotiate process and the proposed - "Impact based model", other than someone is proposing to introduce the prescribing of payments by the Grantee Party/ Proponent to the Native Title Party under this new proposal and the desire for the Native Title Parties to extend the period of the RTN processes

Category A – Small scale

The Small-scale mining sector would like to know what defines small scale and what is the ALRC's current definition of small-scale based in this proposal under "*Table 1: Impact categorisation."*

Is it a height category or is there some definition of small scale?

Small Scale miners would certainly appreciate some clarity here, so as to provide comment and perhaps to express a view as to what we perceive a Small-Scale Miner/s are, or Small-Scale Mining operation is!

Reforming the Right to Negotiate

The ALRC's proposals to reform the current right to negotiate and future act determination application processes as outlined in the consultation paper would be preposterous, particularly over non-exclusive determination areas.

At "Proposal 6(a)" of the ALRC consultation document there is a lack of detail of what the proponent must provide to the native title party and is open ended and contentious at best.

At proposal 6 (b) The wording of this point is confusing, with the use of the word "notification" and poor phrasing.

In the event of the Native Title Partys native title determination is non-exclusive, then the right to object to a Future Act being done would exceed the Native Title- Rights and Interests of the Native Title Party.

If the timeframe for future acts is to be extended to 18 months to reach an agreement or even 9 months to determining that a future act can be done following an objection, then there are going to be a lot of starving small scale mining operators.

By the ALRCs own admission (see point 237), and, as raised by AMEC regarding the expedited procedure in submissions, a 12 to 18 month NT process is not seen as expeditious, yet herein, as proposed for the RTN process, the ALRC are proposing to extend and delay an already slow RTN process to the equivalence of the untimely expedited procedure process? This rationale is counter intuitive and questionable!

This proposal put forward in the ALRC consultation paper is absurd, as the ALRC propose to take really bad legislative processes and turn them into absolute excessively bad processes, which will only further exacerbate delays with this RTN, Future Acts processes, causing tenures application processes to further stagnate and productivity and local economies to decline no matter whether you are a big or small scale miner and at the end the miner is bankrupt from paying all these proposed meeting costs for the Native Title Party.

Whilst the expedited procedure process in Queensland is not perfect it is far from a lame duck, (albeit the naming of the procedure is an "oxymoron"), at least resolve can be made for some types of tenures like exploration and the QSMC would support retaining this process, at least until something better can be realised to be affordable and expeditious

Opportunity to Object

Aside from the fact that this proposal may indeed fetter Federal and State Ministers, if the Native Title Party's or their Representative organisations are funded by the federal or state governments for an amount of tax payer funded with millions of dollars for Future Act's, then funding should be removed from these bodies if they are not prepared to undertake the negotiation/s for the purposes these funds are supplied.

Additionally, there seems to be any rationale in this "Proposal 7" as to what is seen to be a "reasonable objection", and therefore without this context its is difficult to support any such questionable proposal.

Is it proposed that a Native title party objection can be based on something whimsical or does the objection have to be substantial.

It would be helpful to clarify a detail given the importance of such a paper and the impact it will have. Native Title Party's can, and will at times, unreasonably object to a Future Act and we can see no valid reason why the ALRC would open up this pandoras box, which will undoubtedly cost millions, if not billions in productivity losses to mining and development at large, as proposed.

The Small-Scale Miners do not support to over empower Native Title Party's by providing the opportunity to object or withhold their consent to doing a future act particularly on areas subject to or of non-exclusive native title determination or subject to a native claim determination

Small Scale Miners can only support the existing right to negotiate process in Part 2 Division 3 Subdivision P of the NTA as this section does not expressly give native title parties an ability to object to the doing of a future act, and this legislation should be maintained, especially on land that is subject to non-exclusive Native title.

Negotiation conduct standards.

In the small-scale miner context, currently the RTN process is lopsided, with Native Title Parties funded to the hilt and in a commanding position from the outset, creating an uneven bargaining power in the Native Title Party's favour.

Negotiation funding can often be a source of dispute and tension between a native title party and a proponent and that is a fair comment only that the view of the discussion paper is skewed, given the proponent or grantee party often has no access to legal funding, and the NTP have both legal and financial support through their Native Title Representative Body provided either through the National Indigenous Australia Agency (NIAA) or Attorney Generals for Future Acts

The small-scale mining sector would not support tipping the scales even further in favour of the Native Title Party by incorporating the ALRC proposals, adding that the proponent must fund the meeting costs of the Native Title Party for negotiations as the only alternative to progressing a future act, as many RTN's Ancillary Agreements have conditions which can offset these costs when agreed.

Incorporating this proposed meeting costs proposal into the futures act regime as part of the duty to "negotiate in good faith" would be exploited by a Native Title Party's, with multiple meetings and subsequent costs compounding with still no guarantee of an agreement in sight.

These compounding costs would be unaffordable, particularly in light of the fact that many of the Native Title Party's do not live on country and must travel with an entourage of Native Title clan members and/or PBC board members and solicitors coming from all over the country.

The costs proposed by the ALRC proposal to fund the Native Title Party are likely to outweigh the net profit of the Mining operation in most instances, as there is no limitation on negotiation expenditure proposed to be paid to the native title party just to negotiate, let alone any costs associated with any ancillary agreement eventuating in the event an agreement is realised.

The Small-scale mining sector are confident with the current conduct standards, and it has been our experience that the current conditions of the NT Act are fit for purpose and working.

Small Scale Miners do not support the proposed changes to future acts as outlined in the impact-based model proposed by ALRC in this consultation paper, as it provides no certainty for a proponent nor how deep their wallet must be to attain a simple gem or gold mining tenure.

The proposal actually is rather discriminatory as to whether you have enough money to buy a solution!

It is obvious that whoever designed these proposals are out of touch with the financial reality of persons undertaking small scale mining operations.

Determining whether a future act can be done if a native title party objects to the doing of the future act?

Small scale miners are currently satisfied with Section 39 of the NT Act criteria.

Small scale miners are not the biggest money producers in the mining industry arena, but they contribute economically to their regions and provide alternative incomes for a good portion of individuals and family businesses of our country and is a continuing connection to these historic and cultural activities.

These cultural and historical ties are deeply rooted in the nations psyche and like any cultural heritage is as important to be preserved for now and into the future, ask any digger!

Th e QSMC and small scale miners are currently satisfied with Section 39 criteria of the NT Act.

Implementation

The ALRC proposes the following - The Australian Government should establish a specifically resourced Aboriginal people's advisory group to advise on implementing reforms to the *Native Title Act 1993*

The Small-scale miners note that this current Federal Government has already attempted to attain an aboriginal advisory group. This was promoted as the voice at a referendum which was resoundingly defeated by the people of Australia on the 14t of October 2023.

The small-scale mining sector would be supportive of an advisory group from across all land users types (including small scale representatives) and aboriginal and legal experts to design and shape the future of the NT Act.

From our perspective not many of the reforms proposed by the ALRC are worthy of pursuing and in fact many proposals will only add significant costs and delays.

Requirements and processes to manage the impacts of future acts on Aboriginal and Torres Strait Islander cultural heritage, and if so, how?

The small-scale miners fully support existing state legislation for Cultural heritage and see no benefit in the Federal Government assuming responsibility and costs for implementing this regime change and expanding an already burdensome NT Act to include additional volumes of Cultural heritage legislation.

Our own societies, being small small-scale miners, are confident with relative State Laws which protect our significant cultural heritage.

The QSMC also note that there is already a federal legislation called the **Aboriginal and Torres Strait Islander Heritage Protection Act 1984 and perhaps the most prudent place to undertake amendments after consultation with the public.**

Exclusion of section 26

The Small-Scale Miners do not believe nor support that there is any need to remove sections of section 26 of the NT Act.

Any change or review of these sections should be to improve and change the existing provisions for section 26 A -26 d of the NT Act so that small scale mining can begin to recover from the poorly crafted section of the NT Act by increasing the term, size and of mining and exploration tenures so that they are compatible with each States tenure system.

Section 26c in particular has in part helped save the small-scale opal and some sapphire mining in some operations in some states from extinction and should remain in play and even be amended to suit the small-scale mining claim operations which vary from state to state.

Small scale miners are "strongly opposed" to the proposal to remove any part of section 26 from the NT Act, and in particular Section 26 C and in fact , its should be amended to suit broader tenure types including Mining Claims, Leases and exploration permits for small scale mining Gemstone and Gold producers and explorers which are compatible with the various States

The Small-scale miners do not see any conflict with Section 26 and the impact based model other than we can't afford the impact based model as so rudimentary proposed by the ALRC.

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QSMC recommendations for improving Future Acts.

The current Section 26c extract as below has enjoyed limited use for Mining and exploration by the States as they are not compatible with each States tenure system for "small scale" gem and gold producers.

Extract current Section 26 C

Section 26C of the Native Title Act 1993 (Cth) deals with excluded opal or gem mining acts.

Specifically, it outlines circumstances where the "right to negotiate" provisions of the Act do not apply to certain mining activities related to opal or gem mining in designated areas.

Specific Conditions:

The exclusion is not blanket. It is subject to specific conditions:-

- *The mining activity must be for opals or gems only.*
- *The mining must be conducted within a defined area, with limits on the size (e.g., 5 hectares for mining, 500 hectares for exploration or prospecting).*
- *The mining rights granted are limited in duration (e.g., a maximum of 5 years, with limited renewals).*

Purpose:

The aim of the current NT Act Section 26C is to streamline certain opal and gem mining activities, recognising the unique nature of this industry and its potential impact on native title.

The "purpose" of the current NT ACT section 26C, in operation now for the last 30 years has by and large failed and missed its intended goal as many of the States tenure systems are not compatible with the limitations set by this current Section 26C despite States having large areas quantifying as historic reserves and Restricted Areas for Gem and Gold Mining for small scale operations

Were the tens of thousands of small-scale miners throughout Australia properly consulted in the development of the current NTAct Future acts regime, then we would likely identified this problem and compromise on legislating as per the following recommendations.

Modernising Section 26C with Small Scale Miners input

To best modernise this Section 26C, in light now of finally having some small-scale mining industry input into this section, the QSMC propose the following amendments :-

Improving the NT Act - Section 26C

Increase the criteria of Section 26c to meet the criteria of small-scale mining operations for not only gemstones but also include small-scale gold producers in historic gold mining reserve areas.

a. Increase the current tenure size from 5 to 20 hectares to allow for the dispersed deposition of the mineral formation for mining claims to cater for Queensland's opal and sapphire deposition, which is not as concentrated due to mineral formation occurrences types, which are dissimilar to those enjoyed by some of our interstate counterparts, like South Australian and Lightning Ridge.

Few depositions of gem and gold are as small as 5 hectares, as is currently limited, which is insufficient to remain economically viable!

Queensland also allows mining camp facilities on tenure given the isolated areas were mining claim operations are mostly conducted, and to cater for any safety buffer zones between the mining operation and camping facilities, extra area is also required, so to increase the size of tenures to 20 hectares for this section is reasonable.

b. Increase the term of mining claim tenure to 10 years which is an average term of a mining claim

Increasing the term to 10 years would provide certainty to the miner with this proposed period and be more in line with interstate tenure grant term time-frames, rather than bending differing State time-frames to conform to the current 26c limitation of the NT Act.

c. Remove the size limitation of an exploration permit and replace with a "maximum area of disturbance."

As tenures for prospecting/exploration permit sizes vary from state to state, remove the current requirement of 500 hectares and replace with an area of maximum area of disturbance on the permit area.

In Queensland, small scale explorers operate Exploration Permits in Opal Gem and Gold reserve -Restricted Areas, under an Environmental -Code of Compliance.

d. Small scale mining for Gold in historic gold reserve areas should be included as a legitimate operation under this Section 26C as is a traditional and cultural past-time enjoyed by our fore-bearer and the QSMC can see no valid reason why small scale Gold Mining is discriminated against by this current Section 26C

The QSMC recommend to include Small Scale- Gold Mining to this Section 26 C

QSMC's other recommendations:-

1 Create a new prescribed expedited process for Small Scale Mining Tenure process

States should be able to develop a prescribed expedited procedure process for Small Scale Mining Tenures for Future Acts for areas subject to Native Title, which address and preserve the Native Title Party's, native title rights and interests.

This should include prescribed processes for Cultural Heritage Protections including a Cultural Heritage Inspection regime.

It is envisaged that this process if developed could grant tenures expeditiously without the need for the requirements under the current RTN process.

Additionally, the current notification process and associated cost of $3000.00 per tenure that the proponent must bear for the States costs for advertising, pursuant to Section 29C, in the Koori Mail and the local paper, is prohibitive and expensive for small scale mining tenure applications over land subject to native title where there is no native title determination or native title claim.

2. Empower PBC's to facilitate their elected position including RTN and ILUA processes

Remove the core requirement of the Native Title Act and the PBC Regulations for a Prescribed Body Corporate (PBC), when dealing with future acts that affect native title, is required to consult with and obtain the consent of the relevant native title holders, before signing any agreement.

The NT Act and PBC regulation's which legislate and regulate these processes are paternalistic and derogatory to Native Title Holders as they undermine human rights and principles of equality as enjoyed by executives of corporations of non - indigenous types who act for their members or shareholders.

This could be facilitated by acknowledging and introducing the following :-

a. The PBC's executive are elected delegates of the relevant native title holders and should be able to lawfully sign any agreement being a Future Act (ILUA or RTN) without having to hold a full meeting of the Native Title group at least for small scale mining tenures.

The current authorisation process for Native Title Party's for Small scale mining tenures is absurd, given the relatively low impact.

b. That the PBC, as a legal entity must be the first point of contact for all Future Acts (as is the case when a proponent is dealing with a landowner) and that a proponent may directly contact the PBC executive/s.

The proponent should be able to provide a draft ancillary agreement as a model agreement which best suits their capacity to the Native Title Party/PBC rather than Prescribed models produced by Native Title Representative Body's.

c. Funding by the Attorney Generals Dept. should be provided to the PBC's to fulfil their role in Future Acts and made directly to the PBC's rather than Native Title Representative Body Legal services.

The PBC can either elect if a Future Act can be negotiated with a proponent for a Future Act in house with the assistance of the NNTT, or whether they wish to expend their funding and utilise Legal services from their regional legal representative.

Any process for negotiation should have a period where the proponent and the Native title Party/PBC can engage without for good faith to be achieved

d. In the event that the PBC have no funding or do not wish to use that funding on a relatively simple gem or gold tenure to facilitate Future Acts then any party being the native title party, proponent or State can request mediation from the NNTT.

It has been our experience that the NNTT are best qualified and understand and weigh up each party's capacity and rights and assist in facilitating Future Acts agreements.

The QSMC look forward to further engagement with the ALRC and the Federal Government as the proposed Future Act regime develops into draft legislation.

Prepared on behalf of the Qld. Small Miners Council by

[redacted]

Kev Phillips
QSMC Secretary

QSMC Groups

Qld. Opal Miners Association	Robert John White	President
Qld. Boulder Opal Association	Alison Summerville	President
Qld. Sapphire Miners Association	Carol Graham	Secretary
North Qld. Miners Association	Graham Byrne	President
Yowah Opal Miners Community SC.	Ben Stoverink	Mining delegate