

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

March 2, 2017

Dear Sir/Madam

Please find attached 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 am happy for my submission to be published and I do not require my name to be suppressed, however I do not want my email or telephone number to be made public because of privacy concerns.

Yours truly,

David Collard

## **Submission to the Senate Legal and Constitutional Affairs Committee on the Inquiry into the Native Title Amendment (Indigenous Land Use Agreements) Bill 2017**

I am writing in support of the passage of the Native Title Amendment (Indigenous Land Use Agreements) Bill 2017.

I am a Noongar Maaman, a Noongar man and belong to 3 of the native title claim areas that are covered by the South West Native Title Settlement.

I am also a professional and have worked for many years in professional roles relating to land and water management across the state of WA, both within and outside of Government. Through my work I have become very familiar with native title and native title agreements. I have in fact worked on the implementation of agreements in the north of the State.

I strongly support the South West Native Title Settlement. There is no doubt in my mind that this is the most important development for Noongar people and our nation since our land was first taken. It is critical that the Amendment Bill is passed so we can realize its benefits.

Native title in the south west of WA is not like the Kimberley, the Northern Territory or the north of Queensland. The main problem we face here is extinguishment, extinguishment by farms, towns, cities, national parks and most other crown reserves over almost the entirety of Noongar country.

Even in state forest native title is extinguished by historic tenures and by the Worsley and Alcoa State Agreement Acts, which cover a huge area from around Byford in the north to Collie in the South. Any notion that we are somehow 'selling our land' as opponents state, is simply rubbish, native title is already extinguished, most of it from the first principles set out in the Mabo decision.

To add insult to injury, this extinguishment is not compensable. The overwhelming majority of it (including the State Agreement Acts) predates the Racial Discrimination Act. This is a neat trick in the native title system, however it means that it can't deliver justice to Noongar people unless we find another way.

The South West Native Title Settlement does just that. It was negotiated by Noongars for Noongars and some of the things it will deliver are access and cultural rights in our country well beyond what native title could, 1 million acres of land, joint management of national parks and a future fund through which the Noongar Nation can have an income independent of Government.

This is self determination and it needs to be supported.

I attended the 3 Authorisation meetings for the claims I am a member of. These meetings were well advertised, everyone knew about them, the land council provided transport for those who needed it and they also made sure that only people who are actually part of the claim group were in attendance. This is important, in Noongar land you cannot speak for country you do not belong to.

Despite attempts by opponents to derail the meetings and generally harass and intimidate people, our community on each occasion came to a decision to proceed with the Agreement – each time by strong margins.

Imagine a situation then, that withholding a couple of signatures – including in one case the signature of a deceased man, could derail a community decision process that had been in motion for around 5 years. This situation seems absurd and would not be accepted by any part of Australian society, yet here we are again as Aboriginal people, trapped in a patronising and probably racist system that applies one rule for us but another for everyone else.

How could one or two people be more important than the rest of us put together? And of course the signature of a deceased person, a man whom we all respect and pay our respects to, cannot be placed on a document. What sort of system requires it?

This should be a cause of national embarrassment, another example of where Aboriginal people have been disadvantaged by the law. For years political parties and Governments have talked about comprehensive settlements of native title, well here we are, prevented from achieving it because of the Native Title Act itself.

Well native title isn't land rights but the South West Native Title Settlement is. It was negotiated by Noongars and for Noongars, it gives us rights and it gives us self determination.

The Native Title Act Amendment Bill needs to be passed through the Parliament.

I call upon the Committee and the Parliament to support Noongar self determination and to ensure the Amendment Bill is passed.