

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO**

Program: 1.4 Justice Services

Question No. AE17/026

Senator Dodson asked the following question at the hearing on 28 February 2017:

Senator DODSON: Maybe, Minister, you could tell me what the objections were based on by four out of the six Noongar groups that objected to this particular agreement?

Senator Brandis: As I understand your question, you are asking me to talk about matters that were before the court in the *McGlade* case. I do not propose to do that. The fact is that the *McGlade* case, having overruled the *Bygrave* case and changed the law as it was understood to be, the government with the support of the two most relevantly affected states, Western Australia and Queensland, the support of the most immediately affected industry stakeholders, in particular, as represented by the Queensland Resources Council, and the National Native Title Council, representing the Indigenous claimant stakeholders, all of whom pressed the government to move swiftly to restore the status quo—and we did so.

Senator DODSON: There have been petitions put to me that the objections, in the main, were based on the extinguishment professions required for the agreements. I am just wanting to know what level of objection pertains to the other 150 or so agreements that are sought to be retrospectively validated here.

Senator Brandis: You are asking me about issues that were before the court in the *McGlade* case.

CHAIR: Which was when?

Senator Brandis: The *McGlade* case was about four or five weeks ago.

CHAIR: Sorry, yes.

Senator DODSON: It was relatively recently and there was very little consultation about it.

CHAIR: I thought you meant the case that *McGlade* overrode.

Senator Brandis: The *Bygrave* was about five or six years ago. Senator, I do not want to, off the cuff, as it were, give you a response in relation to complex legal issues that are before the court, so I will take the question on notice.

Senator DODSON: Thank you, Minister.

The answer to the honourable senator's question is as follows:

The Government is not privy to the content of the objections lodged against the Noongar ILUAs as it is not a party to those ILUAs. However, the objections period was open between September and December 2015 and the National Native Title Tribunal (NNTT) received 107 objections from 25 objectors.

The Government is also not privy to the objections processes for the estimated 126 registered ILUAs affected by *McGlade*, nor does it have information on whether the subject matter of those agreements was contentious within the claim group. Based on publicly available register extracts, twelve of the registered ILUAs affected by *McGlade* contain statements acknowledging the extinguishment of some native title rights and interests.