

GLENCORE

15 April 2016

Senate Standing Committee on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senators

Glencore notes the various submissions that have been received by the Senate Economics Reference Committee in respect of its *Inquiry into the development of bauxite resources near Aurukun*.

We welcome the interest of the various organisations and individuals that have provided their views. In undertaking this inquiry, we believe the Committee should prioritise talking to people in Aurukun, particularly those who are the traditional owners of the potentially affected areas and listen to their views.

Glencore would like to take this opportunity to provide these supplementary submissions in order to address a few of the issues that have been raised in the submissions already received and further inform the Committee about this matter.

These issues include:

- The relationships among the various parties making submissions;
- The provision of information to traditional owners;
- Claims made about Glencore acting on behalf of UC RUSAL; and
- The significance of a “benefits package”.

Relationship between submissions

While it is encouraging to see the unanimity of support for mining development in the Aurukun region, the majority of submissions assert that Aurukun Bauxite Development Pty Ltd should be permitted to undertake any mining activity.

Although the organisations and individuals making these submissions are perfectly entitled to this view, Glencore submits that the Committee should, as part of its deliberations, have regard to the publicly stated relationship between a number of these parties:

- Aurukun Bauxite Development Pty Ltd (“ABD”) (submission 7), on behalf of its shareholders (Aluminaire Pty Ltd and Australian Indigenous Resources Pty Ltd¹), seeks to acquire rights to the bauxite resource for the commercial benefit of their investors;

¹ Per ASIC extract dated 9 March 2016, ABD is owned by Aluminaire Pty Ltd (50%) (which is owned by Singaporean/Indonesian investors) and Australian Indigenous Resources Pty Ltd (50%) (which is owned by Mr John Benson)

- Llyle Kawangka (submission 4) and Gina Castelain (submission 11) are previous and current (respectively) directors of ABD;
- Cape York Land Council (“CYLC”) (submission 8) and Balkanu Cape York Development Corporation (submission 10) have had significant involvement in the ABD proposal including advocating for ABD to government² and publicly;
- Cape York Institute³ (submission 16) is described as being, together with CYLC and Balkanu, part of a linked network of indigenous organisations⁴ on Cape York;
- Queensland South Native Title Services (submission 13) and Professor Ciaran O’Faircheallaigh (submission 6) appear to rely on information provided to them by CYLC⁵; and
- A submission (submission 15) has been made by Gilbert and Tobin Lawyers on behalf of Ngan Aak-Kunch Aboriginal Corporation (“NAK”) (which is stated to have a joint venture agreement with ABD) but without any apparent evidence of authorization from its directors.

Information for Traditional Owners

Glencore’s approach to consultation with the traditional owners in Aurukun is based on openness, transparency and mutual respect.

It is for this reason that we note the submission of Mr Jonathan Korkaktain (submission 5) with some concern. In particular, the submission claims that *“Glencore does not come and talk to the Board of NAK. The only document we have received from Glencore indicated that they require a number of additional years of study and they are looking at a mine life of only 20 years”*.

This statement is concerning for two reasons.

First, as is clear from our earlier submission (submission 9) Glencore wrote to NAK’s representatives on at least five occasions between August 2014 and March 2015 seeking a meeting with NAK only to be advised that NAK would not *“negotiate, enter into discussions or enter into agreement with any other person in relation to the development of the Aurukun Bauxite Project”* and that *“the Directors of NAK will not, therefore, be meeting with representatives of Glencore”*.

² Refer for example Item 2 of Appendix C of ABD’s submission (submission 7) where CYLC’s Chair and Balkanu’s Executive Director attended a meeting with the Queensland Government together with ABD representatives

³ Chaired by Danny Gilbert of Gilbert and Tobin

⁴ <https://www.cylc.org.au/resources/useful-links/>;

http://www.balkanu.com.au/index.php?option=com_content&view=article&id=5&Itemid=32;

⁵ QSNTS acknowledges its reliance in paragraph 4 of their submission; Professor O’Faircheallaigh, previously a consultant to CYLC, refers to a Glencore document on page 6 of his submission that has not been publicly released and had only been provided to CYLC for the purposes of informing NAK

If Mr Korkaktain, as Chair of NAK, was not aware of such letters, further inquiry is warranted into who from NAK was being informed of our correspondence and who was therefore providing instructions to advisors.

Second, Glencore actually physically provided hard copies of our correspondence to Mr Korkaktain, and other NAK directors, in Aurukun in August 2015. Given that he has in fact received this correspondence, we have concerns about the basis for his submission.

Clearly if Mr Korkaktain is not aware of communications from Glencore than the traditional owners that NAK represents would be equally unaware. This highlights one of the concerns that we identified in our original submission regarding consultation with the common law holders of the native title.

It is also consistent with concerns raised in correspondence that we received from a director of NAK which attached a letter (attached as Annexure 1) that we understand has also been submitted to this Committee.

RUSAL

A number of submissions make reference to Glencore's relationship with UC Rusal, a leading global aluminium producer and one of the world's major producers of alumina. These submissions, which all rely on the same 2010 article in Metal News, variously allege that:

- Glencore was "introduced" by RUSAL to tender for the Aurukun deposit and that we are *"supporting the Aurukun project on behalf of Rusal"*⁶;
- There is a real risk of *"Glencore/Rusal using the threat of developing their own source of bauxite supply to obtain more favourable prices from existing suppliers leaving the Aurukun bauxite resources undeveloped"*⁷
- Glencore will *"sell to themselves (or partners) at the lowest price, or through tolling. This will no doubt result in minimizing any benefits to Wik and the State Government's royalty benefits"*⁸
- Glencore may have been appointed as *"a result of commercial threats by Glencore/Rusal"*⁹

While Rusal, as a major global consumer of bauxite, is always going to be one of a number of potential customers for any bauxite producer, they have not had any involvement in Glencore's proposal in respect of the Aurukun bauxite project and any insinuation of collusion, coordination or the use of "commercial threats" is entirely rejected.

It is a matter of public record that Glencore currently holds a 8.75% interest in UC Rusal¹⁰ and our Chief Executive, Ivan Glasenberg, is a non-executive director¹¹. Likewise, UC Rusal have held, for a

⁶ Submission of ABD

⁷ Submission of Professor O'Faircheallaigh

⁸ Submission of Llyle Kawangka

⁹ Submission of Balkanu

¹⁰ http://www.rusal.ru/en/investors/to_shareholders/structure/

¹¹ http://www.rusal.ru/en/investors/corp_management/board_of_directors/

number of years, a 20% interest in Queensland Alumina Limited (“QAL”) with the remainder owned by Rio Tinto Aluminium (80%)¹².

Regarding the concern that the resource would be used as a bargaining chip and remain undeveloped, the Queensland Government was particularly keen to ensure that Glencore would undertake a timely assessment of the resource, hence the inclusion of milestones in the Aurukun Agreement that would ensure progression¹³.

Benefits Package

We note a number of submissions that focus on the nature and existence of a “benefits package” for native title holders and local community.

As part of the Request for Detailed Proposal process that was undertaken in 2013, we met with the directors of NAK on five occasions over four months. Under the rules that applied to that process, bidders were not allowed to meet directly with community members during this time.

In that short timeframe, we were able to discuss and identify proposed principles of agreement that were presented and discussed at our final meeting with NAK in August 2013.

At that meeting, we sought feedback from the directors about those principles and, subsequently we submitted those principles to the State to demonstrate the progress of discussions with NAK. It was made clear that these discussions were incomplete.

Importantly, at the meeting on 21 August 2013, we agreed with the directors of NAK that any further discussion about a benefits package should involve the broader community and the family groups that they represented and would therefore be more appropriate to be undertaken after a decision was made on the preferred proponent.

We would encourage the Committee to seek the views of those directors of NAK from 2013 who participated in the RFDP process to obtain their views about our discussions.

NAK was being advised, at that time, by [REDACTED] of HWL Ebsworth Lawyers.

Since being selected as the preferred proponent by the State, we have repeatedly sought to meet with directors of NAK so that further discussion can take place regarding, among other things, opportunities and benefits.

It is clearly difficult for a proponent to seek to negotiate a benefits package with a native title prescribed body corporate when that body corporate is being restrained from meeting with that proponent to discuss any element of the project.

We have repeatedly stated our view that the involvement and participation of the local community will be vital to any future success of the project and we have also stated our willingness to discuss

¹² <http://www.qal.com.au/who-we-are.aspx>

¹³ <http://statements.qld.gov.au/Statement/2014/8/28/government-to-drive-for-community-benefits-from-aurukun-mine>

any element or manner of benefit that is sought by the native title holders noting that such benefit must be capable of being sustained by the economics of the resource and the project.

We remain hopeful that this discussion can progress in the near future and we can continue our work to assess the potential development of this resource.

Yours sincerely

A large black rectangular redaction box covering the signature area.

Julian Farrugia
Project Director

Friday 5th February 2016

Senate Standing Committee on Economics
P O Box 6100
Parliament House.
Canberra. ACT 2600.

Re: Inquiry into Bauxite Resources near Aurukun in Cape York.

We the representatives of the Wik and Wik Waya Traditional Owner groups and interested persons would like to express our disappointment in the way the negotiations into the Bauxite Resources near Aurukun in Cape York have been conducted.

It is felt that the process into the whole matter has been incapacitated from the beginning by the **advisors** of the Ngan Aak-Kunch Aboriginal Corporation (NAK). Leaving no leverage for the people who have an affiliation to the land to get a better understanding from all involved, to ensure that we substantiate and negotiate an outcome that is beneficial for all involved.

Therefore for we would like the senate to take the seriousness of this matter into consideration and make a fair and equitable recommendation as we need our voices to be heard.

Yours Sincerely

The petition below has been signed by 48 individuals.

Name	TO group/Organisation	Signature
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