



KRED Enterprises Pty Ltd

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Senate Standing Committees on Economics

PO Box 6100

Parliament House

CANBERRA ACT 2600

By Email: economics.sen@aph.gov.au

Dear Committee Members

Submission in response to Senate Inquiry into the Developmetn of Bauxite Resources Near Aurukun in Cape York

I refer to the above Senate Inquiry for which submissions are currently being taken.

Background

KRED Enterprises Pty Limited ("KRED") is the operational arm of the Ambooriny Burru Foundation. The work of the Ambooriny Burru Foundation is directed by the priorities of its members and is carried out through KRED and its subsidiary companies, KRED Legal Pty Limited and EHSIS Pty Limited. These priorities include education, economic development, traditional law and culture and land management. KRED's role is to focus on realising economic opportunities to secure the long-term economic independence of Kimberley Indigenous people.

In my role as CEO of KRED and also formerly as CEO of the Kimberley Land Council, I have been involved in the negotiation of many native title and commerical agreements to develop large resource projects. I note that I have found in my experience, for large resource projects to be successful the support of Traditional Owners and local Indigenous communities is essential particularly in areas that have rich environmental and cultural values such as the Kimberley and Cape York.

Submissions

1. In making this submission I note the position of the Cape York Land Council and the Ngan Aak-Kunch Aboriginal Corporation RNTBC who I undersand holds both native title and Aboriginal Freehold over the area of the Bauxite Resources ("the Bauxite Resoures") the subject of this Inquiry on behalf of the Wik and Wik Way Traditional Owners ("the Traditional Owners").
2. I also note the history of the Bauxite Resources which has seen the Bauxite Resources left undeveloped despite the support of Traditional Owners for the project. This is in a region where there is a paucity of opportunities for Indigenous people to get jobs and participate in the mainstream economy whilst continuing to live on their traditioanl country.

3. I understand that the Traditional Owners have entered into a Joint Venture with a company called Aurukun Bauxite Development Pty Limited ("ABD") which has committed to develop the Bauxite Reserves in partnership with Traditional Owners and that native title consent has already been provided under the terms of this Joint Venture through an Indigenous Land Use Agreement.
4. The option presented by ABD would appear to present a clear path forward for the Queensland Government to enable the development of the Bauxite Reserve which will undoubtedly have significant benefits to the region and to the State's economy.
5. It remains unclear to me as to why in light of the above the Queensland Government has elected to grant the right to develop the Bauxite Reserves to a foreign multinational mining company, Glencore and in doing this has appeared to attempt to bypass the Traditional Owners and due process around the Native Title and Torrens Title procedural rights enjoyed by the Traditional Owners.
6. In particular I note the suspension of the rights of the Traditional Owners under the *Mineral Resources and Other Legislation Amendment Act 2006 (Qld)* and the determination by the Queensland Government that the Expedited Procedure should apply to the grant of a mining lease pursuant to the future act provisions of the *Native Title Act 1993 (Cth)* thereby depriving Traditional Owners of a right to negotiate with Glencore.
7. Whilst I do not wish to comment on the suitability or capability of Glencore as a project proponent (although I note that it would appear that there may be some issues in this regard both in terms of Glencore's motivations as a shareholder of the Queensland Alumina Refinery and also in terms of Glencore's current financial position), I would venture that the actions of the Queensland Government are clearly increasing the risk of the project not being developed and are increasing project uncertainty at a time when security of tenure and sovereign risk are essential for projects to be developed.
8. Ultimately the priority of the Queensland Government should be twofold –to ensure that the Bauxite Reserves are developed as soon as possible to provide benefits to the local community, the Cape York Region and the State's economy, and to ensure that the rights and views of Traditional Owners (and in this case freehold landowners) are respected and addressed as part of the development.
9. The joint proposal from Aurukun Bauxite Development Pty Limited and the Traditional Owners is consistent with both these priorities and as such should be supported.
10. The alternative is that by depriving Traditional Owners of the ability to participate in the project and by increasing the risk of the Bauxite Reserves remaining undeveloped, Traditional Owners and local Indigenous Communities will require the continued welfare support of Government to support their livelihoods and will need to rely on the goodwill and grace of Glencore (or whoever ultimately develops the mine) and hope that some of the benefits from the mine trickle down to the Traditional Owners.
11. For this to be the approach of Government in the wake of the latest Closing the Gap report to government is disappointing and the competitive bid process should be re-opened to ensure that due process is followed and that position of Traditional Owners and the likely benefits to Traditional Owners is given suitable weight.

12. If this does not occur, to me, it would appear inevitable that Traditional Owners will remain unwilling to consent to the award of the mining lease to Glencore and that the development of the Bauxite Reserves will need to be addressed through contested court process and that the project will continue to be the subject of legal challenges both from disgruntled Traditional Owners but also environmental organisations.
13. I would also submit that any ongoing disruption to the project as described above will impair the ability for Glencore to finance the project and that if the issues raised in this submission remain unaddressed the capacity of Glencore to develop the Bauxite Reserve will be significantly diminished.

Please do not hesitate to contact KRED if you wish to discuss our submission. We look forward to ongoing engagement in relation to the review of the AHA.

Yours Sincerely

Wayne Bergmann