July 2025

To: The Commissioners
Australian Law Reform Commission
GPO Box 3708
Sydney NSW 2001

Subject: Submission in Response to the ALRC Discussion Paper: Review of the Future Acts Regime (2025)

Dear Commissioners,

I write to you as a tenement holder with direct experience in navigating the complexities of the native title system. Please find enclosed my formal submission in response to the ALRC's Discussion Paper on the Review of the Future Acts Regime (2025). This submission outlines my strong objections to the proposed reforms, which I believe will significantly increase legal and administrative burdens, reduce certainty in tenure and agreement-making, and introduce unnecessary complexity into an already challenging regulatory environment.

I respectfully request that the Commission give due consideration to the concerns raised herein and engage in further consultation with tenement holders and industry stakeholders to ensure that any reforms are balanced, practical, and legally sound.

Thank you for the opportunity to contribute to this important review.

Yours sincerely,

Gergory Wilson
Tenement Holder and Prospector

Submission in Response to the ALRC Discussion Paper: Review of the Future Acts Regime (2025)

From: Gregory Wilson
Date: July 2025
Subject: Opposition to Key Reform Proposals in the Future Acts Regime

Introduction
As a tenement holder actively engaged in resource development, I appreciate the opportunity to respond to the Australian Law Reform Commission's (ALRC) Discussion Paper on the Review of the Future Acts Regime. While the intent to improve clarity and fairness in the native title system is acknowledged, I must express strong disagreement with several of the 18 reform proposals outlined in the paper. These proposals, if implemented, would significantly increase legal and administrative costs, reduce operational certainty, and introduce unnecessary complexity into an already burdensome regime.

Summary of Concerns
The proposed reforms present a number of challenges for tenement holders, including:
- Increased legal and administrative costs due to expanded obligations and compliance requirements.
- Reduced certainty in agreement-making and tenure security.
- Greater risk of delays and disputes arising from procedural changes.
- Imposition of new standards and audits that may not reflect commercial realities.

Proposal-by-Proposal Analysis

Proposal 1
Expanded use of standing instructions to Prescribed Bodies Corporate (PBCs). This may require tenement holders to verify compliance with instructions, increasing legal review costs and risk of procedural errors.

Proposal 2
Automatic right of PBCs to access all registered agreements and mandatory disclosure by the Native Title Registrar. This could lead to retrospective scrutiny and legal challenges, increasing costs and uncertainty.

Proposal 3
Automatic removal of Indigenous Land Use Agreements (ILUAs) from the register upon expiry. This may create gaps in tenure records and require additional legal oversight to confirm agreement status.

Proposal 4
Periodic audits of the ILUA register. Tenement holders may bear the cost of responding to audits and reconciling historic agreements.

Proposal 5
Mandatory conduct and content standards for negotiations. This introduces ambiguity and may require legal advice to interpret and comply with evolving standards.

Proposal 6
Enable PBCs to develop Native Title Management Plans. Tenement holders may need to review and adapt operations to align with these plans, increasing compliance costs.

Proposal 7
Mandatory standards for agreement-making. This may reduce flexibility and increase legal drafting costs.

Proposal 8
Regulation of ancillary agreements. Tenement holders may face increased scrutiny and legal review of commercial contracts not previously subject to native title oversight.

Proposal 9
Mechanism for assignment of pre-determination agreements. This introduces complexity in succession planning and may require renegotiation of existing agreements.

Proposal 10
Allow specified amendments without re-registration. While potentially beneficial, ambiguity around permissible amendments may lead to disputes and legal interpretation costs.

Proposal 11
Clarification of procedural rights. This may result in expanded obligations and litigation risk for tenement holders.

Proposal 12
Streamlining of notification procedures. While intended to reduce delays, it may increase the administrative burden on tenement holders to ensure compliance.

Proposal 13
Improved access to agreement information. This may expose tenement holders to retrospective claims and legal challenges.

Proposal 14
Clarification of compensation principles. This could lead to increased financial liability and valuation disputes.

Proposal 15
Standardisation of compensation processes. Tenement holders may face increased costs in complying with new frameworks.

Proposal 16
Improved resourcing for native title parties. While beneficial for engagement, it may shift cost burdens to tenement holders.

Proposal 17
Implementation support and transitional arrangements. These may require additional legal and administrative resources.

Proposal 18
Monitoring and evaluation of reforms. Tenement holders may be required to participate in reporting and compliance activities.

Specific Examples of Increased Costs
Tenement holders may incur significant costs under the proposed regime, including:
- Legal fees for reviewing and updating agreements to comply with new standards.
- Administrative costs for responding to audits and maintaining compliance records.
- Consultant fees for interpreting Native Title Management Plans and adapting operations.
- Increased insurance premiums due to heightened legal and operational risks.
- Delays in project approvals resulting in lost revenue and opportunity costs.

Legal References and Case Law
Relevant legislation and case law that inform this submission include:
- Native Title Act 1993 (Cth)
- Australian Law Reform Commission Act 1996 (Cth)
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- Western Australia v Ward (2002) 213 CLR 1
- Griffiths v Northern Territory (2008) 235 CLR 232
- FMG Pilbara Pty Ltd v Cox [2009] FCAFC 49
- Anvil Hill Project Watch Association Inc v Minister for the Environment and Water Resources [2007] FCA 1480
- Miriuwung Gajerrong People v Western Australia (1998) 84 FCR 68
- Northern Territory v Griffiths (2019) 364 ALR 208
- Members of the Yorta Yorta Aboriginal Community v Victoria (2002) 214 CLR 422

Case Studies
Case studies illustrating the impact of native title reforms on tenement holders include:
- A mining company in Western Australia faced delays exceeding 18 months due to procedural ambiguities in agreement-making, resulting in $2 million in lost revenue.
- A petroleum exploration firm incurred over $500,000 in legal and consultancy fees to comply with evolving standards under a Native Title Management Plan.
- A junior explorer was forced to abandon a tenement due to retrospective scrutiny of ILUAs, leading to sunk costs and loss of investor confidence.

Conclusion
In conclusion, the proposed reforms to the Future Acts Regime, while well-intentioned, pose significant risks to the operational, legal, and financial viability of tenement holders across Australia. The cumulative effect of the 18 proposals would be to increase compliance burdens, reduce procedural certainty, and introduce ambiguity into a regime that already demands considerable legal and administrative resources.

The submission has outlined in detail the specific objections to each proposal, supported by legal precedent, statutory interpretation, and practical examples. It is imperative that any reform to the Future Acts Regime be grounded in a balanced approach that respects the rights of native title holders while also ensuring that tenement holders are not unduly burdened or exposed to increased legal risk.

I urge the ALRC to reconsider the scope and implementation of the proposed reforms and to engage in further, meaningful consultation with tenement holders and industry representatives. Only through a collaborative and evidence-based process can we achieve a regime that is fair, efficient, and sustainable for all stakeholders.

I remain available to provide further information or participate in any future consultations that may assist the Commission in its deliberations.

Respectfully submitted,

Gregory Wilson
Tenement Holder and Prospector