

20 July 2026

Our ref: KB:P&E: FNLP

Committee Secretary
Primary Industries and Resources Committee
Parliament House
George Street
Brisbane Qld 4000

By email: [REDACTED]

Dear Committee Secretary

State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026 – response to question on notice

Thank you for the opportunity to appear at the public hearing for the inquiry into the State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026 (**Bill**).

Response to question on notice regarding Indigenous Land Use Agreements

As confirmed by the Committee, Queensland Law Society (**QLS**) took one question on notice at the hearing regarding how the compulsory acquisition of land would impact an Indigenous Land Use Agreement (ILUA).

Authority to acquire: A government authority can compulsorily acquire land without an ILUA, provided it has statutory power to do so and follows the prescribed acquisition process. If the relevant legislation authorises acquisition, the constructing authority may acquire the land even without native title party consent or an ILUA.

Effect of acquisition on native title: Depending on the nature of the interest compulsorily acquired and the statutory process used, the acquisition may result in full extinguishment, partial extinguishment, temporary impairment, or practical interference with the exercise of native title rights. We have provided further comments on this below.

Where an ILUA exists: The absence of an ILUA does not prevent compulsory acquisition. However, the acquisition can still have significant consequences under any existing ILUA.

- Where there is already an ILUA over the land, a later compulsory acquisition by government does not depend on that ILUA for a valid compulsory acquisition process, unless the statute or the particular transaction requires agreement of the parties to the ILUA. The compulsory acquisition may proceed under the acquisition legislation even if the native title parties do not agree.

- However, the existing ILUA still needs to be reviewed because it may affect consent, benefits, compensation rights and negotiations, access, cultural heritage obligations, dispute resolution, termination rights, and the parties' ongoing relationship after acquisition.
- The existing ILUA might still be relied upon to settle or manage the native title consequences of the acquisition, including consent where relevant, agreed compensation, non-monetary benefits, cultural heritage protections, access arrangements, implementation steps and releases.
- The existing ILUA might have already given consent to related future acts by the acquiring entity. Other questions to be resolved are:
 - whether the acquisition falls outside what was originally authorised; and
 - if benefits or obligations are triggered, and whether the ILUA continues, needs amendment, or is partly displaced by the acquired interest
- A government acquisition can affect the practical operation of an ILUA by changing who holds the relevant interest in the land, removing or limiting access to parts of the ILUA area, altering project approvals, or making some promised benefits or obligations impossible or inappropriate to perform in the same way.
- The ILUA should therefore be checked for change-in-law, force majeure, termination, assignment, compensation, dispute resolution and review clauses.
- If the existing ILUA does not clearly deal with the compulsory acquisition, a deed of variation or new ILUA may be useful even though it is not legally required for the acquisition power itself. It can confirm any agreed position, identify whether native title is fully extinguished, partially extinguished or only impaired, preserve any ongoing rights where possible, and reset compensation, benefits, cultural heritage protections and implementation obligations.

Registration and implementation: If the parties choose to use an ILUA to manage the consequences of compulsory acquisition, it should be properly authorised, executed and registered with the National Native Title Tribunal (NNTT) where registration is needed to bind the relevant parties or support future act validity. It should include clear provisions for timing, approvals, cultural heritage management, compensation, releases and any residual rights after acquisition.

Effect of compulsory acquisition process: For completeness, we provide the following comments regarding the possible outcomes for native title following the compulsory acquisition of native title interests:

- **Full extinguishment:** If the acquisition vests an interest that is wholly inconsistent with the continued existence of native title, native title may be permanently extinguished over the acquired area. The ILUA should identify the area affected, the interest being acquired, and whether extinguishment is intended or accepted.
- **Partial extinguishment:** If only some native title rights are inconsistent with the acquired interest, those rights may be extinguished while other rights continue (for

example, a portion of land is acquired for a road or pipeline. The ILUA should specify which rights are affected, which rights remain, and how continued access, cultural practice and decision-making will operate.

- **Impairment or suspension rather than extinguishment:** Some project activities may not extinguish native title but may restrict, suspend or interfere with how rights are exercised. The ILUA should deal with access protocols, cultural heritage management, exclusion zones, notice requirements and practical arrangements during works or ongoing operations.
- **Compensation and benefits under both regimes:** Traditional owners may have statutory compensation rights arising from the compulsory acquisition, but they may also have negotiated benefits under the existing ILUA. Consideration needs to be given to ensuring the acquisition does not remove agreed benefits without replacement.

Question regarding potential reforms of legislative frameworks

We also take this opportunity to address a question from Mr Katter MP about potential targeted reform of existing coordinated projects and prescribed project frameworks. As stated in our written submission and at the hearing, many of the Bill's objectives can be achieved by utilising the existing processes and powers in the current legislation.

We have suggested that if the Government considers these processes could be refined further, then a review of these existing frameworks should be undertaken and amendments made, instead of the introduction of the new powers in the Bill which have the potential to breach fundamental legislative principles and produce adverse outcomes for affected parties.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED]

Yours faithfully



Peter Jolly
President