

HREOC/GRIFFITH STUDY: MAIN FEATURES OF AGREEMENTS

Agreement	Consultative Processes eg identifying NT parties/preparing for negotiations	Negotiation protocols eg. MOU, resource issues.	Level of Representation NTRB/non NTRB	Government Involvement	Legal Requirement To Negotiate	Payments
Agreement 1	Extensive consultations over an 18 month period	A number of the NT parties involved were in conflict over boundaries and related matter. However, they agreed to enter into a MOU which recognised their differences and their commitment to maintaining a united front in their dealings with the resource company throughout the negotiations.	The Native Title parties obtained funding for legal advice through two NTRBS	No	Yes- RTN	Substantial lump sum payment
Trust/Use of Funds	Employment	Business opportunity and contracting	Cultural Heritage	Environmental Management	Monitoring the project-implementation of agreement; Indigenous participation in decision-making /management structures	Land Title
Trust fund established for the benefit of the NT parties, including a scholarship fund. Agreement did not state how the financial benefits are to be split between the NT groups	Company to develop and implement an Aboriginal employment and training strategy; skills audit	Contractors required to demonstrate commitment to employment of Aboriginal people.	Regime established for cultural heritage surveys. Includes vesting of power in cultural heritage monitors to stop work if cultural heritage sites were encountered; relevant members of NTG to determine how to proceed.	None	Ongoing monitoring in relation to cultural heritage	No determination involved

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Agreement 2	Not documented	Proponent reimbursed some legal costs of NTRB	An Aboriginal corporation represented each of the NT parties. They were assisted by a member of staff of the NTRB for the region and by a private lawyer retained by the NTRB. However the NTRB did not assume a formal role throughout the course of the negotiations.	The state government was a party to the agreement. Only commitment is to provide access to government services	Yes- RTN	A complex set of payments, which together is equivalent to less than a 0.2 per cent royalty. Once all statutory requirements have been met, the proponent would issue share options to NT parties
Trust/ Use of Funds	Employment	Business opportunity and contracting	Cultural Heritage	Environmental Management	Monitoring the project-implementation of agreement; Indigenous participation in decision-making /management structures	Land Title
None	Indigenous employment and training target of 10 per cent within 5 years. Provide one-off payment to help establish an indigenous employment and training agency.	Preferred contractor status for competitive Indigenous businesses.	Cultural heritage management plan which builds on cultural heritage surveys of parts of the project area conducted by the NT parties in earlier years.	None	None	Non-extinguishment principle.

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Agreement 3	Extensive consultations took place and an independent mediator was employed throughout the consultation and negotiation period.	Protocols established dealing with representation, technical advice and resourcing (resources to be provided by company but to be repaid in the event of an agreement).	An Aboriginal Corporation was established as an incorporated body to represent NT parties. No NTRB involvement	No	No	Package of benefits estimated at \$60 million over 20 years
Trust/Use of Funds	Employment	Business opportunity and contracting	Cultural Heritage	Environmental Management	Monitoring the project-implementation of agreement; Indigenous participation in decision-making /management structures	Land Title
None	Employment and training and educational opportunities	Business opportunities, joint venture initiatives	Implementation of cultural heritage protection measures including site clearance procedures for mining	Environmental protection measures	Ongoing monitoring of the Agreement through a liaison committee, 5 yearly review.	No determination

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Agreement 4	Company provided modest financial contribution to the cost of consultations	Protocol which set out the framework for negotiations including timelines and objectives and funding. Native Title parties deal only through nominated representatives and no 'side deals'.	NTRB	None	Yes. RTN	None, but issue of shares, half on grant of mining lease and the remaining half upon registration of an ILUA.
Trust/Use of Funds	Employment	Business opportunity and contracting	Cultural Heritage	Environmental Management	Monitoring the project-implementation of agreement; Indigenous participation in decision-making /management structures	Land Title
Prescribed Body Corporate to be established to hold shares	Employment preference, training, proponent to encourage contractors and sub-contractors to employ Aboriginal residents of the region	Preference for competitive tenders from Aboriginal organisations	Procedures for management and protection of areas of significance; compensation for deliberate damage to such areas. NT parties agree that once the cultural heritage protection procedures have been applied to an area they will not bring any claims in respect of the presence of significant areas under Commonwealth or state legislation	Company is only undertaking to comply with environmental standards applied to the company under relevant environmental legislation	None	No determination

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Agreement 5	Native Title claim had been registered for region so company initially made contact with the NT claimants through NTRB.	None	Legal advice from private law firm but also received assistance from NTRB	No	Yes. RTN	Financial payments which are confidential but are believed to be modest.
Trust/Use of Funds	Employment	Business opportunity and contracting	Cultural Heritage	Environmental Management	Monitoring the project-implementation of agreement; Indigenous participation in decision-making /management structures	Land Title
Trust fund for educational and training of young Aboriginal people from the local area	None	None	Contribution by the company towards the establishment of a keeping place to preserve and exhibit items of significance	None	Joint management plan for cultural heritage and sites of significance	No determination

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Agreement 6	Three steering committees representing communities and NT parties (membership determined by NT parties) which then provided direction to an extensive community consultation exercise.	MOU established process for information gathering, timelines, resourcing	Minority of the traditional owner groups retained independent legal advice towards the end of the negotiations while the NTRB represented the other TO groups The NTRB was also a party to the agreement	State government is a party and contributes substantially to compensation package	No. A private agreement subsequently registered as an ILUA	Initially \$4 million per annum combined payments by company and the state government to a trust fund
Trust/Use of Funds	Employment	Business opportunity and contracting	Cultural Heritage	Environmental Management	Monitoring the project-implementation of agreement; Indigenous participation in decision-making /management structures	Land Title
Substantial allocation to long-term investment under terms of trust. Remainder allocated for communities and NT parties	Minimum payments specified for employment training and youth education programs	Preference for competitive local Aboriginal businesses seeking to supply goods and services to company	Cultural heritage surveys, site protection plans and cultural awareness training for company staff and principal contractors; establishment of out stations on suitable areas of the mining lease	Adoption of a collaborative approach to environmental management	Coordinating committee (majority of indigenous members) monitors agreement, advises on conduct of mining. Full time Aboriginal liaison officer assists committee.	Company support for NT determination to extent this is consistent with recognition of company's rights and interests

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Agreement 7	None	None	NTRB party to the agreement	None	No	Payment to a trust fund to assist native title parties re: determination of native title. One off payment to assist Native title party to set up steering committee and organisation
Trust/Use of Funds	Employment	Business opportunity and contracting	Cultural Heritage	Environmental Management	Monitoring the project-implementation of agreement; Indigenous participation in decision-making /management structures	Land Title
None	An education fund, company contribution in excess of \$50,000 annually for five years	Preferential employment and business development strategy to facilitate Aboriginal participation in employment and contracting	Company operations subject to a cultural heritage management plan; Cultural heritage officers have vested power to halt operations if company is in breach of the CHMP	None	Employ six full time Aboriginal cultural heritage officers to monitor seismic activity; company to meet travel costs and all living expenses while traditional owners are in the field.	No determination

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Agreement 8	Company provided modest funds to some Native Title parties to facilitate consultations	Company made a modest contribution to negotiation expenses of some NT parties	Private law firms and the Aboriginal Legal Service	None	Yes. RTN	Some agreements confidential so information limited. Payments to elders and to some individuals. First payment made to a trust, but subsequent payments not made. Disputation has occurred over other payments and share issues.
Trust Use of Funds	Employment	Business opportunity and contracting	Cultural Heritage	Environmental Management	Monitoring the project-implementation of agreement; Indigenous participation in decision-making /management structures	Land Title
None	Employment and training initiatives. Company has achieved indigenous employment of about 15 percent	Preference to certain NT parties re: granting of contracts	Only one of a series of agreements dealt with cultural heritage protection	In cooperation with one of the native title parties to protect, preserve and rehabilitate the project areas. Only one individual has had an involvement in these areas through their membership of company's Environmental liaison committee.	One agreement established a management committee to coordinate implementation of agreement, but meetings were discontinued after six months	No determination

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Agreement 9	Government provided some funds to Aboriginal groups to participate in the environmental review process	Federal government provided some funding for and subsequent negotiations	Each group represented by its own organisation, each had separate legal representation	No	No. Agreements which are common law contracts	Annual payments which vary between agreement. Fixed sums which amount to a modest royalty (less than 0.2 percent)
Trust/Use of Funds	Employment	Business opportunity and contracting	Cultural Heritage	Environmental Management	Monitoring the project-implementation of agreement; Indigenous participation in decision-making /management structures	Land Title
None	Aboriginal employment of 25 percent during the exploration phase; appointment of an Aboriginal employment coordinator; transport Aboriginal workers to the mine site free of charge from their community	Company applied a preference to Northern residents and tenderers in hiring workers and allocating contracts; \$20 million (in contracts) awarded to Aboriginal enterprises	None	The agreement makes provision for mitigation and compensation if Company's operations are shown to be responsible for damage to the environment, wildlife or harvesting rights.	Establishment and resourcing of an independent environmental monitoring agency whose board has a majority of indigenous members; requirement for company to report to this agency, undertake environmental management plans and monitoring programs, closure and reclamation planning; appointment of an indigenous representative to liaise with company on behalf of the Aboriginal groups	None

* Document Sources

- Copy of the agreement