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The Committee Secretary
Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs
PO Box 6021
Parliament House
Canberra ACT 2600

By email to: JSCATSIA@aph.gov.au

Submission to the Inquiry into the Application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia

Woodside Energy Group Ltd (Woodside) welcomes the opportunity to comment on the Inquiry into the Application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia (Inquiry).

Woodside is Australia's leading natural gas producer and the largest energy company listed on the Australian Securities Exchange. We have oil and gas assets and interests in Australia, United States, Trinidad and Tobago, Senegal, Timor-Leste, Canada and Mexico. In Australia, Woodside's key assets are on Murujuga (Burrup Peninsula) in the north-west of Western Australia. Woodside operates both the Karratha Gas Plant and the Pluto LNG plant on Murujuga. Both these facilities process liquefied natural gas produced from offshore fields.

Woodside has operated on Murujuga for more than 35 years. We are proud of the coexistence that our operations have achieved with Murujuga's significant tangible and intangible heritage values, including those underpinning its National Heritage and proposed World Heritage listings. Woodside works closely with Traditional Custodians of Murujuga and is actively supporting the Murujuga Aboriginal Corporation's (MAC) efforts to have Murujuga inscribed on the World Heritage List on the basis of coexistence. Woodside also highly values its relationships with Traditional Owners and Custodians for proposed projects across Australia, including new energy and carbon projects.

Woodside was the first corporate to host a forum on the Uluru Statement from the Heart in December 2017, and in May 2019 Woodside was one of 14 Reconciliation Action Plan Partners to formally and publicly support the Uluru Statement. Woodside believes establishment of The Voice to Parliament will greatly assist in supporting self-determination for the First Nations peoples of this land in national affairs as envisaged in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and particularly Articles 18 and 19. Through The Voice to Parliament, Indigenous people will be empowered to advise on legislation that impacts their lives.

In all Woodside operations globally, we strive to work with host Indigenous communities to create positive economic, social and cultural outcomes that leave a lasting legacy. To achieve this

Woodside is bound by the principles in our “Indigenous Communities Policy”, adopted by our Board in December 2021. These principles are as follows:

- Complying with laws relevant to Indigenous communities’ rights, interests and obligations where these apply.
- Being guided by UNDRIP.
- Ensuring our management of cultural heritage is thorough, transparent and underpinned by consultation and continued engagement with Indigenous communities.
- Avoiding future damage or disturbance to cultural heritage and, if avoidance is not possible, we will minimise and mitigate the impacts, in close consultation with Indigenous communities and Traditional Custodians.
- Ensuring the voices, views and aspirations of Indigenous communities and leaders are heard and understood within Woodside.
- Supporting Indigenous self-determination, economic empowerment, strong corporate governance, leadership and cultural heritage protection.

Woodside has publicly supported the reviews of the *Aboriginal Heritage Act 1972 (WA)*, the *Environment Protection and Biodiversity Act 1999 (Cth)* and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)*. Our support noted the need for modernisation of laws to meet current expectations of cultural heritage management and Indigenous engagement, and for consistency across jurisdictions. In all instances, Woodside supported legislative reform that recognises the central role of Traditional Owners and Custodians to heritage management, and that builds on successful examples of collaborative heritage processes and coexistence.

In terms of this Inquiry, Woodside supports greater clarity in Australian law to support the implementation of the principles of UNDRIP and, in particular the application of, Free Prior and Informed Consent (FPIC) processes. While many corporate entities in Australia have provided vocal support for FPIC, it is widely recognised that “there is no universally accepted definition of FPIC”.¹ Legal clarity on this matter is necessary to ensure communities understand their rights and companies understand and demonstrate compliance with their obligations under UNDRIP.

Leading Indigenous legal academic Professor Megan Davis has noted that UNDRIP as a UN General Assembly resolution is technically “soft” international law and as such it does not of itself create binding domestic legal obligations. UNDRIP has often been described as “aspirational” or “persuasive” and creating a “framework to guide states” even though, in Ms Davis’ view, it should more accurately be seen as an expression of existing international law in the context of Indigenous Peoples.²

Whatever the technical legal status of UNDRIP, its authority and principles have been broadly accepted by the international business community. However, in Woodside’s view, the scope of the application of UNDRIP in Australia would benefit from additional clarity in the following key areas:

- Definition of consent and how it might be evidenced.
- Consideration of the enduring nature of consent and any circumstances in which this might change.
- Defining who provides consent where native title does not exist or is yet to be determined.
- The level of reasonable technical detail that is needed to meet the threshold for informed decision-making.
- How free consent is considered in the context of agreement benefits and compensation payments that are received by Indigenous parties.

¹ International Finance Corporation IFC Performance Standard 7: Indigenous Peoples, January 2012, [12]. Available at: https://www.ifc.org/wps/wcm/connect/3274df05-7597-4cd3-83d9-2aca293e69ab/PS7_English_2012.pdf

² Megan Davis, ‘To Bind or Not to Bind: The United Nations Declaration on the Rights of Indigenous Peoples Five Years On’, (2012) 19 *Australian International Law Journal* 17, 21.

Woodside again thanks the Committee for the opportunity to present this submission and is happy to provide further information if requested by the Committee.

Yours faithfully

Tony Cudmore
Executive Vice President Strategy and Climate