

Mrs Julie Matheson

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Senate Standing Committee on Legal and Constitutional Affairs
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Dear Monika

REF: Native Title Amendment (Reform) Bill 2011

I am a Certified Financial Planner and have been practicing financial planning for 25 years.

Over the past 18 months I have been assisting one of the Pilbara Aboriginal groups, who receive royalties from a mining company, with submissions for payments to their members. Unfortunately the members have given up land rights for mining royalties but find themselves begging for money from a royalty's trust that the mining company has threatened to take legal action against because of control issues. This is hardly self determination. No government or company prescribes how Mrs Gina Rinehart must spend her royalty's benefits from mining, or perhaps they ought to if Aboriginal people are treated in a prescriptive way.

I am also a land owner in Roebourne and was born and raised in the Pilbara town of Port Hedland. I still have strong links to the locals of Port Hedland and understand fully that mining has not brought any joy to the Traditional Owners, especially in the area of affordable living in their home town.

The abuse of Native Title by Fortescue Metals Group (FMG) on the Yindjibarndi Aboriginal Corporation is concerning. The agreements offered by FMG have caused division in the community, and seems to offer one group more institutionalisation, ie controlling how, what and when the people can receive money, education, health, and employment, in return for giving up their land rights and the ability to practice culture on country. There is no guarantee that the people won't find their trust money being legally challenged by FMG, just has been the experience with the group that I help.

The reform and amendments to Native Title should at the very least include the rights of Aboriginal people to have the **power of veto**, and the inclusion of the United Nations Declaration on the Rights of Indigenous Peoples "by requiring that those principles are to

be applied by any person exercising a power or performing a function under the Act to interpret the Act in a manner consistent with the Declaration".¹

It appears to me as an onlooker to the negotiations between mining companies and representatives of Aboriginal people that the right to say No to mining is sadly missing. We must trust that Aboriginal people know what is best for country and reforms to the Native Title should reflect this.

I believe that it is important to extend Aboriginal concerns to the political economy impacts that mining has on a home town or cultural environment. It is not surprising that in 2004-2005 the Pilbara produced \$12.9billion in exports but less than 0.5% (\$53million) went back into the Pilbara.² Yet so much country has been given up to mining and mining leases. Native Title should be able to place an economic cost on the environment and culture which is affected by mining using a discount factor for future generations who will be unable to benefit from the exploitation of a finite resource. Native Title should have its own "future fund" provision to take this into account.

In an interview by the ABC with Andrew Forrest of FMG, Mr Forrest proposed that royalties were akin to the Government transferring welfare responsibilities of Aboriginal people to mining companies. If this is not the case then no prescriptive measures should be placed on royalty payments to the Aboriginal group. Native Title should also recognise that Aboriginal people should not have to say yes to mining in return for health, education, housing and employment. No other Australian citizen is being asked to give up their land for these things. The WA Premier Colin Barnett says that the Gas Hub in the Kimberley will solve "high rates of unemployment, ah poor education, poor health standards, ah domestic violence, abuse and neglect of children. Am I as the Premier of Western Australia going to sit back and say I'm going to give up the opportunity to help those people? I'm sorry. I will not do that."³ This statement seems to back Mr Forrest's proposition of a transfer of welfare responsibilities away from Federal and State Government, and therefore placing more pressure on Aboriginal people to buckle under the weight of demands from mining companies.

In summary Native Title should enable Aboriginal people to know the political and economic costs of entering into agreements with mining companies, factor in the discount factor for future generations for the loss of country and finite resources, and give them the ability to say NO... or not now... or may be in the future, depending on the impact of welfare on country, culture and the community at large.

Yours sincerely

Julie Matheson, CFP, Dip FP.

¹ Kimberley Land Council, Submission with respect to the Native Title Amendment (Reform) Bill 2011, 29/6/11, p. 2.

² McGrath, et al, (2006) Reframing Poverty of Indigenous Australians, Murdoch University.

³ ABC Four Corners (2010)