EXTENTLEGAL

27 February 2017

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2699

By email: legcon.sen@aph.gov.au

Dear Committee Secretary

Native Title Amendment (Indigenous Land Use Agreements) Bill 2017

1. Introduction

1.1. I refer to the *Native Title Amendment (Indigenous Land Use Agreements) Bill 2017* (Cth) (**Bill**) which was tables in the House of Representatives on 15 February 2017 and referred to the Senate Legal and Constitutional Affairs Committee (**Committee**) on 16 February 2017.

1.2. I understand no terms of reference have been drafted to guide the Committee's consideration of the Bill. Accordingly, my comments are of a general nature.

2. Background

2.1. In accordance with the guidelines for making public submissions to the Committee, I provide the following short introduction about myself.

2.2. I am a Nyungar and the Principal of Extent Legal a boutique legal practice based in Perth, advising on energy, resources and regulatory matters and native title land access.

2.3. Prior to establishment of Extent Legal I acted as the Legal & Indigenous Affairs Manager for a ASX Listed Onshore Oil & Gas explorer/produce and before that role I work as a legal office for the South West Aboriginal Land & Sea Council.

2.4. I have gained extensive experience working for both Indigenous and resource sector clients, with a comprehensive understanding of the *Native Title Act 1993* (Cth) (**NTA**).

2.5. I have advised native title and industry parties across Western Australia, South Australia, Queensland and the Northern Territory on native title matters, I have negotiated s31 NTA agreements and ILUAs, I have presided over a number of s251B and s251A NTA meetings

2.6. From an academic perspective, I graduated with a Bachelor of Laws and Bachelor of Arts (with a major in Indigenous studies) from Monash University.

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3. The Need for Legislative Response to Address the *McGlade Decision*

3.1. To ensure the certainty and security necessary for governments and resource proponents to develop lands and waters subject of native title claims and determinations and for that matter native title parties, it is imperative that legislation is introduced to address the implications of the Federal Court's decision in *McGlade v Native Title Registrar [2017] FCAFC 10* (***McGlade***). I endorse the proposition advanced in the Bill – the validation of ILUAs registered before 2 February 2017, the date of *McGlade*

3.2. The idea that a community (registered or determinate native title holders) can come together and make a decision concerning their native title rights and interests only to have that decision veto'd by an individual is not workable, this concept would not be applied to any other section of Australian society, for example if the shareholders of an ASX listed company voted on a decision the Board are required to act on that decision.

3.3. The Australian Courts and the NTA made it very clear that native title rights and interests are a community right, not individual rights, Aboriginal people are capable (an required) of making decisions as a community and the community's decision should be adhered to.

3.4. For the reason listed about I support the Bill.

Yours faithfully

Matthew Hansen
Principal
Extent Legal