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Senate Standing Committee on Legal and Constitutional Affairs

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Submission to The Native Title Amendment (Reform) Bill2011

The rights of indigenous people to self determination must be enshrined in The Native Title Amendment (reform) Bill, 2011. Part of that self determination must include protection of Traditional Owners sacred sites, around which so much Law, Culture and Community revolve. It must be well regarded, recognized and acted upon in law, not just in word. Very few of the mining companies have negotiated "in good faith" with Traditional owners, preferring instead to make ridiculous monetary offers for land, knowing very well if they wait 6 months the Government will give it to them for free.

After watching The Great Native Title rip off I was horrified that Andrew Forrest of Fortescue Metals Group, would sink to the depths he did in his dealings with the Yindjibarndi. As a friend of the Yindjibarndi Aboriginal Corporation (YAC) and in support of their dispute with Fortescue Metals Group (FMG) I was outraged at the tactics of FMG in the negotiations in this matter.

"Fortescue Metals Group (FMG) have what they consider to be a finalised agreement with the WMYAC, which interestingly enough is not a party to the agreement. There is a technical process under the act to change the applicant which was not followed. The act was written so it couldn't be properly understood. It's porridge, so most people have trouble working it out. YAC called for an independent mediator to be appointed.

The State Attorney General, Christen Porter, said "it wasn't the States jurisdiction" and wiped their hands of the situation. Three years ago the Yindjibarndi community was one of the most cohesive communities encountered and now it is divided." Yindjibarndi Barister George Irving

Stop mining company rorts of Native Title - Save us from Twiggy Forrest/FMG
suggest.getup.org.au

Stop mining company rorts of Native Title - Save us from Twiggy Forrest/FMG: See www.yindjibarndi.org.au Across Australia cashed-up mining companies packing teams of lawyers...

FMG Great Native Title Swindle Part 2
www.youtube.com

Part 2 - Caught in the act - this is a record of a supposed 'native title' meeting staged by the iron ore miner, Fortescue Metals

Group (FMG). It shows how FMG
<http://www.rtrfm.com.au/download/2984>

(...)

FMG have what they consider to be a finalised agreement with WMYAC though they were not a party to the agreement. FMG has propped up the WMYAC with it's own money and this has deeply divided the community and the WMYAC will be the only people to benefit instead of the whole community. I do not see how the Native Title can possibly be constitutionally correct if the Yindjibandi are to be left beggared and the community divided after the sale of billions of dollars worth of minerals. If the Yindjibarndi were fairly paid for their land no one in the community would ever need welfare again, and they could certainly make a better future for themselves than working in a mine.

Andrew Forrest claims that paying The Yindjibarndi a fair price for their land would be "corporate welfare". I am sure he would not suggest the average stock holder take part of their investment return by working in the mine. For someone who says he loves the Aboriginal people he does not seem to mind acquiring their land for the lowest possible price.

Andrew Forrest has also talked in a degrading way about the women and young girls in Roeburn, a story that seem to take place in a lot of towns he goes to. He should make an apology for these degrading comments.

Both Andrew Forrest and Neville Powers imply that the Yindjibarndi are incapable of managing their own affairs and that money would not improve the community. If the whole community was paid decently for their resources I am sure they would be more than capable of building an amazing community. All you have to do is look at the Yindjibarndi website to see how talented and capable the Yindjibarndi are.

By what authority do Andrew Forrest and Neville Powers decide how the Yindjibarndi should spend their money? Mining companies should not be able to tell communities how to spend their income. By 2011 you would hope that this kind of paternalistic attitude would have been long past. Andrew Forrest says he loves the Aboriginals, whilst at the same time creating deep divisions and heartbreak in the Yindjibarndi community through his aggressive "with me or against me" approach to the acquisition of this community's land and resources. His willfully assertive application of white fella business politics to deeply the sensitive cultural and spiritual issues at the heart of this case show him to be totally out of line.

<http://www.theaustralian.com.au/national-affairs/broome-fears-future-as-the-next-dubai/story-fn59niix-1226109404590>

It is in the light of the unprincipled methods of FMG, and the lack of progress in developing meaningful rights in the native title process in general, I support the following:

I support the proposal in the Native Title Amendment (Reform) Bill 2011 to include the implementation of UNDRIP principals in native title act decisions.

I support the proposed amendment to give full protection to significant cultural and heritage sites as stated in paragraph 24MB (1) (c) (the Aboriginal Heritage Act 1972 (WA), has been proven to contain serious problems which impact negatively on these sites).

I support the proposed amendments in section 31, 31(1), 31(1a), and 31(2).

The National Native Title Tribunal has been almost totally useless in protecting Aboriginal sacred sites and thus the ability of Traditional Owners trying to continue their cultural, religious and spiritual life and obligations against the likes of FMG etc and Government is virtually hopeless. It is also obvious no mining company of the likes of FMG is going to pay a fair and reasonable price when in 6 months they can side step negotiations with Traditional owners and ask the Government and in most cases get what they want.

I support 38 (2) which relates to entitlement in regards to profit sharing, including by way of royalties.

I support 223 (2) in relation to "rights and interests" - which include acknowledgement of traditional rights which are an integral part of indigenous culture, such as (a) "hunting, gathering, or fishing. and (b) "the right to trade and other rights and interests of a commercial nature"

View the full document here:

<http://www.un.org/esa/socdev/unpfii/en/drip.html>

It is obvious that mining companies like FMG have no intention of dealing in a fair and equitable manner as directed by the UN and The National Native Title Tribunal. Therefore the The National Native Title Tribunal must be amended so the rights of Traditional Owners are primary in negotiations and not just empty words.

Susan Chalcraft