

10 November 2025

Our ref: [WD:HF:MC]

Dr James Popple  
Chief Executive Officer  
Law Council of Australia  
Level 1, MODE 3  
24 Lonsdale Street  
Braddon ACT 2612

Attention: [REDACTED]  
[REDACTED]

Dear Dr Popple,

### **Evaluation of amendments to the *Native Title Act 1993***

Thank you for the opportunity to provide feedback on the amendments to the *Native Title Act 1993 (NTA)* by the *Native Title Legislation Amendment Act 2021 (Cth) (2021 Amendment Act)*.

This response has been compiled with the assistance of members of the QLS First Nations Legal Policy Committee and Energy and Resources Committee who have expertise in this area.

We have arranged the feedback received in accordance with the headings and questions in the Consultation Paper on the '*Evaluation of Amendments to the Native Title Act 1993 (Cth)*'.

### **General comments**

The amendments to the NTA have brought meaningful improvements to the native title system, particularly in enhancing flexibility, transparency, and efficiency. The intent of the amendments is broadly supported, particularly in relation to empowering native title groups, clarifying governance, and streamlining agreement-making. However, as practical application continues to evolve, some aspects may require further clarification or refinement.

### **Schedule 1 – Role of the applicant**

- Members support the move to majority decision-making and the ability for claim groups to set conditions.
- Members recommend further guidance on succession planning and recording of conditions to ensure consistency.

### Schedule 2 – Indigenous land Use Agreements (ILUAs)

- There is support for expanding native title processes to include extinguished areas and for streamlining procedural requirements to improve efficiency and accessibility.
- Members suggest monitoring the impact of minor amendment provisions to ensure they do not inadvertently undermine the integrity of agreements.

### Schedule 3 – Historical Extinguishment

- There is support for the ability to disregard extinguishment in parks with government agreement, However, the uptake may depend on state/territory willingness to participate.
- Members have suggested clearer guidance should be provided to support implementation of the amendments. Some members have also suggested Free, Prior and Informed Consent (FPIC) should be explicitly embedded in all agreement-making processes and agreements to ensure genuine and informed participation by native title holders.

### Schedule 4 – RNTBC Compensation Applications

- There is support for increased access for registered native title bodies corporate (RNTBCs) to pursue compensation.
- Members recommend clear guidance for RNTBCs on evidentiary requirements.
- Members also suggest it is important for RNTBCs to engage specialist legal and financial advisors before lodging compensation applications, to develop a clear strategy and plan for how compensation will be used. This advice should come from independent professionals not already engaged to assist or represent the RNTBC, ensuring impartial and expert guidance. Ideally, funding would be allocated to support RNTBCs to obtain this advice.

### Schedule 5 – Intervention and Consent Determinations

- Members support clarification of the Commonwealth Minister's role.

### Schedule 6 – Procedural Changes, Section 31 Agreements

- There is support for increased transparency through public records.
- Members suggest further consultation with affected stakeholders on confidentiality and privacy concerns, particularly where names and addresses are visible.

### Schedule 7 – National Native Title Tribunal (NNTT) Dispute Resolution

- While members welcome a broader role for the NNTT, adequate resourcing is recommended to ensure effective dispute resolution.

## Feedback: Evaluation of the amendments to the Native Title Act 2021

- To further assist parties, a publicly available list of experienced mediators and negotiators should be established, with funding allocated to enable their engagement where needed. It should also be clear as to who will have authority to make requests for mediation or negotiation.

### Schedule 8 – RNTBC Governance

- There is support for enhanced governance and dispute resolution requirements.
- However, there may be a risk of administrative burden to smaller RNTBCs and they may require additional support and training.

### Schedule 9 – Validation of Section 31 Agreements

- There is support for the resolution of uncertainty following the decision in *McGlade v Native Title Registrar & Ors* [2017] FCAFC 10.
- Members recommend ongoing review of these processes (ILUAs and section 31 Agreements) to ensure no unintended consequences arise from these changes.
- Members recommend seeking clarification on what constitutes a “majority” for the purposes of these provisions, such as when negotiating ILUA agreements. Is it a majority of members of the applicant or is it a majority of attendees at a properly constituted meeting?

### Conclusion

The amendments represent a practical advancement, but their success will depend on sustained monitoring and meaningful engagement with stakeholders. Continued guidance, support, and opportunities for feedback from the Department will be vital to ensure the amendments are effectively implemented and responsive to community needs.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [policy@qls.com.au](mailto:policy@qls.com.au) or by phone on [REDACTED] [REDACTED]

Yours faithfully,



Genevieve Dee  
President