

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

March 2, 2017

Dear Sir/Madam

Attached is my submission to the Senate Legal and Constitutional Affairs Committee on the Inquiry into the Native Title Amendment (Indigenous Land Use Agreements) Bill 2017.

I have no issue with my submission being made public and I have no need to have my name suppressed.

I do want to make sure that my email and phone numbers aren't made public though, please ensure they are kept private.

Yours truly,

Glen Colbung

Submission

Senate Committee on Legal and Constitutional Affairs

Inquiry into the Native Title Amendment (Indigenous Land Use Agreements) Bill 2017

I submit to the Committee that the passage of the Native Title Amendment (Indigenous Land Use Agreements) Bill 2017 needs to be supported.

I am a Noongar Elder from the Lower South West and Great Southern of Western Australia. I have been involved in Noongar and Aboriginal affairs since the early 1970s. I was elected as the Noongar representative to the National Aboriginal Conference (NAC) in the late 1970s and was an elected member on our ATSIC Regional Council for a number of years.

I was also a founding member of the Noongar Land Council and was a founding member for its successor, the South West Aboriginal Land and Sea Council (SWALSC). I served as a SWALSC director for many years, including during the negotiations for the South West Native Title Settlement and was in fact a member of the Noongar Negotiation Team that negotiated the Settlement.

The settlement is the treaty we have always been asking for.

In the NAC days we put forward a treaty we called the Makarrata, it failed and the NAC ultimately ended up being chopped. In the ATSIC days we also put forward the idea of a treaty. It failed and ATSIC has also been dismantled.

This time though, we have succeeded, only to be stopped because of the signatures of a few people. The Parliament needs to fix this.

I put forward the idea of a single and unified Noongar native title claim in the mid 1990's – a fact that was verified publicly on a number of occasions by the former CEO of SWALSC. The idea of this unified claim from its very outset was to negotiate a comprehensive legal agreement for Noongar people. 20 years later, this is exactly what we have done.

Opponents say that we are selling our land. Well the fact is that native title doesn't really exist in the South West of WA, it has been extinguished. Neither can we get compensation, the extinguishment happened too early, before the Racial Discrimination Act – this is a fact that people need to understand.

If we lived in the Kimberley or the Northern Territory we would have tried a different strategy. We don't though, and everyone needs to acknowledge that native title is almost entirely extinguished in Noongar country and is not able to be compensated. We know these things because we worked on it for 20 years. There are a lot of us that knew it from the start.

If we went to the court and won (and it's uncertain if we could win), then the court would be telling us that we are the people who used to own the land and that all our rights and interests have since been extinguished.

I for one believe that Noongars deserve better, and that is the aim of the South West Native Title Settlement.

After having consulted for years and having gone through the decision making process, we now find ourselves in the situation where the signatures of a few individuals is worth way more than all the rest of us put together. In actual fact, it's worse than this because one of the ILUAs has been held up because the signature of a deceased person is missing. Of course it's missing, and it's also incredibly disrespectful and offensive for any process to bring into consideration deceased members of our community like this.

I myself am an applicant on one of the claims and of course I signed the document. The opportunities coming from this agreement will never come around again – it's an opportunity our community can't let go. It delivers to us land, access and customary rights, national park management, houses, business opportunities and an income that is independent of government – native title rights would never do this.

It will allow us to put our own money into cultural support, language programs, elders programs, connection to country and our youth. It gives us major business and employment opportunities but most importantly, it supports the return of land to Noongar people, and where that isn't possible, access to our country.

These are things that community has been seeking for decades, it is the agreement that secures our future, but now we find that because of a handful of signatures, we can't have it.

This needs to be fixed.

I believe we have a responsibility as leaders today to put in place cultural, social and economic frameworks so that our future generations can prosper. That is what this settlement is about. This is for our children, our grandchildren, our great grandchildren and so on. We want to make sure they have the right support so they can be stronger as Noongars, be healthier, live longer and have a better quality of life. This is our responsibility and if we don't succeed, we have failed to meet this responsibility. This is our one chance to meet it.

Opponents of the agreement have chosen not to understand it, despite having several years to get across it. I don't know why they have taken the position they have, but I do know they have been very destructive in our community. We know the real story of these people, they can play the victim all they want but we know the truth about them and the non-Noongar people who support them.

I think the reality is that they cannot make an agreement because it would mean they can't fight – it would be our responsibility what happens from then. Why should the rest of us be dragged into their game though, we're trying to make a better future for our people.

As a Noongar Elder and as a person who was intimately involved in the development of the agreement from its inception 20 years ago to its completion 2 years ago, I call upon both the Committee and the Parliament to honor the decision made by our community and to support Noongar self determination and a better Noongar future.

I understand very well what the Amendment Bill does, it will allow our agreements to again be submitted for the registration test with the majority of signatories just as we set out in our authorisation meetings.

So you are aware, this has already happened and 107 objections across 6 agreements were received, however this was only from 25 separate individuals. If this doesn't illustrate how widely the Agreement is supported amongst the silent majority, I don't know what will.

I support the Bill and submit that the Committee and the Parliament should also support and pass the Bill.