

Supplementary Submission into the Native Title Amendment (Reform) Bill, 2011.

Friday August 12, 2011

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To:

Senate Standing Committee on Legal and Constitutional Affairs

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I am supporting the submission by the Yindjibarndi Aboriginal Corporation

Further to my earlier submission, located here

http://www.facebook.com/note.php?note_id=10150326847621068 and dated July 30, 2011, I am now a member of the "Friends of Yindjibarndi" Group and submit the following in addition to my earlier submission with the full support and endorsement of the Yindjibarndi People.

As a friend of the Yindjibarndi Aboriginal Corporation and an Australian citizen, I feel the need to send this supplement submission as I am appalled by the abrogation of Australian state and federal laws, in particular, as it has been exposed by the "FORTESCUE METALS GROUP LTD, THE PILBARA INFRASTRUCTURE PTY LTD, FMG PILBARA PTY LTD" (FMG) and "**NED CHEEDY, MAVIS PAT, AILEEN SANDY, THOMAS JACOB, SYLVIA ALLEN, ALLUM CHEEDY, MICHAEL WOODLEY FOR AND ON BEHALF OF THE YINDJIBARNDI PEOPLE AND YINDJIBARNDI ABORIGINAL CORPORATION RNTBC (ICN 4370)**" (Yindjibarndi Peoples') situation.

The Native Title Amendment (Reform) Bill, 2011, (NTRB) must enshrine, as its core focus, the right of the Indigenous People to self determination. The rights of Traditional Owners as custodians of their Country must also be enshrined. Their rights to protect their sacred sites must also be enshrined.

We have seen first hand (see my first submission and the attached two videos as Firm Evidence) on how Corporations have used bullying tactics and manipulative behaviour to gain access to natural resources, and to attempt to remove natural resources with complete impunity for the damage that this removal has created. These practices are clearly illegal and must end immediately.

I strongly encourage the committee to discern and correct the flaws of the The (Existing) Native Title Act 1993 - link: http://www.austlii.edu.au/au/legis/cth/consol_act/nta1993147/s253.html#valid (NTA), specifically as they have been so vividly exposed in the travesty of FMG's actions against the Yindjibarndi Peoples yet while apparently acting within the terms of the current NTA Act. Further insult to injury has also been experienced by the Yindjibarndi People while acting within the farcical Arbitration of the National Native Title Tribunal (NNTT).

Put simply there has been no fair, honest and open negotiations, nor Community Consultation, particularly with an agreed Agenda, which is set, endorsed and worded by the Yindjibarndi People directly, meaning, the People, the Elders and Official spokespeople of the Yindjibarndi People.

Further I implore the Committee to interrogate the actions of FMG Land Access Managers and Anthropologists and I ask the Committee to seek direct evidence from **-NED CHEEDY, MAVIS PAT, AILEEN SANDY, THOMAS JACOB, SYLVIA ALLEN, ALLUM CHEEDY, MICHAEL WOODLEY FOR AND ON BEHALF OF THE YINDJIBARNDI PEOPLE AND YINDJIBARNDI ABORIGINAL CORPORATION RNTBC (ICN 4370)**, who have witnessed and suffered first hand by the tactics used by FMG.

Throughout the colonization of this nation there has never been formal acknowledgement, respect for, or admission of Aboriginal Sovereignty. Sovereignty which includes, but is not limited to; Traditional Custodial Rights to Country and Resources, Traditional Law, Customs, Culture, Trade Roots, Information Exchange and Education Systems. Reforming the Native Title act must enshrine Aboriginal Sovereignty.

Australia is now a signatory to the United Nations Declaration on the Rights of Indigenous People (UNDRIP) This document states: "that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,"

This document also reaffirms that "indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind," and goes on to state that Australia is

"Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,"

and also "Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests," (UNDRIP)

It is with these words in mind that the Prime Minister of Australia formally apologised, on behalf of the people of Australia, by saying "Sorry". Saying Sorry is great, but it is now time to end the genocide.

It is now time to stand true with our commitments when we signed the UNDRIP by:

"Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States, Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,"

View the full document here: <http://www.un.org/esa/socdev/unpfii/en/drip.html>

The current situation with the Yindjibarndi People and FMG shows clearly that protecting the negotiating position of Traditional Owners is very sadly lacking in current legislation allowing mining corporations to tread rough shot over their rights which flies in the face of the UNDRIP.

A copy of the declaration is available at:

http://www.humanrights.gov.au/social_justice/declaration/DDRIPresolutionHRC.pdf

The following points must be taken into consideration.

- In determining whether a mining company has negotiated in good faith about the proposed grant of any mining leases, the National Native Title Tribunal should be required to take into account the extent to which the mining company has met the standards established by the United Nations, in the Declaration on the Rights of Indigenous Peoples. The Declaration was endorsed by Australia in April 2009; and the standards it sets out are said (in Article 43 of the Declaration) to be the “minimum standards for the survival, dignity and well-being of the indigenous peoples of the world”.
- In determining whether or not a determination should be made, to allow the grant of a mining lease, the National Native Title Tribunal should be required to consider and take into account the standards established by the United Nations, in the Declaration on the Rights of Indigenous Peoples.
- In making any determination which requires consideration of the Aboriginal Heritage Act 1972 (WA), the National Native Title Tribunal should in making its determination take into account the standards established by the United Nations, in the Declaration on the Rights of Indigenous Peoples
- In performing any of its functions under the Native Title Act, the Tribunal should ensure that all outcomes are consistent with the standards established by the United Nations, in the Declaration on the Rights of Indigenous Peoples.

Mining giants must not be allowed to walk all over the rights of Traditional Owners, nor destroy their Country, nor cause destruction of their sacred sites whilst removing their rights to self determination and continued sovereignty of their Country. To allow them to continue with current practice is not only going against the United Nations Declaration on the Rights of Indigenous Peoples but is unjust and diminishes the rights of ALL peoples.

Currently the system allows for “community consultation” which has shown to be based on a system of deception and the continued genocide of Indigenous People. These so called “community consultations” are outrageously farcical and fly in the face of the UNDRIP.

Recommendations:

(1) It is my view that, as Australia is now a signatory to the UNDRIP that this document should be fully incorporated into the Native Title Act, At present the UNDRIP does not have any force or effect in law. It must have, in line with our endorsement of the UNDRIP, via this Reform,

(2) and that direct Evidence from the above listed Persons and Endorsed Representatives of the Yindjibarndi People is heard and Respected in any decisions made on the future of Yindjibarndi's Country,

(3) and fair and just compensation must be paid for ALL past, present and future use and abuse of the Yindjibarndi's Peoples' Country,

(4) and fair and just compensation must be paid for ALL past, present and future use of and abuse of the Yindjibarndi People,

(5) and I implore the Committee to seek direct evidence from the Yindjibarndi key players as listed above in **BOLD** text and FMG.

Thank you for your time.

Yours sincerely

Anne Goddard

Member, Friends of Yindjibarndi

E&OE (errors and omissions exempt) - This supplementary submission was put together in a very limited time frame, utilizing the time given in two week extension granted to the Yindjibarndi for close of submissions. As such grammatical errors, typing errors and issues left unaddressed should not cause this submission to be unworthy of consideration by the Committee when making decisions on amendments to the NTA via the NTRB.