



Parliament of Australia

Senate

Standing Committee on Economics

Uranium Royalty (Northern Territory) Bill 2008

Northern Land Council Submission

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SENATE STANDING COMMITTEE ON ECONOMICS

URANIUM ROYALTY (NORTHERN TERRITORY) BILL 2008

The Northern Land Council (NLC) welcomes the opportunity to provide a submission regarding the *Uranium Royalty (Northern Territory) Bill 2008*.

The NLC appreciates the Commonwealth Government's commitment to economic reforms which promote the prospect of development in remote regions which benefit traditional owners and Aboriginal communities.

The Bill derived in part from recommendations made by the Uranium Industry Framework Implementation Group, after consideration by a royalties subgroup. The NLC is a member of the Uranium Industry Framework, and together with the Central Land Council participated in the royalties subgroup.

The NLC recognises the importance of improving socio-economic outcomes for traditional owners and Aboriginal communities through development in remote regions, provided that traditional owners consent and that sacred sites and the environment are protected.

The purpose of the Bill is to optimise the prospect of uranium mining and associated development in the Northern Territory by implementing a profit based royalty regime which is consistent with existing NT laws regarding other minerals and which automatically remains consistent if NT laws change (with the Commonwealth retaining power to override NT laws by regulation).

The Bill does not apply to the existing Ranger uranium mine which operates under an ad valorem royalties regime; it applies to future uranium mines including known deposits such as Jabiluka and Koongarra (these deposits can only be mined if the traditional owners consent).

Under existing NT laws compensatory payments negotiated between traditional owners and miners do not affect the calculation of royalties, and thus do not affect the quantum of royalty equivalents paid into the Aboriginal Benefits Account under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

While both an ad valorem regime and a profit based regime may deliver a similar quantum of royalties over the lifetime of a mine, the latter is advantageous to mining because the cost of paying royalties does not arise during non-profitable periods such as the opening years of a mine when high capital costs are being paid off. This means that miners will not be liable, in contrast to an ad valorem regime, to financing royalties from debt or equity during non-profitable periods.

The NLC notes that, in relation to uranium mining on Aboriginal land, caution is required to ensure that one effect of the Bill does not operate as a disincentive to obtaining the consent of traditional owners. This aspect will require careful attention during consultations. The *Land Rights Act* provides that a Land Council cannot consent to the grant of a minerals exploration licence on Aboriginal land unless the traditional Aboriginal owners (as a group) consent. The position of traditional owning groups is ascertained on the basis of anthropological advice by reference to the traditional or otherwise applicable decision making process of the group. In practice this will ordinarily involve

emphasis or deference to the position of senior and authoritative Aboriginal persons within the group. Naturally, where consent is given, senior persons will wish to benefit from the mine.

The effect of a profit based regime for significant mines is that royalties may not be paid for some years given that debt in relation to start up capital costs must be repaid, and also that royalties will not be paid at other times if an operating mine becomes marginal due to falling prices or other factors. This means, in relation to Aboriginal land, that royalty equivalents will not be paid by the Commonwealth into the Aboriginal Benefits Account under the *Land Rights Act* during that period, and thus traditional owners and other affected Aboriginal persons will not benefit from payments of those royalty equivalents. Senior persons within a traditional owning group are often elderly, and thus may not personally benefit from royalty equivalents if they pass away before a mine delivers a profit.

This is a significant issue for traditional owners. One means of ameliorating this potential disincentive may be to ensure that negotiated payments in mining agreements meet any shortfall to traditional owners during periods when royalty equivalents are not paid. Minerals exploration agreements in the NLC's region include mining principles which are intended to facilitate that outcome, however at the time mining negotiations occur traditional owners will have already consented to mining and issues may arise as to the efficacy of the principles (since 1987 traditional owners' consent is given only at the exploration stage, and is known as a conjunctive agreement; prior to 1987 consent was required at both the exploration and the mining stage).