

**Parliamentary Joint Committee on
Native Title and the Aboriginal and
Torres Strait Islander Land Fund**

OPERATION OF THE NATIVE TITLE ACT

**Inquiry Into Indigenous Land Use
Agreements**

Submission No: 5

Mr Brian Wyatt

Director

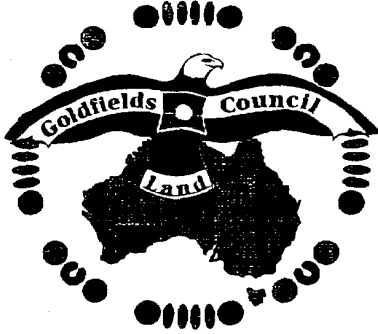
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GOLDFIELDS LAND COUNCIL

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Robina Jaffray
Acting Secretary
Parliamentary Joint Committee On
Native Title and the Aboriginal and
Torres Strait Islander Land Fund
Parliament House
Canberra ACT 2600

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Dear Ms Jaffray

RE : INQUIRY INTO INDIGENOUS LAND USE AGREEMENTS

I refer to your letter of 11 September, 2000.

The Goldfields Land Council has so far not utilised the provisions of the Native Title Act 1993 relating to Indigenous Land Use Agreements- Indeed, our understanding is that to-date there has been no Indigenous Land Use Agreement registered in Western Australia

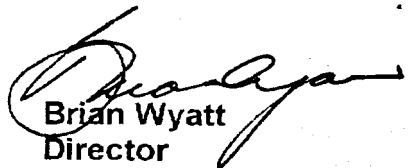
Reasons for not utilising the provisions include:-

1. The complexity of registration requirements, including the provision for objections to registration of ILUA's, inter alia, from overlapping claimant groups;
2. The opposition by the State of Western Australia to fruitful negotiations and agreements between native title parties and development companies in relation to compensation;
3. The difficulties and uncertainty to the negotiation process which have been engendered by the State of Western Australia's decision to unilaterally avoid the Future Act processes under the Native Title Act 9993, purportedly most recently by reason of the Full Court of the Federal Court's decision in *State of Western Australia v Ward* (2000) FCA 191 (3 March 2000)
4. The advantages that have been encountered in practice in concluding effectual and just agreements with mining and development companies without the need for recourse to ILUA processes.

5. The lack of statutory advantages to native title parties from ILUA's. It appears to native title parties that the advantages are all one way, namely Native Title is affected on a binding basis, however, rights as against mining companies and developers are only contractual, with no other statutory force (eg potential invalidity of tenement, revival of native title rights and interests etc for breach).
6. The Committee may be interested to know that during the last year, the GLC has entered into 4 regional agreements with mining companies, 5 specific tenement agreements (mining lease operations - productive mining) and facilitated more than 500 exploration and prospecting licenses. The GLC is also in the process of negotiating regional agreements with two Shire Councils within the Goldfields region.
7. At this stage none of these agreements are considered for the purpose of registration as ILUA's.

Thank you for the opportunity to make these submissions.

Yours faithfully


Brian Wyatt
Director

2 November 2000