

14 July 2011

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Dear Sir / Madam

Thank you for the opportunity to provide comments on the *Minerals Resource Rent Tax Bill* (the Bill). The National Native Title Council (NNTC) has sought comments from Native Title Representative Bodies and Native Title Service Providers (NTRBs / NTSPs) from around the country to assist in the development of this response.

Firstly, the NNTC would like to provide in principle support for the premise of taxing positive cash flows, or mining profits, on the mining of iron ore and coal. The NNTC also supports expanding the Petroleum Resource Rent Tax to include all Australian onshore and offshore oil and gas projects.

The NNTC believes that the Bill will provide a valuable incentive for extractive industry investment in indigenous communities. In particular, the Bill may provide considerable opportunities for indigenous communities, for example:

- Incentives for the extractive industry to engage in native title agreements. We note that native title payments are not classed as excluded expenditure under ss21-50(4) of the Bill, despite their status as private royalty payments. We also note that the costs associated with negotiating native title agreements are to be assessed as upstream mining operation costs under s21-22. The NNTC welcomes this and believes that it will encourage further extractive industry negotiation with native title groups throughout Australia.
- Incentives for the extractive industries to implement training and employment schemes focused on local Indigenous communities under s21-22. General expenditure related to upstream operations includes training, engaging, employing and accommodating personnel who are engaged in pre-tax point activity. Therefore, any training or employment schemes that aim to foster indigenous engagement in upstream activity would be deducted from mining profits, thereby encouraging further take up of Indigenous employment schemes by the extractive industry.

As the burden of negotiating with extractive industry bodies falls disproportionately on NTRBs/NTSPs, the NNTC recommends that a proportion of proceeds from the MMRT should be used to fund certain activities of native title organisations, addressing long-standing problems surrounding their lack of capacity. This is all the more relevant given the fact that more than 60% of minerals operations in Australia have neighbouring Indigenous communities.

The scheme should provide funds to assist in carrying out activities under the Future Act regime of the Native Title Act. This will have a positive effect on the ability of NTRBs/NTSPs to provide best practice land use agreement outcomes for all stakeholders. In particular, the NNTC would also recommend that some much needed funding should be directed to assist in the activities and functions of PBCs. PBCs struggle with capacity and resources to carry out their statutory functions, many of which relate to the activities of mining activities in their jurisdictions.

The adoption of such a scheme would not only be positive for NTRBs/NTSPs and their constituents, but would also be positive for stakeholders in the extractive industry. While delays in the negotiation and claim processes have a significant impact on native title claimants, they also impede any resolution needed for major projects. Therefore, such a scheme may reduce the costs associated with the negotiation of Indigenous Land Use Agreements. It may also reduce the costs and delays associated with native title determinations, ultimately providing more certainty to industry participants.

I trust the above comments are useful for your purposes, however if you have any queries or require any further information please do not hesitate to contact me at your convenience.

Yours sincerely



Brian Wyatt
Chief Executive Officer