

25th of July 2025

SUBMISSION

Australian Law Reform Commission (ALRC)
PO Box 209
Flinders Lane
Victoria, 8009, Australia

email: nativetitle@alrc.gov.au

Dear ALRC,

Re: ALRC's Review of the Future Acts Regime: Discussion Paper

Cattle Australia (CA) is the national peak industry body representing the interests of grass-fed beef cattle producers, providing a unified voice, industry leadership and policy direction. Our industry has much to be proud of with the national herd approaching 28 million head and 52,000 businesses, supporting 428,000 jobs, including processors, exporters and truck drivers. Cattle producers are the stewards of over 50% of the Australian landmass protecting and enhancing economic, social, cultural and environmental values for future generations.

CA would like to express their support for the National Farmers' Federation submission to ALRC's Review of the Future Acts Regime Discussion Paper and wishes to provide the following additional comments. CA has provided feedback to ALRC's Review of the Future Acts Regime Discussion Paper. CA's main recommendations in response to ALRC's discussion paper are:

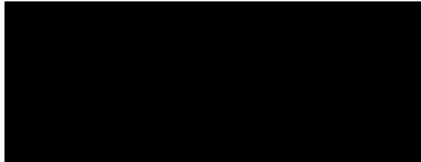
- CA welcomes and calls upon ALRC to facilitate extended and continued consultation with peak industry bodies in the further review of the Future Acts Regime.
- CA wishes to highlight the *Native Title Amendment Act 1998 (Cth)* (1998 Amendment Act), where the stated intention was '*to strike a fair balance between respect for native title and security for pastoralists, farmers and miners*'.
- CA supports reviews of the future acts regime where policymakers consider the multitude of different tenures in operation across Australia and acknowledge the wide heterogeneity and spatial and temporal scales of Australia's landscapes.

The grass-fed cattle industry is committed to continuing our long-term approach for agricultural best-practice management, but requires (*at a minimum*), a long-term commitment from government to the health, wealth, and prosperity of our livestock industry (*in all its forms*).

Thank you for the opportunity to provide this submission for your consultation.

Yours Sincerely,

Will Evans



Chief Executive Officer

Cattle Australia

Cattle Australia's Submission to ALRC's Review of the Future Acts Regime: Discussion Paper

1. Introduction

CA supports and advocates for the tens of thousands of grass-fed beef producers across Australia who are committed to optimising efficiency within their farming enterprises, as well as achieving successful results in agricultural best-practice management and environmental outcomes.

CA acknowledges the significant connections that First Nations Australians have to country, and the role of the Native Title system to ensure ongoing social, cultural, and environmental outcomes for First Nations people, organisations and communities. The Future Acts Regime is the legal framework which details the processes and requirements that apply when native title rights and interests are impacted by certain actions.¹ CA acknowledges the importance of the future acts regime to be appropriately designed for the Australian context: that respects the rights and interests of native title holders, but in conjunction, respects the rights and interests of Australian cattle producers.

First Nations people have made important contributions to Australia's agricultural sector, with a substantial portion of cattle stations and enterprises being Indigenous owned and operated, with more than approximately 5,900 First Nations people employed in the industry in 2021, (with the cattle industry remaining a key employer of Indigenous Australians).²

There are currently multiple federal, state, and territory legal frameworks that recognise the interests of First Nations people, with over 57% of Australia's land mass formally recognised as a result of indigenous interests and rights. This includes the purchasing land or granting Indigenous ownership of land, Indigenous management and co-management arrangements, Indigenous Protected Areas, determination of Native Title, and Indigenous Land Use Agreements (ILUAs).³ CA would like to bring to attention that Australia has the largest network of Indigenous Protected Areas (IPAs) in the world, with its extent having grown significantly over the last five decades.⁴

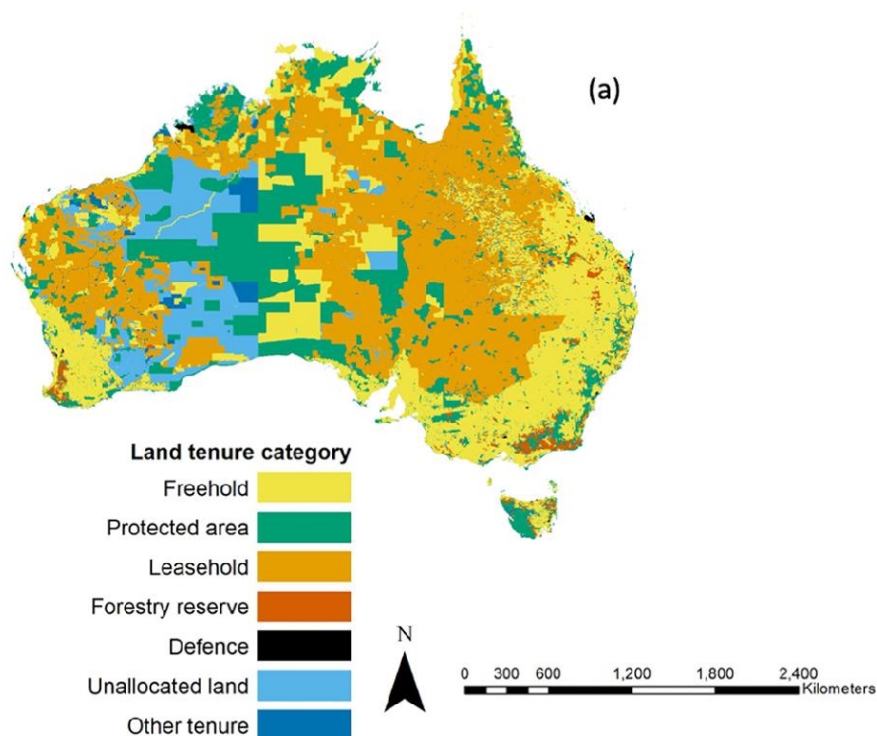
CA will provide an explication against ALRC's Review of the Future Acts Regime Discussion Paper, highlighting key sections of concern and consideration within the discussion paper. CA

wishes to highlight the Native Title Amendment Act 1998 (Cth) (1998 Amendment Act), where the stated intention was ‘to strike a fair balance between respect for native title and security for pastoralists, farmers and miners’.⁵ CA welcomes and calls upon ALRC to facilitate extended and continued consultation with peak industry bodies in the further review of the Future Acts Regime.

2. An Explication of ALRC’s Discussion Paper

Land rights and cultural heritage legislation is exceptionally complex, with separate systems operating at national, state, and territory levels of governance.⁶ It is being increasingly recognised that effective environmental management relies upon effective coordination across the tenure landscape, with Australia having multiple land tenure types:

Figure 1: The Australian Land Tenure Map⁷



Native Title in Australia, recognised under the *Native Title Act 1993* (Cth), can be either exclusive, or exist in conjunction with other land tenures. Native title may be claimed in regions such as vacant Crown land, parks and public reserves, non-exclusive pastoral leases, land held by government agencies, some land held for Aboriginal and Torres Strait Islander communities,

and natural ecosystems such as beaches, reefs, rivers, and creeks that are not privately owned.⁸ CA supports reviews of the future acts regime where policymakers consider the multitude of different tenures in operation across Australia, and acknowledge the wide heterogeneity and spatial and temporal scales of Australia's landscapes.

2.1 "What we have heard"

CA would like to draw to attention this heading on page 4 of the discussion paper, which states "what we have heard", and acknowledges ALRC's summation of findings that there is a universal desire for reform, and the misalignment between the design and intention of the future acts regime and the actuality of operating within this system.⁹ However, CA wishes to highlight an egregious issue within this discussion paper, an underrepresentation of agricultural stakeholders, with no consideration of their motivations and capacities for regulatory and/or non-regulatory interventions at different scales.¹⁰ CA notes that in the 72 page discussion paper, Kimberley Land Council's submission is referenced in the footnotes 39 separate times, and Central Land Council's submission is referenced to 16 times. In stark contrast, the submission by the National Farmers' Federation is referenced once.

While CA acknowledges the desire of Indigenous organisations to see reform; balancing the reviews final recommendations between proponents, especially pastoral, would not only lead to more effective and efficient outcomes, but be in line with the stated purpose of the Act.

2.2 Proposal 1

The discussion paper presents many potential reforms to the future acts regime, labelled as "proposals" and "questions". CA will address Proposal 1 on page 18 of the document which states:

"Proposal 1: The Native Title Act 1993 (Cth) and Native Title (Prescribed Bodies Corporate) Regulations 1999 (Cth) should be amended to allow for the expanded use of standing instructions given by common law holders to Prescribed Bodies Corporate for certain purposes."

CA does not support Proposal 1, as even though the discussion paper states that Proposal 1 will 'strike a balance' on the nature of Indigenous Land Use Agreements (ILUAs), the suggested list of expanded standing instructions is illogical and is a comparison of disparate entities. On page 19 these specific categories are listed as:

- exploration future acts;
- small-scale mining activities;
- certain lower impact future acts throughout the determination area (for example, pest control activities or road maintenance), provided that the ‘lower impact’ nature of an activity is assessed and consented to by the native title holders beforehand

CA questions why low risk, routine agricultural land management activities such as pest control, weed management, and road maintenance are even included in these categories, or compared to “small-scale mining activities”.

2.3 Proposed Impact-Based Assessment Model

One of the main concepts considered in the discussion paper is the proposal to replace the current Part 2 Division 3 Subdivisions of the *Native Title Act 1993* (Cth), with an “Impact-Based Assessment Model”. CA does not support this impact-based assessment model for multiple reasons, including its allocating of “Category A” and “Category B”:

Table 1: Impact Based Categorisation Model (adapted from ALRC, 2025)⁹

Impact	Factors	Statutory Procedure
Category A	Future acts that: • are small-scale; • cover a discrete and limited geographic area; • involve an activity that has a low or no physical impact; • do not affect any sites or areas of cultural heritage sensitivity, or the impact can be wholly avoided or mitigated; • are of a temporary or short duration; • have no permanent, medium- or long-term physical effects; or	Right to Consultation

	do not substantially impact native title rights and interests in the area of the future act in any way.	
Category B	Future acts that are not Category A future acts. For example, future acts that: - are not small-scale, or cover a discrete and limited geographic area; - involve a land-use activity with some physical impact; - affect a site or area of cultural heritage sensitivity; or - substantially impacts native title rights and interests in the area of the future act.	Right to Negotiate

CA queries as to why some activities under this impact-based categorisation would qualify for “right to consultation” as if it states in the adapted table, involve an activity that has a low or no physical impact, and does not substantially impact native title rights and interests in the area of the future act “*in any way*”. These categories should either be refined, or a new category created to acknowledge low risk routine agricultural land management activities, and development activities as per pastoral use purposes, where there will be no impacts, and thus no consultation required.

CA also does not support the impact-based assessment model as it states that this model would address several practical issues, including “*the importance of consistency of application, both within and between jurisdictions*”. As discussed prior in this submission, effective environmental management requires effective coordination across jurisdictional and tenure landscapes that recognise regional differences and are specific to the range of different landscapes across Australia.

2.4 Indigenous Land-Use Agreements (ILUA)

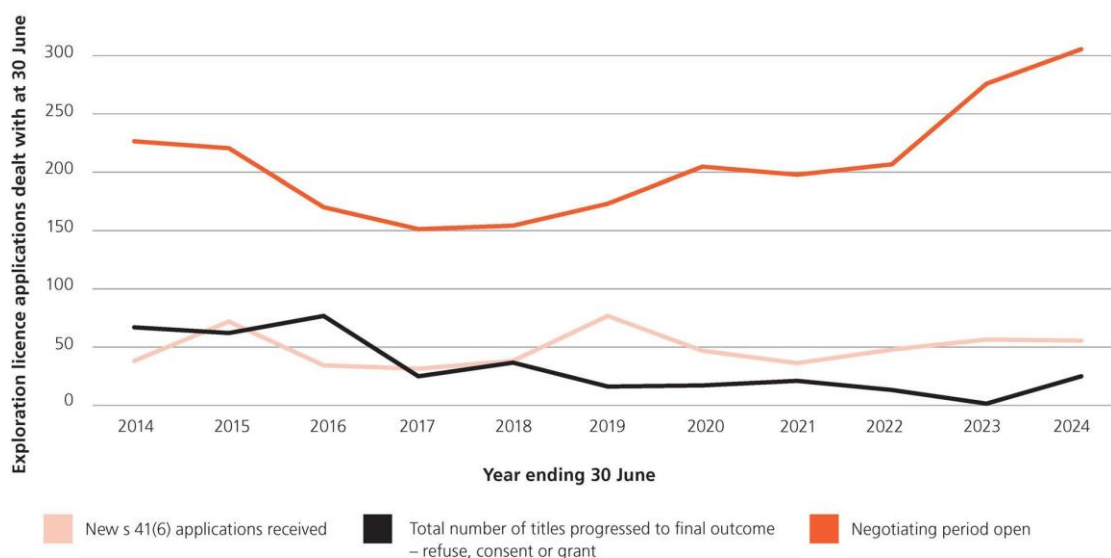
An ILUA is a voluntary, legally binding agreement about the use and management of land or waters, made between one or more native title groups and other parties, including pastoralists,

miners, and governments. ILUAs have been registered on over 34.7% of Australia since 2021, and a further 1.6% of Australia's land mass is currently in the process of being registered under an ILUA.³

ILUA's are a time prohibitive and resource-intensive regime which cause undue administrative burdens on Australian cattle producers and First Nations stakeholders. There is a significant stakeholder group that has not been captured in the discussion paper; indigenous persons who are engaging or wish to engage in their own agricultural ventures, including Indigenous business owners (i.e. station owners) whose interests have been wholly underrepresented in the discussion paper. In addition, there is a disproportionate amount of front-loading and disbursements for non-native title proponents engaging in future act regime processes, while Native Title parties can obtain Government funded assistance to engage in ILUA negotiations. CA brings to attention the passage on page 9 which states that "*access to justice means that all parties should have access to the resources and expertise required to enable their timely and meaningful participation*". It is documented that in some cases these negotiations can cost non-native title proponents hundreds of thousands of dollars.

CA wishes to highlight that ALRC has made no reference to, nor attempted to quantify the current success rates of current ILUA negotiations. In addition, there is no assessment of successes in the implementation of the current regime from the prospective of the proponents. CA presents the following figure, showing the cumulative trend of exploration title applications in negotiating periods on Aboriginal land. This figure displays the increasing time period in facilitating agreement-making, while showing a decrease in the total number of titles progressed to a final outcome.

Figure 2: Cumulative Trend of Exploration Title Applications in Negotiating Periods on Aboriginal Land ¹¹



2.5 Appendix A: Impact-Based Model Examples

CA does not support ALRC’s Appendix A model example 7, where the clearing of 400 hectares of native vegetation by a landholder would result in the impact-based procedural requirement of “right to negotiate”. CA questions the scientific rigor, and logic, of assuming the clearing of 400 hectares will automatically be assumed a high impact land-use activity, particularly if there is no context given to this model example, nor what category this “native vegetation” is classified under. It is also worth noting that the stipulation of 400 hectares as a significant event does not align with any existing environmental legislation. This in turn, coupled with no acknowledgement of the high heterogeneity of vegetation communities in southern and northern systems in Australia, nor the scale of some farming enterprises in northern systems, with 9,070 hectares being the median property size for cattle producers in Queensland.¹²

2.6 The Native Title Amendment Act 1998 (Cth)

The Native Title Amendment Act 1998 (Cth) (the Amendment Act) made several amendments to *The Native Title Act 1993 (Cth)*, including that native title rights and interests may exist over land which has been subject to a pastoral lease (*a type of Crown lease where landholders are given the right to graze cattle and sheep*), this process has been labelled “co-existence”.¹³ The amended Native Title Act also determined that where inconsistency between the native title and pastoralist title rights occurs, the pastoralist title rights will prevail.¹⁴ CA calls upon ALRC to ensure these critical amendments are upheld in continuing reviews of the Future Acts regime,

and the livelihoods and unique cultures of farming communities must be central and prioritised in regulatory debates.¹⁰

3. Conclusion

CA once more refers to the submission provided to ALRC's discussion paper by the National Farmers' Federation and express our support. CA advocates for the long-term economic, social, and environmental prosperity of Australia's agricultural sector, and calls upon ALRC to ensure the Future Act Regime delivers on equitable, transparent, and efficient outcomes for all proponents.

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