

CHAPTER 1

INTRODUCTION

On the 28th of August 1979 diamonds were located in gravel samples collected in the East Kimberley region of northern Western Australia (see Map 1). Geologists had obtained this sample from the dry riverbed of Smoke Creek on the Lissadell Pastoral Station. Some months later the source of the diamonds was identified as a major diamond-bearing lamproite pipe in the Blatchford Escarpment, in the southern end of the Ragged Range, later named AK1 (Argyle Kimberlite No. 1) (Plate 1).¹ This discovery was to lead to the development of the Argyle Diamond Mine (see Map 2).²



Plate 1: Barramundi Gap before Mining

Photograph Courtesy Argyle

The local Gija, Malngin, Miriwoong (Miriuwung) and Worla (Woolah or Wularr) people have long-standing connections to this part of the East

¹ The location of the mine has also been variously described as in the “eastern end of the Matsu Range” (Department of Mines Western Australia 1986:37) and in the “southern Blatchford Escarpment” (Palmer and Williams 1990:5).

² The mine takes its name from the Argyle Pastoral Lease, created in 1886, and Lake Argyle, which borders the Argyle mining lease area in the northeast. Lake Argyle was created in 1972 with the damming of the Ord River and the subsequent inundation of the Argyle pastoral lease.

INSERT MAP 1

Map 1: The Kimberley

INSERT MAP 2

Map 2: Argyle Mine Lease

Kimberley.³ The site where the diamond-bearing lamproite pipe occurs is called Gelganyem by Miriwoong speakers, Kilkayi by Gija speakers, and more generally 'Barramundi Gap' by local Aboriginal people. Barramundi Gap is of significance to the local Aboriginal people and especially to Aboriginal women because it is one of the numerous resting places of the female Barramundi creative Dreaming being.⁴ It is the place where some Dreamtime Women attempted to capture the Barramundi with a spinifex fishing trap.⁵ Indeed, as we shall see, as plans to begin mining in this area unfolded the assertion by local Aboriginal people that Barramundi Gap is a site of great cultural significance to them was not challenged by the geologists who discovered the Argyle diamond pipe or by other mining personnel.

The geologists who made the AK1 discovery were working for the Ashton Joint Venture (hereafter AJV). This venture was created in 1976 when the Kalumburu Joint Venture⁶ parties entered into a joint venture partnership with CRA Exploration (hereafter CRAE), a subsidiary of the trans-national mining company CRA Ltd. (hereafter CRA), which was later to become Rio Tinto. At the time of the diamond deposit's discovery, and until 2001, the Argyle mine continued to be a joint venture operation while the mine and the entity that operated it came to be known as 'Argyle.' Following this convention, I will refer to the mine and the entity operating it as 'Argyle' throughout this thesis, except where the precise corporate structure of CRAE, the Ashton Joint Venture, or other companies associated with the mine are being discussed.

³ See Elkin (1932:297, 1933a: 436); Capell and Elkin (1937:217); Turner and Green (1987); Kaberry (1937a: 91-94, 1939); Palmer and Williams (1980, 1990); Lee J (1998:58). The way that these identity labels are spelt varies. I am following the spellings that are used by local Aboriginal language centres except where a name has been spelt in a particular way such as for the Miriwoong Gajerrong native title claim.

⁴ Kofod (pers comm 2003) says that the gender of the word for Barramundi is feminine in the Gija language and masculine in the Miriwoong language although both groups recognise that this particular Barramundi is a female.

⁵ See Ross (1987:41, Plate 12) for a photograph of Aboriginal women in Halls Creek using this method to gather fish.

⁶ The Kalumburu Joint Venture was formed in 1972 to explore above the 19° in the Kimberley region. The partners were Tanganyika Holdings Ltd, A.O. (Australia) Pty Ltd, Northern Mining Corporation N.L., Jennings Mining Ltd, Sibeka Societe D'Enterprise et D'Investissements SA. They each held a 20% interest. The KJV is

Local Aboriginal people challenged the proposed mining in and around the area of Barramundi Gap. Various sympathetic groups, including non-Aboriginal local community workers and members of the newly formed Kimberley-wide, grass-roots Aboriginal organization and political lobby group, the Kimberley Land Council (hereafter KLC), supported their efforts. Nonetheless, in 1980, following a series of negotiations, legal challenges and political lobbying, two representatives of CRAE and CRA signed an agreement with five Aboriginal people from East Kimberley Aboriginal groups connected to the diamond bearing area.⁷ This agreement became known variously as the Glen Hill Agreement, the Argyle Agreement, and more commonly the Good Neighbour Agreement (see Appendix 1) and was reproduced in the Argyle Participation Agreement 2004 in Schedule 4). In creating this agreement, CRA was acting within its policy framework of being a 'Good Neighbour.' For CRA, this framework was not about land rights, or compensation, or a mining royalty or royalty equivalent for local Aboriginal people. Instead, CRA understood the agreement as a gesture of 'everyday courtesy' and 'good neighbourliness.' Nonetheless, the agreement provided for a range of benefits to flow to local Aboriginal people and for their opposition to the planned diamond mine to be withdrawn, thus removing one of the potential obstacles to the development of the mine. The Good Neighbour Agreement was not a public document, although some of the terms of the agreement were announced through a media release.⁸ Moreover, the signing of the agreement occurred during a very contentious period in the history of relations between Aboriginal people and the government of Western Australia and before the company had secured any regulatory

discussed in more detail in Chapter 5.

⁷ The term 'traditional owners' has entered everyday discourse concerning Aboriginal people, native title claims and their standing in relation to many other political realities. The term 'traditional owners' was once restricted to those Aborigines that met the legal and technical requirements of the *Aboriginal Land Rights (Northern Territory) Act (1976)* S3 (1). Today, however, 'traditional owners' has become synonymous with a more generalised and unspecified sense of those Aborigines who belong to certain places and have the right to speak for those places based on their own laws and customs. Because of this slippage into everyday discourse, and an absence of any other more defined term, there has emerged a need to define 'traditional owners' on a case-by-case basis.

⁸ Rennie (1980), CRA Company Secretary, provided a detailed press release the day after the signing of the Good Neighbour Agreement. The press release stated that the company acknowledged that the mining would impact on areas of "interest to the custodians" (1980:1). It also stated that "[t]he Custodians expressed the desire to avoid a dispute at Argyle such as had occurred at Noonkanbah" (1980:1). The press release outlined

permissions from relevant State or Federal Government Departments that would authorise mining and the sale of diamonds. As well, the Aboriginal people who signed the agreement received little assistance in these negotiations.⁹

Throughout 1979 and the first half of the 1980s there had been intense conflict regarding Aboriginal land rights, resource development and the protection of Aboriginal heritage sites in the context of resource development in the Kimberley, most particularly oil exploration at Noonkanbah Station in the Fitzroy Valley region of the Central Kimberley.¹⁰ The so-called 'Nookanbah dispute' had begun when local Aborigines opposed the proposed drilling programme by the oil exploration company AMAX at "Pea Hill" (P Hill), *Umpampurru*, a place of enormous spiritual significance to them located on Noonkanbah Station. The dispute elicited a response from the Western Australian State Government that was couched in terms of Aborigines impeding regional resource development and thus blocking economic progress for the State and nation (for example see Australian Mining Industry Council [AMIC] 1981; see also Figure 1).

The dispute escalated when Aborigines from throughout the Kimberley travelled to Noonkanbah to join a protest camp and blockade aimed at preventing Amax from conducting their exploration activities. The Noonkanbah protesters had the support of the Trades and Labor Council (WA) and associated unions who imposed work bans on the movement of exploration related equipment. The Western Australian State Government intervened by providing a police escorted convoy of drilling equipment to the site so that the exploration could begin. Pea Hill was drilled but no oil was found, an outcome that the late senior Gija man, Jack Brittain,

some of the details of the capital works that were to be undertaken, but no total financial value was given.

⁹ CRA provided the funds to engage a lawyer for the Aborigines for the couple of days while they were in Perth finalising the negotiations for the agreement. This would become a major criticism of CRA's negotiation process.

¹⁰ 'Noonkanbah' has been the subject of academic comment, for example Howitt (1981a: 58-72 and 2001:223-237); Vincent (1983); and Wyatt (1992:11-12) while Hawke and Gallagher prepared a book providing a comprehensive treatment of the events that became 'Noonkanbah' (1989).

attributed to local Aboriginal maparn, or 'witch doctors,' using their powers to remove the Dreamtime Goanna's fat [the oil] from the location and therefore thwart the oil company's programme.¹¹ However, the State had effectively demonstrated both their will and their capacity to support resource development activities against Aboriginal peoples' efforts to protect their sacred sites.

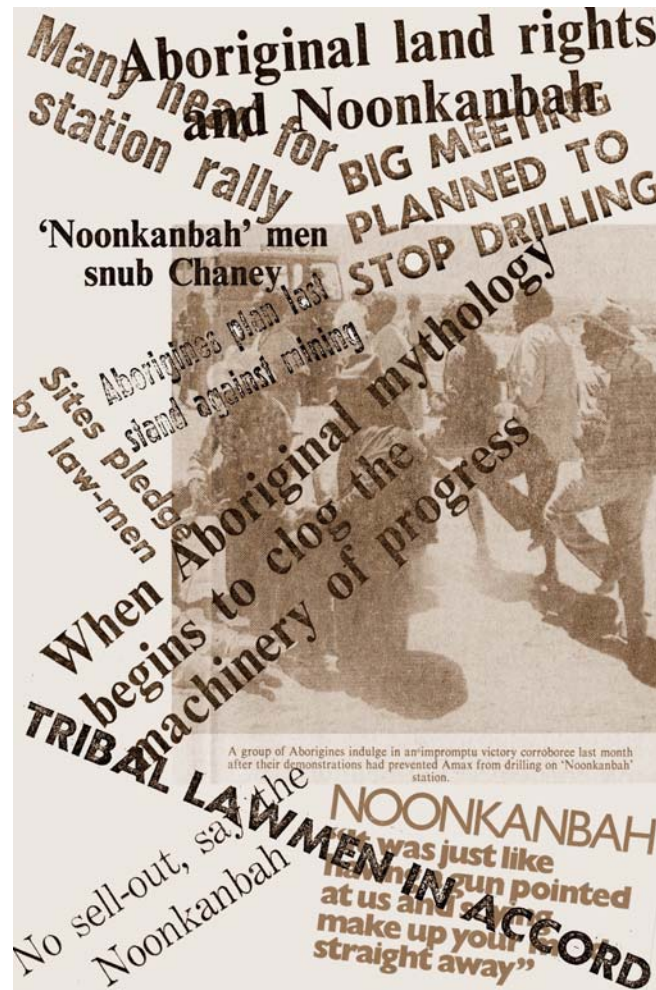


Figure 1: Indicative Headlines of ‘Noonkanbah Dispute’ (late 1970s and early 1980s)

The events of Noonkanbah were to have a far-reaching impact at the State and Federal levels of political debate regarding indigenous rights as well as on debates within the industrial and resource sectors of Australia. Throughout the Noonkanbah dispute the effectiveness of the Western Australian *Aboriginal Heritage Act (1972)*, which is directed toward

¹¹ Jack Brittain is quoted in Dixon (1990a: 91).

protecting Aboriginal heritage, was challenged and amendments to it were proposed and then enacted.¹² Thus the juxtaposition of Aboriginal places of significance and areas proposed for mineral resource development in the Kimberley had already generated conflict and debate in the wider public arena when CRAE took the unprecedented action of negotiating the Good Neighbour Agreement with Aboriginal people in order to undertake the mining of a 'sacred site.' Further, the negotiation of an agreement of this nature was not sanctioned by the State, and it took place outside of any legislative or policy framework.¹³ Once negotiated, the Good Neighbour Agreement was immediately subject to an outpouring of comments and critiques in the media (see Figure 2), by academics, political commentators and others, although the views of the five Aboriginal people and the two CRA employees who signed the agreement were not canvassed to the same extent at the time (Bennett and Perkin 1980; Howitt 1981a: 72-85; Langton 1983).

Following the making of the Good Neighbour Agreement, it took three years to assess the viability of the Ragged Range diamond deposit. A special act of the West Australian Parliament, the *Diamond (Argyle Diamond Mines Joint Venture) Agreement Act 1981*, was passed to provide security for the mine's development, and subsequently the decision was taken to establish the Argyle diamond mine (see also Dillon 1984). The mine was officially opened in 1983 with the commencement of alluvial mining in Smoke Creek. The construction of the nearby open pit mine at AK1 and associated infrastructure began in 1984. It had taken eighteen months to develop at a cost of \$450 million.¹⁴ The first load of ore from the open pit was extracted and crushed in December 1985, (see

¹² Regarding this Act and debates about its effectiveness see Crawford (1980); Dillon (1990a); Senior (1992:1); Wright (1980); and Vincent (1983).

¹³ For instance Clarke reports from correspondence from Sir Charles Court in November 1980 the following statement: "The land of Western Australia does not belong to the Aborigines. The idea that Aborigines, because of their having lived in the land before the days of white settlement, have some prior title to the land which gives them a perpetual right to demand tribute from all others who may inhabit it, is not consistent with any idea of fairness or common humanity. In fact it is as crudely selfish and racist a notion as one can imagine. Nor is it an idea which has ever accorded with the law of this nation"(quoted in Clarke 1983:20). See also Dillon 1984 and Dixon 1990b.

¹⁴ See (<http://www.argylediamonds.com.au>) [Accessed July 2003].

Plates 2a, b & c)

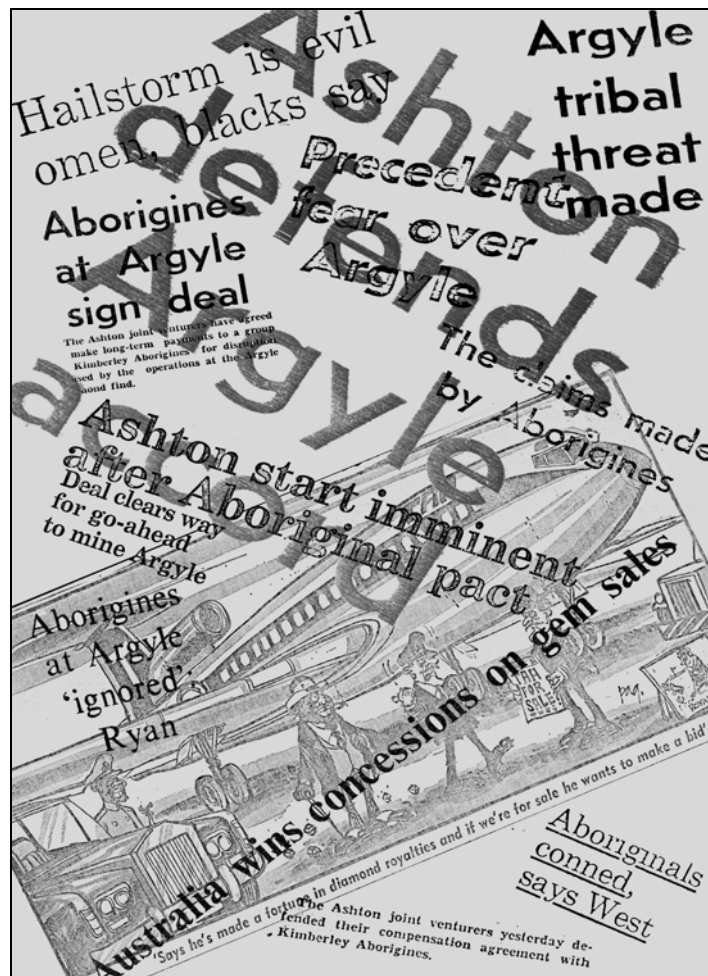
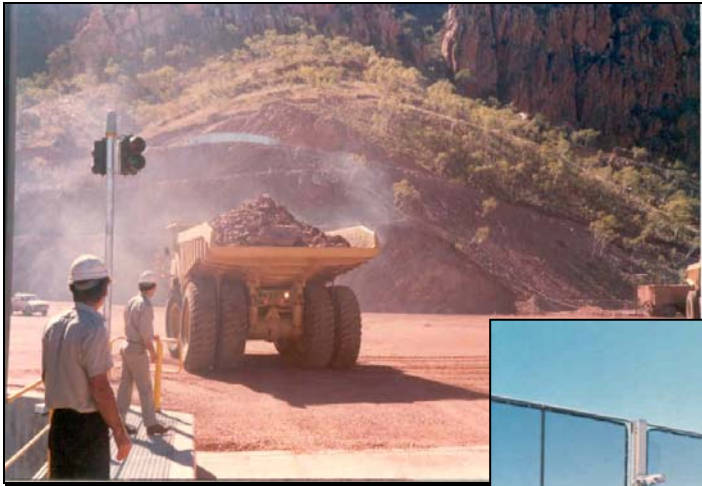


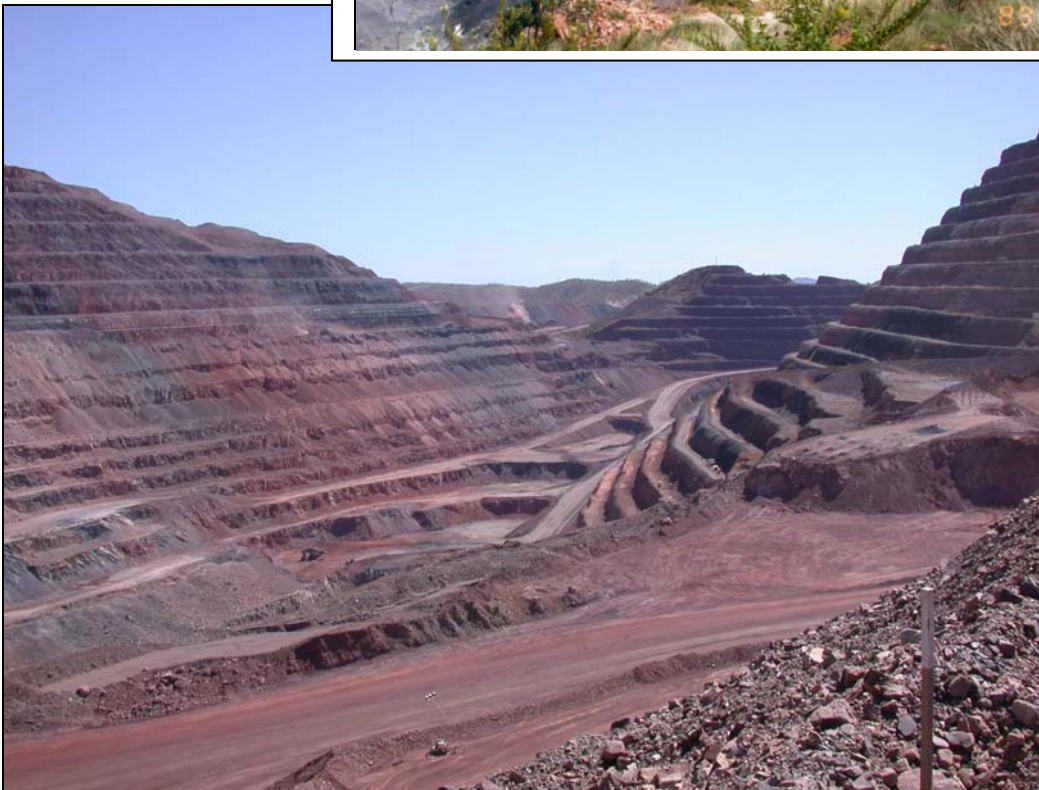
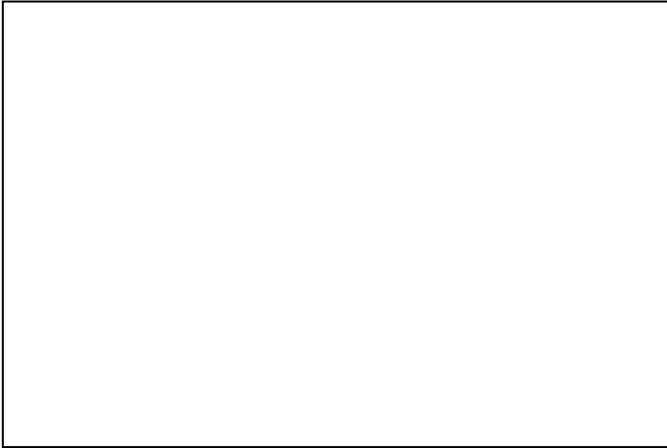
Figure 2: Indicative Headlines of Argyle Agreement Making The 'Good Neighbour Agreement' (July 1980)

Today, the Argyle mine is the largest diamond mine in the world by volume of production with the majority of the diamonds being of industrial and low grade gem quality with about a quarter being only suitable for industrial use.¹⁵ The Barramundi has been transformed, and will continue to transform as the mine's operations are expected to continue for a further thirteen years with the operation going underground (see Plate 3).

¹⁵ The Argyle production consists of 5% gem and 70% near gem with the remaining 25% of the volume being industrial diamonds. The entire production of gem and near gem diamonds is polished and accounts for more than 95% of the value of Argyle's rough diamond sales. Another chapter of the Argyle story is of the synergistic development of a cutting and polishing industry in India, now employing 250,000 people to convert this low value rough diamond product into polished stones that supply the fashion jewellery market. This industry has grown up on the back of Argyle.



Plates 2(a), (b) & (c): First Load of Ore Crushed from AKI
 Photographs Courtesy Argyle Diamonds



**Plates 3a (1981),b,c & d (1985): The continuing transformations
of Barramundi Gap**

Photographs courtesy of Argyle



Plate 4: Argyle Diamond Mine (2003)

Thesis Goals and Background

This co-location in the East Kimberley of a sacred place and a diamond resource has come to represent a major challenge to the worldviews of both the local Aboriginal people and senior Argyle managers (glossed throughout this thesis as Argyle or as Miners).¹⁶ Importantly, the way that both Aboriginal people and Argyle have responded to this challenge provides a window on the nature of evolving social relations between Aborigines and Miners. Therefore, a major goal of this thesis is to use this window to examine what matters to the local Aboriginal people and to

¹⁶It is at the level of 'management,' rather than in the extractive end of the mine's operation, that decisions are made in relation to policy formulation and implementation strategies. In creating this 'category' I accept the limitation that, despite 'knowing' that there is a difference between the 'corporate entity' making decisions and the individual making decisions, there is a tendency to both see the corporate decisions as akin to human decisions, and they are clearly human decisions, and to see individuals' decisions as being corporate decisions. These are issues of ambiguity concerning boundaries, where they exist and where the relationships are constructed and who is accountable for them. Although relegated here as a footnote I consider that this very question is, in itself, worthy of an entire research thesis. The question of how to recognise the various forms of identity and the legal corporate entity for what they are and how they can act, is an exemplar of the larger issues with which my thesis is grappling. The question is one that is not limited to Aboriginal people's perceptions of these relationships or of these distinctions but one that confronts employees in Aboriginal

Argyle and how they have attempted to make sense of this 'co-location.' A related goal is to consider how Aboriginal people affected by the Argyle mine have come to engage with Argyle as a result of this 'co-location.' I am concerned with how these engagements have been approached both by Aboriginal people and by Argyle, and in particular what strategies both have deployed as negotiations have unfolded within this context of co-location, co-existence and cultural difference. In the process of untangling the web of events and relationships that have taken place since the establishment of the Argyle mine, this thesis also provides an account of the history of Argyle since the initial discovery of diamonds in 1979. A major focus of this historical account is the Good Neighbour Agreement, how and why it came into being, how it was enacted and transformed through time, and, importantly, how it was understood both by Miners and by local Aboriginal people.

For the local Aboriginal people, the presence of diamonds and the eventual location of the mine were, if not anticipated, perfectly consistent with their local knowledge. According to Aboriginal men and women, the Miner's only thought they discovered something when it was well known to those with the appropriate knowledge of the Dreaming that the 'diamonds' were always there. In fact, local Aborigines believe that the success of the Argyle mine attests to the continuing relevance and power of the Dreaming.¹⁷ According to Aboriginal tradition, as the Barramundi escaped from the wall of rolled spinifex pushed through the water by the Dreamtime Women to entrap her, she lost some of her scales, her *lirnkirre*. This event is evidenced by the gap in the range where the mine is located and by the presence there today of the rough diamonds. The valuable coloured diamonds extracted at Argyle are further evidence of the presence of the Barramundi as they are said to be a transformation of her internal organs. For example, the premier 'pink' diamonds, a signature feature of Argyle's gem quality resource, are believed to be the

organisations and mining companies themselves.

¹⁷ This belief is not limited to Aborigines of the East Kimberley. For instance during the early stages of gold exploration in their traditional country, the traditional owners of Tanami Desert expected that their sites of significance, as places of value, would be the location of valuable commodities such as gold, as was the case

transformation of the Barramundi's body fat, while the 'cognac' (or browns) and 'champagne' (yellow) diamonds are said to be other internal organs.¹⁸

Geologists provide a different explanation for the presence of diamonds at AK1.¹⁹ For them, diamonds are an unstable form of carbon forced into a particular crystal shape by extreme temperatures and pressure that exist below the earth's crust. Millions of years ago passing lamproite or kimberlite magma picked up these diamonds. The magma moved through the earth's crust following faults and fractures. When the magma met water at the surface of the earth's crust steam was generated and an eruption occurred. When the lamproite magma cooled it solidified into a 'pipe-shaped' ore body such as AK1. For the Argyle management teams and working miners, once the diamonds were discovered the mine's success reflected the triumph of science, technology and economics. And for them the 'fat' generated in the form of profits is a result of significant investment, clever marketing and careful management rather than the actions of a slippery fish.

The intent of the Good Neighbour Agreement, signed 26 July 1980, was to provide security and certainty to Argyle that would last for the life of the mine. The agreement did, in effect, provide that security although not all of those Aboriginal people with connections to, and rights and interests in, the mining lease area were included in the initial negotiation

with the Granites gold mine (Bornman pers comm 2002; see also Trigger and Robinson 2001:106).

¹⁸ The 'fat' in Aboriginal people's diet is highly valued and is identified with the Argyle Pinks - the most valuable Argyle gem stones, as Peggy Patrick once noted to the linguist Frances Kofod, "'mooloonggoom-ngiyi dam' that fat of her's" and the others "yellow and brown from gawoom 'lungs' and mirlim 'liver,' grey and green from jaroom 'round guts,' liyirrim 'intestines' and jarnangarre 'urine' (pers comm Kofod 2003). See also Argyle Diamonds 2004.

¹⁹ According to geologists and diamond experts the colour of diamonds is a consequence of the presence of trace element impurities, inclusions and fractures. For instance the most common impurity is nitrogen that gives the diamond a 'yellow' quality. The blue or violet diamonds at Argyle are created by the presence of nickel or high concentrations of hydrogen (Argyle Diamonds 1993). However research has not yet fully confirmed what generates the brown and pink colours although Argyle now suggests that the latest theory is that molecular distortion in the diamond means that the 'pink' diamonds reflect colour in a particular manner (Argyle Diamonds 2005a: no page number). The green colour is the most rare in that the colour is often removed when the stone is polished. In general terms, for coloured diamonds, the intensity of colour or lack of colour in a particular diamond determines its value – the more intense the 'pink' colour, the greater the value of the diamond (see Argyle Diamonds 2005a). Clear white diamonds also command very high prices, though these are not common at Argyle.

processes nor did they all enjoy the benefits that flowed from the Good Neighbour Agreement. This would become a major source of discontent among the wider population of relevant Aboriginal people for many years to come.

As noted above, those Aboriginal people who have traditionally based connections to, and rights and interests in, the mining lease area are not referred to, and nor do they refer to themselves, by a single term of identification. They are members of at least four language groups, there are numerous other local group identifiers that certain individuals use from time to time and in particular contexts, and there are specific terms and means of defining the relevant Aborigines in the most recent agreements between local Aboriginal people and Argyle, among them the Argyle Participation Agreement of 2004 (Argyle Diamonds and KLC) (Appendix 2). For this reason, and to avoid inappropriate or offending use of labels of identity, and for the purposes of this thesis, I have chosen to refer to these particular Aboriginal people in general terms as 'local Aboriginal people' or more simply as Aboriginal people where the context makes it clear that these are individuals connected to the Argyle mine site. These local Aboriginal people are more than just stakeholders, as Langton and Palmer have argued, because:

... negotiated agreements involve Indigenous peoples as consensual parties, rather than as 'stakeholders,' the terms and conditions of their agreements are the building blocks of arrangements that are inherently more just than the imposed administrative solutions to which Aboriginal people had so long been subjected (2003: 25).²⁰

In the early years of the mining operation Argyle management did not realise the full extent or value of the mine. As open pit mining progressed, however, it became clear that the mine would be very profitable and that there were sufficient diamonds to continue production until the late 1990s. When the time came to consider the closure of the

²⁰ In contrast, within the mining industry, Aboriginal people, as others in the wider society, can be considered as members of different kinds of "communities" – "local or host" and "affected", and as a particular kind of "stakeholder." A stakeholder is someone defined as those "who have an interest in a particular decision, either as individuals or representatives of a group. Including people who influence a decision, or can influence it, as well as those affected by it" (Ministerial Council on Mineral and Petroleum Resources 2005:5-6). Aboriginal people are not granted particular standing.

mine, around 1996, a series of events took place, including both indigenous and technological responses to the foreshadowed closure, which led to an anticipated extension of the open pit mine life to the year 2007. With a range of further bold initiatives, technical investigations, feasibility studies and negotiations for underground mining it was expected that the mine could continue operations by converting to an underground mine. In December 2005 the decision was made by Rio Tinto to provide the necessary funds to enable the Argyle mine to commence underground operations thus extending the life of the overall project into the year 2018. A key component of the feasibility of the underground project was agreement by the Western Australian State Government to a significant royalty relief package, which brings Argyle's historically high royalty rates in line with the Mines Act and royalty rates charged for similar operations.²¹

As the mine developed Argyle intended that the Good Neighbour Agreement and initiatives that derived from it would provide the basis for the continuing relationships between Argyle and the local Aboriginal people, including the Aboriginal members of the three local Aboriginal communities, Warmun, Mandangala and Woolah (Map 3). Among the most important of these initiatives were the Good Neighbour Policy and the Good Neighbour Programme discussed in Chapters 8 and 9. As I will describe in detail in this thesis, for the local Aboriginal people the intent of the Good Neighbour Agreement was to engender continuing exchanges, negotiations and relationship formation with Argyle within the context of their own cultural traditions, most particularly the wirnan. As we shall see, the wirnan finds expression as an overarching regional indigenous system of governance and exchange. It has been a consistent aspect of the way that local Aboriginal people have engaged with Argyle, even when Argyle has not recognised it as such, however, during the negotiations for the Argyle Participation Agreement some Argyle senior management did begin to understand the wirnan better.

²¹ See The West Australian 8/12/05

INSERT MAP 3

Map 3: Argyle Good Neighbour Communities (1980-2004)

For Argyle there was an expectation that conditions for the local Aborigines and the local Aboriginal communities would improve as a result of the mine's presence in the region. For example, it was anticipated that the local Aborigines would take up employment and training opportunities at the mine and that the local communities of Mandangala, Warmun and Woolah would benefit in terms of economic enterprise development opportunities and infrastructure development from the injection of capital funds as part of the Good Neighbour approach. However, these benefits did not eventuate in significant sustainable material form.

The Good Neighbour arrangements did not meet the expectations of the Aboriginal people, including the local community members or their close kin, nor did these arrangements meet the expectation of the mining company. As a result, they have been openly challenged from time to time. Indeed in many ways all the parties found that they were frustrated by the relationships constructed by the Good Neighbour approach and that they were unable to do what they really wanted to or to achieve a range of, for the most part un-stated, outcomes. Nonetheless, despite expressed concerns and dissatisfaction, all parties have essentially maintained their formal undertakings since signing the Good Neighbour Agreement and the acceptance of the Good Neighbour Programme.

On closer examination, it is evident that the Good Neighbour arrangements have not remained static or bound by words on paper but have been constantly renegotiated in surprising and widely misunderstood ways, ultimately culminating in the recently negotiated Argyle Participation Agreement (Argyle Diamonds and KLC 2004). This agreement was itself being renegotiated the day after its formal signing ceremony 23 September 2004 and no doubt it will see further formal and informal modifications over time.²² This is a situation anticipated to a

²² One of the local Aboriginal people had written to both the KLC and Argyle expressing concerns about the way that the traditional owners of the mine lease area were being determined (McLennon 2004). Following the signing of the Argyle Participation Agreement Argyle negotiation team members said to McLennon that they were prepared to consult with her and others about her concerns. I was asked to undertake this initial

degree in that the Argyle Participation Agreement is made up of two parts – the Argyle Participation Agreement - Indigenous Land Use Agreement (ILUA) and the Argyle Participation Agreement - Management Plan Agreement (Argyle Diamonds and KLC 2004).²³

An additional form of re-negotiation occurred three years earlier when the Kimberley Land Council became a party to formal negotiation between local Aboriginal people and Argyle. Argyle and the Kimberley Land Council signed a Memorandum of Understanding (MoU) on 27 September 2001 (ADM and KLC 2001 (see Appendix 2). This MoU was the first step toward making a comprehensive agreement between Argyle and the local Aboriginal people. This was the first formal acknowledgment by Argyle of the Kimberley Land Council as a legitimate negotiating party. The MoU outlined the undertakings, roles and responsibilities of the Kimberley Land Council and Argyle and identified a number of substantive issues for consideration in negotiating a new agreement, including the Kimberley Land Council's responsibility to "identify the TOs" [Traditional Owners](ADM and KLC 2001:3).

It was anticipated by the parties that the process of negotiation, preparation and agreement making would be completed by June 2003 and formally registered under the (*Commonwealth*) *Native Title Act (1993)* (NTA) by November of the same year (Argyle Diamonds and KLC 2004:102). In reality the Framework Agreement was signed late June 2003 (Argyle Diamonds et al 2003) and the Heads of Agreement were signed in late July 2004 (copy in Argyle Diamonds and KLC 2004:107-113) with the signing of the Argyle Participation Agreement on 23 September 2004 and registration of the Indigenous Land Use Agreement

consultation. A more formal enquiry was conducted as part of implementing Management Plan 4 in November/December 2005 and March 2006.

²³ The ILUA portion of the Argyle Participation Agreement was co-signed by the following parties Argyle Diamonds Ltd, and Argyle Diamond Mines Pty Limited, the Traditional Owners and Kimberley Land Council Aboriginal Corporation. The Argyle Participation Agreement – Management Plan Agreement was co-signed by Argyle Diamonds Ltd, and Argyle Diamond Mines Pty Limited and the Traditional Owners. It was expected that, because of the binding nature of the relationship formalised in the ILUA, there would be no need for changes in the ILUA. It is also very costly and time consuming to change an ILUA (Argyle Diamonds 2003:50). However, because of the evolving and long-term nature of 'management' issues in relation to the mine's operations, the Management Plan Agreement enables review and revision of the plans (Argyle Diamonds

(ILUA) under Division 3 of Part 2 of the (NTA) on 7 April 2005 with a very high profile final 'celebration event' being held at the Argyle mine site on 8 June 2005 (see Argyle Diamonds 2005b).²⁴

Beginning in 2000, and coinciding with the start of this second formal agreement making phase, I became directly and formally involved in relations between Aboriginal people and Argyle (2000 - 2006) as a consultant to Argyle (details of this engagement are discussed in Chapter 3).²⁵ This was also when I began my PhD research and gained access to the company archival records of the Argyle Community Relations Department, past and present employees (but not their personal files), policy documents and the workings of the mining company more generally. I became engaged in fieldwork not only with local Aboriginal communities in the East Kimberley but also in the increasingly familiar setting of an operating mine and the associated infrastructure and corporate cultural context. I was a participant observer in two 'fields': that of the Aboriginal parties to the Good Neighbour Agreement and that of the cultural and physical complex of 'Argyle' - the place and the people.

I had begun my relationship with Aboriginal people of the Kimberley in 1982 when I lived for three months at Warmun community as a Masters Preliminary student of Anthropology (University of Western Australia) and volunteer worker with the Western Australia Museum. At this time I was undertaking my own research (Doohan 1982) and assisting in a larger research project focussed on recording Aboriginal women's land-based interests and sites of significance in the area. Since then I have established research and working relationships with other Aboriginal communities in the Kimberley including the communities of Kalumburu, Mowunjam (near Derby), the Kandiwol homeland (on the Mitchell

2003:50).

²⁴ Only seven ILUA have been created in Western Australia as of 2006, of which four are related to mining (http://www.nntt.gov.au/ilua/bystate_index.html#WesternAustralia [accessed 19 October 2006]).

²⁵ I was involved initially as a consultant to Argyle, 2000 – 2005, and then, once the Argyle Participation Agreement was signed and as part of implementation of the agreement, a consultant to the Argyle Traditional Owner Committee, 2005 - 2006.

Plateau), Oombulgurri (and surrounding country), Warmun, Doon Doon, and Bow River as well as with Aboriginal people who live in the townships of Halls Creek, Wyndham and Kununurra (see Map 1). My relationships with members of the Warmun community have continued throughout the years and have included my involvement as an anthropologist providing advice and expert assistance to the Kimberley Land Council in the claim of the Miriwoong and Gajerrong Peoples in *Ben Ward & Ors (No WAG 6001 of 1995)* for both the third applicants and the fifth respondents.²⁶

My thinking about the bigger issues of exploration, mining²⁷ and Aboriginal people has been deeply influenced by my more than twenty years of professional practice as a field anthropologist. During these years I have undertaken a range of research and consultancy projects including both academic projects (Doohan 1982, Doohan 1989 later published as Doohan 1992, 2002a, 2002b, 2003; Young and Doohan 1989, McIntyre and Doohan 2001 and 2002) and applied ethnographic work. These projects have included native title research, assisting in community development projects, land and sea management plans, resource development negotiations and on the ground heritage protection programmes, policy development, Aboriginal organisation staff training, and commenting on the complex of relations that exist between Aborigines and Miners in the Kimberley. Much of this research and project work has been collaborative (for example Doohan 1984; Bornman, Doohan and Vachon 1991; Bornman and Doohan 1993).²⁸

Prior to my engagement by Argyle my experience of Miners, mining and corporate culture was based on my being contracted by various

²⁶ My research interests and working experiences with Aboriginal people of the Kimberley have extended to other regions and include working with Aboriginal people in the communities of Mulan, Billiluna, Balgo and Ringer Soak in the Tanami desert regions in Western Australia as well as with Aboriginal people in the Pilbara and with Aboriginal communities in the Northern Territory and South Australia.

²⁷ I consider the distinction between exploration and mining to be a technical issue rather than a conceptual issue for the purposes of this thesis. That is, I consider that relationships established, or not, from the outset of project design are critical elements in the long term management of subsequent relationships and impacts of the project from before exploration throughout the entire process up to and including closure of the project (see also Doohan 2002b).

²⁸ The research findings in these situations are generally prepared under contract to an Aboriginal land council and are not public documents.

Aboriginal organisations to assist in negotiating agreements and to undertake the field clearances of proposed work programmes and heritage protection activities. The scale of the operations and the relative size of the companies and their exploration and mining programmes varied from the larger projects conducted by dominant players such as Stockdale, BHP, Rio Tinto, Newmont Resources, Barrick Australia, Anglo Gold Australia Ltd and Western Mining Corporation to the smaller resource development companies such as Otter Gold NL, North Flinders Mines, Striker Resources NL, Australian Kimberley Diamonds NL, Capricorn Resources Australia NL, Thunderlarra Exploration, Platinum Australia Ltd, Diamond Rose, Moonstone and Geographe Resources Ltd. Some of these smaller companies are no longer active and have been transformed by corporate take-overs and restructuring, some have developed mines. It was not until my engagement by Argyle as a consultant that I entered the 'field' of corporate culture as such, however, my previous engagements with large and small exploration and mining companies prepared me to some degree for this new encounter.

Aborigines and Miners

When mining companies and Aboriginal people negotiate with one another, a complicated process unfolds with the result that a range of outcomes eventuate, not all of which are anticipated or desired by one or both of the parties. Such negotiations are between people unequally located in the dominant capitalist society who bring to the process a range of 'realities,' prejudices, and assumptions derived from different epistemological perspectives and cultural domains.²⁹ In looking at Aborigines and Miners researchers and other commentators have tended to take one of two dominant 'orientations' or ideological positions.

²⁹ These inequalities can not be ignored and remain an ever-present backdrop for current agreement making negotiations albeit in somewhat modified forms, for example mediated by legislative measures, native title representative bodies, the prescribed negotiation regimes within the *Native Title Act (1993)*; improved participatory processes and impact analysis (see for example Australian Institute of Aboriginal Studies 1984; Howitt 1993a: 128-138, 1997a, 2001; Howitt and Jackson 2000; Kesteven 1983, 1987a; O'Faircheallaigh 1991, 1995a, 1996a, 1996b 1996c, 1998a, 1999, 2003; Ross 1999;) and increased education and awareness within local Aboriginal communities. Such modifications do not mean that Aboriginal people in Australia have become equal parties with global mining companies (see for example Howitt, Connell and Hirsch 1996;

In summary they are:

- the view that Aborigines are inevitably the down-trodden victims of large powerful and faceless corporations;
- an alternative interpretation which reconfigures the localised economic boom generated by mining as 'the only game in town' – a once-and-only chance to elevate pauperised and remote Aboriginal groups into the so-called 'real' economy of capitalist Australian production. That is, by offering well-paid local employment and establishing and supporting local partnerships and enterprise development Miners can be good neighbours who leave their neighbourhood better off than before they arrived.³⁰

Clearly there is some justification for both views. For example, in the early 1980s Howitt and Douglas noted that the unequal position of Aboriginal people in remote regional Australia is structural in nature and not likely to be easily dislodged or dissolved in the processes of negotiations between indigenous people and corporate capital entities, or indeed governments (Howitt and Douglas 1983:82). Rose reminds us that the process of what she terms "deep colonising" (1996a) continues in Australia, and that:

... many of these [colonial] practices are embedded in the institutions that are meant to reverse processes of colonization. Colonizing practices embedded within the decolonizing institutions must not be understood simply as negligible side effects of essentially benign endeavours. This embeddedness may conceal, naturalize, or marginalize continuing colonizing practices. Furthermore practices of colonization are so institutionalised in political and bureaucratic structures and policies that they are almost unnoticed (Rose 1999:182).

There are also studies of mining that show that the presence of a mine, the anticipated positive 'flow on effects' to local Aboriginal community members of employment and training, as well as any associated

Langton and Palmer 2004, O'Fairchaellaigh 2002a). And nor have their representative bodies.

³⁰ This position is generally held by mining industry personnel as part of the general discourse of the economic benefits of mining and is most often stated in press releases, public speeches (including during meetings with Aboriginal people), and is beginning to become part of the published field albeit in a modified form, see for example see Harvey and Gawler 2003, Harvey and Brereton 2005, Harvey and Nish 2005, Pearson 2004 and Trigger 1997.

'agreements' and disbursement of benefits do not, and can not, meet the socio-economic needs of Aboriginal communities alone (see Howitt 1991a; Taylor 2003a and 2003b; Taylor and Scambary 2005; Trigger 2000). There is overwhelming evidence that the presence of mining activities and associated infrastructure including development of local towns and can lead to social disruption (AIAS 1984; Howitt 1981a and 1981b; Kesteven 1981, 1983; O'Faircheallaigh 1986; von Sturmer 1984). And yet, despite the inequalities and deep colonising structures, which are part of the potentially destabilising context within which agreements are made, Aborigines and Miners continue to negotiate agreements. These agreements frequently involve formal written documents that attempt to codify relationships as well as establish a basis for transactional exchange, for instance money, jobs and management liaison to Aboriginal people in return for access to the land and mineral resources to the developers (or other resources for other development interests, for example, land and waters for tourism).³¹

Study after study in Australia has been directed at attempting some sort of 'fix' for what are perceived to be the underlying problems associated with agreement making between Aborigines and Miners. More often than not, there is an explicit acknowledgment of such purposes and they are more or less detailed examinations of, to use O'Faircheallaigh's words, "the processes at work" (1991:228). These studies generally comment on and assess relevant policy formulation, legislation and agreement making practices as well as the full range of benefits for Aboriginal people, including those deemed to be best practice or of highest value (in dollar terms), the management and distribution of those benefits along with associated employment, training and associated business opportunities included in those agreements (see for example Altman 1986, 1990, 1991; Altman and Smith 1994; Altman and Nieuwenhuysen 1979; Cousins and Nieuwenhuysen 1984; O'Faircheallaigh 1986, 1988a, 1988b, 1995b, 1996b, 1998b, 2002b; 2004).

³¹ For a comprehensive overview of the kinds of agreements being negotiated with Aboriginal people see The Agreements, Treaties and Negotiated Settlements database (ATNS) at <http://www.atns.net.au>

In the Australian context these positions have been modified over time. While it is generally accepted that 'Australian colonisation' has had, and continues to have, real effects on Aboriginal peoples' lives, some have argued that the relationship between Miners and Aborigines cannot be described simply in terms of exploitation, oppression, victimisation and inequality in terms of power (Howitt 1991a; Dixon and Dillon 1990b; Dixon 1990a). Rather, Aborigines are to some extent active in 'development processes.' As I will elaborate in Chapters 2 and 3 the work of Rod Dixon and Michael Dillon in introducing and concluding the edited volume *Aborigines and Diamond Mining* (1990a, 1990b, 1990c) has been critical in shaping my thinking. Dixon and Dillon were both actively involved with Aboriginal people at the time of the making of the Good Neighbour Agreement as workers and advocates for Aboriginal people. They along with others, including myself, were part of the discursive community who contributed to an iconic rendering of the Argyle case during the early 1980s. Ten years later, in their edited volume, they reconsidered their initial analysis of that period and the actions taken by Aboriginal people, the role of government and policy formation. As a result they posed research questions to pursue as well as alternative readings of the relationships between Aborigines and Miners and the events that unfolded at Argyle. For example Dixon described the Aborigines who made the Good Neighbour Agreement as "purposive actors" (1990a: 67) in the creation of their relationships with Argyle. Dixon and Dillon also noted that despite a number of criticisms directed at the late John Toby³² [a key Aboriginal figure in the making of the Good Neighbour Agreement], he had successfully negotiated a range of benefits that were financial as well as political "in the absence of any statutory mechanisms recognising such rights" (1990b: 3).

Over the past two decades mining companies have also reconsidered their understanding of local indigenous issues and reconfigured their approaches and analysis of their relationships with Aboriginal people (see

³² John Toby died just a couple of weeks before the thesis was submitted for examination.

for example BHP 2000; Harvey and Gawler 2003; Harvey and Brereton 2005; Harvey and Nish 2005; Ministerial Council on Mineral and Petroleum Resources 2005; Newmont Australia 2005; Rio Tinto 1995). However, there are few studies based on what the eminent American anthropologist Clifford Geertz has referred to as “thick description” (1973:3-30) of *both* Aborigines and Miners. Such a study would ideally set out how each attempts to set up particular relationships with the other according to their respective ‘epistemic frameworks’ and in response to ongoing events. This thesis seeks to provide such a study.

Argyle As A Case Study

Dixon and Dillon’s suggestion to reconsider the Argyle case study encouraged me to re-assess the validity of certain ways of representing relationships between Aborigines and Miners. Importantly the data that I have drawn on for this thesis have only become available in very recent years, as I will describe in Chapter 3. These data permit a reassessment of what, in my own experience as a field worker, has long been the conventional narrative of Argyle. This narrative is shaped by an assumption that a mine and an Aboriginal sacred site cannot co-exist and that the Good Neighbour approach has led to relationships between Aboriginal people and Miners that are dominated by a large and powerful mining company whose operations (will) have multiple negative impacts on disadvantaged Aboriginal people who have failed to receive adequate financial compensation. As well as my own experience talking with Aboriginal people and researchers and workers in Aboriginal organisations, this view has been expressed in the literature. For instance Christensen summarised the situation in the following way:

The present ADM approach contains no provision for properly negotiated, legally binding agreements between itself and relevant Aboriginal communities. In fact, the ADM approach represents a denial of any obligations on the Company’s rights in respect of traditional lands and the management of community affairs. It also represents a denial of Company responsibility for the damage done to sites of intense religious significance to local Aboriginal people (1990a: 104).

Christensen also suggested that the financial provisions of the Good

other truths, and other possibilities when considering the subtle differences in detail rather than rushing to general conclusions founded on iconic assumptions or ideological preferences. For example, it is important to recall that, at the time that CRA entered into the Good Neighbour Agreement with the five Aboriginal signatories, there was no national legislation or Western Australian State legislation to direct negotiations, terms and conditions or financial arrangements between Aborigines and Miners in the East Kimberley. There were no treaties between Aboriginal people and the nation state. The concept of *terra nullius* remained unchallenged as the foundation of non-Aboriginal Australia's engagement with indigenous Australians. When it was signed the Good Neighbour Agreement was unprecedented in Western Australia.

Like all social phenomena, processes of agreement making need to be contextualised to be understood. In the case of Argyle, the context is characterized by multiple articulations of meaning making and multiple forms of engagement. There is, firstly, an articulation of local Aboriginal cultures and the local corporate culture. Then there is the articulation between the local Aboriginal and corporate cultures with those of their advocates and other specialist participants. These articulations are then influenced by and played out within regional and global indigenous, State and corporate contexts. These multiple cultural contexts are themselves located within richly textured epistemological and political frameworks as well as spatially oriented to different scales of engagement and familiarity.³³ That is, context is always both geographically as well as socio-politically articulated and scaled implicating global, national, provincial, regional and local interests to varying degrees. Ultimately the articulations and foci of the engagements in which Aborigines and Miners participate become specifically located at the source of interest – the resource itself. That is, context matters when trying to understand relationship formation and enactment between Aborigines and Miners.

³³ 'Scale' in this context is used following geographers' consideration of scale as a theoretical and practical concept when analysing processes of engagement and about what is happening where and with whom – eg are the issues ones that have equal influence of action at the 'scale' of the local and/or the global. See the following for some examples - Burawoy 1991a, 1991b; Delaney and Leitner 1997; Fagan 199; Howitt 1990,

It is sometimes assumed in the literature and amongst workers in Aboriginal organizations that Aboriginal people and multinational companies exist at opposite ends of the local / global scale of realities and experience and further that Aboriginal people lack power in this context. However, I argue in this thesis that, despite their undisputed unequal position vis a vis corporations, far from being passive recipients of the largess of multinational corporations, Aboriginal people affected by Argyle have actively engaged with them, either through the mediation of their agents or directly.³⁴

They have engaged with Argyle by devising their own interpretations of what the company is doing in the landscape and why. And they have engaged with them through a range of communication tools that include: making written agreements with them; relating to them through cross cultural forms of instruction and exchange; participating in protest activities and the lobbying of corporate entities, governments and non-government organisations; performing ceremonies and rituals; and making persistent reference to the Dreaming.

At the same time Argyle senior management and Argyle's Community Relations staff have entered into agreements of various kinds with Aboriginal people, created policy around Aboriginal affairs, planned and conducted meetings with Aboriginal people and local Aboriginal community councils, discussed and debated local, regional and national

1991b, 1992a, 1993b; 1993c, 1997b, 2001, 2002a, 2003; Howitt and Suchet- Pearson 2003).

³⁴ Agents in this context are those people who seek to enact Aboriginal agency on behalf of, or for, Aboriginal people. For example they include national policy makers, individuals within the field of service delivery in government and non-government departments and organisations and local non-indigenous advisors and experts within indigenous organisations. All of these people are stakeholders to a degree but they are never 'affected parties' to the same degree as Aborigines and Miners because as agents, they do not have to 'live with' the outcomes in the same way that Aboriginal people and the company do. As an example, the Western Australian Government played (and continues to play) a crucial role in determining the standing and bargaining power of Aboriginal people in negotiating agreements - mining, native title and others, as is the case in other parts of Australia (for some examples see Kauffman 1998; Libby 1989; O'Faircheallaigh 1988b, 1996b). The State in this sense provides the stage on which these negotiations are played out. For the purposes of my research, the stage set by the State has not fundamentally changed in the past thirty years although the Western Australian State Government has recently negotiated an ILUA with the Miriwoong and Gajerrong claimants in relation to the Ord Stage II developments (the Ord Final Agreement October 6th 2005). And the 'whitefellas' and experts continue to come and go (von Sturmer 1982:70-75).

development scenarios that include local Aboriginal interests, and written letters, memoranda and reports about these encounters.

Clearly, the Argyle case presents a situation that is far more than a simple clash of cultures. It would seem that neither the local Aboriginal people nor Argyle have opted for a self-imposed invisibility or outright rejection of each other. Such options have not been regarded as sensible or sustainable courses of action. The widely held view that there are irreconcilable, antagonistic differences between Aboriginal people and Argyle tends to downplay the moves the participants have made and continue to make for themselves in their space of fragile co-existence.

Thus, through an examination of previously-unavailable company records, interviews with company agents and field study in the local Aboriginal community and at the Argyle mine site, this thesis considers Argyle as a 'case study' in order to provide an interpretation of the events that unfolded at this place. In offering this 'case study' I take seriously the meanings and explicit motivations that the Miners and Aborigines each gave to their own and to the Other's behaviour. I am interested in what matters to the participants in the events I describe, and how the participants have attempted to accommodate each other's concerns. While there may well be practical implications of my findings and conclusions, my research is not directed at enhancing either the interests of Aborigines or Miners, although I am aware that others have grounded their studies in such concerns.

The primary methodological orientation of this thesis is ethnographic while its analytic limits are set by the case study of Argyle. That is, this thesis addresses the creation and enactment of (some) social relations between Aborigines and Miners with reference to a particular mining company, Argyle, and a specific group of Aboriginal people. A central argument in the thesis is that to approach relationships between Aborigines and Miners at Argyle (or anywhere else) as driven solely by the legacies of colonisation, in particular, the dispossession, exploitation,

and political oppression of Aboriginal people within a national and global political and corporate context, reveals little about the processes of negotiation and articulation in which both parties participate. What I will argue in this thesis is that such a view constitutes a form of iconic simplicity because, although widely held, it fails to tell us what it is that actually happens at sites of engagement between Aboriginal people and corporate interests, whether in the exploration field or at a developed mine site. Nor does such a view provide insights into how Aborigines and Miners see themselves and each other as situated co-residents within a transformed and transforming landscape which is the inter-cultural space generated by agreement making and mining. That is, this space is inter-cultural because there are at least two epistemic frameworks operating on, within, and around the landscape: a western scientific epistemological framework, and, for Aboriginal people, the Dreaming.

As well, it is at this location, Argyle as an inter-cultural space, that the tapestry of relationships and interests between the Aboriginal people and the Argyle Miners combine to create and affect the nature and outcome of negotiated agreements as well as the effective implementation and realisation of expectations and desires. These relationships are not necessarily antagonistic but the multiple articulations of meaning and intent are critical and powerful forces at play in the process of relationship formation, subsequent negotiations and the establishment of frameworks for on-going negotiations between Aborigines and Miners more generally. It is also at this location where Argyle, as a business unit of Rio Tinto, has another cultural context to manage which is located not only at the operating mine but also in the more distant geographical locations of Perth, Melbourne and London. These relationships are set within the Miners' own cultural context and have particular (scaled) implications for Miners of Argyle (more is said about the culture of CRA and Rio Tinto in Chapter 5).³⁵

³⁵ Rio Tinto's corporate structure, in simple terms, is one whereby the overall composite company, is comprised of relatively autonomous units of operation. These units are separately named and were once called "a subsidiary" and since the 1990s "business units" of Rio Tinto. This 'Rio Tinto' tradition of fragmented corporate organization has remained despite the various merges and re-structuring of the Rio

What emerges from the account offered in this thesis is that the Argyle mine can be understood as a space of hybridity. That is, it is a space where Aboriginal people have been able to strategically engage with Miners in a way that has allowed them not only to sustain and reproduce their own culturally distinct understanding of the world - their alterity - but also to incorporate the mine and Miners into their worldview. As we shall see, these strategic engagements by Aboriginal people occurred when they turned to their own ceremonial practices as a way to accomplish seemingly incompatible aims, namely to incorporate the mine and Miners into the enlivened landscape of the Barramundi while at the same time maintaining the boundaries and alterity of their own culture and society.

The Analytic Context

As a matter of theoretical preference and methodological choice, the subject matter at the heart of this thesis is derived from a large body of research data located within multidisciplinary, multi-sited, multi-focal empirical and theoretical frameworks. As my data collection and analysis progressed I found it productive to draw on a range of theoretical constructs and methodological practices within the disciplines of anthropology, history, geography, sociology, and cultural studies in an effort to reconcile some of the interwoven matters of practice, ethics and data interpretation that emerged throughout the research process.

Tinto entity over the past fifty years. Today Argyle is a 'business unit' within the overall Rio Tinto entity. It is because of this tradition of *relative* autonomy that there can be a separation between the interests of the two entities, from time to time. For this reason, I am suggesting that the corporate entity of Argyle, as a 'business unit,' has an interest that might be different or differently constructed than Rio Tinto (Melbourne or London). This difference has its greatest expression at the local level – at the ore body in Sir Roderick Carnegie's (former CEO of CRA) language. It is here that the local element of the company - the corporate culture of that specific business unit - plays a role and where the local Aboriginal people have the greatest sway and interaction. Particular outcomes, in relation to local community engagement that are determined or constrained by Rio Tinto (London in particular), might not please either local Aboriginal people or the particular business unit or indeed any other (Australian) business units. And it is possible that local outcomes negotiated by a business unit might not please Rio Tinto (Melbourne or London) or any other (Australian) business units. David Rose (Managing Director Argyle) made the following comment: "This corporate tension is particularly evident with respect to investment decisions where Bus [business units] are essentially the proponents and Corporate [Rio Tinto] is the banker or broker who will finance the investment. These are players with necessarily different perspectives in the same game, but with a consistent objective." (email 12 September 2006). This thesis takes Argyle, as the research 'field' and therefore the thesis does not attempt to analysis internal differences of corporate culture that the scale that Rose is referring to.

Within the field of social science research - practice and theory - there has been an extension and development of ideas that provide new and challenging ways to think about the relationships between Aborigines and Miners. For instance Bourdieu's (1992, 1997, 1998; Bourdieu and Wacquant 1992) emphasis on the politics of everyday life and the transformative effect of practice coupled with Foucault's (1972, 1979, 1980, 1983) encouragement to reconsider power - how it looks, how it is created and where and when it is resisted and how and when it can be identified - stimulated a reconsideration of Aboriginal people's cultural practices as an expression of power above and beyond the notion of 'false consciousness.' Bhabha's (1990a, 1990b, 1994) invitation to explore the potential of other spaces, the "third space", a space that enables, indeed demands, the creation of relationships and cultures other than that that we know, made it possible to conceptualise a mine as something more than a geographically located extractive site. It is more than a site steeped in conflict with the indigenous reckoning of the Dreamtime Barramundi. It is a space activated and enlivened by these overlays of meaning. And it is a space that has enabled, indeed demanded (if taken up), the creation of even more meanings and understandings. As I will elaborate in Chapter 3, to better understand this space and what happens there I have further drawn on the seminal work of the anthropologists Clifford Geertz and Victor Turner as well as the work of scholars who have drawn on and expanded their studies. This work has helped me to understand the way that human beings engage in ceremonies and rituals in an effort to come to terms with what might be considered conditions of individual and/or social crisis. In particular, this conceptualising offers a way of rethinking the iconic either/or binary of sacred site/mine site that has so commonly characterised representations of relations between Aborigines and Miners and at Argyle.

That is to say, this thesis is not attempting a particular theoretical analysis of the relationships between Aborigines and Miners or Aborigines and Miners at Argyle. I am not undertaking a Marxist, post-colonial or Foucauldian analysis of class or power relationships between Aborigines

and Miners. Rather, the thesis is directed to making practical sense, drawing on theory, of what was and is happening 'on the ground' around the particular engagement between Aborigines and Miners at Argyle. In summary, then, in grappling with the 'big' question of Aborigines and Miners, I determined that the best methodological approach was to undertake a robust empirical case study based primarily on multi-sited field research and I determined that Argyle provided the best field for such an undertaking. These methodological issues and associated ethical considerations are discussed in more detail in Chapter 3.

At a more personal level I was encouraged to do better social science as suggested by Flyvbjerg (2001) and to enable context to re-emerge as a vital tool in theoretical as well as practical social science. In dealing with complex relationships - social, economic and spatial - between Aborigines and Miners this thesis, by way of a detailed robust case study, attempts to address a range of issues raised by earlier research. In particular there are two challenges that have emerged in the past twenty years. The first of these comes from Howitt and Douglas who ask how one might create a context to ensure "accurate research and analysis" of the issues around Aborigines and Miners that "would provide information that would be of assistance to Aboriginal people in negotiating with corporate forces on more equal terms" (Howitt and Douglas 1983:24). The second challenge comes from O'Faircheallaigh who calls for a theoretical response to the practical problem of better agreement making between Aborigines and Miners. The challenge is "to develop general theoretical frameworks which could form the basis for a broader analysis of the processes at work" (O'Faircheallaigh 1991: 228). Both of these challenges continue to inform the work of Howitt and O'Faircheallaigh.

There are also two specific challenges in relation to the Argyle case that have informed my analysis of Argyle as a "case study." The first is a challenge from Dixon and Dillon who have called for the Argyle case to be reconsidered in a particular way:

We now recognise that any adequate account of the events that we have sought to record and analyse here will require a reading backwards and

forwards between two orders of reality: the objective reality of large forces at work in the region determining the conditions within which social groups operate; and peoples' own theories of these forces and determinations and their relations with them" (Dixon and Dillon 1990b: 4).

The second of these challenges is from Dixon who sees a need:

... to re-assess the Argyle dispute in terms that take account of the Aborigines involved as people with an understanding of what was happening (no matter how imperfect we judge this understanding to have been) and so with a basis for action in response to the mining intrusion (1990a: 67).

Addressing the above sets of challenges has required careful consideration of practical, ethical, methodological and theoretical issues, as well as the ethnographic and historical contexts of the Argyle case. It has also led me to review the Australian literature regarding Aboriginal people and Miners in remote regional contexts and the Argyle case in particular. The following chapter, Chapter 2, takes up this literature review and also provides the opportunity to indicate major historical events and developments regarding Aborigines and Miners.

In Chapter 3 I describe the data collected during my research for this thesis and I explore the complex concerns of methodology and ethics that have shaped this research. That is, this chapter addresses concerns about ethical positioning and best practices in what I consider an unusual, multi-sited, field.

Chapter 4 introduces the Aboriginal people of the Kimberley region, their country and its post-contact history in order to set the stage for the subsequent chapters.

Chapter 5 continues this historical overview by describing the arrival of CRA in the East Kimberley and the making of the Good Neighbour Agreement. This chapter includes an account of the organisational structure and the corporate culture of the corporate entity Argyle, and it describes their "particular ways of being in the world" (Geertz 2000: 17), most particularly their adherence to the ideas of being a 'Good

Neighbour.’ I examine the overall Good Neighbour approach, including details of the Good Neighbour as a philosophical and practical approach to working with local communities in the context of resource development. This chapter includes a detailed exploration of Argyle’s engagements with and responses to the local Aboriginal people as individuals and local residential communities up to the actual signing of the Good Neighbour Agreement.

Chapters 6 and 7 take up the worldview of Aboriginal people connected to the Argyle mine site as well as key components of their culture that they have drawn on in their engagements with Miners. Foremost among these are the wirnan, viewed in this thesis as an overarching conceptual ‘blueprint’ that informs a range of Aboriginal actions and relations including those based on exchange and performances of the key cultural ceremonies of kurara, manthe and ‘joonba.’

In Chapters 8 and 9 I provide an analysis of the way in which the Good Neighbour Agreement has been enacted by Aboriginal people and Miners since its conception in 1980. Chapter 8 outlines the three key aspects of the Good Neighbour at Argyle and provides an account of how they came into being and were subsequently enacted at Argyle by their Community Relations workers until the late 1990s. This chapter also highlights the way in which Aboriginal peoples beliefs about the wirnan influenced their perceptions of the Good Neighbour Agreement. Chapter 9 begins with an account of changes that occurred at Argyle in the face of the immanent closure of the mine, in particular the decision by Aboriginal people to perform their ceremonies in order to affect the course of events at the mine and innovations on the part of Argyle personnel which allowed the mine to continue operating. Chapter 9 then provides a thick description (following Geertz) of ceremonial performances at Argyle conducted over the past five years in order to show how Aboriginal people have recruited their ceremonial practices and associated rituals and symbolic representations in order to sustain their distinctiveness, their links to their land, and their capacity to relate to the Argyle Miners on their own

terms. The materials offered in these two chapters, including a selection of photographs of ceremonial performances at the mine, indicate the way in which Aboriginal people attempted, in Peggy Patrick's words to show them properly so they can really know. Chapters 8 and 9 thus form the analytical heart of this thesis in that they crystallize how, at Argyle, the Good Neighbour Agreement provided a space for cross cultural understanding without eroding the commitment of Aboriginal people to their own worldview.

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Chapter 10 provides a summary of my analysis of relationships between Aboriginal people and Argyle over the past several decades. I also return to my argument in this chapter that access to a greater depth of ethnographic material, a more subtle and considered reading of the Good Neighbour approach, and an enhanced understanding of the cultural context(s) of engagement at Argyle, have allowed me to present a re-interpretation of the Argyle case. This is a reinterpretation that draws on both a new framing or a new approach to understanding Aboriginal efforts to use their laws and customs to affect their relationships with Argyle, and a new interpretation of the corporate context within which these relationships have been - and continue to be - created, changed, and (re) formed. I continue that the reinterpretation I offer provides a means to better understand events at Argyle than the iconic view that has tended to dominate representations of Aborigines and Miners. I conclude that in the case of Argyle, such a view is an inadequate framing of relationships and negotiations that exist and that this may well be the case for Aborigines and Miners elsewhere in Australia. Finally, I offer in

this chapter an interpretation that argues that in the quest for a fix to ensure better agreements, better outcomes, and better understandings there is no single practice, framework or paradigm that can provide a simple 'theoretical frame' or prescribed practice for Aborigines and Miners without appropriate attention to the detail of each case. Such attention, I conclude, enables the fabric and richness of the hybrid space to emerge as important and relevant in terms of relationship formation, negotiation practices, agreement outcomes and continuing co-existence no matter how we might judge or understand them.

CHAPTER 2

ABORIGINES AND MINERS IN THE LITERATURE

There is a small discursive community of Australian academics whose work addresses the relationships between Aboriginal people and Miners in the Australian context. This body of work draws on several disciplinary traditions, particularly Anthropology, Human Geography and Political Economy, all of which consider the relationships between people, people and place, and people, place and culture. At the core of any consideration of people/place relations are questions of meaning making and recognition of the ontological conditions that enable the creation and enactment of these relationships. The few who make up this discursive community rarely engage with each other's substantive work. Starting in the early 1980s, particularly in response to the eviction of Aboriginal people from their homelands in far north Queensland to facilitate the Weipa bauxite mine (Douglas et al. 1976; Roberts 1975; Roberts and Mclean 1975; Roberts et al. 1975), the development of the Ranger Uranium Project (AIAS 1984) and the wider growth of the land rights versus mining debate in the wake of the Gove Land Rights Case (Blackburn J 1971), the subsequent Woodward Inquiry (Woodward 1973, 1974) and the passage of the Aboriginal Land Rights (Northern Territory) Act in 1976 these scholars commenced systematic research and comment within the broad field of Aborigines and Miners. In addressing these issues anthropologists, human geographers and political economists have also drawn on a range of theoretical and methodological traditions located within the interdisciplinary literature in Cultural Studies and Critical Theory. With in these traditions Bhabha (1990a, 1990b, 1994), Bourdieu (1992, 1997, 1998, 2005) and Foucault (1972, 1980, 1983), in their own ways, invite researchers to explore, in theory and in practice, the devil in the details of relationship formation, transformation and continuity through time, both within and between groups of people. For these reasons, and because the practitioners of these disciplines draw so deeply from the traditions of social science generally (see Flyvberg

2001), their suggested methodological and critical approaches have relevance to, and application in, the field of 'Aborigines and Miners.'

Some key texts in the context of Australian Anthropological research are those that address the complex relationships that Aboriginal people have to their country, their art and ceremonies and the Dreaming such as the ethnographic and analytical work of Bell (1983a, 1987); Berndt (1970); Berndt and Berndt (1964); Blundell (1982, 2003); Kaberry (1935a; 1936, 1937a, 1938, 1939); Lommel (1997); Morphy (1983, 1995); Munn (1973); Myers (1982, 1986a, 1986b, 1989, 1991, 1994); Rose (1984, 1991, 1992, 1996a, 1996b, 1999, 2000); Stanner (1933/34a, 1963, 1965, 1987, 1998); von Sturmer (1984) and Williams (1983, 1986a, 1987). Also anthropologists and anthropological research have become a critical component of contemporary political processes in the field of Aboriginal land rights, Aboriginal community development and land access negotiations (for example AIAS 1984; *Australian Aboriginal Studies* (special issue) 1986; Berndt 1982(ed); Peterson and Langton 1983). There is, therefore, a body of anthropological writing that has particular relevance to the broad question of 'Aborigines and Miners' as well as the specifics of Aboriginal land based relationships in the East Kimberley.

In the field of Human Geography the general theoretical and more applied texts by Casey (1996); Cochrane (1987); Field and Basso (1996); Howitt (1993c, 2001, 2002a, 2002b, 2002c); Howitt et al. (1990); Howitt and Jackson (1998); Howitt and Stevens (2005); Howitt and Suchet-Pearson (20003); Jacobs (1988, 1994, 1996); Massey (1984, 1993, 1994); and Tuan (1974, 1977), embrace a more discursive, broad based and interactive analysis of the multifaceted relationships that exist between 'people and place' and how to conduct such research. These texts have both stimulated and influenced my multidisciplinary approach to the larger research questions raised by Aborigines and Miners in Australia. They have drawn my detailed ethnographic work into greater engagement with place, scale and context than might have been the case

with a more anthropological approach and I explore these issues in more detail in Chapter 3.

A multidisciplinary approach that draws, in particular, on Anthropology and Human Geography has application in that Aborigines and the non-Aboriginal individuals connected to mining are 'people,' they have culture, and they are connected, albeit in different ways and to differing degrees, to the geographical focus of this thesis, viz. the mine site. Mining has to do with the natural world, with people's sense of identity and with their spatial arrangements. Mining creates a kind of disorder in the known world and in particular to the world of indigenous people – landscapes are changed, and relationships between people and landscapes and all that is embedded in them are altered. Importantly, and for better or for worse, these changes are integrated into people's lives and/or ameliorated by actions taken by them. Responses by Aboriginal people to this disorder and its interruptions of, and intrusions into, their lives are often multifaceted and are necessarily sourced from within their own cultural frameworks or what Bourdieu describes as their 'habitus' (1992, 1998). For Aboriginal people, the consequences of these disruptions and their responses to them are reflected in the ways they manage their lives, their relationships with one another, and their relationships with their own inner and outer worlds, the spiritual world, the processes and institutions of governance, the mine and Miners.

Aborigines and Miners

Mining has played a significant role in the economic and political development of Western Australia since first settlement. Wyatt (1992:2) suggests that the conflicts between Aboriginal people and resource developers in Western Australia started in 1829 when the first limestone and other stone quarries were first opened at the port of Fremantle, in the area of Bassendean/Guilford, near Perth, and the Avon Valley, north

of Perth.³⁶ In more general terms, Howitt suggests that the period 1950-65 was the era that established particular sets of relationships between Aborigines and Miners in Australia (1985:22). Those relationships have been the focus of political comment and social science research since the mid 1960s.

Generally the focus has been on issues of localised conflict and tension between Aborigines and Miners and on describing the experiences that Aborigines have had in trying to create an appropriate place, and space, for themselves in the resource development context (see for example Ah Kit 1997; Howitt and Douglas 1983; Howitt 1985; O'Faircheallaigh 1986, 1998b). This issue merges with the inter-related issues regarding social impact assessment, resource management and 'development' within broader conceptual frameworks (for example see Connell and Howitt 1991; Coombs et al 1989; East Kimberley Impact Assessment Project (1985-1989); Howitt 2001; O'Faircheallaigh 1991, 1998b, 2004; Ross 1999; Tatz 1982a, 1982b, 1984a, 1984b; von Sturmer 1984) including the implementation and application of public policy and legislation (eg Agius et al. 2001, 2004a; Altman 1992, 1993, 1995; Altman and Peterson 1984; Kirkby 1983; Langton 1983; Libby 1989; O'Faircheallaigh 1986; 1988a, 1988b, 1988c, 1998a, 1998b, 2002a, 2004; Vachon and Toyne 1983).

Often there are reports of Aboriginal people's defeat, compromises on their part and their struggle for recognition, with very few successes as measured by a range of indicators given the widely accepted view that a more just, equitable, comprehensive and workable set of relationships needs to be established between the parties. However, the systematic consideration of how to reduce these conflicts and tensions, how to generate material benefits for Aboriginal people whose traditional country is being mined, and how to reduce the negative impacts of resource development projects on Aboriginal community life and traditional

³⁶ One such quarry was much later to be registered as "an Aboriginal site of significance under the Aboriginal Heritage Act of Western Australia" (Wyatt 1992:2).

country and ensure that appropriate benefits flow to them has had a relatively short history in Australia only commencing in the late 1970s (Douglas et al. 1976) and more systematically in 1980 with the work of The Catholic Commission For Justice and Peace and the Commission For World Mission Of The Uniting Church in Australia (to be discussed shortly) (Douglas et al. 1976; Howitt 1981a, 1981b; Howitt and Douglas 1983).

To date, much of the Australian literature regarding Aborigines and Miners has addressed the question of what happens to Aborigines and Aboriginal community life when mining companies enter the traditional lands of Aboriginal people or seek to mine in areas that are of particular interest to them. The focus is directed to identifying potential (mostly negative) impacts and remedial responses to those impacts. There has been very little focus on responses by corporations to indigenous issues and contestations over their traditional lands and their resources other than in the form of press statements and corporate comment.

However, not all encounters between Miners and Aboriginal people in Australia are depicted as solely negative. For example, Howitt (1991a: 135) notes that the effects of mining in the Tanami Desert region of eastern Central Australia have been both positive and negative for the local Walpiri. And, as Connell and Howitt indicate more generally for indigenous people in Australasia, they "are far from passive victims of domination but, without exception, they are active participants in development processes" (1991:3). Unfortunately they suggest that this 'active participation' by indigenous communities in mine development generally reflects a desperate need rather than a positive enhancement of their position and that their "dominant imperative is survival" and further, that there is a critical "tension between national economic goals, mining companies' expectations and the physical, cultural, and economic survival of indigenous peoples" (Connell and Howitt 1991:4).

Thus, even as active participants in these development processes it would appear that for indigenous people there remains a significant

shortfall in their attainment of benefits from development outcomes when these are measured in commercial rather than cultural terms.³⁷ In the early 1990s Connell and Howitt commented that:

Mining's injection of capital and infrastructural resources into previously neglected areas may give better access to the benefits of national economic development, but there have been no circumstances where the indigenous groups development goals have been successfully linked to those of the mining corporation's (1991: 1).

These general observations ring true in relation to the Argyle situation where Aboriginal people remain seriously under serviced and economically disadvantaged in their regional setting despite the presence of a very rich diamond mine that contributes significantly with direct royalty payments and taxation to State and Federal Governments, and indirectly with the associated 'flow on benefits' of mining such as direct and indirect employment and increased local community services to the East Kimberley region (Pritchard 2003; Taylor 2003a and b).

Historical Context

The events surrounding the Australian Government's granting of bauxite mining leases at Yirrikala in Northeast Arnhem Land in 1963 was one of the earliest situations where relations between Aborigines and Miners caught public attention and generated more wide-ranging political processes. The local Aboriginal people, Yolgnu, were not appropriately consulted about the mining project and they were not content to be unheard (see also Australia House of Representatives Standing Committee on Aboriginal Affairs 1974). They presented the Commonwealth Government with a petition as a means of protest to the planned mining on their traditional lands in the form of a tree bark petition³⁸ and in 1968 commenced legal action (*Milirrpum v. Nabalco Pty Ltd and the Commonwealth* (1971) FLR 141) (see also Rowse 2000: 46-52; Williams 1986a, 1987). Although the Aborigines' effectively lost this

³⁷ See Wilson (1961, 1980) and Wilson (1970) for a discussion of Pilbara Aboriginal people and their mining ventures in the late 1940s to 1970s.

³⁸ This was the first indigenous document to be presented to the Commonwealth Australian Parliament (Wells 1982).

case, in legal terms, they won “ a moral victory” (Rowse 2000:57). This, along with other events, such as the Gurindji ‘walk off’ in 1966 when Aboriginal people left their station employment in the Victoria River region of the Northern Territory, (just over the Western Australian border from Kununurra), and commenced strike action in August 1966 (see Hardy 1968; Rangiarri 1997; Rowse 2000:43-46), and the establishment of the Aboriginal Tent Embassy outside Parliament House in Canberra in 1972 (Rowse 2000:97-98) by more ‘militant’ southern Aborigines as a protest against reactive political processes combined, evolved and matured over thirty years culminating in the passage of the *(Commonwealth) Native Title Act (1993)*.³⁹

In the early 1960s in far North Queensland at the remote Aboriginal community of Mapoon, Aborigines were being displaced in a way that was widely perceived to be facilitating the bauxite-mining project and development of the new mining town, Weipa. The actions of the Queensland State Government, the local mission administration and the mining company (a Rio Tinto subsidiary) were chronicled in a range of reports and other documents. The overall picture that emerged was one of serious mistreatment of the local Mapoon Aborigines and an absence of ‘justice’ in the events that occurred (see for instance Douglas et al 1976; Roberts 1975; Roberts et al. 1975; Roberts and Mclean 1975; Howitt 2001 Chapter 8 for an overview of these events).

In 1972 the Australian Labor Party took up Aboriginal land rights as part of its successful attempt to defeat the conservative Liberal Country Party coalition in Federal Government and declared its intention to give Aborigines land rights. It was unclear how that was to be accomplished although it was decided to set a precedent in the Northern Territory context prior to creating a national land rights framework. In 1973 the Woodward Commission was established to enquire into how best to recognise and implement Aboriginal land rights and by mid 1974 two

³⁹ For an overview of the history and general information about the Aboriginal Tent Embassy see <http://www.aph.gov.au/library/pubs/chron/1999-000/2000chr03.htm>[accessed 19 October 2006]

reports had been written (Woodward 1973, 1974). A series of unprecedented events lead to the eviction of the Australian Labor Party from office and it failed to regain leadership of the nation. The findings of the Woodward Commission did however find expression in the *Aboriginal Land Rights (Northern Territory) Act (1976)* (ALRA) passed by the Liberal Country Party Coalition. Since that time, the ALRA has been subject to a number of administrative and academic reviews and there have been a number of amendments to the legislation have been made (for example see Altman and Peterson 1984; Altman et al. 1999; Reeves 1976; Sutton 1999).

During this period the proposal to develop the Ranger Uranium mine in Western Arnhem Land in the Northern Territory was subject to an enquiry, The Ranger Uranium Environmental Enquiry (conducted during 1975/6). The results of the enquiry, which included a series of public meetings with evidence taken from local Aboriginal people, were published in a final report (Fox et al. 1977). The enquiry and the final reports were both subject to critique, the most comprehensive being that prepared by the Australian Institute of Aboriginal Studies (1984). Of particular significance to the question of Aborigines and Miners is the critique prepared by von Sturmer (1984) who paid particular attention on the Second Report that contained the Commissioner's recommendations and conclusions. Of particular relevance to this thesis is von Sturmer's articulation of the methodological and conceptual challenges presented when attempting impact assessment in a cross-cultural context and the need to consider both (Aboriginal) people - country and (Aboriginal) people - people relations (von Sturmer 1984:34-45). I would add that the cross cultural relationships being considered and evaluated should not be limited to those of the Aboriginal community but include those of the 'mining community,' the community of experts and advisors and those between Aborigines and Miners – as engaged people.

As noted in Chapter 1, the Noonkanbah event of the late 1970s was pivotal in terms of relations between Aborigines and Miners (and the

State) in Western Australia. Hawke and Gallagher (1989) have prepared a comprehensive record of those events. Noonkanbah was also significant for Kimberley Aborigines in that it was here that the Kimberley Land Council was formed (KLC 1978; Sullivan 1987:40). In May of 1978 a hundred and sixty-six Aboriginal people representing thirty-two Aboriginal residential groups from pastoral stations, Aboriginal reserve communities and town sites, along with a number of invited guests including Gularrwuy Yunupingu the chairman of the recently formed Northern Land Council in the Northern Territory, other indigenous and non-indigenous supporters and advisors, came together at Noonkanbah Station for a "Kimberley bush meeting" (KLC 1978). A range of social and political issues, including mining, were discussed and support for the Noonkanbah Aborigines in their efforts to protect their community and culture was demonstrated. It was during this meeting that the Kimberley Land Council was formally created (KLC 1978:7).⁴⁰ This was to be a major political event for Kimberley Aborigines and occurred at the beginning of an era of conflict with resource developers and the State and activism and politicisation within the indigenous community and their supporters (Sullivan 1987:39-42, see also Sullivan 1997:105-126). Aboriginal people from the East Kimberley attended this and subsequent 'protest' meetings. Their experiences of 'Noonkanbah' were to have a lasting and significant impact and in particular made them extremely cautious in their dealings with exploration companies and wary of ever gaining any government support in protecting their traditional country and sites of significance. The Noonkanbah crisis, along with the discovery and establishment of the Argyle Diamond Mine in the late 1970s and early 1980s were cases where relationships between Aborigines and Miners attracted national attention and challenged the lack of national land rights legislation and the apparently uneven response of the Australian nation to Aboriginal people's calls for a fair deal and recognition of their land rights in the face of persistent development and

⁴⁰ Frank Chulung was elected the first chairman of the Kimberley Land Council (KLC 1978:14). At the time of the making of the Good Neighbour Agreement he was co-chair of the Kimberley Land Council and working as the Aboriginal liaison officer for the Aboriginal Legal Aid Service. Chulung and refused, for a variety of reasons, including concerns about the justness of an agreement made in haste, to attend the meeting held at

mining activities (Figure 4), in particular in Western Australian (see Libby 1989:55-114).

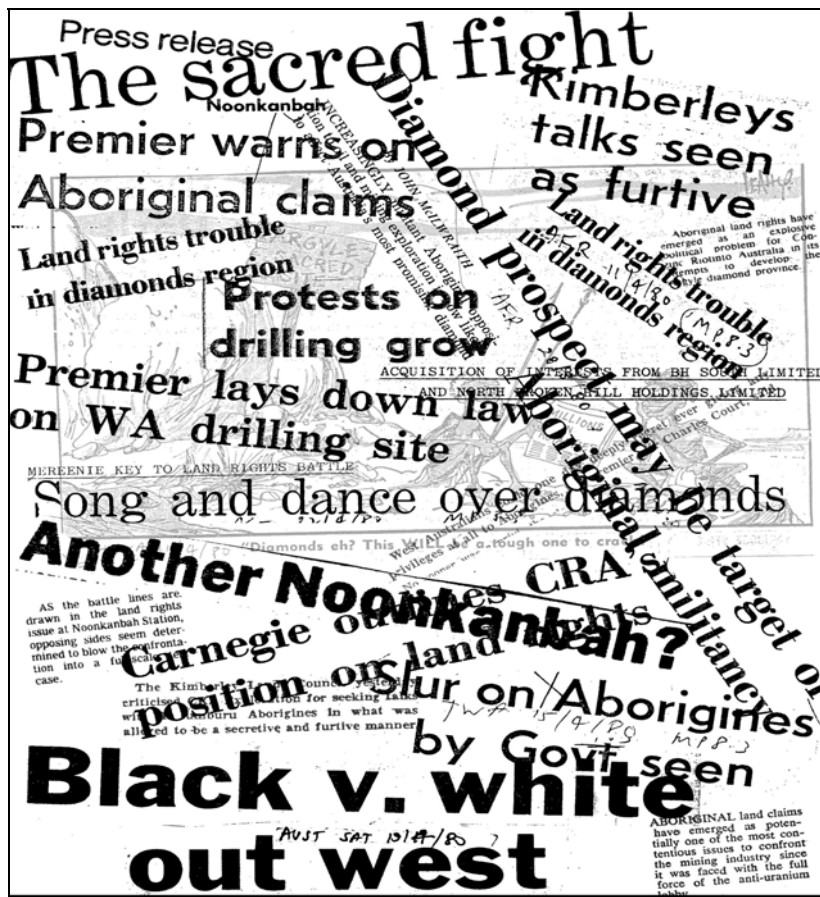


Figure 4: Indicative Media Headlines

The tensions between Aborigines and Miners continued and the consequences of Noonkanbah for Aboriginal people in Western Australian were long standing. During the mid 1980s Aboriginal people commented that they were anxious to avoid a Noonkanbah style conflict on their country and that is one of the major reasons why they have attempted, over the years, to find ways to negotiate appropriate agreements and ways of protecting their country and sites of significance with mining companies (see Doohan 1984).

Bradshaw (2001) noted how some years later the tensions that surrounded the establishment of the Marandoo iron ore mine in 1992 in

Glen Hill prior to the formal creation of the agreement (Chulung pers comm 2005, Dixon 1986a).

the Pilbara region of Western Australia contributed to the general scenario of disquiet and tension between Aborigines and Miners. Indications are that conflicts and disputed relationships between Aboriginal people and Miners remain contentious and demanding in terms of time, energy and compromise on the part of all parties. Aborigines and Miners persist as significant elements of the national economic and political agenda and continue to attract academic as well as other comment. For example, in two cases of contestations and tensions between Aborigines and Miners, concepts of sacred, the notion of national interest and indigenous rights were played out. These cases occurred at Coronation Hill and at Jabiluka in the Northern Territory (for example see Brunton 1991, 1992; Galligan and Lynch 1992; Gelder 1991; Howitt 1994; Jackson and Cooper 1993; Langton 1996; Merlan 1997; Merlan et al 1993; Resource Assessment Commission 1991). They demonstrate that Aborigines and Miners continue to generate social, political and economic debate at, and beyond the scale of local engagement to the broader arena of public interest.

Finally, the passage of the Native Title Act⁴¹ as the Federal Government's response to the *Mabo* decision (*Mabo and others v, the State of Queensland (No.2)*) has received wide coverage by academics (see for example Bartlett 1993; Goot and Rowse 1994; Howitt 1993d) and wide comment and criticism as well as praise by Aboriginal leaders, mining company personal and political commentators. The Native Title Act provided statutory recognition of Aboriginal common law rights for those able to meet the rigorous requirements of the NTA. There are a range of administrative mechanisms encapsulated in the NTA that are directed to enabling Aborigines to claim their native title rights and interests and to seek negotiated agreements between relevant Aboriginal groups and other sectors of the wider society including Governments, agents of the government and Miners.⁴² However, many of the mechanisms of the NTA

⁴¹ For the full text of the Native Title Act with amendments, see <http://scaleplus.law.gov.au/html/pasteact/2/1142/pdf/NativeTitle1993.pdf>.

⁴² It is relevant to note that agreements between Aborigines and Aboriginal organisations and exploration and mining companies were occurring prior to the passage of the NTA (see for example Edmunds 1999:1; Vachon

and some of the attendant processes are considered too cumbersome, ineffectual, time consuming and costly to meet the needs of the Miners and the Aborigines (Altman 1995; Bartlett 1995, 1996; Pearson 2004). There are, nonetheless, some elements, such as the provisions of Indigenous Land Use Agreements (ILUA) (created during the 1998 amendments to the NTA)⁴³ which, when negotiated and registered, provide a very high degree of security and certainty for all parties and stimulated particular kinds of negotiated outcomes (for example see Agius et al. 2004a; Langton and Palmer 2003a: 14; Neate 1999, 2001, 2004).

However, despite the increasing amount of comment and research regarding the issues of social, financial, environmental and cultural impact of resource development and agreement making processes between Aborigines and Miners, and despite the best efforts on the part of collective entities such as Aboriginal Land Councils and indigenous support groups, as well as many individuals, reoccurring themes of disadvantage and disquiet persist. They persist even in the face of a number of extraordinary events such as the Mabo decision in 1992, major changes in the mining industries approach to Aboriginal land rights in Australia initiated in 1995 by CRA's CEO, Leon Davis, when he delivered a ground-breaking speech in 1995 (Davis 1995). Davis recognised Aboriginal people's native title and stated that CRA would be seeking active partnerships with Aboriginal people in the context of resource development (Davis 1995a, 1995b, see Chapter 5 and Appendix 3). And, in particular the increased willingness of mining companies to enter into negotiated agreements with Aboriginal people. The continuing calls for distributive justice⁴⁴ and rights-based agreements⁴⁵ have been

and Toyne 1983).

⁴³ The Commonwealth Native Title Amendment Act (1998)

⁴⁴ The term 'distributive justice' is part of the general discourse around benefits and agreement making within the resource development sector and is located within the concept of agreements as restitution and justice. It encompasses an overall sense that Aboriginal people should be entitled to benefit from the resources of their land in a fair and commensurate manner. One of the primary, practical and material difficulties of this notion is in how to measure the benefits. Certainly Aboriginal people in the Kimberley often express their desire to be 'level' with mining companies and to 'share properly' or 'go half and half' or 'fifty fifty' (see also Dixon 1990a: 86) with companies when there are discussions concerning the contents of agreements. But to date

framed within the larger political (and practical) struggles for appropriate reconciliation and agreement making between Aboriginal people and non-Aboriginal Australians within the Australian nation including recognition of Aboriginal people's sovereign rights and the need for treaty making at the national level, albeit a complex matter (for example see Altman 2002; Behrendt 2002a, 2002b, Dodson 1999, Langton 2000/2001, 2001a, 2001b; Langton and Palmer 2004; Rowse 2003). These calls have been made and fought for by many past and present indigenous leaders in political as well as grass roots forums and supported by a field of sympathetic lobby groups. Some academic researchers have also answered these calls. For example, over the past twenty years their studies have attempted to address the following issues: What makes an agreement a 'good agreement'; what constitutes a 'good outcome'; how can agreements be made so that they are able to be better implemented; and how can the agreement process reduce the marginalisation of indigenous interests by the hands of multinational resource companies, experts and representative organisations?⁴⁵ And, finally, how can these measures be made appropriate for both parties? However, the concerns at the heart of this thesis lie in a slightly different construction and one that takes culture as a serious component of the overall processes of negotiation, relationship formation and co-existence in the context of mining.

even the 'best' agreements, in financial terms, have not delivered anything like a 50% share for the Aboriginal landowners.

⁴⁵ This expression is not one that has a clear meaning but is among the discursive practices of Aboriginal people, their advocates and some agents of some mining companies. In general terms, the common understanding of 'rights based agreements' is two fold: (1) the agreement is not one that is made from a sense of generosity on the part of the non-Aboriginal party or parties; and (2) that agreements are based on an acknowledgement that Aborigines have rights as the original occupiers of Australia, however these rights might be articulated or recognised, for example, rights such as native title rights, common law rights, customary rights, human rights, and so on. These kinds of agreements are not dependent on statutory definitions or imperatives and yet have force in their intent and expression, for example Human Rights and Equal Opportunity Commission 2002.

⁴⁶ For some international and Australian-specific examples see Aigus et al 2001, 2002; Altman 1995; Berger 1977; Bodley 1982; Coombs et al 1989; Connell and Howitt 1991(eds); Cowell 1996; Howitt 1981a, 1981b, 1983, 1989a; 1989b, 1997; Langton and Palmer 2003; Langton et al. 2004; Langton et al. 2006 (in press); O'Faircheallaigh 1995, 1996, 2002; Trigger 2000, 2005,

The Impact of Mining on Aboriginal People

Historically, Aboriginal people have been depicted in the academic literature as seriously disadvantaged in economic and developmental terms by mining activities affecting their country and communities. As well, studies indicate that for the majority of Aboriginal people there have been few opportunities to effectively influence the activities occurring in their lands (some examples are Altman 1983, 1985, 1992; Altman and Peterson 1984; Altman and Smith 1994; Howitt 1981a, 1981b, 1985:17-20; Howitt and Douglas 1983). The exception to this are those Aboriginal people with traditional lands covered by the ALRA in the Northern Territory but even then there have been constraints (see Altman 1983; Carroll 1983; O'Faircheallaigh 1986, 1988c). More recent studies indicate that since the passage of the NTA there are more opportunities for Aboriginal people to negotiate relationships with resource developers but, as O'Faircheallaigh has recently found in this context "outcomes from agreement making are, in fact, highly variable" (2004:304).

Twenty-five years ago the Catholic Commission for Justice and Peace and the Uniting Church Commission For World Mission in Australia set up the Corporate Study Group and established a project "to examine the operations of transnational mining companies on Aboriginal land" (Howitt and Douglas 1983:24) with particular emphasis on "[t]he negotiating relationship between Aborigines and mining companies" (Howitt and Douglas 1983:26) and they suggest that:

The first step is to understand their nature, their interests and their strategies, and how to competently negotiate with them (Howitt and Douglas 1983:33).

Various researchers, with divergent skills and experience, including Howitt and Douglas, conducted the study and prepared different publications and information materials (Howitt and Douglas 1983:3, 24-25). The project team:

... felt that accurate research and analysis would provide information that would be of assistance to Aboriginal people in negotiating with corporate

forces on more equal terms (Howitt and Douglas 1983:24).

By the 1980s social impact analysis of mining on or near Aboriginal communities was emerging as a politically powerful research tool in demonstrating the (usually negative) impact of mining on Aboriginal community life and the absence of administrative or remedial policy and engagement on the part of governments.⁴⁷ The early work of the Corporate Study Group and the innovative East Kimberley Impact Assessment Project (generally referred to as EKIAP - discussed in detail below) established relationships between groups of Aboriginal people and academic researchers. Among them, Nancy Williams and Ian Kirkby continued their work with Aboriginal people in the Punurlulu National Park for many years. Other researchers have continued to participate in on-going East Kimberley projects, including Marcia Langton who has worked with East Kimberley artists and performance groups and on the Argyle project. Kim Akerman and Kingsley Palmer contributed to the native title claim *Ward and Ors No WAG 6001 of 1995* providing expert evidence to the Federal Court. All of these individuals and others have continued to provide critical and academic comment and critique in the broad spectrum of 'Indigenous Affairs.'

State and Federal Governments were implicated as critical agents in the processes of impact and relationship formation between Aborigines and Miners. For example, writing in 1983 Howitt and Douglas suggest that:

In terms of real power, the most important element in negotiating the development of mining projects is the relationship between governments and the mining companies (Howitt and Douglas 1983:76).

Some years later Sullivan considered that "the problem posed by European expansion in general" was greater than that posed by mining operations (1997:2).

Following his early work, Howitt continued both to explore and emphasise the need for systematic and grounded research that could provide a basis

⁴⁷ For examples of some early work see Altman (1983, 1985), Howitt (1981a, 1991b, 1985, 1989; 1992); Howitt and Douglas (1983); Kesteven (1983); O'Faircheallaigh (1988c); Von Sturmer (1982, 1984).

for action by Aborigines in meeting the challenges raised when they engaged with corporate interests. He suggested that for research to be of real value to indigenous people the research process and the resultant research findings would need to be directed to enabling indigenous people to conduct their own social research (Howitt 1985:506-507) and that its theoretical (and literary) outcomes would need to play a role in helping people to develop their own solutions to "complex social issues" (Howitt 1985:71) and enable "direct indigenous participation in the research processes" (Howitt 1993a: 132).

By 1991 O'Faircheallaigh, a leading academic in the field of Aborigines and Miners in Australia since the mid 1980s, clearly felt that the relationships that existed between the two parties had not improved sufficiently. He identified what he considered a serious shortfall in understanding when he suggested that:

... what is required is more systematic, comparative work which seeks to examine the impact of resource projects across a range of different social, economic and political settings. This work would seek to establish how existing social and economic structures, specific corporate and government policies, characteristics of individuals resource exploitation industries, and particular responses by local communities combine to bring about specific outcomes (O'Faircheallaigh 1991:258).

O'Faircheallaigh was particularly concerned to advance a theoretical basis for establishing and enacting relations between Aborigines and Miners. He asserted that:

Relatively little has been done to develop general theoretical frameworks which could form the basis for a broader analysis of the processes at work (O'Faircheallaigh 1991:228).

One way to achieve this, he suggested, was to undertake systematic research enabling a greater "understanding of empirically-observed processes" which would then:

... serve as a basis for the development of hypotheses which could, in turn, enhance predictive capacity. It would draw on existing theory where appropriate, and seek to develop new theoretical understandings where existing theory is inadequate (O'Faircheallaigh 1991:258).

In the approaches of Howitt and O'Faircheallaigh we can discern two important benchmarks against which to judge changes in the evolving

relationships between Aborigines and Miners. On the one hand, we have Howitt calling for greater understanding of the processes that work to enable Aborigines to undertake their own struggles and gain greater control over their lives (Howitt 1985, 1993a, 2002b, 2002c; Howitt and Douglas 1983). This can be considered a *grassroots empowerment approach* that advocates a process whereby Aborigines are (re) empowered to act at the local level in the face of regional and global mining developments. It is also an approach that advocates a process whereby research, information and theory have relevance to the people subject to the development proposals rather than being an academic exercise which could lead to “an artificial distinction between theory and practice” a failing that he recognises in the uncritical application of Marxist theory (Howitt 1985:49-50). Howitt was to later suggest that there were three “key concepts” – empowerment, participation and intervention – that, following Harvey (1984), would integrate theory and practice in a way that would enable Aboriginal people to influence the kinds of outcomes that they would encounter in the context of resource development (Howitt 1993a).

On the other hand, O’Faircheallaigh’s efforts are directed toward establishing a broad theoretical foundation from which to frame a range of mainly generative understandings.

A substantial amount of research has now been conducted into the effects of resource development on indigenous peoples, but the existing literature is overwhelmingly empirical and case study in nature, outlining the impact of individual projects on specific populations or areas. Relatively little has been done to develop general theoretical frameworks, which could form the basis for a broader analysis of the processes at work (O’Faircheallaigh 1991:228).

O’Faircheallaigh’s early concerns to enhance the negotiating position of Aboriginal people continues to seek such a theoretical framing and more than ten years on he is refining the theoretical formulations that better practically assist Aboriginal people and their representative organisations (O’Faircheallaigh 2003, 2004). He states:

The existing theoretical work on negotiations appears to be limited in terms of its capacity to explain the outcomes of negotiations between indigenous people and mining companies. The only option, therefore, is to

try to develop new theory, which can provide adequate explanations (O'Faircheallaigh 2003:17).

I will refer to this as the *predictive approach*. This approach appears to advocate a top down form of intervention in the relationship between Aborigines and Miners and to be applicable to the observer, advisor and expert. As well, it appears to be oriented towards increasing the levels of understanding and expertise that can most effectively assist indigenous people to achieve measurably better outcomes. Aborigines would, then, access this expertise in the context of their negotiations and agreement making processes as a tool in preparing and conducting their negotiation strategies and determining what constitutes 'a better outcome' for them.

The East Kimberley Impact Assessment Project - EKIAP

One research project that attempted to incorporate both the empowerment approach and the predictive approach was the East Kimberley Impact Assessment Project (hereafter EKIAP) (Williams 1986b: 39). This project came into being in the mid 1980s and lasted for four years (1985-1989). It was a multi-disciplinary research project that attempted to respond to a number of issues that Kimberley Aborigines, and particularly those in the East Kimberley, were facing in terms of regional development, government policy and service delivery (Williams 1986b).⁴⁸ The project was also aimed at providing remedial, analytical and practical advice and assistance to Aborigines in the region as well as to government agencies (EKIAP 1985:16-17). Some of the critical factors that stimulated the project were:

- the presence of the Argyle diamond mine in the region (Williams and Dillon 1985);
- the apparent lack of government policy or practice to understand, research or monitor the social impact of resource development projects in the Kimberley;
- extensive lobbying from Aboriginal people in the East Kimberley

⁴⁸ In 1985, the EKIAP conceptualised the East Kimberley region as extending beyond Halls Creek into the Tanami region and including the desert communities of Ringer Soak, Balgo, Mulan and Billiluna (Coombs et al 1989: xvi; Williams and Kirkby 1989:iii). These communities are much further to the southeast than my area

region, particularly those from Warmun community, who were seeking assistance to understand the changes that were happening to their region and to find a forum to engage with, and attempt to influence and/or manage those changes (East Kimberley Working Paper No.1 1985:4-5);

- the relative absence of social impact assessment and analysis in the Australian context (East Kimberley Working Paper No.1 1985:6-7);
- a desire to extend and expand the existing research materials, methodological approaches and data base of the East Kimberley region; and
- a desire to provide Kimberley Aborigines with a more broad based basis from which to re-consider their location and standing in the processes of regional development in and around their country and their communities (Ross pers comm May 3, 2004 Brisbane; Williams 1986b: 39).

However, according to Ross, one of the co-ordinators of the overall project, EKIAP was established too late to adequately address the social impact of the Argyle mine specifically (Ross 1991).⁴⁹ In her opinion, there were several reasons for this:

- The research did not commence until five years after the signing of the Good Neighbour Agreement;
- The research did not commence until three years after the first mining of ore commenced (the alluvial mining commenced in 1981) and;
- Aboriginal people had come to realise that there were a range of other historical events and regional developments that had had significant impacts on their lives other than the Argyle mine by the time EKIAP research commenced (Ross pers comm 3 May 2004 Brisbane).

of interest and attention and have not had any direct participation in the Argyle processes.

⁴⁹ Almost twenty years later Elderton found that isolating what generated particular 'impacts' was, for Aboriginal people, a difficult task. "People would talk about what was happening and how things have changed, but find difficulty in linking causality specifically to the mine's presence" (Elderton 2003a: 2).

The other 'social impact' issues identified by Aborigines as significant and addressed by EKIAP concerned the impact of settler intrusion into East Kimberley Aborigines' traditional lands, the development of the pastoral industry, recent tourism developments in the Bungle Bungles and the Kimberley generally, and the impact of the development of the Ord River scheme:

Aboriginal people were viewing their contemporary lives as a consequence of many eras of impact and they gave stories from the beginning of that impact progressively moving towards the impact of Argyle but they didn't just see Argyle as being an important impact. Argyle was just one of a series of impacts including the impact of legislation on Aboriginal people's lives such as the pastoral award and the granting of social security rights (Ross pers comm 3 May 2004 Brisbane).⁵⁰

Nonetheless, EKIAP effectively commenced with an initial review of relevant social impact and public policy literature by Dillon (1985a), who was the executive officer of the proposed project at the time. His work was undertaken at the same time that the feasibility group, consisting of Nugget Coombs (the Centre for Resource and Environmental Studies [CRES]), the Australian National University (ANU), Nancy Williams (Australian Institute of Aboriginal Studies), Robert Tonkinson (University of WA), and Prof. Max Neutze, an economist from the ANU, were establishing the overall research design, seeking support from institutional and individual research partners as well as sourcing funding to secure the project (Williams 1986b, Williams and Dillon 1985).⁵¹

The multi-disciplinary approach that the proposed project design generated was to lead to concerns about a "separation of applied and

⁵⁰ The impact of pastoralism on East Kimberley Aborigines will be discussed in Chapter 4.

⁵¹ The project was later funded from a number of sources including philanthropic bodies. In a contemporary context a scoping study would be undertaken for a similar exercise. 'Scoping' is a term derived from the Social Impact Assessment literature. A scoping exercise would be conducted as part of, and prior to, the impact study itself, and would; establish the geographical, historical and social extent of the proposed study; confirm the appropriateness of the terms of reference; identify available data (including appropriate methods for acquiring that data especially in relation to participatory methods for cross-cultural data collection and interpretation); and ensure that the affected parties (including the researchers, regulators and proponents in a project-based SIA) have the capacity to do conduct the work and implement the findings. A 'good' scoping exercise would outline the kind of competencies that would ensure that the commissioning parties have the capacity to do justice to the task at hand.

pure research”(Williams 1986b: 39) among those academics consulted about the proposed research methodology and overall design. According to Ross this ‘concern’ continued to be a relevant issue throughout the life of EKIAP and found particular expression during a conference that was held in the East Kimberley town of Kununurra to examine and explore the aspirations of the local Aboriginal communities in relation to the impact of regional economic initiatives and development projects and specifically Argyle (pers comm 3 May 2004 Brisbane). The apparent division between ‘applied’ and ‘pure’ research was never completely resolved despite the clear intent and expectation that using a multi-disciplinary approach for the EKIAP could ameliorate the perceived dichotomy. Williams suggested that:

A multi-disciplinary framework that is more than simply the common participation of practioners of several disciplines but is one which facilitates (by hermeneutic discourse or some other technique) the development of the most effective methods for the assessment of the social impact of development on Aboriginal communities would indeed by (sic) a significant outcome of the Project in the East Kimberley (Williams 1986b: 42).

Ross also notes that, in relation to the ‘cumulative’ social impact study conducted as a collaborative process with members of the Warmun community:

The commitment to Aboriginal control of the study not only guaranteed the participants’ involvement and enthusiasm; the Warmun people came up with a method which would not have occurred to the researcher, but which satisfied all of the other aims admirably (Ross 1989:19).

The EKIAP research team became one of collegiate engagement rather than a firmly structured and overly directed research programme (Dillon pers comm 22 November 2001 and Ross pers comm 3 May 2004). Researchers contributed by undertaking research that was within their own fields of expertise with each producing ‘working papers’ for the overall project. A total of twenty-five researchers participated and thirty-three East Kimberley Working Papers were produced.

In summary, the working papers covered such issues as regional health (Gracey and Spargo 1986; Gracey et al. 1989); economic development

(Altman 1987a and 1987b; Dillon 1985b and 1985c); the East Kimberley (Working Paper No.7 1985), including tourism (White 1987, Kesteven 1987b, Altman 1987a) and the pastoral industry (Dillon 1985c; Young 1987); aspects of public policy and service delivery (Bolger 1987a and 1987b; Sullivan 1987; Hillary and Dennis Rumley 1988); conservation and land management issues (Davies 1987; Rose 1985; Scarlet 1985; Stevens 1985); history of the establishment of the pastoral industry (Clement 1988, 1989); and the emerging Australian field of social impact in terms of methodological and analytical issues (Craig 1987, 1989; Christensen 1985; Dixon et al. 1985, Donovan 1986; Kesteven 1987b; Ross 1989; Ross and Bray 1989; Ross and Johnson 1989). The East Kimberley Working Paper No. 33 (Williams and Kirkby 1989) provided a summary analysis with a set of recommendations and an indication of future research directions.

The 1991 Crocodile Hole Meeting

EKIAP found final published form in Coombs et al. (1989) *Land of Promises* and led to the participation of East Kimberley Aboriginal people, invited guests, such as Patrick Dodson as the director of the Central Land Council of the Northern Territory, and a number of non-Aboriginal advisors and advocates, in the 1991 Crocodile Hole Meeting (KLC and Waringarri 1991). This meeting was a three-day conference held in September 1991 and was hosted by the Rugan Aboriginal community. The site of the meeting is a culturally significant water hole located on the Doon Doon pastoral lease. A large number of Kimberley Aborigines attended along with a range of indigenous service agency employees, advisors and some of the EKIAP researchers including Nugget Coombs who presented the keynote address and the key findings of EKIAP (Kimberley Land Council and Waringarri 1991:13-15; 43-50). The conference aim was to communicate to Aboriginal people these findings from the EKIAP (KLC and Waringarri 1991:9-10) and to discuss issues of importance to Kimberley Aborigines, such as relationships to country and Aboriginal culture and sense of community, so as to develop recommendations and ways forward for Kimberley Aborigines in the face

of continuing, and constantly changing, government administration and resource development. In particular, the meeting aimed to identify ways to work for, and support, Kimberley Aboriginal peoples' aspirations for their Law, their country, culture and way of life (Dodson quoted in KLC and Waringarri 1991:15-17). There was a general concern among those at the meeting that Aborigines were going to face continuing threats to their way of life without serious reconsideration of the role of government, local Aboriginal organisations and other service agencies. Such parties, it was thought, needed to devise more appropriate and sustainable development and administrative regimes in the Kimberley. The meeting resulted in a series of conclusions and recommendations that became the basis for on-going discussion and debate in the Kimberley generally about the socio-economic and political positioning of the indigenous people in regional development and political engagement with the State and others, such as resource developers, tour operators and so on (KLC and Waringarri 1991:1-9; see for example Crough and Cronin 1995; Crough and Christophersen 1993; Pritchard 2003; Pritchard and Sutherland 2001; Sullivan 1995, 1999a, 1999b; Taylor 2003a, 2003b).

More than ten years on, however, there is little in the literature that follows on from the Crocodile Hole meeting. For example, the published literature about the Kimberley contains little indication of any continuing "research development and training taskforce" projects (KLC and Waringarri 1991:1). Expectations regarding regional engagements between Kimberley Aborigines, government agencies and private enterprise do not appear to have been met to the extent envisioned by those Aborigines who attended the Crocodile Hole meeting (see also Rowse 2000:215-216). There are only a few 'regional agreements' that exist in the Kimberley. These include the *Kimberley Explorers MoU* (KLC et al 1999; see also Erving 2000), the Argyle Participation Agreement (registered as Argyle Diamonds W12002/003), and the recently negotiated ILUA in relations to the second stage of the development of

the Ord River irrigation area the *Ord Final Agreement* (W12005/003).⁵² Erving (2000) outlines the Kimberley Explorers MoU intent and purpose, which is to provide agreed ways for Aboriginal people and exploration companies to negotiate access to and protection of Aboriginal heritage in, exploration tenements. However, as with the two most recently created ILUAs in the East Kimberley the Kimberley Explorers MoU has not yet been subject to critical review or comment. Two of the participating communities at the Crocodile Hole meeting in 1990 – Rugan (Crocodile Hole) and Juwulinypany (Bow River) - have undertaken, with the assistance of two men who have lived and worked in these communities, Tony Oliver and Leon Morris, the preparation of a comprehensive vision statement and planning document which they have called “Warlpawun” (Oliver and Morris 2000). This document outlines the goals and expectations of these communities with regard to their communities’ long-term future and development along with plans for appropriate education at a local school, economic enterprise development through a community arts centre, cross cultural tourism, and creative performances. This visionary plan was prepared as a collaborative exercise with an emphasis on ‘two way’ learning and exchange between Aboriginal people and the wider community including mining and educational institutions (Oliver and Morris 2000). The most recent research findings in relation to East Kimberley community development and economic standing are those prepared by Elderton (2003), KLC (2004), Pritchard (2003) and Taylor (2003a and 2003b). These materials were generated as a consequence of the Argyle Participation Agreement negotiations and the proposed development of Ord Stage II, an expansion of the Ord River Irrigation Area (see Chapter 4). Elderton and Pritchard’s documents have not been published. Taylor’s published findings indicate that East Kimberley Aborigines are statistically more disadvantaged in the arenas of health, education, employment and general social indicators than they were twenty years ago (Taylor 2003b). Kahn’s analysis also indicates that Aborigines in the East

⁵² For more information see (http://www.nntt.gov.au/ilua/1155701180_3620.html) [accessed 30 September 2006]

Kimberley continue to be disadvantaged citizens and that despite numerous enquiries and associated reports and recommendations (mostly ignored) little has changed for Aboriginal people in the Kununurra region in terms of their socio-economic standing over the past forty years (KLC 2004).

The Legacy of Early Studies of Aborigines and Miners

The East Kimberley Impact Assessment Project was innovative for its time in the Australian field of impact assessment methodological approaches and analysis. It was not directed solely to the impact of mining nor was it a grassroots empowerment approach or a top down theoretical approach for engaging with, and providing advice to, Aboriginal people in the East Kimberley. Some observers state that the structure of the project and the desires of the Aboriginal participants did not always marry well nor had researchers on the project adequately dealt with the competing interests of researchers and Aborigines (Ross pers comm in May 3rd 2004 Brisbane). However, the EKIAP has left a legacy of wide ranging research documents from which Aborigines and researchers can draw for future comparative research projects and some indications of change and continuity in the East Kimberley. Unfortunately the EKIAP did not prepare a body of statistical baseline demographic and social indicator material for the East Kimberley region, although this is a task that has been undertaken by Taylor (2003a and b) and Pritchard (2003) in their more recent work.

To date, the issues surrounding the impact of mining and Aboriginal empowerment, agreement making and benefits to Aborigines in the face of resource developments such as mining continue to be significant and yet unresolved. This lack of resolution is both practical and theoretical. There remains a lack of clarity and agreement as to what processes and strategies should be engaged and there is continuing debate as to what constitute benefits to Aboriginal people, how they can be secured (from corporate interests such as mining companies), and how they can be delivered to those who are entitled to them.

Along with other commentators, both Howitt and O’Faircheallaigh continue to explore these issues by continuing to consider the persistent themes regarding Aborigines and Miners and their myriad of relationships, including financial, industrial, environmental, social, negotiation processes, rights-based interests and agreements and so on (Howitt 2001; O’Faircheallaigh 2004).⁵³ However, in many contemporary agreement making processes gaps remain in the application of much of this analysis and advice. This has resulted in tensions between best ethical, theoretical and practical practice, what is said and written, and what actually happens. There remain pressing questions that challenge the role of the applied social scientist, the field practitioner, the expert and the practice of good social science (Howitt, 2001, 2005; Howitt and Stevens 2005; O’Faircheallaigh 2000, 2003, 2004). Most recently Howitt (2005) has raised a number of these ‘big questions’ about ethics and practice in a recent paper presented at a meeting of the Institute of Australian Geographers in Adelaide (published as Howitt 2005). In this paper, Howitt builds on issues of ethical engagement with Aborigines with reference to the praxis of “situated availability” and “deep colonizing” as raised earlier by Rose (1996a, 1999). These gaps and uncertainties continue to challenge the ‘theoretical’ positioning of researchers, the ‘experts,’ Aborigines and Miners as they engage in processes of negotiating and agreement making.

I realise that what I have outlined above appears to present the two approaches by Howitt and O’Faircheallaigh – empowerment and predictive models – as extremes of a simple continuum in the Australian discursive community. In reality this is not the case as both Howitt and O’Faircheallaigh, and others, are also deeply engaged in practical work that is directed to assisting Aboriginal people to achieve and assess what constitutes ‘better outcomes’ in the face of resource development projects in their country. However, and despite their increasing attention

⁵³ The following is a broad range of references relevant to Aboriginal people and agreement making and including mining: Agius et al 2001, 2004a, b & c, Agreements, Treaties and Negotiated Settlements (data base – <http://www.atns.net.au>); Edmunds 1999; Langton and Palmer 2003a, 2003b; Langton et al. 2004; Langton et

to political engagement, process and relationship formation in negotiation and impact assessment projects associated with agreement making with mining companies or others (see for example Aguis et al, 2004a, 2004b, 2004c; Howitt 1993a, 1995, 2001, 2005; O'Faircheallaigh 1995a, 1999, 2000, 2002a, 2002b, 2004), it is reasonable to say that 'culture' remains largely invisible for them both as an equivalent element in these processes. Culture appears to sit outside the critical framework of Marxist-informed structuralist thinking about economic development, the corporate sphere and social justice that they, and others, have bought to their work. I have taken another analytical approach to the question of Aborigines and Miners. I rely on an alternative framing of the 'big' theoretical frameworks, a framing that is encouraged by both Bourdieu and Geertz. A framing that takes consideration of field and habitus (Bourdieu) and culture (Geertz) seriously and as critical elements of enabling, constructing and engaging with the negotiation processes and agreement making to generate better outcomes for Aboriginal people. This is a re-framing of Aborigines and Miners into the wider socio-political context of co-existence (no matter how fragile or messy it might be) as a lived experience rather than a structured or theoretical one. That is, trying to understand Aborigines and Miners at Argyle and attempting to re-read the iconic rendering of the Argyle case requires taking culture seriously.

Argyle in the Literature

As I argued in Chapter 1 there is an assumption that a mine and an Aboriginal sacred site cannot co-exist and that relationships between Aboriginal people and Miners are dominated by the large and powerful mining company whose operations (will) have multiple negative impacts on disadvantaged Aboriginal people. In the Australian context "Argyle" stands as iconic for these assumptions in many representations of the relationship between local Aboriginal people and the mine and its personnel. "Argyle" is iconic in the sense that the conventional narrative

al. 2006 (in press); Martin 1998 Trigger 1997, 1998, 2000, 2005.

regarding the mine is based on a binary problematic of power and powerlessness, with Miners having power and Aborigines having none, and with the relationship between Argyle and local Aboriginal people depicted as an example of Aboriginal dis-empowerment. That is to say, this conventional narrative inscribes the relationship between Miners and Aboriginal people as one that is unevenly dominated by a large and powerful mining company whose operations have multiple negative impacts on local disadvantaged Aboriginal people. This is a binary that has been shaped by the certain knowledge that the open pit diamond mine site was/is the site of the Barramundi Dreaming coupled with a critical, but limited, reading of the overall Argyle Good Neighbour approach as a cynical exercise directed to maximising corporate advantage.

While this representation of Argyle contains some elements of truth, it is neither the whole truth nor an adequate foundation for a critical engagement with the contemporary complexity of relationship formation, agreement making and engagements between Aborigines and Miners. An alternative reading of 'Argyle' inscribes mining as a positive development particularly when it is located in remote regions where it can provide much needed employment and services for local Aboriginal people and thus contribute to the local and national economies in a nation building exercise that will benefit all its citizens. However, observers acknowledge that this is something that has not happened at Argyle or more generally for Aborigines in the East Kimberley regional economy (see Taylor 2003b). But like the binary narrative described above, this way of representing relationships between Argyle and local Aboriginal people is inadequate for other reasons. Both narratives fail to recognise that not only do miners have an impact on local Aboriginal communities, *but* local Aboriginal communities also have an impact on the global realities of Rio Tinto via the locally operating Argyle mine. Things happen at Argyle, things such as Aboriginal ceremonial performances, the (deliberate) making of smoke and the integration of Aboriginal cultural practices as part of the mine's management practices. Things that do not fit into any

simple category of analysis and not easily measured.

In contrast to the above ways of inscribing 'Argyle,' and seemingly in isolation, Dixon and Dillon (1990b, 1990c, Dillon 1991, Dixon 1990a) provide an alternative analysis that recognises local Aborigines as active agents in their relations with Argyle Miners. They urge further detailed and critical research and investigation into the relationships that exist, and the practices and intentions on both sides as a means to more adequately understand the nature and expression of relationships between Aborigines and Miners at Argyle (Dillon 1991; Dixon and Dillon 1990b, 1990c). Dixon and Dillon offer a comprehensive analysis of 'Argyle' in their edited volume entitled *Aborigines and Diamond Mining* (Dixon and Dillon 1990a). The volume is a comprehensive collection of eleven papers from ten contributors addressing the full range of issues from the local concerns of Aborigines, their relationships to each other, to their Dreaming and to their country. There are also papers that provide analyses of State and Federal public policy formation, resource development theory and social impact assessment.⁵⁴ Dixon and Dillon (1990a and b) and Dixon (1990a) provide an exceptional alternative and challenging reading of the Argyle case in their introduction and their conclusions and through the presentation of Aboriginal voices by Dixon (1990a). The presentation of this collection of material demonstrates that multiple readings of 'Argyle' as a field of engagement and social action are possible.

The Good Neighbour Agreement and the development of the Argyle mine were very raw political issues in the early 1980s. This was soon after the Argyle diamond resource was identified and during the discussions that led to the signing of the Good Neighbour Agreement. It was during this period that Howitt was conducting field research for the Catholic Commissioners and for his doctorate (Douglas and Howitt 1983; Howitt 1981a, 1981b, 1985). Along with Howitt, Rod Dixon and Michael Dillon

⁵⁴ Several of these papers were originally produced for the EKIAP and they are published in this volume in slightly modified form. These include Christensen (1990a), Dixon et al. (1990), and Palmer and Williams

were also both actively involved with Aboriginal people at this time as noted in Chapter 1. Dillon was a community worker at Warmun and Dixon was a political advocate for Aboriginal people. Both were attempting to assist disaffected Aboriginal people in their efforts to challenge the basis of the Good Neighbour Agreement and bring about greater responsibility from the State in their duty of care toward Aboriginal citizens (Dillon 1984, Dillon 1990a, 1990b; Dixon 1990b; Dixon et al. 1990).

In 1990 when Dixon and Dillon had edited the *Aborigines and Diamond Mining* volume, there was some reconsideration of the simple binary analysis of the Argyle event. They did not see Aborigines as just passive victims but as active agents in their relations with the Miners, something they considered deserved greater consideration and attention within political and academic domains. Dixon and Dillon recognised that even though Aboriginal people were not getting as much money as a result of their negotiations with Argyle unlike their Aboriginal relations across the border in the Northern Territory, nonetheless they had achieved something that Aboriginal people in the Northern Territory never had. They had managed to negotiate an agreement themselves. Unfortunately, despite what was a significant contribution to the understanding of what was happening at Argyle, for the most part Dixon and Dillon's alternative analysis has not had very much influence on debates and discussion concerning relations between Aborigines and Miners at Argyle or elsewhere in Australia. Instead, iconic 'Argyle' has tended to remain framed in binary terms in published discussions as well as in popular discourse.

Within this published commentary, the corporate view does not appear to have the same continuing public voice. Apart from some early conference and briefing papers, which have had limited circulation, as well as various press releases at the time of the signing of the Good Neighbour Agreement (eg AJV nd; Rennie 1980), there is no real account of Argyle's

view of their relationship with local Aborigines.⁵⁵ At the time of the diamond discovery there was no publicly available written CRA or Argyle corporate policy in relation to how the company viewed so called 'Aboriginal affairs.' Today there remains an absence of a publicly accessible corporate or indigenous record that indicates what has happened since Argyle commenced their relationship with Aboriginal people of the East Kimberley region.⁵⁶

In their various contributions Dixon and Dillon have, separately and together, invited further consideration of the Argyle case but until now this has not been taken up. Dillon suggested that there was more than one way to view Argyle and to generate alternative conceptual understandings and better outcomes between Aborigines and Miners. He likened the Argyle case to that of an Aboriginal painting:

Argyle can be seen to involve various layers of meaning -- with the position, knowledge, and background of the interpreter determining which of those layers will be accessible and able to be 'read.' ...The challenge facing the political institutions of present-day Australia is to 'read' events such as Argyle in new ways.... New 'readings' of these events by both Aborigines and resource-development proponents will expand the options for resolving conflicts between protagonist interests (Dillon 1991:151).

This call for an alternative reading of Argyle was based on a re-framing of Aborigines as active participants in the creation of their own circumstances, a call that finds support in other academic fields such as anthropology and history (Dixon 1990a: 66-67; see also Jebb 2002). As Dixon asserts, "Aborigines are not victims" of "structurally determined inequality resulting from their original violent dispossession" (Dixon 1990a: 67). He argues further that:

The view of Aborigines as passively determined victims remains, ... an over statement which has tended to obscure the fact that Aborigines are purposive actors with understandings of structures within which they

⁵⁵ There are two exceptions to this generalization: Howitt's inclusion, as an Appendix in his doctoral thesis, of a transcript of an interview between himself and Mike Bell (CRA Melbourne Community Relations Liaison Officer) concerning the company's attitudes to related issues including Aboriginal heritage site protection (1985: Appendix 5). Dillon makes reference to numerous primary documents that reveal insights into how officers of the government were reacting to the Argyle situation at the time (1984).

⁵⁶ Nor is there an 'agreed history' produced as part of the recent agreement -making process although there was an attempt to produce one by Argyle which was criticized by the KLC. The KLC had a staff member produce an historical report of the Argyle mining lease area and surrounds (Skyring 2002) that has been made available to me. The report does not address the history of the agreement making process.

operate who, within the context of these understandings, negotiate daily life and respond to influence contingent events in a purposive manner (Dixon 1990a: 67).

Dixon relied on a number of recorded field interviews that he had made in the mid 1980s. These interviews were with senior Aboriginal men and women who were key players in the formation of 'Good Neighbour' relations with Argyle (see Chapter 3). Dixon relied on those interviews to come to this understanding and he later wrote, in the context of Argyle:

The picture that emerges from these interviews provides support for the view that Aborigines from Turkey Creek, Kununurra and other settlements in the region were ...engaged in a series of actions designed to benefit maximally from the emergence of the new and powerful 'patrons' in the mining company while, at the same time, seeking to maintain the services and support of community workers and agencies generally opposed to the *modus operandi* of the mining company. At the same time they were attempting to respond to and influence events and outcomes in a matter premised on and consonant with Aboriginal cultural requirements (Dixon 1990a: 68).

Dixon urged that researchers;

... reassess the Argyle dispute in terms that take account of the Aborigines involved as people with an understanding of what was happening (no matter how imperfect we judge this understanding to have been) and so with a basis for action in response to the mining intrusion (1990a:67).

However, both Dillon and Dixon also recognised that in the late 1980's there were both theoretical and practical limitations to achieving alternative readings of Argyle at that time. They acknowledged that these limitations lead to a range of interpretations

... from overly voluntaristic critiques of individuals and organisations which fail to take account of the broader forces constraining their freedom to act, to overly mechanistic analyses which view Aboriginal society as "so rigid so delicate, with everything so interdependent that to interfere with any part of it ... is to topple the whole" (Dixon and Dillon 1990b: 4 quoting Stanner 1979:47).

Further they suggested that due to these "absences and inadequacies ... *the definitive history and analysis of the Argyle development is yet to be written*" (Dixon and Dillon 1990b: 4, my emphasis). Importantly, in terms of the limitations of their own analysis, they recognised that further consideration of the Argyle case would require access to data relevant to Argyle's intentions and expectations concerning the Good

Neighbour approach, access that has only recently been granted for the purposes of this thesis enabling a “reading backwards and forwards between two orders of reality” suggested by them (Dixon and Dillon 1990b: 4).

Concluding Remarks

My review of the existing literature on Aborigines and Miners has informed the questions addressed in this thesis. In fact, it was Dillon and Dixon’s view that there can be more than one reading of Argyle and the events surrounding the mine’s development and therefore that a re-framing of the Argyle case is worthy of further inquiry that triggered my decision to undertake the research for this thesis. Their insistence that one should deal with the full complexity of the situation regarding Argyle rather than approach it as an iconic simplification has been critical to my effort to make new sense of this important case.

As well, my access to data previously unavailable to researchers has been critical for my research. This access appears to have been possible because circumstances have changed from the mid 1980’s when attempts by O’Faircheallaigh, Coombs, Christensen and others to secure research data from Argyle in relation to the Good Neighbour Agreement and financial arrangements between Argyle and local Aboriginal communities were unsuccessful.⁵⁷ File notes within the Argyle Community Relations archives indicate that employees of the company were unsympathetic to these research endeavours at this time for a number of reasons including distain toward activists, academics and white advisors as well as confidence in the strength of their own relationships with Aboriginal people.

In undertaking research for this thesis, it also has seemed to me that the

⁵⁷ O’Faircheallaigh had wanted to undertake a financial analysis of the Good Neighbour Agreement as part of the EKIAP research but his attempts to do so were thwarted by Argyle’s resistance to the project (Ross pers comm May 2004 Brisbane). Almost twenty years later O’Fairchaellaigh was engaged as part of the negotiation process between Aboriginal people and Argyle by the KLC to provide expert advice in relation to the company’s financial standing and an analysis of the company’s agreement package to the traditional owners.

literature reveals a number of recurring and yet unresolved issues. These are issues that are of particular interest to me. They include questions regarding the extent to which relations between the local Aboriginal people and Argyle are dominated by globally constrained capitalist modes of production and models of remote regional economic development that are exacerbated for Aborigines because of their location in the continuing context of colonisation. I do not attempt to explore these issues in this thesis.

Based on my review of the existing literature, I have also concluded that reliance on meta theoretical interpretations and ways of viewing and problematising the relations between Aborigines and Miners fails to allow for the possibility that there may be alternative strategies whereby they relate to one another. Indeed, the literature has not explored in ethnographic detail what relationships between Aborigines and Miners actually look like or how they are enacted at the local level of a mine. Importantly, it has not considered in any sustained way how Aboriginal people and Miners may attempt to establish relationships with one another according to their own respective epistemic frameworks, and adapt or adjust these relationships in response to their ongoing encounters over time. That is to say, there is a lack of critical assessment of what occurs at the local level of people's lived lives and their locally derived and enacted relationships, including how they are expressed and understood both by local Aboriginal people and by non-Aboriginal individuals connected to the mine, be they corporate officials or on-site personnel.

In the following chapter, I turn to issues regarding methods, theory and ethics which I confronted as I commenced the research task for this thesis.

CHAPTER 3

RESEARCH METHODS, THEORETICAL INFLUENCES, ETHICAL ISSUES, AND SOURCES OF DATA

During over two decades of work as a field anthropologist in the remote regions of North-western and Central Australia I have drawn upon a range of interpersonal and life skills as well as varied fieldwork methods, including those that involve working with Aboriginal people in a collaborative way. I have lived with Aboriginal people in their communities, planned trips and travelled with them in their traditional lands and waters, participated in their daily lives, and recorded interviews and discussions with them in order to produce research reports, maps and genealogies.

As part of my work I have prepared reports and recommendations for various organizations including policy documents, land claim reports and court documents, heritage survey reports, mining clearance reports, and land/sea management plans. All of these research tasks have been initiated and directed by the Aboriginal organisations and Aboriginal people with whom I have worked.⁵⁸ None of these reports contravene the relationships of trust that have been developed and agreed upon between Aboriginal people and myself. For example I have agreed not to reveal locations, or details, of sites that are considered secret or gender specific and to ensure that documents provide a culturally relevant view of sets of relationships such as the notion of 'family.' This was not to distort the research findings but to take into consideration that representations of Aboriginal people and their country are part of an agreed, collaborative process and to recognise that such representations when documented in written forms can transform non-literate people's knowledge (sometimes in unexpected ways). In solidifying this knowledge into a permanent and

⁵⁸ Apart from one year when I was employed by the then Northern Territory Aboriginal Sacred Sites Authority to establish a regional office in Alice Springs, a couple of months field work directed to the issues of population mobility and service delivery (Doohan and Young 1989), and the current period as a consultant to

literate form, such as written reports, map and genealogies, a form outside the traditional representation of that knowledge – story, performance and various art forms - processes of trust and collaboration are essential. The representation of ‘the Other’ by researchers who are in the privileged position of having access to these bodies of knowledge deserves careful ethical and methodological consideration (see for example Howitt and Stevens 2005; Rose and Clarke 1997).

While a doctoral research project differs from research specifically initiated by Aboriginal people, I have been encouraged by a number of Aboriginal women “to tell the story” of their relationship to the Argyle Diamond Mine and their struggle to “make things come good” between themselves and the company. As one woman told me, “we have to show’ em, in kartiya [European] way, in kartiya writing” (Peggy Patrick interview 27 February 2002). These women have given me permission to “show them [Argyle and others]” and “explain to them the meaning” of their story in the form of a “high English” document, viz. this thesis (Peggy Patrick and Eileen Bray interview 27 February 2002). As well, I agreed to prepare for the Kimberley Land Council, as their representative body, a version of this thesis that is written in a ‘plain-English’ form.⁵⁹

As I noted in Chapter 1, this thesis addresses the social relations between Aborigines and Miners with reference to a particular mining company and a specific group of Aboriginal people. It is about the ways in which people who experience the same sets of events from their different “vantage points” derive different meanings from these events (see Ollman 1993). It is also about the positionality and context of knowledge, power and meaning making. Because of my own position within this ‘field’ of study, questions of ethics (and my personal position) have had to be considered, both theoretically and practically. Inevitably these considerations have influenced the methodological choices I have made in carrying out the research. That is to say, in an inter-cultural setting,

Argyle all of my field research has been as a consultant to an Aboriginal Land Council or organisation.

⁵⁹ This will be lodged with the Kimberley Land Council library in Derby.

such as the fieldwork situation at Argyle, methodology is inevitably interwoven with and construed as ethics.

Background

My formal engagement with Aboriginal people connected to the Argyle mine site began in April 2000 when I was engaged as a consultant, with Professor Marcia Langton, by Argyle “to review, advise, and facilitate the implementation of Argyle Community Relations Strategic Plans (ADM nd).⁶⁰ As part of the consultancy to Argyle and as a means to assist the negotiation process I was asked to review the Argyle Community Relations archive material that spans a twenty-year time frame. I prepared summaries of those archival materials. Langton and I then integrated these summaries into two power point presentations for a workshop for senior managers within Argyle and Rio Tinto (Doohan and Langton 2001a, 2001b).

When I accepted the Argyle consultancy I told a number of key local Aboriginal people as well as personnel both at Argyle and at Rio Tinto that I was contemplating undertaking PhD research regarding the mine’s impact on local Aboriginal people. I explained that I would be seeking to access Argyle - the place and the relations that existed there - as my field of enquiry. In May 2000 I formally approached Argyle regarding my desire to conduct such research. Following my formal acceptance as a PhD candidate at Macquarie University I contacted a number of individuals including local Aboriginal people, mining industry workers as well as the corporate entities of Argyle and Rio Tinto. During these contacts I indicated that I would be applying for the Rio Tinto Scholarship as a PhD candidate, which I was subsequently awarded. In an effort to achieve the best ethical outcome and a transparent set of arrangements with all who would be affected by my research, I entered into a number of research ‘agreements’ with local Aboriginal people and corporate

⁶⁰ Professor Langton and I were contracted separately by Argyle but worked as a team sharing roles and a division of labour and co-producing various reports, memos and presentations throughout the consultancy

entities, including two rather long and formal agreements, one was with the Kimberley Land Council on behalf of its members (see Appendix 4) and the other with Rio Tinto which covered associated Rio Tinto business units including Argyle and Comalco (Commonwealth Aluminium Corporation) (see Appendix 5).⁶¹ Argyle provided me with supporting correspondence as an independent consent from that granted by Rio Tinto as did Comalco (see Appendices 6 and 7). I obtained a series of signed 'Willingness to Participate Forms' from Aboriginal people, retired miners and mining industry workers as well as from some other Aboriginal community representatives. Several of the research participants were covered by more than one kind of agreement. As well, as a student at Macquarie University I acknowledged that I would be bound by the ethical requirements of the University (Appendix 8), and as a matter of professional practice and member of the Australia Anthropological Society (AAS) by the ethical processes and practices required of AAS members.⁶²

As I began the thesis research it became clear that I was not doing "old fashioned ethnography", nor was I creating maps or charts of people's movements around a landscape. Rather I was extending the scope of my investigations far beyond the areas of conventional ethnography and geography. The 'site' in which I planned to work was not simply a 'community' or a 'tribe' located in one place within a singularly defined landscape. It was simultaneously also an 'industry' (mining in general, and diamond mining in particular) and a 'company' (Argyle, CRAE, CRA, RTZ, Rio Tinto, AJV and other joint venture variants through time). Nor was the research site solely a geographical location with particular physical and geological formations. It was also a richly imbued landscape of the Dreaming. The forms of engagement that I wanted to understand ranged from the local to the global interchangeably and often

(2000-2004). Professor Langton is also my secondary supervisor for this thesis.

⁶¹ The research agreements with Rio Tinto and Argyle allowed for the possibility for me to access a range of materials including materials that I prepared, singly, and in collaboration with Langton.

⁶² The AAS code of ethics is posted as a PDF file at the following website http://www.aas.asn.au/docs/AAS_Code_of_Ethics.pdf [accessed 19 October 2006].

imperceptibly. The cultural domains of engagement included East Kimberley Aboriginal communities, the Dreaming, the corporate boardroom and an operating diamond mine. That is, the diverse webs of relationships, contexts, meanings and transformations at the core of the research could not be accessed by conventional ethnographic or geographic methods although it was clear that my ethnographic tool kit would be crucial and would compliment my emerging geographical disposition. My research could not depend on a single research method, nor was I likely to produce a single ethnographic account of reality. And because I was engaged in research relationships with Aboriginal people and organisations with diverse interests and agendas as well as with corporate and institutional players and others, there were serious ethical issues to consider.

Theoretical Influences

As I indicated in Chapter 1, the subject matter at the heart of this thesis is derived from a large body of research data located within inter-contextual, multi-sited, multi-focal empirical and theoretical frameworks. Therefore, before turning directly to issues of methods and ethics, it will be useful to comment briefly on certain theoretical formulations that have influenced my thinking. Foremost among these are those that encourage systematic enquiry based on detailed investigations of complex data sets and direct researchers to engage in “radical doubt” (Webb et al. 2002:52) when considering binary constructions and the enactment of power (Foucault 1979:26-27) bearing in mind Derrida’s suggestions that there are inherent gaps in communication and understanding the meaning of things which requires the social scientist to go:

... back to interpretation, revision of one’s theories, and the duty of undertaking cultural analysis that we have inherited from such figures as Marx (Derrida 1994:62).

Also among these formulations is Homi Bhabha’s (1990a, 1994) invitation to explore the potential of other spaces of engagement and transformation in the context of culture making. For Bhabha culture is

something that is "continually in a process of hybridity" (1990a: 211) and in that process of change he suggests some critical re-conceptualisation of hybridity as more than just something originating from two others. For him, the hybridity:

... is the 'third space' which enables other positions to emerge...This third space displaces the histories that constitute it, and sets a new structure of authority, new political initiatives, which are inadequately understood through received wisdom...The process of cultural hybridity gives rise to something different, something new and unrecognisable, in a new era of negotiation of meaning and representation (Bhabha 1990a: 211).

Bhabha's invitation resonates with what has been happening at Argyle in that culture is being enacted and relationships transformed at the mine site. But, unlike Bhabha's third space, what is happening at Argyle, the physical location and site of social engagements, and what is emerging from those engagements between (at least) two cultures, is not solely a space of merged and new meaning making. Rather, as I will argue in this thesis, it is a space where the local Aboriginal people and Argyle management are engaged in processes aimed at sustaining their respective distinctiveness, that is, their alterity. At the same time this is a process whereby Aboriginal people have developed a strategy aimed at 'incorporating' Miners and the mine into their cultural 'reality' in order to engage with Miners and the mine in ways that are consistent with, and indeed reinforce, their own laws and customs. Recognizing the possibility of the mine as a hybrid space of active engagement, a third space, a place/space where Miners and Aborigines meet and negotiate their relationships to the landscape and to each other, requires giving legitimacy to the full range of critical data sets and social realities that come into play in this space for both Aboriginal people and Miners at Argyle.

In arriving at this view, I am following Geertz (1973) and Bourdieu (1997, 1998; cf. Webb et al. 2002). That is to say, I want to provide a detailed account of the Argyle case recognising that there are times when one does not necessarily 'get it right' and that "cultural analysis is intrinsically incomplete" (Geertz 1973:29). Nonetheless, I want to take into account contemporary engagements and the politics of everyday life

in order to discover what makes peoples' lives meaningful and how that meaning is enacted and reproduced. Bourdieu brings to the 'doing' of social research the concepts of 'habitus,' 'fields,' and 'social and cultural capital' as intellectual tools for reconciling the sometimes contradictory and always-complex data regarding peoples lived lives. His analysis of fields of engagement and the inevitable transformative effects of social science practice has influenced my own practice in the field and in writing about Aborigines and Miners (see for further discussion Bourdieu 1997, 1998; Flyvbjerg 2001; Webb, et al. 2002: 55, 57-58). I intend to draw on these methodological approaches and ways of writing to provide a Geertzian "thick description" – to describe the enlivened contextual setting, "the webs of significance" (Geertz 1973:5) - from which to "draw [some] large conclusions from small, but very densely textured facts" (Geertz 1973:28) about Aborigines and Miners.

It was this combination of Geertz's suggestion that theory "is not its own master" and "is inseparable from the immediacies of thick description" (1973:24-25) with Bourdieu's suggestion to grapple with "the particularities of different collective histories" (Bourdieu 1998:3) that led me to realise that it was in the "particularities" of Aborigines and Miners at Argyle that a more nuanced reading of the Argyle case could be located.

Finally, my thinking about recent developments at Argyle has been informed by perspectives that derive from Anthropology and the interdisciplinary field of Cultural Studies, including, as I will elaborate in Chapter 7, the theoretical work of Geertz regarding art (Geertz 1976), the seminal work of Victor Turner regarding symbols and ritual (Turner 1969, 1974) and more recent contributions from Houseman (2004, in press) and Blundell (1982, 2000). These perspectives have assisted me in understanding the recent decision by Aboriginal people to perform their ceremonies at Argyle in order to develop what they consider to be more culturally appropriate relationships with Miners. Such perspectives foreground the way in which the aesthetic and ritualistic aspects of

ceremonial performances evoke a particular “sensitivity”, as Geertz calls it (1976:1478), that is a culturally specific way of experiencing the world, and the way in which ceremonies can convey that experience to receptive and/or participatory audiences. As well these perspectives have led me to conclude that ceremonies now performed at Argyle are directed toward sustaining the Aboriginal world order, reprinting that order and accommodating the contemporary conditions of local Aboriginal people’s lives to that order – in particular the dramatic changes that accompanied the development of the diamond mine on their country -- given that the Aboriginal people connected to the Argyle mine site continue to firmly believe that this order is fundamental to the ongoing viability of their everyday relationships with their natural, supernatural, and human worlds.

Field Work as Method

Ethnographic fieldwork has provided the methodological basis for undertaking the research for this thesis. In anthropology, field work involves ‘participant observation’ which is not only considered the discipline’s defining method but also constitutes the ‘rite of passage’ that students undergo in order to be recognised as ‘authentic’ (rather than ‘arm chair’) anthropologists (see for example Bernard 1988; Glazer 1972; Geertz 1995:96-109; Pelto and Pelto 1978; Sanjek 1990). To date ethnographic fieldwork has not been a defining method in ‘doing’ Human Geography, although for some human geographers participant observation has enabled a particular form of entry and vantage point in their field of inquiry. For example, Sue Jackson, as a Geographer, explored aspects of anthropological theory in order to understand her own positionality in the field of planning and policy making contextualised by an Aboriginal spatial appreciation that differed from the dominant social constructions around local planning processes operating in Darwin and Broome (Jackson 1998:419-438). Kent et al. (1997) offer an overview of the place of fieldwork in geographical education in the United Kingdom, and Mathewson (2001) addresses the history of fieldwork in

American Geography. Sharpe (2001) offers a valuable review of the way in which field-based research shapes geographical knowledge suggesting a new empiricism that overcomes limitations of conventional dialectics in order to contribute to a more politically engaged Human Geography. Thus, while fieldwork is an important element in the development of geography – a “much heralded element of geographical tradition” (Arreola 2001:480) – the ‘field’ of Human Geography has been subject to more recent debate (for example see *The Geographical Review* 2001 and *Professional Geographer* 1994). And clearly in Human Geography the debates about fieldwork as a research tool and the inherent issues of ethical and methodological approaches and political and practical outcomes extends well beyond the authorising or authenticating of the field-tested professional (see Howitt and Stevens 2005).

In undertaking this research I have relied on my anthropological training and practice. However, my anthropological learning has undergone a transformation influenced by the field of geography that has enabled a more generous exploration of ‘the field’ of research and a greater feel for geographic influences in relationships that are formed at particular locations. This metamorphosis has enabled me to better understand that good research in the field of Aborigines and Miners must be that which is not “thin, general, surface and incomplete” (Geertz 1996:262) and at the same time takes into account place and space as critical aspects of relationship formation and enactment (for example see Hiller and Rooksby 2005; Casey 1996; Rodman 1992).

Thus, I come to the current research with an ethnographer’s vision and with a human geographer’s commitment to critically situating people and place. One cannot erase old habits and associated skills sets and analytical capacities. Rather one wants to enhance, extend and evolve them into a more useful and creative means of understanding and presenting new material that emerges from a study and thus build on existing research and analysis by providing fresh insights and analysis rather than create something altogether new, or as Geertz has said:

Studies do build on other studies, not in the sense they take up where others leave off, but in the sense that, better informed and better conceptualised, they plunge more deeply into the same things... Previously discovered facts are mobilized, previously developed concepts used, previously formulated hypothesis tried out; but the movement is not from already proven theorems to newly proven ones it is from an awkward fumbling for the most elementary understanding to a supported claim that one has achieved that and surpassed it. A study is an advance if it is more incisive – whatever that may mean – than those that preceded it; but it less stands on their shoulders than, challenged and challenging, runs by their side (1973:25).

Ethics as Method

Undertaking research within what is generally considered a contentious 'field' of power and social relations, in this case Argyle as a case study, inevitably raises questions not only of methods (in the conventional sense) but also those regarding ethics and reflexivity (see also Dowling 2005:22-26; Geertz 2000:21-41; Howitt 1993b, 2002b, 2005; Howitt and Stevens 2005:8-9; Howitt and Jackson 1998; Mullings 1999). In considering my ethical stance, I have come to think of 'ethics' as a 'first methodology' following Levinas' conceptualisation of ethics as "first philosophy" (Levinas 1997 [1989]). Thus, when I ventured into the 'fields' (in Bourdieu's sense) of Aborigines and Miners, I had to take particular account of the complex ethical issues that derive from my long-term familiarity and implicit trust relationships with some of the individuals in these 'fields.' For example, in many instances my interviews with Aboriginal people were more like an extension of on-going conversations about their concerns and experiences around the broader issues of native title, mining and Aboriginal Law and culture. Interviews with some Miners revealed my greater familiarity with the exploration and mining industry and with the 'on the ground' realities of engagements between Aboriginal people and exploration teams. This has been gained from my fieldwork over many years and is an advantage for me in that I had the opportunity to become familiar with Miners much more than they were able to become familiar with anthropology and anthropologists or geographers. Ethically, I have been engaged in research relationships with Aboriginal people at the grassroots, and

institutionally via their organisations, as well as with corporate and institutional players. The target of my inquiry has been multi-sited and multi-vocal and set in a continuing colonial context. I was interviewing Aboriginal people at the site of the mine, in their own local community, in cities where they were temporarily located for a variety of reasons (such as seeking health care or performing contemporary 'joonba' or dance). I interviewed men involved in the mining industry, past and present, some with intimate knowledge of the issues and others with more distant but relevant knowledge.⁶³ I also interviewed people who had been working in non-government organisations, for example the Kimberley Land Council and other Aboriginal organisations, during the early history of the establishment of the Argyle mine. I made decisions about what data to attempt to access and how to read that material, whether or not to interview certain individuals, how to interpret refusals for such interviews, and how to ensure trust and confidence for all the participants in the study.

For instance, I am sufficiently well-known to some of the Aboriginal people who participated in these interviews for them to have trusted me to 'do the right thing' without recourse to formal ethics protocols and research agreements, and indeed some were bemused by my insistence that they 'sign a piece of paper' as a matter of 'proof' that they were consenting and informed participants.⁶⁴ Similarly, a senior corporate participant and an advisor to Aboriginal people both considered the request to sign a participation form an insult and diminution of their own ability to decide what it was that they were doing when they chose to talk with me with a tape recorder or by email or in general conversation. These issues are difficult to articulate within the framing of perceived conflicts of interest (both in the arena of scholarship and the Argyle

⁶³ I only interviewed one woman in the mining industry, a Community Relations officer, for this research.

Women in the mining industry are a relatively new phenomenon; in fact the Argyle mine was seen as being in the forefront of establishing gender equality in the mining industry that has been traditionally seen as a male field of employment (see also Robinson 1996). Interestingly enough it was a female geologist who took the first sample that contained diamonds in the vicinity of AKI. Although this thesis includes an interest in 'gender' it does not pretend to be a study of gender in this region.

⁶⁴ Jackson (1998:420-438), working in Broome and Darwin, and Suchet (1999:25), working in Southern Africa,

consultancy) and such constructions are inevitably very subjective and unfortunately not part of the formal ethics approval process. The American anthropologist Laura Nader (1972) raised a number of these research issues in her earlier work when she invited anthropologists to study groups in positions of power rather than those in oppressed positions. She suggested that there are no universal sets of ethics that are applicable to all of the research contexts that researchers encounter, for example when researchers are in a foreign country, studying within their own cultures, or studying corporate entities and other kinds of institutions “that have a broad public impact” (Nader 1972:304). However, it was, and following this research exercise as a PhD scholar, remains, my considered opinion that, regardless of ‘power’ (however that is enacted or perceived) the researcher is obliged to act in an ethical manner and provide the greatest transparency when engaging in the research process with all participants. Thus, in order to overcome real or perceived conflicts of interest, I have tried to be very clear about when I was discussing issues as a PhD student and when I was doing work primarily as a consultant. Interestingly, for some Aboriginal people it was my delicate positioning between two potentially antithetical ‘fields’ that made me ‘useful’ to them and able to assist them to “tell the story” by putting it in “high English” and “in the book” (this thesis). This process is not unique to my own experience. As the anthropologist Fred Myers noted in relation to his experiences working with Aboriginal people in Australia (Myers 1994:683) and for anthropologists more generally:

Uncomfortable as it may be, anthropologists are a direct part of the contemporary political scene in which Aborigines live (Myers 1986b: 140).

As the research for this thesis proceeded, it became increasingly clear to me that the field of ethical engagement and indigenous recruitment of researchers to their goals by Aboriginal people as a strategic form of engagement with the dominant society deserves attention.⁶⁵ Therefore, and importantly, I acknowledge that I, too, am part of the process of negotiation and strategic engagement between Aborigines and Miners as

both comment on similar experiences in their respective fieldwork contexts.

⁶⁵ See also Rose 1986 and Sullivan 1986

is this thesis. For instance my decision to include the photographs of performances at Argyle as part of this thesis reflects an aspect of Aboriginal people's overall strategy of teaching and incorporation. Aboriginal people believe that to see and to experience something is the hallmark of the learning experience and the most effective means for the transmission of knowledge and thus for ensuring 'knowing.'

Similarly it must be acknowledged that Miners have a strategic interest in accessing research findings that evaluate and explore their relationships with Aborigines (something proposed by Howitt and Douglas in 1983), and indeed mining companies are encouraging and financially supporting independent research and research forums.⁶⁶

The Data

Given that Argyle is an enormous research field characterized by complex social relations, there has been an enormous amount of data to be consulted and assessed. However, I have not attempted to access all of the data associated with 'Argyle,' nor have I attempted to interview all of those individuals who were around at the time of the making of the Good Neighbour Agreement or during subsequent years. Rather I have tried to make informed decisions as to what data sets will enrich the Argyle case study. For example, I invited all of the original Aboriginal signatories of the Good Neighbour Agreement to participate in the research project. Three of them, John Toby, Evelyn Hall and George Dixon, did not respond to those invitations to participate. Therefore, I have relied on published and unpublished accounts of their involvement in the events surrounding

⁶⁶ For example Rio Tinto has, as part of their overall commitment to, and interest in, gaining more and better knowledge about what is happening in and around their regions of operation (see also Harvey and Brereton 2005), provided financial support for a number of invited senior academics, for example Altman, Langton, Bereton, Bern, O'Faircheallaigh, Taylor, Tehan, Trigger and other commentators to come together to discuss contemporary mining industry research in a 'workshop forum' - The Beechworth Workshops (December of 2002, 2003, 2004). A number of discussion papers and work in progress reports were delivered in these forums. For example, Bauman (2003) prepared a Power Point presentation "*Towards a Common Practice - Investigating Australian Indigenous Dispute Management Needs in Land Issues*"; Suchet-Pearson (2003) presented a discussion paper "*Implementation of the Western Cape Communities Co Existence Agreement*." Some examples of regional research are Taylor et al (2000); Taylor and Bell (2002); Taylor (2003b); and Taylor and Scambary (2005). Rio Tinto also provided the funds for a PhD scholarship to Macquarie University - the Rio Tinto Scholarship - which I was granted.

the Good Neighbour Agreement negotiations. The remaining Aboriginal signatories, Peggy Patrick and the late Tim Timms did respond to the invitation and were keen to participate and have their story, along with that of others, told. One of the two corporate signatories, Mick O'Leary also declined to be interviewed whereas the other corporate signatory, the late Frank Hughes, was a keen participant.

In general terms, I have collected data regarding the same events from a number of different sources. They are:

- Formal and informal interviews and discussions with local Aboriginal people;
- Formal and informal interviews and discussions with 'Miners,' including individuals who are retired and some in current employ;
- Formal and informal interviews with past and present employees of Aboriginal organisations such as the Kimberley Land Council and Aboriginal Community Councils;
- Documentary sources such as archival files in the corporate domain, within Aboriginal organisations and more general literature and published sources of particular as well as theoretical relevance;
- Data from my field observations as a participant in a range of roles over the past twenty years including contemporary taped interview and research notes taken during periods of PhD research in 2000 - 2004, as well as my own personal experiences in the 'field' and geographical location of the East Kimberley.

All of the individuals interviewed, Aborigines and people connected to Argyle, were asked about a range of issues including their experiences with the mining industry, as well as their own cross-cultural experiences, cultural awareness, and negotiation experiences. I was also interested to gauge how it felt to them to be in an 'inter-cultural space' of engagement or indeed if they even perceived their situation in this way.

To secure the data I travelled to Aboriginal communities in the Kimberley

region, to the Argyle mine site, to Perth to interview the first mine manager of the Argyle mine, to Melbourne to access the Rio Tinto archives held by the Melbourne University and to the Melbourne office of Sir Roderick Carnegie who was the CEO of CRA when the Good Neighbour Agreement was signed. I met one of the two corporate signatories to the Good Neighbour Agreement at various casual locations around Melbourne. I travelled to the head office of Rio Tinto in London and interviewed Jonathan Leslie, the Group Executive of the Diamond Division of Rio Tinto responsible for diamond mining. I had the opportunity to informally visit indigenous Communities in far northern Canada where the Diavik Diamond Mine was about to commence production on Indigenous land after successfully entering into a series of 'world's best practice' agreements with the relevant First Nations groups; the Dogrib Treaty 11 Council, the Lutsel K'e Dene First Nation, the Yellowknives Dene First Nation, the North Slave Métis Alliance and the Kitikmeot Inuit Association.⁶⁷ This experience enabled me to recognise that relationships between 'Aborigines and Miners' were not unique to the Australian context even though I was not in a position to undertake comparative research.

Archival Material

My earlier research experiences, particularly working on native title claims, made me aware of the need for rigorous examination of existing documents as well as rigorous field research.⁶⁸ I also wanted to research as much background material as possible in order to establish the historical and the contemporary contexts for my case study as well as examine the contents of documents to ascertain how knowledge is produced and reproduced in contemporary discourses and how it makes its way into published forms. I have relied on historical records to the

⁶⁷ The other parties to the Diavik Environmental Agreement include the Diavik Diamond Mines Inc., the Government of Canada represented by the Department of Indian Affairs and Northern Development (DIAND), the Government of the Northwest Territories represented by the Department of Resources, Wildlife and Economic Development (see Diavik Diamond Mine Website, *Diavik Diamonds Project - Environmental Agreement*, at <http://www.diavik.ca> [accessed 22 October 2006])

⁶⁸ This was heightened due to the legal and adversarial negotiation context within which much of my previous work was conducted.

extent that they supplement my analyses of events and relationships. These records provide dates, names, and information about chronology. They also provide information about what actually happened in the case of particular events. These records are, in a sense, 'standard' in that they take the form of meeting reports, memos, correspondence, diaries, agreements, internal reports and assessments and notes of discussions. Some of the most revealing material in the historical records is found as hand written marginal notes.

Written documents provide one means to track relationships and processes through time. However, the value and transparency of these written records is very heavily weighted in the company's interests as records written by Aboriginal people are conspicuously absent although there are references to what Aboriginal people are said to have said in the form of records of conversations and meetings and some correspondence signed by Aboriginal people. There was a constant and underlying question "why were these documents being created in the first place?" and "who is going to grant them value and in what context?" I return to these questions below. The archival material considered here consists of portions of the Argyle corporate narrative, the Aboriginal narrative as reported by Argyle and others, and the Argyle Community Relations narrative. As such, this material provides some indication of the way in which relationships have been interpreted and reworked in the Aboriginal and corporate domains. Research regarding these relationships located in the archival material took on a new value for Argyle with the reassessment and renegotiation of the Good Neighbour Agreement and Good Neighbour Programme. The Argyle archives partially filled the conceptual gap identified by Dixon and Dillon (1990b: 4) and a revisiting of that past was a significant factor in the way that Argyle conducted their negotiations with Aboriginal people in making the Argyle Participation Agreement.

As Ollman (1993) has suggested "reading history backward" is a critical methodological way to understand the present by reflecting on the past. I

also consider that this archival material provides a data set somewhat independent of the vagaries of fieldwork.⁶⁹ And, following Foucault's concept of "an archaeology of knowledge" reviewing such bodies of data gave more meaning and relevance for my own work in the very material setting of dusty boxes of archival files located in the very hot and humid industrial warehouse at the Argyle mine site (Foucault 1972) (Plate 5).



Plate 5: Warehouse at Argyle Mine Site

Argyle Archives

By far the most important archival data were those records located at the mine site in the industrial warehouse. They have provided a certain kind of richness, depth and often a colourful insight into the corporate cultural context of Argyle, insights which have enhanced my understanding of Argyle without having to undertake years of field work in the way that I had done with Aboriginal people in areas of remote northern and central Australia. Also reading the files provided an appropriate and effective way to establish sufficient familiarity with the situation at Argyle to enable me to conduct intelligent and informed interviews with past and present CRA, CRAE, Argyle and Rio Tinto employees. That is, to better position myself

⁶⁹ It is, however, important also to recognise that there are value judgements and assumptions that are made in the process of investigating certain documents, why they are chosen and how they are read.

within this new field and thus equip myself with a kind of “metaliteracy” (quoted from Schirato and Yell 2000 in Webb, et al. 2002:143) whilst considering the issues and the materials at hand. These data took on greater significance when I considered them along with other data sets that were collected.

When I first went to the Argyle mine site in April 2000 no-one in the Community Relations division had considered that the archival material would be relevant to them in their current work and no-one knew where the old files were stored or what information they held. It took a number of days of enquiry to locate them. As it turned out they were randomly piled among a number of document storage boxes in open storage on metal grated flooring within the industrial warehouse of the so-called “Designated Area” (DA).⁷⁰ They were extremely dusty, many of the boxes were deteriorating, and there was the odd dead flying fox lying among them. They were stacked in amongst a large number of other archive boxes and were separately identified as “Community Relations” but not sorted or stored in any systematic manner. A number of the boxes were labelled “can be burnt.” The files covered the time period from 1979 to the mid 1990's.

Many Argyle and Rio Tinto staff did not know that these archival materials existed. They were clearly not considered an important ‘thing.’⁷¹ I was both shocked and surprised to realise that the Community Relations twenty-year record of exchanges and developments between Argyle Community Relations staff and local Aboriginal people was not

⁷⁰ The Designated Area (DA) is a relatively small area of clearly delineated, fenced land within the Argyle mining lease area within which the open pit, the processing plant, the diamond sorting and storage facilities and associated mining infrastructure and operations are located. There are tightly controlled access provisions and security measures within the DA area that do not operate in other areas of the mine. The DA is outlined in the *Diamond (Argyle Diamond Mines Joint Venture) Agreement Act 1981*.

⁷¹ According to Paul Wand (Vice President Aboriginal Relations for CRA from 1995 to 2000) there was a certain kind of arrogance whereby each new staff member assumed that he or she had the requisite knowledge to understand the nature of the relationships between Argyle, individual Aboriginal people and the local Aboriginal communities. Wand further suggested to me that there was a certain “lack of memory” that operates when “new management comes in and doesn’t really want to know what the previous manager did and almost makes an assumption that what was done in the past was wrong.” This happens at the senior as well as the departmental level “where everybody, because of ego or culture, wants to put their own stamp on things, and to some extent, might not even think that what was done in the past was wrong, but hadn’t

considered worthy of careful storage. I was less surprised when I realised that the Argyle corporate records, such as minutes of board meetings and other 'significant' matters were more carefully stored in a warehouse in Perth. There were two Community Relations archive boxes located in the Perth warehouse and they contained the files of immediate relevance to the issues of (i) the Aboriginal site of significance at AK1 and (ii) the preparation for the Environmental Review Management Plan (Dames and Moore 1982). It is notable that the records related to 'contentious' and 'liable' issues have been granted greater care and consideration than the other thirty-one Community Relations archive boxes despite the company's rhetoric of the importance of Good Neighbour relations. This indicated to me that there was little value, at the time, placed by Argyle staff on what Aboriginal people had said to the company in the past or what the company had said to Aboriginal people.

Reviewing the Argyle archives at the mine site, then, revealed histories of engagement between the local Aboriginal people and Argyle that were not remembered within the corporate structure. They had been forgotten except by those Aboriginal people who were still alive and had been part of the construction of those relationships. This situation altered significantly from 2001 to 2004 as the negotiation processes for the recent Argyle Participation Agreement unfolded and it became increasingly clear to Argyle's senior management that there was a need to take account of the record of undertakings, actions and mistakes regarding what had been said to, or by, the company in the context of formal relationship creation and informal negotiations with the local Aboriginal people who lived in a mainly oral cultural context.

Prior to beginning my more formal research for this thesis, I had already begun to read the Argyle archives as part of my Argyle consultancy. I became aware that I was accessing material that during the intense period of the 1980s was denied to researchers on the grounds that such access would generate trouble for the company, bad press, unwelcomed

bothered to find out" (Wand interview 8 August 2002).

criticism, and unnecessary attention to the company's indigenous affairs performance. And yet, since that time and until recently, these documents were neglected and not valued as an indication of their relationships with Aborigines. Accessing this material and analysing the data as part of the Argyle consultancy and somewhat differently for this thesis reaffirmed my methodological and data set choices for this thesis.

The archival review was all the more relevant as none of the early Argyle players were still associated with Argyle in any active way and there was no-one around who retained a 'corporate history' of the relationships that the company is still enmeshed in, legally and ethically. Thus, the archives provide one way of understanding the events that have led up to those now being played out between Argyle senior management (including those on and off the mine site), the local Aboriginal people, and local Aboriginal community councils. It became clear to the Argyle management team that this absence of corporate history and lack of clarity as to the associated process or costing and implementation and execution of "Good Neighbour" relationships over the past twenty years has been a serious hindrance to their attempts to reformulate or renew their community-based relationships.⁷² Senior management also recognised that a reconstruction of that corporate history was a necessary precondition to Argyle commencing formal negotiations with the Kimberley Land Council and the Aboriginal people.

The thirty-one Community Relations archive boxes were retrieved and relocated to the Community Relations building at Wandarrie (Plate 6), an area of the mine lease that houses all the contract workers and some administrative buildings, outside the Designated Area and close to the mine's entrance gate (see Map 2).⁷³

⁷² It remains to be seen if, in the post agreement phase of relationship formation and management, Argyle senior management will continue to give due regard to the historical and cultural context within which the Argyle Participation Agreement sits. This is particularly so given the regular change of staff in an evolving mining operation. Once again there are few of the original management team remaining at Argyle since the signing of the Argyle Participation Agreement.

⁷³ Following internal re-organisation of Argyle management teams the 'Community Relations' division is no longer in existence as a separate division but has been integrated with other sections of Argyle management and operational divisions. I am not aware of where the Argyle Community Relations archive is now located.



Plate 6: Wandarrie Community Relations Office (2002)

Here I sorted the papers, re-boxed them and labelled each box with a short summary of its contents as part of my Argyle consultancy. Attention to the past and any detail of the past that reflected undertakings on the part of Argyle became meaningful in the legal context of the contemporary negotiations as well as the social processes of reconciliation that were developing. Documents relevant to either of these processes were re-archived as a series of files, summarised, and stored in a separate room within the Community Relations office. It was the contents of these boxes that formed the basis of the advice that was prepared for Argyle by Langton and myself and became the basis of Argyle's understanding of the historical context within which Argyle's engagements with Aboriginal people had been constructed. This material formed the background by which Argyle made judgements as to what lessons they were able to learn and how to interpret the corporate experience as well as establish a more concrete understanding of what commitments, other than those in written form, had been created between themselves and Aboriginal people and Aboriginal communities in the East Kimberley region.

The result of my initial review of the archives during 2000 also formed the basis for a series of workshops for Argyle's negotiation team and senior management staff of Argyle and Rio Tinto (Doohan and Langton 2001a, 2001b). Argyle recognised that as a corporation they needed to

(re) learn their role and place in the contemporary context of 'Aborigines and Miners' in the East Kimberley if they were to effect change in their relationships and that change required a new negotiation of old agreements and relationships (see also Harvey and Nish 2005). This commenced in a formal manner with the signing of the MoU in September 2001 (Plate 7).



**Plate 7: Brendan Hammond (Argyle) and Tom Birch (Chair KLC)
Signing the MoU – 27 September 2001**

Photograph Courtesy Argyle Diamonds

A somewhat different interpretation and analysis of the same archival materials has informed this thesis that is enriched by having had the opportunity to undertake the consultancy and stimulated a deeper consideration of the issues, data and outcomes that had been 'filed.' It has also been important to acknowledge, and reflect on, my own role in the production of more materials and bodies of knowledge in the future Argyle archives. I was learning that context mattered a great deal in the creation, and interpretation of relationships between Aborigines and Miners at Argyle and that the Community Relations archives held records that 'filled some gaps' and revealed others. Fortunately I was able to fill some of the remaining gaps by interviewing two of the key corporate players before they died. One of these was Frank Hughes, the senior geologist who led the team that discovered the diamonds at AK1 and was a corporate signatory to the Good Neighbour Agreement. The other was

George Gauci, the man who led the team that commissioned and developed the Argyle mine and was its first Mine Manager. Frank Hughes had consistently refused, or consciously neglected, to keep records of his engagements with Aboriginal people as he was concerned about the weight given to the written word and clearly considered that the situation that he was in could turn 'legal':

I thought it could all be subpoenaed – I've got a pretty good memory and I'd be prepared to go to court on what I remember (Hughes interview 18 July 2001).

The volatile and contested context of the larger political setting as well as the particular local setting operating in, and around, Argyle in the early 1980s found expression in the file notes, memoranda, hand written comments in margins and letters that were found in the archival material. A window into the attitudes and daily working lives of the miners and community advisors was provided which revealed good intentions and equally committed, but opposing, political positions on the part of advisors to Aborigines and the Argyle Miners. I became increasingly familiar with the texts and with the cultural biases and conflicts that existed among the various players in those early days. The archives revealed areas of tension and frustration between Miners and other non-Aboriginal individuals, in particular community advisors and politicians. The absence of the Aboriginal voice in this archive precludes any assumption that it constitutes a complete record of the events that have occurred and the social relationships that have formed over the twenty years that Argyle managers and Aboriginal people have been in contact with each other. Indeed, in situations where oral and text-based cultures construct meanings from the same events a text-based archive will never provide a complete, authoritative or objective account of what has occurred. Thus, while any research using archives such as the records from the Argyle industrial warehouse must take proper account of their partial nature, they are nonetheless a potential source of insights about events and relationships. That they might have been destroyed would have been a severe loss to both the company and the local communities.

In summary, material in the Community Relations archive reveals that some of the local Aboriginal people have been actively involved with Argyle since the time of their first encounters with one another. For the most part, this twenty-year involvement has been unmediated by third party agents with irregular periods of mediated engagement such as during the initial dispute between Aborigines and Argyle about their presence and activities in the region, during the Argyle Social Impact Group (ASIG) period of 1985-90 (discussed in Chapter 8) and in the negotiation period following the signing of the MoU in 2001. This is a significant finding in terms of indigenous pro-active engagement with Argyle. The dominant impression that one gleans from the archival material is that some of the Aboriginal people had been effectively negotiating with Argyle for the past twenty-five years, from within their own cultural understandings of relatedness, cause and effect, and that these kinds of negotiations were mostly unrecognised by Argyle management. These findings are further analysed in Chapters 9 and 10.

CRA/Rio Tinto Archives

In contrast to the location of the Argyle Community Relations archive in an out-of-the-way place at the mine site, the CRA/Rio Tinto archive is housed in a separate location from the University of Melbourne's main campus where it fills an entire building. The archive is maintained in proper archival conditions with formal access provisions and close supervision while one reviews the materials. The archive provides a wealth of historical information in relation to the corporate entities CRA and Rio Tinto and associated business units within these corporations. The archive does not contain material specific to the early period of the Argyle mine; however, I found that some of the more general CRA materials provide greater context for understanding what has happened at Argyle.

I was granted permission to access this archive through my research agreement with Rio Tinto. I visited the archives in Melbourne, selected files that seemed relevant to this thesis, and reviewed them on site. My

initial list included over three hundred individual files and so I reconsidered the list and selected approximately fifty files with titles that suggested their relevance to my interest in CRA as a corporate entity, material related to Aboriginal issues and any of the key Argyle players. In the end, there is only one record from this collection that I have referred to in the thesis, Mick O'Leary's record of interview made as part of the CRA Oral History Archive Project (O'Leary 1993). O'Leary did not wish to be interviewed for the Argyle consultancy nor for this research and therefore this transcript of that interview was a valuable source for my research.

The CRA Oral History Archive Project began in the early 1990s although it is unclear why the project was undertaken or why it ceased. It consists of a series of transcribed and corrected interviews conducted by Mr James Byth and a number of senior management personnel all of whom worked within the CRA/Rio Tinto corporate entity and associated business units. They read as very open and frank interviews and cover a wide range of issues, experiences and interests of those interviewed. They are a particularly rich resource for identifying what might be considered evidence of corporate traditions.

Frank Hughes was interviewed as part of this project but a legal firm outside the archive system holds his interview record separately. This record was not found despite efforts on the part of the archivist, Trevor Hart, Rio Tinto workers, Hughes and myself. And, because I had had the opportunity to interview Hughes, I ceased trying to locate this particular record of interview. I suspect someone made a decision that the content of Hughes interview was (still) contentious in the early 1990s, although it seems much less so today.

Comalco Archives

Although this thesis makes only passing reference to the relationships of Aboriginal people of the Mitchell Plateau region with CRA and later Comalco, at the commencement of my thesis research I thought that

these relationships would be discussed in some detail. Thus, during my early research I sought permission from Comalco to have access to the archival material that is relevant to the early 1980s when CRA was undertaking extensive exploration in the Mitchell Plateau and more northerly regions of the West Kimberley. These archives are held at the head office of Comalco in Brisbane, where I spent a couple of days reviewing them. Information regarding the early exploration for bauxite in the Mitchell Plateau region (1980s) revealed that despite extensive bauxite reserves in the area, the logistics of extraction, transportation and treatment of the bauxite made it economically unfeasible to commence mining.⁷⁴ Information in this archive also indicates that with the delay in developing a mine at this site, there has been a change in the way that relationships between Aboriginal people and Comalco had evolved. Again there was little in terms of retained corporate knowledge in the archive, including little information regarding how these early relationships were formed or what exactly was agreed upon between the company and the local Aboriginal people or how the relationships between Rio Tinto and these Aboriginal people are being formed today.

What stood out in the Comalco archival record was the number of press cuttings that had been collected about the complex political issues surrounding the Noonkanbah dispute and the tensions that arose at Argyle during the late 1970s and early 1980s. This indicated to me that the media's representation of tensions, conflicts and actions between government, corporate and Aboriginal interests in the context of land rights and mining were taken very seriously within CRA at this time. The archive file notes also suggested a continuing distrust of the Kimberley Land Council and 'white advisors' during the early and mid 1980s.

⁷⁴ It is interesting to note that given the massive increase in demand for iron ore and bauxite from the Chinese market there is renewed interest in this region and increasing pressure on Comalco to revisit their analysis of the feasibility of mining at Mitchell Plateau. There are questions regarding the implications of mining in a region that has become a well-established tourist destination and where there is now a much greater recognition of Aboriginal people's rights and interests in the region than was the case in the past. The Aboriginal traditional owners of the Mitchell Plateau region have been attempting to gain a recognised form of secure tenure to the Mitchell Plateau region since 1977 (Johnston/Tann 1991:33; Wunumbal Gaambre Aboriginal Corporation 2001).

The Comalco archive also revealed that in the early 1980s some CRA employees had already begun an informal experience-based learning process about Kimberley Aboriginal negotiation strategies and cultural constraints. For instance, Mike Bell, the CRA Melbourne Community Relations Liaison Officer⁷⁵ made the following statement in a written report to CRA following a meeting with Aboriginal people at Mowanjum just outside of Derby.

To my mind the meeting had two levels. The first was an open discussion about sites, personalities and plans for future meetings. The second was implied but could be read in the formal offering of their land to MPBC [Mitchell Plateau Bauxite Company] for the Company's use. If one forgets European ideas of legal title and accepts the Aboriginal view of the ownership of land, what we were witnessing was a gesture of great generosity - and [like] many people, Aborigines expect such gestures to be reciprocated.

There is no doubt that Laurie [this is probably the late Wunambal man Laurie Utemorah] and his friends hope that MPBC will one day repay their generosity. They have not made any outright demands on the Company because to do so would be to risk refusal and a significant loss of face. Instead, they prefer to drop hints and to test the Company's reaction before pursuing any particular requests. It is likely that the failure of Noonkanbah has reinforced this tendency for they believe that if they refuse to co-operate the State Government will support the Company and they may fail to gain any benefits from the development of their ancestral land.

This theory was born out at the meeting the following day (Bell 1981).

Kimberley Land Council Archives

The Kimberley Land Council, which began as a grass roots political organisation of Kimberley Aborigines and is now also the regional Representative Body of the Kimberley, in the form of the Kimberley Land Council Aboriginal Corporation, has a dedicated archive building at the organisation's Derby offices in the West Kimberley. The process of accumulating and centralising almost thirty years of archival material of the Kimberley Land Council has been ongoing for a number of years. I made a formal written request for access to documents relevant to Argyle to the Executive Director of the Kimberley Land Council and I was

⁷⁵ Before working for CRA Bell had previously worked in Papua New Guinea. His initial experiences were as a patrol officer and later he worked for Bougainville Copper. During his period with Bougainville Copper Bell was wounded during a period of unrest and violent conflict between the miners and the local people. Following this incident he returned to Australia and commenced work with CRA Melbourne.

granted permission to access those materials on the condition that they are appropriately referenced. I was already familiar with much of this material through my consultancies for the Kimberley Land Council over the past two decades.

Warmun Community Archive Files

I was able to access copies of archive material relevant to the early period of relationship formation between the Warmun community and Argyle just before and after the signing of the Good Neighbour Agreement (1979 to 1983). These documents consist of photocopies of original materials that had formed the basis of Dr Nancy Williams' EKIAP research during the mid 1980s. Williams gave me these materials on the understanding that I use them for my PhD research and then, in consultation with the Warmun community, determine an appropriate 'home' for the documents.⁷⁶ It is unclear if the originals of these documents still exist and if so where they are currently located.

The Warmun material consists of newspaper cuttings, file notes of telephone conversations, notes of meetings, and correspondence that relate to how the community and the non-indigenous community workers were feeling about, and responding to, the process of dealing with the Argyle miners, government departments, Aboriginal people and each other. Throughout the files there are indications that the relationships between the Argyle Community Relations staff, Aboriginal residents of the community and the community employees ranged from mutual distrust and conflict to tolerance and in some cases collaboration with each other. There were recurring references to and noted irritation at the apparent disregard, by Argyle, of community protocols and formal engagement. These records confirm the tensions and mistrust noted in the Argyle archives between the non-indigenous players.

⁷⁶ There were two 'banana boxes' of files. The Warmun Community Council has requested that the documents be returned to them when my thesis has been completed. The community has a storeroom in their administration building that holds other archival materials.

In particular, the files indicate the ambiguity of the role and positionality of the Aboriginal community advisors working in this cross-cultural context (see also von Sturmer 1982). For instance, in 1982 the Warmun community advisor recognised that the community's views were often portrayed to the company as his own. In a letter to David Thompson (BBC "Everyman Series") he stated:

It is also important that I am not quoted or referred to as the company will again use my comments to insist that it is my views being aired and not the Community [sic] (Warmun Archive, correspondence 12 July 1982).

On a number of other occasions the files indicate a level of confusion and uncertainty on the part of the advisors; for example on 26 October 1981, in the form of correspondence from Alan Tegg (Council Worker) to Philip Vincent (Barrister and Solicitor), the Barrister assisting Warmun community at that time, it is clear that the actions on the part of Argyle in making the Good Neighbour arrangements were seen as arbitrary and inconsistent and that Tegg sought some clarification and direction on how to comprehend the situation: "I am sending copies of this letter to Darryl Kickett [chairman of KLC at the time], Tom Stevens [sic] and Cathy Elderton so that these thoughts can be critically analysed" (Tegg 1981). There are many file notes throughout the Warmun archive material that indicate that relations between the community members, community workers and Argyle staff were generally tense and that there was a high degree of tension and suspicion between them. For example, in file note 8/3/82 (in Warmun Archive: Argyle File F Jan '82 to Mar 18 '82) Tegg records his telephone conversation with Butcher seeking a copy of the EIS [Environmental Impact Statement], which he was refused and he was refused even a summary of the material as well. According to the file note the refusal was based on the confidential nature of the material and Butcher's concerns that the Warmun community had "gone to the papers – not them [Argyle]," the rest of the file note recorded that Argyle was still paying the insurance on the community vehicles and that the community kitchen building materials were on the way. Clearly, relationships were not easy or consistent.

One thing that did emerge from reading the Warmun community files was a sense that in the early 1980s Aboriginal people regularly engaged with Argyle Community Relations employees and senior management. Although these engagements appear to have been somewhat random they were nonetheless active engagements where senior Aboriginal people were agents in the formulation of their relationships with the company. It was also clear that these Aboriginal people had visions of their future in the region. Although this thesis does not deal with these visions as such, that they have been recorded is an important research finding that has assisted in my reading of the performative and interactive activities that occurred, and continue to occur, at the mine as will be discussed in Chapter 9.

Interview Material

Despite the value of the archival material, it is not possible to obtain a complete picture of events at Argyle without speaking with those who helped to create or are the subject of the archive record. Therefore I undertook a series of interviews of key corporate entities who were crucial players in establishing the Argyle mine and initiating the Good Neighbour approach. I also interviewed some of the Aboriginal people who have been involved in these relations with Argyle. The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and Dixon also granted me access to Dixon's archived interview materials lodged at the AIATSIS archive in Canberra (Dixon 1986/1987). Dixon's material consists of a number of taped interviews with Aboriginal people affected by the mine in which they discuss their concerns about the Good Neighbour Agreement and subsequent formal and informal arrangements six years after the signing of the Good Neighbour Agreement (Dixon 1986-1987). The interviews were extensive and well constructed and they have provided me with rich primary source material. While listening to these interviews it became very clear to me, based on my own experience, that many of the questions asked by Dixon and the responses given by Aboriginal people were still relevant fifteen years

later. The consistency expressed by Aboriginal people was a remarkable aspect of the interview material and reinforced my belief that there was more to the relationships between Aborigines and Miners than had been captured in the existing literature. This was the only accessible and direct evidence of Aboriginal concerns in archival form.⁷⁷ And Dixon had interviewed some key Aboriginal informants who I was unable to interview. Some of those people were dead. For instance Bob Nyalcas had died several years before I had commenced this research and others such as Tim Timms and Jack Britain died during the research period and before I was able to conduct more formal interviews with them. Some other senior Aboriginal people had 'lost heart' about the contemporary realities and changes that were happening in their communities and did not want to revisit an era where they saw themselves as having been more active and effective agents in creating a future and bringing about change. Others did not respond to my invitation for an interview.

Regarding my own interviews, I conducted seven with corporate players and four formal taped interviews with Aboriginal people. During interviews with Aboriginal people, I did not have the local Aboriginal languages formally translated as the interviewee often translated for me simultaneously or the material 'in language' was in the form of song or story details, which were not critical for my research. Of the corporate interviews three were initially undertaken for the Argyle consultancy but I indicated that I intended to seek permission at a later date from the interviewee for use of the material for a thesis, which I subsequently did. All of my formal interviews were conducted during a three-year period between 2001 and 2004. I made a commitment to all of the research participants (for both the Argyle consultancy and the thesis) that I would prepare transcripts of interviews and then allow the participant to approve the material. I then prepared an agreed transcript that the interviewee signed for the purposes of my research. It is worth noting

⁷⁷ I was also able to assist several Aboriginal men and women to gain copies of the tapes of interviews of themselves and/or their deceased kin. Those Aboriginal people who requested these tapes were also interested in their 'old people's' views of the agreement and found the material very supportive and encouraging.

that there were very few changes made to any of the transcripts or the quotes that I have used throughout this thesis. The most significant changes were ones of a grammatical kind or where the interviewee preferred to rephrase the agreed-upon transcript to a less 'colourful' version. Having the option to re-consider the interview material allowed some individuals to converse more freely than they had initially thought appropriate and therefore I believe that the approach I used provided for very free exchange regarding a sensitive topic within both Aboriginal and corporate domains (see also Webb et al. 2002:54-56).

Some of the interviewees required that tapes be destroyed following the making of an agreed-upon transcription while others said that I could hold the tape and the transcripts. Others have requested that the tapes be lodged in particular archives. All of these instructions will be complied with once this thesis has been finalised.

Corporate Interview Material

As part of the Argyle consultancy I interviewed Frank Hughes and George Gauci. They were clearly significant corporate players in the creation of the Good Neighbour Agreement, Good Neighbour Policy and Good Neighbour Programme and the subsequent establishment of relationships between Argyle, individual Aboriginal people and the local Aboriginal community councils. Both of these men agreed that their interviews could be used for my PhD research project. Warren Atkinson, the Manager of CRA Exploration at time of the making of the Good Neighbour Agreement, was also an important player although he felt that his role was that of ensuring that CRAE meet its statutory obligations in relation to Aboriginal heritage issues and other formal establishment processes rather than direct engagement with Aborigines although he did attend a number of the meetings conducted between Aborigines and Argyle (pers comm Atkinson 2003). Neil Butcher, the first Argyle Community Relations Manager (1980-1997), was interviewed by telephone (7 March 2001). The conversation was not taped, however notes were taken as part of my Argyle consultancy work. I did not seek specific consent from Atkinson

and Butcher to use the interview material in the thesis although I have made reference to some of this material as I gained permission to do so through my research agreement with Rio Tinto and Argyle.

Interviews with Sir Roderick Carnegie, Leon Davis, Jonathan Leslie and Paul Wand were conducted specifically for this thesis and were not subject to any other consent processes. The relevant findings from these interviews go to a number of matters. In particular these interviews indicate that CRA had definite philosophical underpinnings that were manifested in particular management structures and practices. I sought to interview individuals who have been representative of the various management levels and who have enacted the “daily life” aspects of corporate management in the context of engagements with Aboriginal people. These findings are outlined in some detail in Chapter 5.

In summary, Sir Roderick Carnegie was the CEO of CRA at the time of the establishment of the Argyle mine and an architect of the Good Neighbour philosophy. Leon Davis, CEO/MD CRA (1994-1996) (CEO Rio Tinto following the 1997 merger to 2000) was considered to be a so-called ‘change agent’ in 1995 when he delivered his speech to the Securities Institute (Davis 1995a). The issues he raised affected not only how CRA was to conduct business with Aboriginal people but the resources sector more generally. The major policy shift instituted by Davis later became published as the *Rio Tinto Aboriginal and Torres Strait Islander Policy* (Rio Tinto 1995). Paul Wand was the Vice President Aboriginal Relations for CRA (1995-2000), a role confined to Australia. His work was:

to advise CRA executives on Aboriginal matters, to link the activities of CRA businesses in the Aboriginal sphere and build networks with Aboriginal people, relevant politicians and industry representatives (Wand 1996:1).

In effect Wand was the person who had to ensure that the new corporate vision outlined by Davis was effectively integrated throughout the CRA business units. Jonathan Leslie, Rio Tinto’s Group Executive of Diamonds until 2003, was based in London and had witnessed, and as such

participated in, a ceremonial performance at the Argyle mine site in May 2000 (discussed in Chapter 9). I was very interested to know what that experience had meant to him and how he had interpreted it in relation to the Argyle mine and other cross cultural experiences he had had within the mining industry in other countries.

I conducted these interviews in order to fill some of the gaps within the Argyle archival record regarding relationships between Aborigines and Miners. Different individuals value history differently, for example Frank Hughes and George Gauci considered it important to tell the story of those early relationships whereas Mick O'Leary considered that history should stay in the past and he refrained from participating in either the Argyle consultancy or my PhD research. Consequently gaps remain. Interestingly, the other corporate interviewee's shared my enthusiasm to interview O'Leary; thus Hughes, Davis, Wand and Carnegie all offered their assistance to encourage him to participate but I was not able to secure an interview.

Interviews With Aboriginal People

I have relied heavily on my pre-existing knowledge of, and experience with, East Kimberley Aboriginal people as well as Dixon's previous interviews. I made this decision for a number of reasons including the fact that Aboriginal people are subject to research whereby they feel that they are constantly responding to the same questions over and over again with very little outcome. Therefore I decided that it would be inconsiderate and inappropriate to re-interview Aboriginal people without reference to existing expressions of concern made by them. I felt that it was important not to deny those concerns but to expand upon them. My research enquiries were finessed and my interviews enriched by accessing Dixon's interview material. I wanted to demonstrate to Aboriginal people that they had been listened to even if their concerns have not been met or reconciled yet.

My own interviews with Aboriginal people were directed toward refining

my understanding of issues that had been previously raised and ascertaining the extent of the contemporary relevance of these issues. The majority of the interviews were conducted in group sessions and primarily with loosely formed groups of senior knowledgeable Aboriginal women. As a signatory and senior Aboriginal Law woman Peggy Patrick was present during all of these interviews. Some were formal interviews that were taped and transcribed and others were informal and arose during particular events that occurred at the Argyle mine site. As with the corporate interviews, I had undertaken to prepare transcripts of the formal interviews and to read relevant portions of the thesis (in draft form) to the appropriate senior Aboriginal women to ensure that the material presented did not contravene their cultural boundaries for disclosure of information. I did this in September 2004 and although the structure of the thesis has changed since that time the data remain the same.

In conclusion, the multiple data sources that I have drawn on for this thesis, including archival material and interviews, are insufficient to complete the tapestry of relations between Aboriginal people and Argyle, what they were and how they were enacted, without a greater contextualising of the local Aboriginal people's cultural lives and an understanding of the cultural context of Argyle. The following chapter (Chapter 4) is therefore directed to outlining post-contact history and characteristics of the country of the East Kimberley, while Chapters 6 and 7 consider critical cultural practices that are relevant to the ways in which the local Aboriginal people have sought to comprehend the presence and impact of the Argyle mine and their dealings with Argyle management. The corporate cultural context will be explored in detail in Chapter 5.

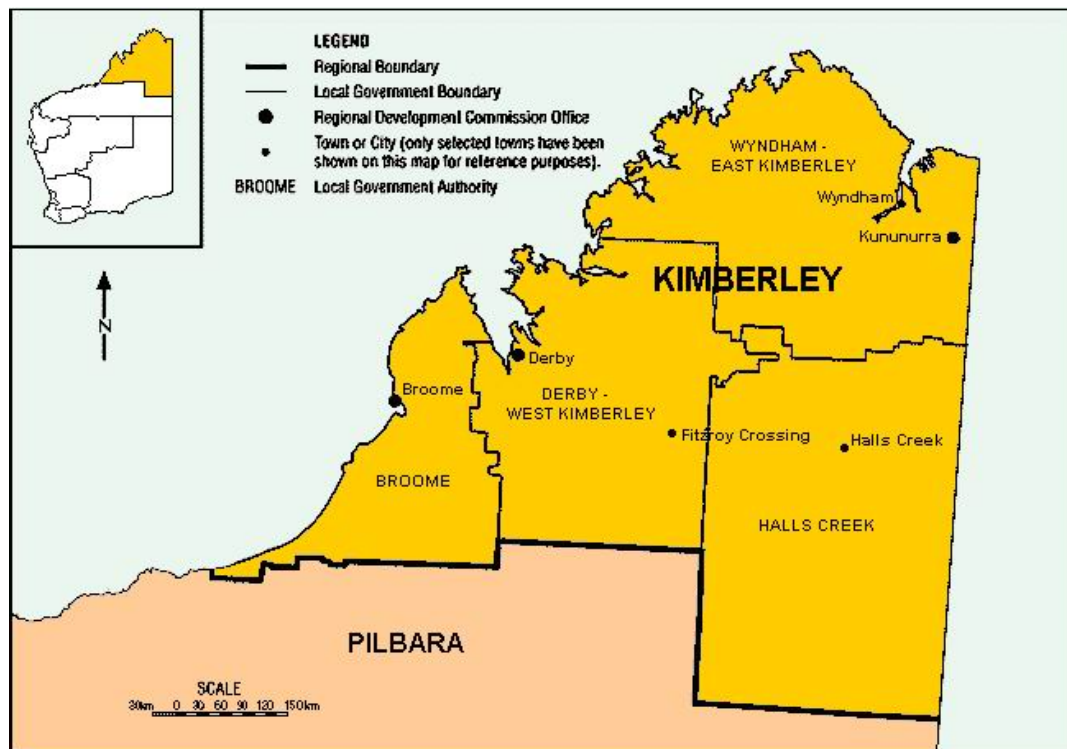
CHAPTER 4

ABORIGINAL PEOPLE OF THE KIMBERLEY AND THEIR POST-CONTACT HISTORY

The Kimberley is a vast geopolitical region within the state of Western Australia. Created and named in 1880, it is the State's most northern region. Strategically situated on the southern margins of South-East Asia, its coastline faces the Indian Ocean to the west and the Timor Sea to the north and it is bordered by the Pilbara Region to the south and the Northern Territory to the east..⁷⁸ The region is three times the size of the United Kingdom, encompassing an area of 424,517 square kilometres (Western Australia Government 1991:264).

As of 2002, the Kimberley had an estimated resident population of 33,705, and it is estimated that the region's population will grow to over fifty thousand by the year 2031. Administratively, the region consists of four local government areas, namely the Shires of Broome (56,829 km²), Derby-West Kimberley (105,395 km²), Halls Creek (142,944 km²) and Wyndham- East Kimberley (119,349 km²) (at www.kimberley.wa.gov.au [accessed 17 August 2006]) (Map 4 below). The major population centres are the towns of Broome, Derby, Fitzroy Crossing, Halls Creek, Kununurra and Wyndham. Aboriginal people constitute 46% of the total population and live throughout the region in the local service centres of Broome, Derby, Fitzroy Crossing, Halls Creek, Wyndham and Kununurra, on pastoral lease lands, in Aboriginal communities and in smaller 'outstation' communities (see Map 1).

⁷⁸ Sullivan considers the Kimberley to be "a discrete region in terms of its location and history in relation to other parts of western Australia" and concludes that, "within the Kimberley there are particular localized social, cultural, political and administrative realities that create identifiable internal divisions (Sullivan 1999a: 287-289).



Map 4: Kimberley Region Local Government Boundaries

Base Image courtesy of Argyle Participation Agreement 2004
Management Plan 2 Schedule 1

The climate of the Kimberley is considered to be a tropical monsoon type with two distinct seasons separated by short transitional periods. Hot and humid conditions characterise 'the wet' season which extends from November to April when the region receives about ninety per cent of its annual rainfall and its highest temperatures. During the wet season, despite sealed roads and improved river and floodwater crossings, flooding can cause the main highways to be closed for extended periods of time. From May to October 'the dry' season is typified by dry warm sunny days and cooler nights. The geography of the Kimberley derives from ancient Proterozoic times more than 1,800 million years ago. The region supports a wide range of inland flora and fauna as well as rich coastal mangrove and estuarine ecosystems. The Kimberley includes extensive arid desert areas in the central and eastern parts, large river systems with deep gorges, impressive waterfalls and dramatic escarpments with isolated rainforest pockets in the central north and west as well as vast open plains, river valleys and cave systems. The

coastal areas experience massive tides and there are sandy beaches, rich offshore and near-shore reef systems and fertile mangrove fringes.

The East Kimberley Region

The Kimberley is generally considered to consist of two major sub regions that are not well defined but are conceptually based on the cardinal points of East and West Kimberley which do not conform to existing shire boundaries (see Map 4 above). There is no formal or consistent definition of the West or the East Kimberley in the literature or in everyday use (refer Map 1).⁷⁹ In the most general terms the West Kimberley sub region refers to the townships of Broome and Derby and the pastoral lands in ranges that extend northwards to land that has been reserved for a number of different purposes including for the use and benefit of Aboriginal people as well as for the conservation of plants and animals and recreational use. The West Kimberley also includes a number of off shore islands and coastal reef systems such as those in the Buccaneer Archipelago and further north Augustus, Coronation, Bigge and Montesquieu Islands and the Montgomery and Long Reef systems.

The East Kimberley generally refers to anywhere from Fitzroy Crossing east to the Western Australian/Northern Territory border. It includes the regional service centres of Halls Creek, Wyndham and Kununurra and Aboriginal communities such as Kalumburu and Oombulgurri. It also includes the pastoral leases located between these centres. For the purposes of this thesis 'the East Kimberley' is roughly bounded by, and includes, the regional centres of Halls Creek and Kununurra including the town of Wyndham, several Aboriginal communities, including Kalumburu,

⁷⁹ Two recent research projects, one directed to compiling a detailed demographic understanding of the 'Argyle mine hinterland' (Taylor 2003a, published in modified form as 2003b) and the other directed to financial research focussing on indigenous organisations (Pritchard 2003) focussed on the East Kimberley region. However, they defined their research areas in slightly different geographic terms. Taylor referred to the North Eastern Kimberley area which "incorporates an area covering that part of the East Kimberley which commences at Halls Creek, and extends northwards through Oombulgurri to Kalumburu, with the Northern Territory border as the eastern boundary" (2003b: 4) and Pritchard (2003) defined his research area as the "Argyle region" and included a number of Argyle communities and eleven associated organisations (Pritchard 2003:7-8). Both Taylor and Pritchard, although slightly varied in terms of their research areas, cover the areas of concern to this thesis. The Argyle Participation Agreement (Management Plan 2 Schedule 1) definition of

and Aboriginal pastoral leases and the associated hinterlands to the Northern Territory border (see Map 1).

The East Kimberley is often said to be the most visually dramatic and colourful part of the Kimberley region. Within it lie the world famous man-made Lake Argyle and the Bungle Bungles (in the Purnululu National Park) (Plates 8). The area is dominated by majestic ranges (Plate 9) and rugged hilly terrain (Plate 10) intersected by major river systems including the Ord, Durack, Bow and Dunham Rivers, with numerous smaller rivers and tributaries crisscrossing the landscape. The rugged ranges stretch into more fertile plains where there are extensive and rich flat black soil plains. The far eastern extent of the region becomes increasingly dominated by spinifex plains and eventually forms the Tanami Desert (Plate 11). A wide range of vegetation and soil types and rich and diverse animal, insect, bird and reptile populations exist in this East Kimberley landscape. Beard's (1979) description of the Kimberley region places the Argyle Diamond Mine site and the three local Aboriginal communities located closest to the mine in the Hall District of the Northern Botanical Province.

The East Kimberley has a diverse regional economy with mining, tourism, retail, horticulture and pastoralism as major contributors to the area's economic output. The Ord River Irrigation Area near Kununurra constitutes the major horticultural project in the region producing a diverse range of field, fodder and other commercial crops that have increased in value over the past decade. The combined value of horticulture crops, among them melons, sugar, mangoes and other vegetables, was estimated to be \$32.3 million in 2001/02 (www.kimberley.wa.gov.au [accessed July 2003])). However it is diamond production that is the major contribution to the East Kimberley regional economy with Argyle accounting for 99.6 per cent of Australia's diamond output and approximately 25 per cent of the world's diamonds by volume with the 500 million carats extracted since the mine

the East Kimberley is not so extensive.

commenced operation. Argyle is the single largest non-government employer in the Kimberley. Argyle contributed A\$88 million in royalties to the Western Australian government and paid a further A\$121 million to the Federal Government in income tax in the year 2000. It is also estimated that Argyle spends more than A\$40 million on labour and goods and services sourced from the Kimberley region (www.argylediamonds.com.au [accessed July 2003])). According to information provided by Argyle the total mineral royalties paid to the Western Australian Government to the end of 2005 exceeded \$900 million and in regional terms Argyle has contributed A\$40 million to local communities which includes some contribution-in-kind from Argyle Community Relations staff who were involved in the Good Neighbour programs (email Alan Tietzel 27 Feb 2006). Annual direct spending on wages to Kimberley residents is A\$25 million which is expected to continue with the development of the underground mining operation. Argyle contributes approximately A\$40 million on goods and services, including labour hire, local contractors, Company rentals, steel supplies, etc. In 2012, the year Argyle expects the underground development to be completed; the mine will generate at least 1,300 direct and indirect jobs, which is about 10% of the total Kimberley workforce (email Tietzel 27 Feb 2006). According to Tietzel, if Argyle closed, it is anticipated that the Gross Regional Product, in the Kimberley alone, would fall by A\$200 million per annum (email Tietzel 27 Feb 2006).

As is the case for parts of the West Kimberley, Aboriginal participation in the regional East Kimberley economy has changed from a situation where Aboriginal workers were the mainstay of the pastoral industry during the early days of the industry (Bolton 1954, 1981; Jebb 2002; Pritchard 2001; Ross and Bray 1989:33-47; Skyring 2002:40-47) to one where their level of participation in the East Kimberley's regional economy has statistically decreased since the 1980s when the Argyle mine first commenced operation (Taylor 2003b: 21). Thus while the presence of Aborigines in the Kimberley area continues to have a significant impact on the regional economy (see Crough and Christophersen 1993), Pritchard,



Plate 8: The Bungle Bungles

(used with permission of CALM – available at http://www.calm.wa.gov.au/national_parks/previous_parks_month/purnululu.html - [accessed 15 October 2006])



Plate 9: Majestic Mountains



Plate 10: Rugged Ranges
Plate 11 Desert Regions

reporting on a 2001 study of the entire Kimberley region, concluded that, although “a significant portion of regional economic activity is attributable to Aboriginal people” (Pritchard 2001:iii) Aboriginal people, “on average” have had to “endure very difficult socio-economic circumstances” (Pritchard 2001:i-iv). More recently, a report regarding the East Kimberley conducted as part of the overall Argyle Participation Agreement negotiation process by John Taylor, a leading Australian demographer, concluded that Aboriginal people are subject to serious socio-economic disadvantage. He found that the gap between Aborigines and non- Aboriginal people in the East Kimberley has widened with Aboriginal employment and income declining in the last twenty years (Taylor 2003b: 112).

Taylor found that these circumstances are not the direct result of the development of the Argyle mine in the East Kimberley but rather they are linked to poor government service delivery and the contemporary local, regional, national and global economic opportunities and trends that exist and influence remote regional development in the Kimberley generally and the East Kimberley in particular. He also found that Aborigines in the East Kimberley were more disadvantaged than those in the West Kimberley (Taylor 2003b). Further, he found that these circumstances are not likely to change in the short term nor will the extension of the life of the Argyle mine provide ameliorative relief to Aboriginal people’s socio-economic circumstances. According to Taylor:

Aboriginal people are less likely now to be participating in the workforce than before, and their levels of dependence on welfare have increased accordingly (2003b: 112).

However, as is also the case for the West Kimberley, there is a significant and increasing contribution made by East Kimberley Aboriginal people to the local, regional, and national economies through their production of indigenous art and through their participation in cultural events (see also Anderson 1990; Blundell and Woolagoodja 2005). On a more spectacular scale, the image of the Wanjinia - derived from the unique rock art of the central and north-western parts of the Kimberley - was a magnificent

part of the 2000 Sydney Olympic's opening ceremony, while in 2002 the local Gija Neminuwarlin Dance Group, based in the East Kimberley, opened the Melbourne International Arts Festival with their contemporary rendition of the indigenous dance performance form, *joonba*, called – *Fire Fire Burning Bright (Marnem, Marnem Dililib Benuwarrenji)* ('joonba' in general, and Fire Fire Burning Bright in particular, are discussed in detail in Chapters 7 and 9). On an individual basis there are Aboriginal artists from numerous Kimberley towns and Aboriginal communities such as Derby, Kununurra, Mowanjum, Balgo, Fitzroy Crossing and Warmun⁸⁰ who are internationally renowned for their portrayals of country and its indigenous culture and history (Eccles 2005; Rothwell 2005).

Kimberley Aboriginal Cultures

There have been numerous ways in which anthropologists have depicted the cultural diversity of the Aboriginal population of the Kimberley. For example, in 1980, Akerman suggested that the Kimberley consists of five major cultural groupings, sometimes referred to in the literature as cultural blocs (1980a: 234).⁸¹ He identified these as (1) the Aboriginal people of the Dampier Land Peninsula area; (2) Aboriginal people connected to the area where "the Wondjina-Ungud cults" predominate, viz. the central western and northern Kimberley; (3) the Ord River Basin groups including the "Gadjerong, Miriwong and Malignin people" (ibid.); (4) "the Djaru from Halls Creek east to the state border and; and (5) "the Walmadjeri [with their] sphere of influence" (Akerman 1980a: 234). However, recent anthropological research, stimulated by resource development as well as native title claims, has generated a greater understanding of the diversity and distinctiveness of Kimberley Aboriginal communities. The rigorous demands of the native title process including preparations for court hearings have created a context within which more detailed and systematic anthropological, archaeological, historical and

⁸⁰ Some of the Gija artists, although primarily resident at Warmun community don't paint for the Warmun Artists community art centre but for the independent Jirrawun Art Company (formerly Jirrawun (Aboriginal Art) Aboriginal Corporation).

⁸¹ Akerman did not include the 'Gija' in his discussion.

linguistic research has been conducted and a wider appreciation of the complexities of Kimberley Aboriginal people and their societies has emerged. Based on these materials and my own work over the past two decades it is now clear that there are more than five cultural blocs.⁸²

Moreover, although Aboriginal people in the Kimberley have, in the past, been represented as belonging to named 'tribes' and/or language groups, recent work indicates that this is also an oversimplification. Instead, recent work by anthropologists and linguists indicates that Aboriginal people of the Kimberley derive multiple identities and consider themselves to be members of multiple named social groupings and categories based on a various connections to places and to other people. As I will elaborate shortly, these connections include those that individuals have through their membership in language groups, in local groups – including those that form around individuals linked by descent – connected to and with primary responsibility for named areas of land and water, ceremonial groups, and 'communities' of people that have formed around missions, pastoral stations, and other types of settlements that have emerged in the post-contact period. For example, during the Aboriginal evidence and the non-Aboriginal expert evidence for *Ward & Ors* (between February 1997 and April 1998) it became clear that pre-existing anthropological models based solely on patrilineal descent and local group formation were inadequate to explain the complexity of Aboriginal social groupings and individual connections to country. Aboriginal people made constant and consistent reference to their multiple identities and connections to country, language (groups) and other forms of 'community'.⁸³

⁸² For example, one hundred and thirty eight native title applications have been lodged since January 1994 in the Kimberley and twenty-three are located in the East Kimberley (National Native Title web site at www.nntt.gov.au [accessed January 2004]).

⁸³ A similar finding was also made in *Neowarra v State of Western Australia* [2003]FCA 1402. The Aboriginal evidence, the anthropological reports and anthropologists' oral testimony indicated that the community of native title holders was based on a set of identifiable and distinct laws and customs that are shared by the community of native title holders. These laws and customs found particular expression in the Wanjina and Wunggurr cultural and artistic expressions located within a distinct and restricted geographic region (the claim areas).

That is, the Aboriginal people of the Kimberley have complex subjectivities. A number of researchers, Langton 2002c, Morton (1987a, 1987b, 1989), Munn (1973, 1984), Myers (1986a, 1989, 1991, 1994) and Rose (2000) for example, have canvassed questions of identity and subjectivity for Aboriginal people in other parts of Australia. Langton has suggested that:

Aboriginal beliefs about the place of humans in the natural world construct a different concept of personal identity from that which is conventionally understood in Western thought" (1998:27).

More recently the Doctoral theses of Redmond (2001) and Langton (2005) address, in ethnographic detail, the complex arena of Aboriginal subjectivity and location in place for Aboriginal people of the central Kimberley and north Queensland respectively.

In the Kimberley, as elsewhere in Aboriginal Australia, salient forms of Aboriginal peoples' subjectivity are located within the realm of the cosmological. In the case of many Aborigines in the East Kimberley, including those who have traditional rights and interests in the Argyle mining lease area, their subjectivity is most particularly expressed through their *jariny* - the spirit of finding and *wibilirri* - a process of reincarnation, both of which are located within a culturally meaningful and socially imbued landscape, their country. Elkin (1932:329-330; 1933a: 449), Kaberry (1936, 1939) and others have reported on the serendipitous events that generate close identifications for an individual with a particular Dreaming being and location within the country, this is discussed in more detail Chapter 6.

The Concept of Country

'Country' is a complex construction for all Australian Aborigines (see for example Rose 1996b) and this is also the case for Kimberley Aborigines (Blundell 1982, 2001; Redmond 2001; Vachon 2006). Country is more than a simple geographic location with particular topography, flora and fauna. It is a life affirming entity, the basis for living and engaging with the totality of beings that are ever-present in land, water and the

heavens. One aspect of the tapestry that is 'country,' large and small, consists of the crisscrossing regional Dreaming tracks, such as the Barramundi and the Snake who travelled into the Argyle lease area and beyond during the eternal era of creation glossed in English as the Dreaming (or the Dreamtime) (Argyle Diamonds 2004; Palmer and Williams 1980, Maps 1 & 2; Palmer and Williams 1990:22-27). Individuals and local groups of Aboriginal people have connections to, and a range of responsibilities for [or obligations to], these tracks along with the right and responsibility to perform associated rituals that are enacted at both local and regional sites of engagement (see for example Palmer and Williams 1990:13-17). More will be said about these ritual relationships for the local Aboriginal people in Chapter 6.

The Study Area

As noted in the introduction to this thesis, some Aboriginal people who variously identify as Gija, Malignin, Miriwoong and/or Worla have connections to the Argyle mining lease area and to adjacent areas. For these individuals, 'country' comprises both smaller defined and named areas of land and water (the 'estates' of anthropological discourse) and larger tracts of land and water that are geographically delimited. These units of land are named and identified in a range of ways including by labels that are also the labels for the languages that Gija, Malignin and Miriwoong people identify with, for example 'Miriwoong country,' 'Gija country,' and 'Malignin country.'

As elsewhere in the Kimberley, an individual's identity, the identity of country, and even the identity of Dreaming beings are not straightforward or necessarily predictable. Indeed, there is no simple question that a researcher can ask regarding what country or group a person identifies with that will generate a single or consistent answer. However, it is clear that Aboriginal people and areas of country have different identities throughout the Kimberley. As noted above, these identities are commonly articulated in terms of what researchers term

language labels. They are also articulated in terms of ecological zones, geographical features and directional terms and many of those identified and named countries, and groups of people, are also metonymic in nature (see also Tindale 1974:150-151). For example Mandangala, which is a specific place, has become synonymous with the surrounding Glen Hill pastoral lease area of land and in some contexts even with the families of John Toby and his siblings who are also identified as members of the Miriwoong language group. Whereas, the word Thilthuwam evokes Gija language and identity in certain parts of the Argyle lease area and Lissadell Station. What is unambiguous is that the identity of country—including its lands and waters – has been implanted during the Dreaming and that areas of country are glossed as having a certain ‘language,’ or languages, in contemporary discourse.

Because each individual has a special and particular relationship with areas of country, including the Dreamings of that country, such associations provide one of the bases for an individuals’ identity (e.g. Barramundi). Also one takes aspects of ones identity from one’s parents and grandparents. For example an Aboriginal man or woman who identifies as, say, Gija, is Gija because he or she is connected to areas of land and/or water that are Gija and/or with parents and/or grandparents who are/were connected to land and/or water that are Gija. Moreover, in some situations there are ‘mixed’ identities for country and therefore for individuals so that a person will say that he or she is ‘Miriwoong/Gija mixed’ or ‘Malignin/Miriwoong mixed.’ These may be areas of country where they were ‘found, or ‘mixed’ areas to which their parents and grandparents – and other close relatives, have connections. As well, a person’s mother might be Gija (through connections to country identified as Gija) and their father Miriwoong and therefore the children of this couple could identify as ‘Gija/Miriwoong mixed’ although contingent factors may lead them to chose only one identity label. That is to say, individuals take on these multiple, including mixed identities, because of their connections to country including countries that their parents and grandparents or other close kin are connected to (see also Palmer and

Williams 1980: 17; Williams and Kirkby 1989: 3-4).

One's identity, or how one chooses to articulate one's identity, can also be influenced by contingent historical factors such as residential history, language acquisition, and ritual responsibilities for particular places or ceremonies. For example, in the 1930s Elkin found that Aboriginal men in the Forrest River region would take on the responsibilities "as headman" for the spouse's group and responsibilities for their spouse's country if there were no others from the patrilineal group to take on those responsibilities, similarly a man might be resident in his mother's country and take it on as his own (Elkin 1933a: 475-476).

The Argyle mining lease area extends into areas that are called Gija, Miriwoong and Malngin country, and the lease area also includes portions that are considered 'mixed.' These portions are considered mixed because there is no single language identity label that applies to them. For example this is the case for Barramundi Gap and the open pit mine. Therefore it is not possible to apply a single identity label to the entire lease area as a whole. What this means, in a practical sense, is that there is no single 'group,' be it a descent group, 'clan,' 'tribe' or language group, that exclusively 'owns' the lease area and whose members are authorized to 'speak for' the country where the operating mine and mining infrastructure are located.⁸⁴ The complexity of this situation became clear in the recent court proceedings of *Ward & Ors* as well as through my own discussions with Aboriginal people. They have explained that the country where the Barramundi escaped her would-be captors is referred to as Miriwoong/Gija or Gija/Miriwoong mixed country and the individual Aboriginal people who identify as Gija or Miriwoong or Miriwoong/Gija or Gija/Miriwoong mixed explain that they have the right to speak for this particular site. This is reflected in the fact that the Gija and Miriwoong have alternative versions and tell particular segments of

⁸⁴ In *Ward & Ors* an island - Lacrosse Is – was claimed by two applicant groups of Aboriginal people, the Miriwoong and Gajerrong peoples and the Balangarra applicants. The finding in this case was that there could be equal, overlapping, and shared, interests to an area of land by two distinct groups of Aboriginal people (see Lee J 1998:58, 61-62).

the Barramundi story, which has become common public knowledge (see Argyle Diamonds 2004). The details of the overall Barramundi story vary slightly between the Miriwoong and the Gija although all agree that the female Barramundi travelled into the Argyle lease area and passed through Barramundi Gap. Therefore, to summarise thus far, within the larger local Aboriginal group connected to the Argyle lease area there are individuals who identify as Gija, Miriwoong and Malngin and 'mixed' variants of the foregoing. Adding to the complexity of this situation there are also individuals who identify as Worla who have particular ritual and affinal relationships with some Gija, Miriwoong and/or Malngin Aboriginal men and women.⁸⁵

Given the current highly politicised context of native title claims, resource benefit agreements and other on-going negotiations in the East Kimberley the issue of traditional identifications with country and contemporary political alliances are paramount. What happens in the East Kimberley is that the Aboriginal cultural expressions of identity, 'family,' song, story and performance are articulated within traditional cultural frameworks, which, at the same time, address the contemporary political realities of the East Kimberley. That is, Aboriginal people are using labels to emphasise their conceptualising of 'same' and 'different' in relation to each other including their traditional closeness, historical co-residence, ritual co-operation and close physical proximity on a case-by-case basis. The context of negotiations for economic resources and improved economic opportunities engenders a certain kind of competition among members of the same social groups, be they families or larger configurations of people. This is not a deviation from some perfect and unified traditional past, indicating a pale version of the 'traditional' systems enacted within the contemporary context. Nor is it peculiar to East Kimberley Aborigines (see for example Martin and Finlayson 1996; Merlan 1997:9-10; Rumsey 1996; Sullivan 1997:129, 131; Trigger and

⁸⁵ Aboriginal people who identify as 'Woolah' / 'Wurla' have been identified as members of, and gave evidence about, the so-called Wanjina /Wungud cultural domain (see *Neowarra v State of Western Australia* [2003] FCA 1402). This is a cultural group with distinct country and traditions to the immediate west of the country and cultural practices relevant to this thesis (see also Redmond 2001:18,21,44-45; Young 1987:27).

Robinson 2001:109). Indeed, I believe any traditional vs. contemporary dichotomy is a false one that obscures the robustness and continuity, albeit in transformed ways, of Aboriginal cultural practices and social organisation. And, although Aboriginal people connected to Argyle might not form a single cultural bloc with unified laws and customs over shared country, they are equal partners in the Argyle Participation Agreement.

Identity and the MoU of 2001

In 2001 anthropologists Kim Barber and Hillary Rumley were contracted by the Kimberly Land Council to undertake ethnographic research regarding the Argyle lease area. This initiative occurred in the context of the newly formulated MoU between Argyle and the Kimberley Land Council. Section 2.2 of the MoU states that:

The ethnography of the ADM lease area (the Traditional Owner Ethnography) will identify the TOs (ADM and KLC 2001:3)

In the first newsletter concerning the Argyle Diamond Mine Agreement the Kimberley Land Council made the following statement:

It is not for the KLC to say who the traditional owners are for the Mine. Anthropologist [sic] (Kim & Hillary) [Barber and Rumley] will help to work out family tree and people's connection to Country (KLC February 2002:3).

By March of 2003 it was announced that the anthropologists had completed their work and that there were seven groups of 'Dawang' (KLC March 2003:1). This is the Miriwoong word for country. The word dawawang (Miriwoong) or dawaam, and sometimes dawayalam (Gija) indicate those Aboriginal people with descent-based connections to the Argyle mine site and lease area, often glossed as traditional owners in general discussion.

As a result of the anthropologist's research the traditional owners of the Argyle lease area were described as those Aboriginal people who are (a) named individuals belonging to one of seven family groups that are associated with one of seven named "dawang (dawaam)" or estate groups (that is, groups of people connected, by descent from a known

ancestor, to specific areas of land and water) and/or (b) Aboriginal people who are members of one or more of the four named language groups, that is those other Miriwung (Miriwoong), Gija (Gidja), Woolah (Wularr) and Malignin people who have traditional rights in the agreement area (see Argyle Diamonds and KLC 2004: 33 – 42 for the various definitions). These definitions and identification of individuals and groups are then referenced back to the ethnography and accompanying sets of genealogies (which are not public documents) prepared by the consulting anthropologists, Kim Barber and Hillary Rumley, September 2004 (see Argyle Diamonds and KLC 2004: 36, 37).⁸⁶ There is no suggestion that these groups form a single cultural domain or bloc.

Contemporary Aboriginal Settlement Patterns

Today, the majority of the Aboriginal people connected to Argyle live in the East Kimberley in one of the East Kimberley regional towns, namely Halls Creek, Wyndham or Kununurra, or in smaller localised Aboriginal communities. The Aboriginal communities geographically closest to the Argyle mine site – as communities – have been impacted by the presence of the Argyle mine to varying degrees. The communities where the Aboriginal people who have had dealings with the mine over the past twenty years live are (i) Warmun at Turkey Creek, (ii) Woolah on Doon Doon Station, (iii) Rugan at Crocodile Hole outstation on Doon Doon Station, (iv) Mandangala on Glen Hill Station, (v) Juwulinypany on Bow River Station and the (vi) Wurreranginy Aboriginal community at Frog Hollow, an outstation community excised from Mabel Downs Station (see Map 5). These Aboriginal communities have come into being over the last forty years, some emerging from early European settlements, such as Warmun, which grew out of the small settlement of Turkey Creek. Others developed from earlier pastoral associations and as part of a process of

⁸⁶ In terms of establishing processes of appropriate negotiation, it is interesting to note that the ethnography on which the definitions of who were the right Aboriginal people to make the agreement was dated September 2004, the same month that the agreement was signed. It is also interesting to note that there had been no public process of reviewing the material, including the genealogies, a process that happened in March 2005,

INSERT MAP 5

Map 5: Argyle Good Neighbour Communities (2004 -)

purchasing pastoral leases for use by Aboriginal people and/or Aboriginal people leaving the regional service towns of Wyndham, Kununurra and Halls Creek and returning to their traditional country. Kununurra is located in country that is unambiguously identified as Miriwoong country, however Halls Creek and Wyndham are both located in country that has mixed identity, and these identities are mostly outside those relevant to this thesis.

Regional Centres and Aboriginal Communities

With the intrusion of the pastoral industry into the East Kimberley service centres, police stations and communications centres were established. Wyndham was initially established in 1886 as a regional service centre for the expanding cattle industry and the rapid influx of prospectors to the Halls Creek gold fields, as Green reports:

In 1885 the government surveyor, Harding mapped out the site for the port and the following year Wyndham was gazetted as a town site... In three months, – in June, July and August of 1886, – twenty-eight ships landed 2,260 passengers with the mining equipment and horses (Green 1995:56-58).

Wyndham expanded rapidly with the development of administrative infrastructure and commercial facilities including a hospital, prison and an abattoir. Sullivan indicates that the use of unpaid Aboriginal labour contributed significantly to the development of the town's facilities (1989:56). Wyndham remained the major service centre for the East Kimberley until the development of the Ord River Irrigation Area (ORIA) project around Kununurra in the late 1960s when, coupled with reduced reliance on seafaring transport and other administrative actions, Wyndham changed from a major centre to a small local town with a predominately Aboriginal population (Dillon 1985b).

Halls Creek was established as a regional centre and part of the state's communication system servicing the needs of those who came in search of gold with the local discovery in 1886 and later to the Tanami gold fields in the Northern Territory (Baume 1933; Gee 1911; Green 1995:56). Halls Creek was also an important centre for the early cattle

industry with the head of the Canning Stock Route located on the outer edge of the town (see Gard and Gard 1990).

The township of Kununurra was originally established in 1960 to service the developing regional horticultural sector. It has grown to outsize Wyndham and is now the major service centre in the East Kimberley region (see Dillon 1985b; www.kimberley.wa.gov.au [accessed July 2003]). Aboriginal people have moved from nearby cattle stations and established permanent Aboriginal residential areas on land reserved for Aboriginal people within the Kununurra town boundaries (see Shaw 1981; 1983, 1986, 1992; Willis 1980, 2003).

Turkey Creek was initially established during the early gold rush as a general supply station, and as a ration station for Aboriginal people in the region (Clement 1989:24-30). In 1897 a telegraph station was established there with a police station following in 1908 (Kirkby and Williams 1984) and a post office and telephone exchange in later years (Altman 1987a: 1).¹³ Warmun became incorporated under the "WA Associations Incorporations Act, 1895-1969" (Altman 1987a: 4), and the title to the land was transferred to the Western Australian Aboriginal Lands Trust and leased to the Warmun Community Incorporated in 1977 (Altman 1987a: 5). Warmun Community Council employed their first community advisor in 1979 the same year that diamonds were found at Barramundi Gap (Altman 1987a: 5). Only Aboriginal people currently live in the community apart from non-indigenous community employees. The community is now commonly referred to as Warmun. Aboriginal people came into Turkey Creek after its establishment to seek refuge from the frontier violence that accompanied the arrival of white pastoralists in the area, a period they refer to as the 'killing times' (Ross and Bray 1989). Later they also settled in Turkey Creek during their wet season 'holiday time' from their pastoral work activities on nearby stations and to collect their 'pensions' with the advent of social security (Williams and Kirkby 1989:16-17). In the late 1980s Ross and Bray noted that Aboriginal people had come to Turkey Creek from the surrounding stations of Texas

Downs, Lissadell, Bow River, Mabel Downs, Bedford Downs and Alice Downs (1989:11, 54-56; see also Altman 1987a and Clement 1989 for general comments on relations between Aboriginal people and station managers over time). In 1978 there were one hundred and six Aboriginal people at Turkey Creek (Kirkby 1983:3), and by 1983 there were two hundred and fifty one (Kirkby 1983:5). In 1986 Altman conducted a census of the community and recorded 304 residents (1987a: 6). Many of the current residents were born in the community and have lived there all of their lives. Currently there are around six hundred Aboriginal people living at Warmun.

Warmun has a community school that is serviced by Catholic Education providers. There is a clinic that has permanent nursing staff located in the community (although there are times when there are no staff members in residence). There is a local community store at the entrance to the community that provides essential goods to community members. The Turkey Creek roadhouse, located on the main highway and only one and a half kilometres northeast of the community, is another community enterprise that provides caravan and camping facilities for tourists as well as serves fuel, a selection of fast foods, some groceries and catered meals. The community has received Good Neighbour Programme funds since 1981 and these funds have been used to purchase some of the community's assets and develop community sport and recreation facilities.

Doon Doon Station, previously Dunham River Station and prior to that Cow Creek Station, was established in the initial wave of pastoral settlement of East Kimberley in the early 1890s and eventually purchased in 1976 for Aboriginal people by the Commonwealth Aboriginal Land Fund Commission (ALFC) [which later became the Aboriginal Development Commission and is no longer in existence] (Young 1987:2-3). The housing and associated community infrastructure of Woolah Aboriginal community, including a roadhouse that is one of the community's economic enterprises, are located on a small separate lease for

community living purposes located on the pastoral lease and close to the Great Northern Highway. The remainder of the station land is used to run the community-based cattle enterprise. Woolah Community was only incorporated in October 1980. There are approximately fifty Aboriginal people living on the station today most of whom identify as Gija or Worla or Gija/Worla mixed. The community has a primary school and other facilities some of which were established as part of the Good Neighbour Programme that commenced in 1981. The community is currently operating a number of economic enterprises including a cattle enterprise, tourism, a roadhouse and caravan park.

Rugan Aboriginal community, a small homeland community, located at Crocodile Hole on the Wilson River in the southern portion of the Doon Doon pastoral lease has a core of approximately twenty Aboriginal residents who identify primarily as Gija and Gija/Worla mixed. This community functions mostly during the dry season with residents spending the wet season at Doon Doon or Warmun communities until the roads are passable in the following early dry season. Rugan community is now a recipient of funding for community purposes from the Argyle Participation Agreement; it did not receive Good Neighbour funds from the mine in the past although the community has received irregular assistance over the past twenty years.

Located on the Glen Hill pastoral lease, the Mandangala Aboriginal community was established in the late 1970s, in the most part by John Toby and his immediate family who principally identify as Miriwoong.⁸⁷ They started the community by camping at the old homestead location in makeshift humpies. This was at the same time that CRAE commenced diamond exploration in the area (John Toby quoted in Dixon 1990a:

⁸⁷ In 1970 the small Glen Hill pastoral lease (PL) was amalgamated with the Doon Doon PL. In 1976 when the Aboriginal Land Fund was negotiating to purchase the Doon Doon PL the WA Lands Department objected by invoking the rule that no single landowner could hold more than one million acres. "The hitch was finally overcome by vesting the titles of Doon Doon and Glen Hill separately, the former with the Doon Doon Pastoral Company and the latter with the WA Aboriginal Lands Trust" (Young 1987:24). The Doon Doon and Mandangala Pastoral Leases are both still both vested with the Western Australian Aboriginal Lands Trust (ALT). The Doon Doon Pastoral Aboriginal Corporation was not incorporated until 30th June 1997. The Glen Hill pastoral lease was subject to a native title claim in *Ward and Ors*, Doon Doon was not.

71).⁸⁸ It is currently the Aboriginal community located closest to the Argyle mine site. It has approximately seventy Aboriginal residents. The community has a primary school and other facilities some of which were established as part of the Good Neighbour Agreement funding programme. The community is currently operating a range of economic enterprises including a cattle enterprise, tourism and an indigenous plant nursery that supplies the Argyle mine with local seed and seedlings for rehabilitation programmes.

The community of Juwulinypany is located on the Bow River Station where there are approximately fifty residents who are members of an extended family, the majority of whom identify as Gija. The Western Australian State Government purchased the station and the Warmun Community currently holds the lease. This occurred after the commencement of the Good Neighbour Agreement and the Good Neighbour Programme and thus the Juwulinypany community did not receive any Good Neighbour Funds until the Argyle Participation Agreement was finalised (Argyle Diamonds and KLC 2004: Section 5 pgs 8-9) although the community did receive financial and in kind assistance from Argyle from time to time. The community has ambitions to further develop the cattle station enterprise as well as a range of other economic enterprises including cultural tourism venues that would feature visual and performance arts (see Oliver and Morris 2000).

Wurreranginy Aboriginal community at Frog Hollow was established as a homeland community from Warmun in the mid 1980s (see also Clement 1989:10-11). Many of the residents of the community have traditional connections to the Purnurlulu National Park and surrounding station lands (Kirkby and Williams 1984). Some of the senior Aboriginal Law men and women, such as the late Jack Brittain, who were involved in the early disputes with Argyle were pivotal in establishing this community. In the current context, Wurreranginy community members are not so active in their engagements with the mine site and have not become party to the

⁸⁸ Those Aboriginal people with traditional interests in the Glen Hill lease area were living in Warmun

new Argyle Participation Agreement. It appears that, in the contemporary context, the current residents of the community do not consider themselves to have the requisite indigenous connections or responsibilities to the Argyle lease area to entitle them to direct benefits from the mine.

The Post Contact Historical Context

As the above discussion indicates, by the time that CRAE entered the East Kimberley in the late 1970s Aboriginal people with connections to the Argyle mining lease area had already experienced significant changes in their lives. A series of historical events had led them to live on the outskirts of the towns of Wyndham, Kununurra and Halls Creek and in 'camps' such as Turkey Creek. Others were attempting to establish their own communities in the traditional country of their forebears at places such as at Glen Hill.

The historical events that had brought such dramatic changes for East Kimberley Aborigines had been set in motion in the 1800s after European explorers reported good pasture and ample freshwater in the area (Clement 1988, 1989).⁸⁹ Encouraged by these reports, pastoralists from Queensland (in eastern Australia) moved stock into the East Kimberley where they established the area's first pastoral leases. In 1882 the Ord River Station (later called Mistake Creek Station) was established on the border with Western Australia and the Northern Territory, just to the east of the current town of Kununurra (Clement 1988, 1989). Other pastoral leases in the East Kimberley were established from this time on. For example, by 1885 the Durack family had founded Lissadell Station and one year later Argyle Downs Station was also established (Clement

community and the township of Kununurra at that time.

⁸⁹ In 1819 Philip Parker King conducted a survey of the northern coast of Australia and named Cambridge Gulf during his sea voyage but failed to discover the Ord River (Clement 1988; Green 1988:11; Shaw 1981:13). His impressions of the area were favourable and many other expeditions followed to explore the northern regions although penetration into the East Kimberley remained a difficult task and the region was 'settled' long after the West Kimberley (Clement 1988). In 1878/9 the Deputy Surveyor General, John Forrest, and his brother, Alexander Forrest, undertook an expedition to the Kimberley and discovered and named the Ord River (Clement 1988). For an overview of early East Kimberley European settlement and the development of

1989:13-14; Shaw 1983:224). Both of these stations were located on the traditional lands of Aboriginal people who would be affected by the Argyle mine. In the 1970s, Argyle Station and a portion of Lissadell Station were inundated by the creation of the Lake Argyle (KLC 2004:1-2). Other pastoral leases in the East Kimberley were rapidly established following the Duracks' and each was accompanied by varying degrees of conflict and tension between pastoralists and Aboriginal people (see for example Clement 1989; Durack 1976, 1983; Green 1988:12, 1995; Ross and Bray 1989; Shaw 1983; Ryan 2001 and Sullivan 1989).

This development of the pastoral industry and the taking of Aboriginal lives and their land along with the subsequent decimation of indigenous food sources (see Lee J 1998:36) was the first major intrusion of non-Aboriginal people experienced by East Kimberley Aboriginal people and it resulted in conflicts between them and the white intruders. Mary Durack, a descendant of the first East Kimberley pastoralists, wrote of her family and these times:

They had simply ridden in with their cattle and settled on the riverbanks. Sooner or later the blacks would learn that if they wished to survive their choice lay between working for the whiteman on his own terms or keeping out of his way among the hills (Durack, Mary 1976:291).

According to the oral accounts of older Aboriginal people the killing of cattle for food by Aboriginal people and the consequent retaliation and in some cases massacres of them by pastoralists and police were not an uncommon phenomena throughout the Kimberley (and into the Northern Territory) during these 'killing times' (see also Duncan 1996; Jebb and Haebich 1992; Jebb 2002; Green 1988, 1989, 1995; Moore 1996; Pederson and Woorunmurra 1995; Rose 1991; Ross and Brady 1989; Ryan 2001; and Sullivan 1989:59-69). There are Aboriginal people today, including senior Aboriginal people connected to Argyle, whose families were directly affected by this violence. Frontier violence and conflict was bloody and intense and included violence aimed at or delivered by Aborigines, pastoralists and the police including Aboriginal trackers (Sullivan 1989:59-85; see also Biskup 1973). One such incident has been

the pastoral industry see Clement (1988, 1989); Ross (1989:25-35); Skyring (2002); Sullivan (1989:59-66).

depicted in the 'Aboriginal opera' or, in local East Kimberley languages a joonba, called Fire Fire Burning Bright. The massacre of Aboriginal people occurred in the early 1930s and was triggered by Aboriginal people spearing a station beast (Clement 2003, Oliver 2002; Rothwell 2003; Ryan 2001:62-65).⁹⁰ 'Joonba' in general terms, and this particular 'joonba,' are discussed in detail below in Chapter 6.

In general terms, early contact life for Kimberley Aboriginal people was difficult and often tragic. For example, Commissioner Roth, investigating in 1904 the treatment and living conditions for Aboriginal people throughout Western Australia, condemned the way that police officers in the north of the state dealt with alleged cattle thieves (Rowley 1974:194-196, see also Shaw 1980). He pointed out the absurd lack of protection afforded Aboriginal people by the 1898 Aborigines Act that permitted an outrageous state of affairs. In particular, Roth concluded that police made a profit from their ration allowances for prisoners and witnesses which was shared out amongst station personnel; that they failed to supervise armed Aboriginal trackers; that the police admitted that female witnesses in court proceedings and Aboriginal trackers may have had sexual intercourse while the women were in custody; that police gaoled children, intimidated witnesses, and in many cases in the Kimberley had no interpreter who could speak the relevant native language (Jebb 2002:47). In 1905 an official inquiry by a magistrate was discretely undertaken into the goings on at remote police camps in the north Kimberley, especially into allegations of murder and rape by police patrols at Mount Barnett police camp. All police and Aboriginal trackers were exonerated. The most significant and well-publicised formal enquiry into alleged massacres in the East Kimberley region was the 1927 Wood Royal Commission concerning the Forrest River massacres. It was alleged that Aboriginal people were killed by police officers following a fatal spearing of the pastoralist Hayes at Nulla Nulla Station (Green 1989:46-

⁹⁰ A senior Aboriginal woman places a different emphasis on these events. She understands the massacre to have been triggered by revengeful behaviour on the part of the Aboriginal husbands of the women working in the domestic quarters of the station. The husbands in response to the women having European "boyfriends" killed a beast (Dottie in Ryan 2001:62). See also Clement 2003

93, 1988:79-82, 1995; Wood 1927). There are many anecdotal accounts of the murder and harsh treatment of Aboriginal people in the East Kimberley including many connected to the area where the Argyle mine now exists. Ross and Brady (1989) have recorded some of these stories, others have been revealed in more recent years, and others remain unrecorded (Ryan 2001:59-76; Rothwell 2003; Skyring 2002).

The conflict between Aborigines and the pastoral intruders generated containment and protective measures on the part of the government of the day including legislative regulations and efforts to physically contain Aboriginal people (see Rowley 1974:187-202, 252-4).⁹¹ In many instances, Aborigines of the Kimberley were no longer able to feed themselves with local indigenous foods because of the impact of stocking cattle and the punitive actions of the pastoralists. According to James Isdell, an Inspector of the Aborigines Department (1908), prior to the arrival of pastoralists the Kimberley had been "a paradise for natives, and all varieties of meat could be sought, with very little labour" and that indigenous vegetation once supplied essential food and medicinal plants to ensure the good health of the Aborigines. He suggested that it was a consequence of actions taken by the government and the introduction of cattle into the Kimberley that brought about the loss of natural abundance of the area and lead to the desperate actions by Aborigines to secure food. Isdell stated in his correspondence to the department;

Past governments have leased all the best of the pastoral lands and river frontages, without giving the slightest consideration to the requirements of the few thousand bush natives... There is not a single acre of the country - not a single foot of river frontage that the natives can call their own... stocking up the country has completely destroyed and hunted all the ground game ... Natives have no meat, so is it any wonder that they

⁹¹ Missions had also been established in the Kimberley. The first mission was established at Beagle Bay on the Dampier Land Peninsula in 1885 (Sullivan 1989:83). In 1897 there was an unsuccessful attempt to establish a mission at Forrest River. It was successfully established in 1913 (Green 1988; Gribble 1932). In 1908 the Benedictine monks established a mission community near the mouth of the Drysdale River, at Pago, which was relocated during WWII due to lack of fresh water, to the present day location of Kalumburu (Perez, Fr Eugene 1997). Kunmunya mission station was established in 1912 and was to relocate a number times finding final form at the Mowunjam Aboriginal community about ten kilometres outside the township of Derby (see Love 1936, McKenzie 1969; Blundell and Woolagoodja 2005). Missions were established at Sunday Island, Balgo and Lombadina some time later. All of these mission stations were on the fringes of Kimberley pastoral areas. There were often tensions between the government and the missions about the treatment of Aborigines and the intent of the 'protective' service that missions provided, for example see Elkin 1928, 1980; Green (1989:297); Rowley (1974:252-254).

have taken to cattle killing to feed their women and children (Isdell 1908).

In 1910 the first government reserve was established in the East Kimberley at Moola Bulla in an attempt to pacify the local Aboriginal populations. Moola Bulla was sold in 1954/55 and the resident Aborigines were immediately dispersed to informal and makeshift camps on the outskirts of Halls Creek and Fitzroy Crossing (see Bolton 1981:155 and Rumley and Toussaint 1990; Kimberley Language Resource Centre 1996). The Marndoc Reserve was established in 1911,⁹² and another ration feeding station operated at Violet Valley from 1912 to 1943/44 (Clement 1989:32).⁹³ When Violet Valley closed as a ration distribution station the Aborigines who were living there and seeking supplementary sustenance sought assistance at Turkey Creek (Kirkby and Williams 1984:xii). The pacification and control of Aboriginal movement patterns was to be achieved by feeding Aborigines and providing land for them to grow their food including cattle for beef; by containing them and thus preventing them from entering and disturbing the pastoral regions; by providing education and training for them; and by housing the increasing number of 'half caste Aborigines' (Green 1989:283-299; Biskup 1973:48; Jebb 2002:66-67; Sullivan 1989:81-84; Kimberley Language Resource Centre 1996). In essence, the government and the pastoralists were mostly concerned to reduce the levels of cattle killing and other forms of conflict in the East Kimberley and to devise strategies to integrate indigenous people into an unpaid, closely regulated pastoral labour force and reduce the levels of conflict and violence in the north (Jebb 2002; Rowley 1974:246-254). Sullivan concludes that the early history of this region was characterised by complex and uneven conflict and uncertainty between local Aboriginal people and white settlers who attempted to

⁹² Marndoc Reserve was gazetted as an A-Class Reserve in 1911 with an area of approximately 1.4 million acres aimed at preservation and protection through sanctuary to allow people to 'live in their own native way,' rather than confinement and training as a labour force. The 'inviolable' Marndoc Reserve started to be whittled away in 1918 when 40,000 hectares of well-watered land was excised in the south around Nulla Nulla, and a further portion in 1921 (Gribble 1933:123). It was at this station that an Aboriginal man killed Bill Hayes, which began what became known as the Forrest River massacres (Elkin 1933a: 427; Green 1988, 1989, 1995; Gribble 1933:124).

⁹³ The area was leased to a pastoral company but in 1986 was leased to the Baulu-Wah Aboriginal community group for ninety-nine years (Clement 1989:34).

contain and control Aboriginal people. However, as he continues:

It is clear, then, that the colonisation of the Kimberley was not a simple process of conquest. Rather it was reciprocal aggression and counter-aggression from the time of initial contact until well after apparent incorporation (Sullivan 1989:96).

Skyring concludes that, for the East Kimberley in particular and in the areas immediately adjacent to the Argyle lease area:

The first decades of white settlement in the area of the Argyle diamond mine were marked by violence and murder, and the documentary record contained references to massacres of Aboriginal people in the area (Skyring 2002:39).

Despite these circumstances many Aboriginal people continued to live in their traditional lands although the majority did so in the context of pastoralism following the initial years of the most lethal confrontations (see Jebb 2002; Moore 1996; Ross and Brady 1989; Ross 1989; Shaw 1981, 1983, 1986, 1992; Skyring 2002:40-47). For example, in the East Kimberley, there were large groups of Aborigines resident at Lissadell, Bow River and Doon Doon Stations and many of these people can be identified as the parents and grandparents of the people alive today who are connected to the Argyle mine lease area (Kaberry 1934-36a, 1934-36b; 1935c, 1935d, 1935e; Lee J 1998; Skyring 2002:Appendices).

The pastoral industry and all that it entailed remained the major form of European incursion for most East Kimberley Aborigines until the development of the Ord River Irrigation Area project. This project was conceived of in the early 1920s and by 1926 areas of land had already been surveyed (Lee J 1998:18). In 1941 potential dam sites were identified (Lee J 1998:18) and in 1945 pastoral land was resumed to establish a research station to conduct feasibility trials for a number of horticultural products including cotton, rice, sorghum, sugar and legumes and to conduct research on soils and hydrology (Young 1979:65, 79). According to Shaw (1983:19) there were concerns to populate and develop the northern regions in the wake of events of World War II (see also Davidson 1966; Queensland Government Association 1966). The horticultural project began in earnest with the damming of the lower Ord

and the creation of Lake Kununurra in 1960 and with establishment of the Kununurra town site in 1961 (KLC 2004:1; Lee J 1998:18; Willis 1980). By 1972 the construction of a wall to dam the Ord River and cause the flooding of the land to form Lake Argyle was completed. The project commenced without any discussion with or any information provided to local Aboriginal people (see Moognoong, Darwung Aboriginal Association (Inc) 1977). According to the Commonwealth and Western Australian Government review committee's findings in 1978 two hundred and fifty Aboriginal people were displaced from land resumed for the ORIA (Young 1979:107) with more dislocations with the inundation of Lake Argyle (Young 1979:108). There was 50% Aboriginal unemployment in the ORIA project area (Young 1979:108). The committee found that:

The Aboriginal community living in the ORIA is experiencing acute social problems - some of which can be identified specifically with the development of the Ord project (Young 1979:106).

Aborigines affected by the ORIA were offered no compensation or concessions for their loss of country or the associated intrusions into their lives by the European agriculturalists. There were also threats to their sacred sites. The Western Australian Museum conducted a heritage site recovery process before the dam was built but Aborigines were reluctant to disclose information about their sacred materials, including their locations (Dortch 1972). They also did not know that their storehouses would be covered by the dam with the result that the building of the dam caused much of their sacred material to be lost (Shaw 1983:19; Moognoong, Darwung Aboriginal Association (Inc) 1977:12). Nor was any social impact research undertaken before the dam was built despite a recommendation from the ORIA review committee to further examine the conditions of the Aboriginal people in and around the ORIA project (Young 1979:110). In the mid 1980s Dillon speculated that the Ord River scheme had had a significantly greater impact on the lives of Aboriginal people of the East Kimberley than would the Argyle mine (Dillon 1991:143). Most recently Kahn, working for the Kimberley Land Council, prepared a report addressing the social and economic impacts of the ORIA (KLC 2004). Kahn identifies themes and recommendations from

previous reviews and reports, of which there are at least twenty-three that have been conducted since 1978 (KLC 2004:16). She found that there has been a high degree of consistency in the findings and recommendations of these reports and that these have largely been ignored over the years. Kahn's principal finding is that despite the various reviews, research findings and recommendations that have been made the lack of attention to those findings and the constant failure to implement recommendations has led to a situation where Aboriginal people continue to face serious dislocation and disadvantage in the face of continuing development (KLC 2004:3). Further, she asserts that the issues Aboriginal people face have become "compounded and remain unaddressed" and are likely to increase if the proposed Stage Two development of the overall Ord development project eventuates (KLC 2004:3).

Conclusions

By the time that CRAE entered the East Kimberley in the late 1970s Aboriginal people with connections to the Argyle mining lease area had already encountered significant intrusions into their lives and country. They had experienced serious dislocation, a loss of material culture and country, and were subject to treatment by Euro-Australians as invisible citizens in the face of development on their lands. A series of historical events had led Aboriginal people to live on the outskirts of the towns of Wyndham, Kununurra and Halls Creek and in 'camps' such as Turkey Creek. Others were attempting to establish their own communities in the traditional countries of their forebears at places such as at Glen Hill. Some Aboriginal people were still resident and working at Lissadell Station – the site of the Argyle mine – and it was those people who discovered the evidence of exploration activity and the Kalumburu Joint Venture exploration team in early November 1979 (Christensen 1990b: 29-30; pers comm Dulcie and Kay Malgil December 2003).

Throughout the 1980s and 90s demographic shifts and changing political

conditions continued to influence how Aboriginal people of the East Kimberley saw the world and how they lived within a changing landscape. By this time they were familiar with the ways of kartiya or 'white fellas' [Europeans] and government but they retained key features of their 'traditional' lives and connections to country. It was during this period that Bruce Shaw, the oral historian, began recording oral histories with Aborigines, including accounts from some of the individuals connected to the Argyle Mine lease area (Shaw 1983, 1992). These accounts record stories and provide information about Aboriginal people including those connected to the Argyle lease area. As well, they indicate their changing and evolving relations with the dominant culture in a frontier context, including the frontier of pastoralism, agriculture and mining. Shaw conducted several interviews with John Toby, one of the Good Neighbour Agreement signatories, before and after the making of the Good Neighbour Agreement.

John Toby expressed his frustration at feeling as if Aboriginal people are not given "a fair go" in relation to their country and establishing themselves as viable entities. "The whiteman pushed us off our land. They gave the blackfella a little bit of land. Then they find a bit of mineral and they take it away from us. When are they going to give us a fair go, the bastards?...I am a bit worried about that. A man is just about to move back to his country and this thing come up. They push you from pillar to post. A man hasn't even got a home for himself. I'm just trying to find a way to stop this (John Toby quoted in Shaw 1986:63).

Thus, although the East Kimberley contact context varied somewhat with some Aboriginal groups being subject to more or less violent and dispossessing forms of European incursions into their traditional land none escaped the presence of non-indigenous others, be they missionaries, pastoralists, miners, police or indeed researchers. The following chapter takes up the recent history of the East Kimberley, with particular reference to the arrival of CRA in the region. Following this chapter, I offer in Chapter 6 a general description of the cultural context of the local Aboriginal people with connections to the Argyle mine lease area and in Chapter 7 I provide details regarding the more salient cultural practices that Aboriginal people have utilised in coming to terms with the disruptive presence of miners on their land.

CHAPTER 5

CRA LIMITED AND THE MAKING OF THE GOOD NEIGHBOUR AGREEMENT

By early 1980 the contextual complexities that surrounded Aborigines and Miners in Australia generally and the Kimberley in particular were such that the scene was set for Argyle to become a site of conflict and perhaps another Noonkanbah. Aborigines and their supporters had become a real force in the resource development politics of the Kimberley. However, Argyle did not become a Noonkanbah, and as events unfolded over the next twenty-five years, it became clear that something quite different characterised the relationship between Aborigines and Miners at Argyle.

It seems clear that both Aboriginal people, and individuals involved in the early exploratory initiatives at Argyle, were influenced by the events of Noonkanbah as well as by the broader political context across the Kimberley and elsewhere in Australia (see Libby 1989). Adding to this context, there was no legislative base from which to work, there was an unsympathetic State Government, and there was no established framework for working out how Aborigines and Miners might address the issues that were presented by the Argyle situation (Clarke 1983; Dillon 1990b, 1991; Dixon 1990b; Dixon et al 1990:108-113; Frewen 1988:9, 11).

Aborigines and Miners were faced with stark choices. There was the route of opposition and conflict that was played out at Noonkanbah, which neither party preferred. There was the path of retreat, an approach that neither party was likely to take. And then there was the pragmatic route of trying to reach a mutually acceptable arrangement. This context, coupled with the Miners' long-term commitment to "being a good corporate citizen" and a "good neighbour"⁹⁴ lead them to a pre-emptive decision not to go the Noonkanbah route and to attempt to enter into a

⁹⁴ These phrases were re-curing statements in the interviews that I conducted with corporate individuals.

Good Neighbour arrangement.

However there was no indication at the time of the making of the Good Neighbour Agreement that the Company was prepared to recognise indigenous land ownership. Rather the decision to make this agreement was taken for pragmatic reasons. That is, it appears to have been a sound corporate decision made for good business reasons and, in the short term, made in order to defuse the apparent stalemate with local Aboriginal people connected to the mine site. The Good Neighbour Agreement was also made with the belief that the action would secure the mine in the face of other indigenous and non-indigenous protests.

To better understand how these events unfolded in and around Argyle and just how the Good Neighbour Agreement came into being it is necessary to explore the corporate context of Argyle and the local engagements and interactions that were occurring between Argyle representatives and some of the local Aborigines. This requires a detailed discussion of the key corporate players and how the corporate structure, the corporate ideology, and associated attitudes toward Aboriginal people affected the way Argyle proceeded in the face of initial Aboriginal opposition to the mine. In offering such a discussion, it is necessary to distinguish between the relevant corporate entities, Argyle and Conzinc Riotinto of Australia Exploration (CRAE) and their roles in these formative years. It is necessary, therefore, to explore CRA Limited and CRAE (as a wholly owned subsidiary of CRA Limited) as a corporate entity to fully appreciate what was happening at Argyle in the years 1979 to 1981 and to review how relations were initially operating and then to follow the formation of relationships and outcomes between some of the local Aboriginal people and the Argyle representatives.

The following discussion provides an overview of the corporate structure of Argyle. It takes into account the cultural influences that changes over time have had on the way that Argyle has conducted its relationships with local Aboriginal people in the early phase of establishing the Argyle

mine and the Good Neighbour approach. Chapter 8 will consider how relationships and engagements between the local Aboriginal people and Argyle evolved and changed between the establishment of the Good Neighbour approach in 1981 and the year 2000 when Argyle commenced a major reconsideration of the way that it had been conducting business with local Aboriginal people (and in the East Kimberley region more generally). It was at this time that Argyle began negotiating a new agreement with local Aboriginal people, namely the Argyle Participation Agreement (2004).

The Evolution of Argyle's Corporate Structure

As with many large corporations, 'Argyle' has not been a single entity over the past twenty-five years but rather a series of joint ventures between corporate entities both large and small (see Appendix 9). The relative shareholdings between the joint venturers altered during both the exploration and the mining stages of the Argyle project and this has influenced ideological predispositions and the way that business has been conducted as well as how the overall development of the mine has occurred. A brief summary of the history of diamond exploration in the Kimberley and an outline of the early joint venture arrangements highlights the major changes in partnership arrangements. However, as the majority shareholder and project manager of the various joint venture structures that became known as Argyle, CRAE was the corporate entity that was effectively on the ground and driving the processes of exploration and engagement with the Aboriginal stakeholders from 1979 to 1981. Therefore CRA/CRAE is the major focus of this chapter.

History of Diamond Exploration in the Kimberley

Between 1967 and 1972 Stockdale Prospecting (a subsidiary of the South African conglomerate De Beers), Oilmin N.L. Consortium, and Stellar Minerals N.L. conducted the first exploration for diamonds in the

Kimberley region (Argyle Diamond Mine Pty Ltd 1983:26). In 1972 the Kalumburu Joint Venture was formed to explore above the 19 degree parallel in the Kimberley region. The original partners each held a 20% interest in the Joint Venture. They were Tanganyika Holdings Ltd, A.O. (Australia) Pty Ltd, Northern Mining Corporation N.L., Jennings Mining Ltd, and Sibeka Societe D'Enterprise et D'Investissements SA. This group commenced exploration for diamonds and in 1973 they discovered individual diamonds in the King George River in the northern Kimberley (Argyle Diamond Mine Pty Ltd 1983:27).

In 1976 CRAE entered the field of diamond exploration in the Kimberley at the invitation of the members of the Kalumburu Joint Venture. They were seeking funds for further development and approached CRA. Ironically, diamonds were not high on the list of prospective minerals for CRA during this period. According to Sir Roderick Carnegie they were "twenty-fifth on the list." However when he was presented with the proposal to explore for diamonds he made the decision to invest and secure a dominant share in the project. As he told me:

The essence of the history of Argyle was that in 1974 John Collier⁹⁵ did a big study of all the things we should look for and the things we shouldn't. He concluded that diamonds were number twenty-five on the list. And I said to him, "I don't believe this bloody book. Find me a world class deposit of anything and we'll turn it into something of value". ...About four months later he came in and said "I've got the best deal for you." I said, "What's the deal?" He said "I can get you thirty-five per cent of a prospective diamond project for give or take a million and a half dollars into the exploration." And I asked two questions. First, "I thought diamonds were only number twenty five in your book of Attractive Exploration Targets!" And second, "why should we? - the answer is No." However, we would invest two and a half million dollars to take 55 per cent (Carnegie interview 18 October 2002).

CRAE became the sixth interest in what then became the Ashton Joint Venture on the 6 February 1976. Hughes, as senior field geologist working on the project, explained that there was always some tension between the smaller partners and CRA and that this tension remained throughout the life of the joint venture relationship:

... they welcomed our arrival to the extent that you can welcome the guy

⁹⁵ Collier was CRA's Group Executive Exploration at the time.

who's got all the money and is going to throw his weight around (Hughes interview 18 July 2001).

CRAE was to provide staged funding from this time to allow acquisition of a 55% interest and to become the manager and operator of the overall project. This commenced in November of 1976 and they fully assumed the role from Tanganyika on 1st of January 1977 (Argyle Diamond Mine Pty Ltd 1983:1).

The joint venture was to change composition a number of times over the following three years and by January 1979 CRAE held a 56.76% interest. Thus CRAE was both project manager and the majority shareholder by the time the diamonds were found on Lissadell Station and Aboriginal people became aware of their activities there.

The joint venturers were undertaking a broad programme of regional exploration over a large portion of the Kimberley. There was no formal or regulatory requirement at this time for exploration tenements to be secured for the purposes of initial exploration. The explorers were to report their findings to the Western Australian Government on a regular basis (Hughes interview 18 July 2001).

The Ashton Joint Venture had a series of small mobile field camps at different locations throughout the Kimberley. These included locations on the King George River in the far northern Kimberley, at Noonkanbah, on other Fitzroy Valley stations including Ellendale Station (on which there is now an operating diamond mine in its own right), at Kingston Rest near Lissadell Station, and at the present site of the Argyle mine. Frank Hughes, an employee of CRA, was the senior field geologist overseeing all diamond exploration and managing the various exploration camps throughout the Kimberley (Hughes interviews, 18 and 20 July 2001). The explorers did not have contact with local Aboriginal people or local Aboriginal communities in the East Kimberley at this time although they did at some of the other locations where they were exploring such as at Noonkanbah and Kalumburu. However, it was from the Kingston Rest

camp that relationships were eventually established between some of the local Aboriginal people and Hughes. These relationships commenced following the accidental discovery of exploration activities by Aboriginal stockmen who were “looking for cattle thieves” on Lissadell Station (Christensen 1990b: 30). On 7 November 1979 the chair of the Warmun Aboriginal Community Council sent a telegram to CRAE, as a wholly owned subsidiary of CRA, and to the WA Museum seeking the cessation of all exploration activities (Christensen 1990b: 30). The following day CRAE agreed to stop work until an Aboriginal heritage survey could be undertaken and discussions could be held with relevant Aboriginal people (Christensen 1990b: 30).

What followed was a series of intrigues, conflicts and tensions culminating in the signing of the Good Neighbour Agreement in July 1980, the introduction of the Good Neighbour Policy, the formalising of the Good Neighbour Programme in August 1981, and the creation of a special act of the Western Australian State Parliament to enable the development of the Argyle Diamond Mine. This was the *Diamond (Ashton Joint Venture) Agreement Act 1981* ratified with the Western Australian State Government and changed in 1983 to the *Diamond (Argyle Diamond Mines Joint Venture) Agreement Act* following another change of the joint venture structure that occurred in October of 1982.

The Environmental Review and Management Plan (Dames and Moore 1982) was submitted in August 1982 and approved in May of 1983, with amendments, following a change of State Government from the Liberal Government of Sir Charles Court to the Bourke Labor Government.

By October 1982 CRAE had agreed to assign all of its interests to a number of other parties, the Zinc Corporation Limited (ZC) and New Broken Hill Consolidated Limited (NBHC), which were all beneficially owned by CRA, in order to form a new joint venture, viz. the Argyle Diamond Mines Joint Venture and the Ashton Exploration Joint Venture (which replaced the Ashton Joint Venture) (Erickson 2005; Department of

Mines Western Australia 1986:9). It was from this time on that 'Argyle' became synonymous with the actual diamond mine site, the corporate entity that owns and operates the mine, and later with the signature pink diamonds that are mined at Argyle. The Argyle Joint Venture was to undertake a number of other complex commercial and political transformations over the following years (Dillon 1984:6-9) including in July 1984 taking on the Western Australia Government Development Corporation as a joint venture partner in the form of the Western Australian Diamond Trust (Erickson 2005).⁹⁶ In May of 1987 CRA Diamonds changed its name to Capricorn Diamonds Pty Ltd but this change did not affect CRA's interests.

In 1997 CRA changed its name to Rio Tinto Limited but this did not affect the ownership of the existing joint venture structure that was operating Argyle at this time. In December 1998 Ashton, Ashton Argyle Holdings Pty Ltd (Ashton Argyle) and Argyle Diamond Mine entered into a deed entitled Argyle Mining Joint Venture - Ashton Group Reorganisation - Assumption Deed, under which Ashton Argyle, a wholly owned subsidiary of Ashton, agreed to acquire and take an assignment of the interests of Ashton in the Joint Venture, effective from 1 January 1999. In November 2000 Capricorn Diamonds acquired all of the capital in Ashton thus giving Rio Tinto a 95% direct interest and a 99.8% direct and indirect interest in the Joint Venture.

In April 2002, following other acquisitions and some legal disputation that was resolved in favour of Rio Tinto, Rio Tinto became, the beneficial owners of 100% of Argyle. By the end of March 2004, with the completion of technical transitions and name changes, the only joint venture partner was Argyle Diamonds Limited.

Thus, as can be seen, Argyle is a complex corporate entity that has

⁹⁶ For instance in November 1984 "the State, WA Trustees, Northern and the other Joint Venturers and CRA entered into a deed under which the State consented to the assignment by Northern of its interest under the State Agreement to West Australian Trustees Limited in its capacity as trustee of the Western Australian Diamond trust" (Erickson 2005).

emerged from a series of mergers and financial arrangements (see also Howitt and Douglas 1983:34-46; Howitt 1985:89 Figure 7). However, the corporate culture of Argyle was, in effect, deeply influenced by the corporate culture of CRA. CRA in turn had its historical roots in the establishment at the turn of the century of the Broken Hill lead, silver and zinc mines.

CRA Limited – Corporate Culture & Structure

Background

CRA began as the Zinc Corporation and was first registered in September of 1905 in Melbourne. It was operating in Broken Hill, the company's birthplace and training ground for many CRA personnel. In fact, many CRA workers were second and third generation Broken Hill miners and considered themselves to be part of a 'mining tradition' based on hard work, ingenuity, fair play and aspiring for a better life (Davis interview 10 September 2001; Gauci interview 3 September 2001). George Gauci considered that the mining industry

... is really a fantastic industry and it gives you great opportunity to get around the world, to see people, meet different sorts of people, different cultures. It's really really something – really eye-opening (Gauci interview 3 September 2001).

Gauci also considered that Broken Hill was a place where CRA employees gained their fundamental start in the mining industry:

See you've got to understand, Broken Hill, at that stage was the training area for the whole of CRA, which is now Rio Tinto [Australia]. Everyone who wanted to get into CRA went to Broken Hill and learnt their mining there, learnt their metallurgy there, learnt their electrical and mechanical engineering there, and practised accountancy there. John Ralph is a Broken Hill boy, who started as an accountant student so that was their training ground, and they came out of Broken Hill down to Melbourne Office. When a new project started off they went out to Hamersley, or they went to Weipa, or they went to Bougainville, all from Broken Hill – Broken Hill was the training area... A lot of the original [metallurgical] test work for all those projects was done at Broken Hill... it's breaking down now of course, because Broken Hill is becoming less important and Rio Tinto's becoming a bank rather than a mining company (Gauci interview 3 September 2001).

Leon Davis believed that his sense of social justice and commitment to corporate entities being able to influence social change stemmed from his own personal experience as a beneficiary of CRA's social programmes. It was this, along with his other experiences in the mining industry, including cross-cultural experiences on overseas mine sites and residential communities, which eventually lead him to make the CRA policy shift from litigation to negotiation on matters of native title and mining agreements:

I was a recipient of a social conscience of CRA – I got a scholarship to study Metallurgy at the South Australian School for Mines. My father was a fitter and turner, three in my family - there was no chance I was ever going to get a tertiary education being brought up in Port Pirie, until CRA came along and said "Here's a scholarship" ...And so yes, when you're a recipient, it sort of sticks in your mind a bit and so I've always been that way inclined (Davis interview 10 September 2001).

In 1949 there was a merger in England between the Zinc Corporation and the Imperial Smelting Corporation that resulted in the creation of Consolidated Zinc Corporation (CZC) and an Australian subsidiary called Consolidated Zinc Proprietary Limited (CZP). In July 1962, following the merger of the Australian interests of CZC and Rio Tinto, Rio Tinto Zinc (RTZ) was formed from which the Australian subsidiary, Conzinc Riotinto of Australia Ltd (CRA) was formed. CRA was often described as a daughter company that had outgrown its parent. Thus, by the time CRA entered the Kimberley, it had already undergone a number of transformations in corporate structure that saw its transition from an essentially localised Australian company to a multinational one.⁹⁷

Rio Tinto's historical roots were established in 1873 when an essentially British consortium - Matheson and Company - purchased the Rio Tinto Mines in Spain from the Spanish Government for an undervalued price (Harvey, 1981:15-17; West 1972:18). In its various transformations and subsidiaries since then, Rio Tinto has had a prominent and often chequered history in terms of its corporate activity, its influence and its dealings not only with indigenous people but also with national

⁹⁷ For more details concerning CRA and Rio Tinto as corporate entities see Blainey 1963, 1967; CRA 1980; Harvey 1981; Howitt 1985.

governments (see Harvey 1981; Howitt 1985; Howitt and Douglas 1983; Moody 1988:159-186; 1991; Roberts 1975, 1978:89-118, 124-128; Roberts et al 1975; Roberts and McLean 1975; West 1972). Much of this history was to colour the way that activists and supporters of indigenous land rights viewed the integrity of CRA and CRAE in the context of Australian indigenous affairs.

In 1977, one year after entering the Kimberley, CRA/CRAE there was agreement for RTZ to go below its 50% shareholding of its subsidiary CRA. This was to increase the Australian content of the corporation as was required by Australian law at that time. This was achieved despite some resistance within RTZ. According to Sir Roderick Carnegie, it was achieved at the cost of his leadership but not at the expense of the CRA tradition that had been established in its formative years:

The English owned 90 per cent of CRA when they formed the group by the mergers here in 1962. They sold down from 90% ownership at the start of the 1960s. They raised enough money and established Comalco which was 10 per cent public. This was followed by Hamersley, which was 10 per cent public. So Rio Tinto was a great in mobilizing money but the Australian management was clearly independent in operating matters.

However, the ownership control was clearly 'London.' Ultimately we'd reached the agreement with the Australian Government, painfully, where Rio Tinto [RTZ] agreed to go below 50 per cent progressively to increase the Australian ownership. This would get CRA out from being Rio subsidiary. Rio Tinto [RTZ] had lowered its stake by 1986 to 51%. Then they said "Well we'll go below 50% if Carnegie goes", so that was part of the deal. Which they did. They went down to 49%. However, they still had the ability to influence the Board at the end of the day.

What is relevant to you was that the philosophy under which the questions you ask was all – wasn't part of something which was imposed, it was something which had evolved over 50 years in Australia. The CRA was that you could be a responsible mining company and delegate authority to the people who had to do the work. Fundamentally we tried to get the decisions made as close to the ore body as possible (Carnegie interview 18 October 2002).

RTZ and CRA finally completed their merger as a dual listed entity in 1997 with the formation of Rio Tinto Plc (London) and Rio Tinto Ltd (Australia).⁹⁸ As noted above, in November 2000 Capricorn Diamonds

⁹⁸ According to Sir Roderick Carnegie (interview 18 October 2002) and Paul Wand once CRA and Rio Tinto

acquired all of the capital in Ashton and then Rio Tinto acquired Capricorn and therefore Rio Tinto was in a position to influence the policy development of Argyle. By April 2002 Rio Tinto had acquired beneficial ownership of 100% of Argyle and therefore Argyle became both financially dependent on Rio Tinto for further mine development as well as obliged to meet Rio Tinto's broad policy guidelines and objectives. By this time Argyle's own policies and procedures, in relation to engagement with local Aboriginal people, are seen as having exceeded those of Rio Tinto. More will be said of this in Chapter 8.

CRA's Philosophy and The Corporate View

I now return to the underlying policies and procedures of CRA in the late 1970s and early 1980s as these conceptual and philosophical underpinnings were those that influenced the establishment and development of the Good Neighbour approach and the Argyle mine.

In an effort to better understand what happened at Argyle it seemed important to gain some understanding of the CRA corporate view of its own social responsibilities and practices in relation to Aborigines and land rights. Despite my access to CRA, Argyle and Rio Tinto archives I was unable to find a formal, written 'Aboriginal affairs' policy for CRA that had been created before the Davis speech in 1995. There were scattered statements outlining a CRA policy and approach to Aborigines in the context of mining. These appeared in a number of newspaper articles, in some correspondence, and in some media reports of CRA company statements at shareholder meetings. However, these materials did not indicate a consistent or considered response from CRA to the 'problems' that Aborigines were appearing to cause to CRA and the mining industry generally. As Sir Roderick Carnegie was the CEO of CRA for the years 1972-1987, the period during which the Argyle mine was developed and the Good Neighbour Agreement made, it seemed relevant to seek his

underwent the complete merger the essential nature and traditions of CRA were lost to the new corporate structure and the pervasive sense of history and connection to Broken Hill were also lost. However, a significant and continuing element of both CRA's and Rio Tinto's 'philosophical' approaches is that there is a high degree of local autonomy for each business unit with conformity to overriding general principles a high

opinion as to CRA's policy and practices in terms of Aboriginal affairs. During his interview Carnegie made the following statements as to what he considered CRA's generic philosophy and 'policy' of engaging with the community where a mine is to be developed:

If we're going to operate in this area alongside the people who live here, we've got to do it in a way that makes them recognise we are 'a good citizen.' That's generic. So if the local people are grey - we have to deal with grey people (Carnegie interview 18 October 2002).

Hard arrangements have to be hammered out for a local area by local people. We said, "Under those circumstances the General Managers at these sites are responsible for a piece of geography" and, "You've got to hammer it out" (Carnegie interview 18 October 2002).

Maurie Mawby's philosophy was "We should make certain that there was local equity in the local mines so the local people felt part of it." I continued to implement this philosophy. That led to equity in Bougainville. Unfortunately it wasn't given to people on the island of Bougainville, it was given to the Government in PNG. There's a whole tradition of various ways of being seen to be a good citizen in those kind of ways. Now the world is a bit different and I don't know what the right way of trying that, what the 'philosophy' would be today (Carnegie interview 18 October 2002).

"Aborigines" or "Aboriginal affairs" were nonetheless significant in the affairs of CRA. This was especially the case after the passage of the *Aboriginal Land Rights (Northern Territory) Act (1976)*. As noted in Chapter 3, Aboriginal people and the politics around Aboriginal people and Aboriginal land rights were evident in a number of the archive files suggesting that Aborigines demanded time and energy of CRA employees and senior management. For example there was reference to Aboriginal people and CRA's approach to dealing with Aboriginal issues in the CRA 1979 Annual Report. It stated that:

Aboriginal landholders are consulted before exploration is commenced on the land and care is taken to safeguard sacred sites. The assistance of the relevant museum authorities is also sought in order to avoid the unwitting disturbance of sacred sites (CRA 1979:19).

There was no such communication with Aboriginal people prior to exploration commencing at Argyle in 1979 and sacred sites were disturbed.

I did find archival material that demonstrates that Tanganyika Holdings (just prior to forming the Kalumburu Joint Venture) had had significant engagement with the Western Australia State Government whilst negotiating access to explore on Aboriginal reserve land in the Kimberley from early in 1972 to 1978 (AIATSIS 1972-78 Ms2311). The company was required to embark on negotiations with the Oombulgurri community and relevant Western Australian Government Departments in order to gain access to the Forest River Aboriginal Reserve (FRAR) to commence exploration for diamonds. The material clearly shows that the Government required exploration and mining companies to consider what “tangible benefit” they could offer to Aborigines of the reserve areas (AIATSIS 1972-78 Ms2311:A3 144(1)(b)). Tanganyika of the Kalumburu Joint Venture was prepared to establish a joint venture with the Aboriginal Lands Trust to benefit the local Aborigines and the members of the Oombulgurri community (AIATSIS 1972-78 Ms2311:A3 144(1)(f) pg 3; see also Howitt 1981a: 73). They prepared a detailed draft agreement indicating their intent to assist the Aborigines at Oombulgurri and provide, among other things, financial benefits as well as employment and training (AIATSIS 1972-78 Ms2311:A3 144(1) (g)). In 1978 the Oombulgurri community gave preferential access to the Forest River Aboriginal Reserve to CRA because of their previous dealings with Tanganyika and the other Kalumburu Joint Venture partners (AIATSIS 1972-78 Ms2311:A3 144(1)(8); Howitt 1981a: 73). This document also records Aboriginal people’s desire to “be consulted and be able to negotiate the amount of any royalties or other monies that may be paid for minerals recovered on their land held” (AIATSIS 1972-78 Ms2311:A3 144(1)(8): 2).

How these experiences influenced events at Argyle is difficult to establish. However, the documents support the idea that resource development corporations were interested in direct commercial arrangements with Aboriginal people in the form of written agreements and that Aboriginal people also wanted to negotiate their relationships with resource developers. Aboriginal people with interests in Argyle had heard from

members of the Oombulgurri community about these events and the community's desire to be in control of mineral exploration on their land (Dixon 1990a: 75; see also Dixon 1990b: 158). This information, events at Noonkanbah, and the changing political context across the Kimberley, in Western Australia, and Australia more generally created a context where Aboriginal people across the Kimberley were becoming more politicised and determined to engage with Miners to assert their land-based interests. However, the State Government was adamant at this time that they were not going to privilege Aboriginal land-based interests outside of already existing Aboriginal Reserve areas. For example, at a meeting on the 3 July 1978 between the Aboriginal Land Trust members (including Jimmy Bieundurry, Vice Chair of the Kimberley Land Council), the Premier and other State Ministers, the Premier Sir Charles Court, made his position very clear in relation to negotiations between Aborigines and Miners on Aboriginal Reserve lands where there were special, pre-existing concessions to Aborigines. He stated that:

... we are not allowing individual companies to negotiate with individual communities because that creates chaos and disorder. So let's get back to basics. I have to lay down certain things that any elected government cannot depart from, i.e. ownership of minerals and petroleum and the final responsibility in the light of the responsibility of the government of the day to negotiate (AIATSIS 1972-78 Ms2311:A3 144(11):3).

According to Hughes, and also O'Leary, CRA had never before had to deal directly with overtly political Aboriginal interests and activism; instead the Company had had good working relations with the Aboriginal people at Noonkanbah, unlike AMAX, despite the Mining Warden's Court challenges to many of CRA's tenement applications (see Hawke and Gallagher 1989:20-23). For instance Hughes noted that Aboriginal people were absent in his previous exploration experiences in the Pilbara region in the 1960s (Hughes interview 20 July 2001). However, this assertion on the part of Hughes is somewhat misleading in that CRA, as Comalco, had had (highly contentious) 'dealings' with Aboriginal people in far North Queensland during the establishment of the Weipa bauxite mine in the late 1950s early 1960s (see Douglas et al 1976; Howitt 1981b; 1985:271-281, 1992b; Roberts 1975, 1978; Roberts and McLean 1975; Roberts et al 1975) although much of the disputation was articulated

between Aboriginal people, the Mission administration and the Queensland Government. It is worth noting however, that Comalco has recently negotiated a regional agreement with local Aboriginal people of the Cape York Peninsula, The Western Cape Communities Co-existence Agreement 2001⁹⁹ and at the agreement signing ceremony Keith Johnson (Managing Director, Comalco Mining & Refining) made a speech that included the following apology to the community members:

Comalco is sorry that our relationships have not always been as good as we would all have liked. When the Lease was granted to Comalco in 1958, the Native Title of the indigenous people of the Western Cape was unrecognised and unacknowledged. Comalco must, and does now, in this Agreement, face up to that unfinished business. Comalco is sorry that it has taken more than 40 years to get here. The closure of Mapoon by the Director of Native Affairs and the forced removal of people in 1963, although not at the instigation of Comalco, was a particularly sad chapter in the history of the Western Cape (Johnson 2001).

Times had changed since the 1960s in the Pilbara, and to meet the increasing demands made by Aboriginal people to have better dealings with mining companies in general CRA determined that there was a need to deal with Aboriginal people in a more formal manner. During an Annual General Meeting of shareholders in Melbourne on 6 May 1980 Sir Roderick Carnegie made the following remarks in a press release:

CRA fulfils its legal obligations and also strives hard to minimise any undesirable social and environmental impact of its exploration and mining operations on neighbours whose lifestyles are thereby affected. Our aim is to be a good corporate citizen and a good neighbour and employer in whatever country or localities we operate. We believe that our record has been generally good, but I acknowledge that like many other Australians there are aspects of Aboriginal cultures we do not fully understand. It was for that reason that late last year we appointed a full-time research officer on Aboriginal affairs (Carnegie 1980).

Mike Bell was the 'research officer' [Liaison Officer] and he worked under Don Fairweather, Principal Officer CRA Administration Services.¹⁰⁰ Both men were based in the Melbourne office and were seen to be at the interface of the corporation and the Aboriginal community at large. Bell was seconded from the CRA head office in to work with CRAE and the AJV

⁹⁹ For details refer to the following electronic source (<http://www.comalco.com/freedom.aspx?pid=294> [accessed 28 September 2006]).

¹⁰⁰ It seems that Bell was not pivotal to the making of the Good Neighbour Agreement but was embroiled in the complexities that surrounded the agreement including talking with Aboriginal people from the Warman

field operations in the Kimberley to assist in developing communication systems with local Aborigines communities including at the exploration fields of Noonkanbah, Argyle and Mitchell Plateau.

It was not until March 1995 that CRA acknowledged a specific policy that accounted for Aboriginal people as people entitled to more than mere Good Neighbourliness. In 1995 Leon Davis, CEO of CRA, made his headland speech to the Securities Institute during which he recognised Aboriginal people's native title and stated that CRA would be seeking active partnerships with Aboriginal people in the context of resource development (Davis 1995a). In April 1995 at CRA's Managing Directors Conference he further developed this general approach more precisely when he suggested the following principles:

- to move away from a litigious framework
- to open channels to those who are not favourably disposed to Rio Tinto
- to establish innovative ways of sharing with and/or compensating indigenous people (Davis 1995a)

The speech was later formulated into the Rio Tinto Aboriginal and Torres Strait Islander policy document by Paul Wand and published after the completion of the CRA/ RTZ merger in 1997 (Wand interview 8 August 2002).¹⁰¹ However, Argyle, as a separate business unit, had developed a Good Neighbour approach, and in 1980 made a Good Neighbour Agreement and almost a year later formulated a Good Neighbour Programme based on a Good Neighbour Policy. These events are discussed in more detail in Chapter 8).

Dillon, Christensen and Dixon have all suggested the development of this 'policy' and associated Good Neighbour Programme was a reaction on the part of CRA to criticism of the Good Neighbour Agreement. But the Argyle Good Neighbour Policy and Good Neighbour Programme were within the

Community (Howitt 1985 Appendix – Appendix 5 Sample Record of Interview)

¹⁰¹ This is a separate document from the generic Rio Tinto policy of community engagement "The Way We Work" (Rio Tinto 1997).

overall ideological frame work of CRA in that Argyle's good neighbourliness was directed to those Aboriginal people and communities living geographically close to the Argyle mine site, and also within CRA's commitment to locally based action which enabled those at the local level to implement the best practices for the best outcomes for the particular business unit. The interview data from both Hughes and O'Leary was invaluable in coming to understand what was happening on the ground, the way that these CRA/CRAE employees felt about the political context within which they found themselves operating, and for indicating why they, Hughes and O'Leary responded the way that they did to their local East Kimberley conditions.

My interest in interviewing Carnegie was to seek an explanation as to why it was that Hughes and O'Leary were the signatories to the Good Neighbour Agreement and not him as the Chief Executive Officer. I also wanted to know why it was that CRA was active in opposing Aboriginal land rights during the 1980's. The senior mining executives in Australia were well known for their anti-land rights position (Libby 1989; Roberts 1978:163-165). I was also interested to find out what CRA's operating 'policy' was in relation to Aboriginal Affairs during the late 1970's and early 1980's. I had forwarded to Carnegie an outline of my interests and a copy of an invitation to participate in my PhD research project, which he signed. Before the taped interview began, Sir Roderick commented, that he thought that my construction of the issues and questions around relationships between Aborigines and Miners was "too complex." He suggested that the matter was much simpler and clear-cut. It was based on the Miners "being a good corporate citizen" and as such being "a good neighbour" to those people, those undifferentiated citizens, living in communities in close physical proximity to an operating mine site. This was the localised aspect of resource development that generally contributed to the good of the nation by undertaking development projects that generate local and regional wealth and employment.

During the interview he explained to me how these underlying

philosophies had become core values of CRA and how they were implemented as close to the source of the ore body as was possible. He described his role in formalising these philosophies into practices. When I asked how the decision to make the Good Neighbour Agreement was made, he spoke in terms of the overall philosophy of CRA at that time. The answer, he said:

... lay at the heart of the organisational philosophy of CRA...built from a combination of WS Robinson's domain in the thirties, leading through Maurie Mawby in the 1960s and through me in the 1970s and 80s [the role of these two men is outlined below].¹⁰² Fundamentally what we tried to do was to get the decisions made as close to the ore body as possible (Carnegie interview 18 October 2002) (see also Blainey 1967, 1963; Mawby 1954; Ralph 1991).

Furthermore he noted that:

Central to this was having as few levels of supervisory management between the man who was the General Manager on the site and the Chief Executive of the group. And this meant that we would tend to have a General Manager (GM) at the site, he would be working for a Managing Director (MD) of his business unit,..who would be working under the direction of a Group Executive who was one of the team that worked for me (Carnegie interview 18 October 2002).

In the Argyle context those people were Mick O'Leary as the Managing Director, George Gauci as the General Manager Mining and Tom Barlow, who was the Group Executive Diamonds at the time. However, the first point of actual contact with Aboriginal people prior to the establishment of a mine was, as always, the field geologist.¹⁰³ The field geologist did not usually have the authority to make decisions and binding agreements with local people. Hughes was an exception in the Argyle case.¹⁰⁴

Carnegie explained the process of policy formation and application:

the purpose of the Chief Executive role and that of the Group Executives was to develop the long-term policy and framework. The policy was then translated into what was relevant to that business unit by the Managing

¹⁰² Details of the history of CRA and Robinson's involvement with the company can be found in Blainey (1967).

¹⁰³ Davis noted that it was the field geologists that were constantly pushing the company to resolve their corporate relationships with Aboriginal people so that they could access country for exploration: "the geologists were saying 'Well, unless we come to terms with indigenous people in Australia, you are not going to be able to explore. So you can forget about that'" (interview 10 September 2001).

¹⁰⁴ In the CRA corporate structure Hughes was supposed to report to Warren Atkinson as Regional Exploration Manager. However, according to Hughes, Atkinson did not fully understand what it was that he was doing in relation to the local Aboriginal people, he was based in Perth, and "for whatever reason, he agreed to step back and let me report directly to Mick O'Leary" (Hughes interview 18 July 2001).

Director of the business unit talking to the Group Executives. The General Managers, in mine terminology level four of the organisation, were the people who ran the business in a day-to-day sense. Beneath them there were Unit Managers responsible for particular areas. Responsible to the Unit Managers were some Superintendents who directly led the Operators. This was all done in order to try and decentralise authority so that the responsibility for operational performance in each area was that of the General Manager (Carnegie interview 18 October 2002).

The philosophy was one:

within which we wanted to make certain that people were good citizens and that they got on well with the local community and contributed to that community. We tried to bring jobs into the local community and training to the people in the local community regardless of whether they were black or white or brindle. And, we wanted to mine the ore bodies as responsibly as possible, which meant operating at low cut-off grades.¹⁰⁵ We said, we've got to explore, we've got to develop, put money into research and development so that we can do things more efficiently which allows us to mine at a lower grade. We will adopt the assumption that we will mine as low a grade as anywhere in the world, so that is immediate 'world's best practice' (Carnegie interview 18 October 2002).¹⁰⁶

When I enquired as to the indigenous component of "the policy" Carnegie stated very clearly "the policy wasn't an Aboriginal policy ... the policy was to 'be a good citizen'" which had been part of a long "CRA tradition" (Carnegie interview 18 October 2002). Carnegie considered that the tradition was established at Broken Hill, the birth place of CRA, when "in 1935 W.S. Robinson insisted upon a forestation program (at Broken Hill), i.e. growing trees and making the city better" (Carnegie interview 18 October 2002; see also Blainey 1967:161-162).¹⁰⁷ And, according to Carnegie, this tradition continued with Sir Maurice (Maurie) Mawby who was once described as a "father-figure" and a "very Australian Australian" (West 1972:81). Carnegie said that Mawby "believed that we should be

¹⁰⁵ According to Carnegie what this means is that: "at the margin you either say a block is waste or it is going to be mined. If you decide that you are going to put it in and its just marginal ore body then you spend a lot of money to extract the valuable component out of what you've done therefore, it is always possible to improve the profitability in the short run of any mining company by lifting the cut-off grade" (Carnegie interview 18 October 2002).

¹⁰⁶ Another component of "the philosophy" was to reduce the number of unions in the workplace. In the case of the Argyle work site it was reduced to three although Carnegie considered that: "one union in a workplace is enough because then, the union understands that they're dependent on the success of the business in the same way that everybody else is successful in business ... you can then work intelligently with them" (Carnegie interview 18 October 2002).

¹⁰⁷ The landscape at Broken Hill was: "subject to bleak dust storms... shifting red sand dunes... which made life unpleasant when the wind blew" (Ralph 1991:9-10). The situation was very serious with dust from the piles of waste tailings blowing dust "into every crack, corner, dish and bed... Fierce dust storms blew across the city

good citizens.” He continued that this philosophy extended to “make certain that there was local equity in the local mines so the local people felt part of it. I supported this philosophy” (Carnegie interview 18 October 2002).

Further, Mawby is quoted as having said:

Mining, more than most professions, caters for the desire to create and develop and contribute to the growth and strength of the country (quoted in Ralph 1991:11).¹⁰⁸

Carnegie also noted that:

... one other important thing in terms of philosophy (is to be) bi-partisan. Never a commitment to one side or other of the political process (Carnegie interview 18 October 2002).

Another critical aspect of CRA’s corporate philosophy was the particular response to Aboriginal land and mineral rights.

In my time we always said the philosophy is that the government owns the resources, they must ensure the mines operate in favour of all the citizens. CRA only has a right to mine if we do it intelligently. Therefore there was a difficulty, in that we did not agree with the Aboriginal claim to have mineral rights since this was in conflict with the Government’s ownership (Carnegie interview 18 October 2002).

This was couched in the framework of the rule of law:

... there is a law. If we’re going to have a society – you can’t have different laws for different colours. Can’t have different laws for different people who happened to be here earlier or not as early (Carnegie interview 18 October 2002).

Furthermore,

... there are the mineral rights which are owned by the State Government on behalf of all citizens. There is the land area involved in the surface. To gain to the surface you have to deal with land owning farmers. We regarded the Aboriginal claims to land as a different kind of farming rights (Carnegie interview 18 October 2002).

Carnegie suggested that because of the diversity of Aboriginal groups throughout Australia “there isn’t an easy way to say from the political centre ‘This is what it shall be,’” and therefore there was a need to

and drifts of sand began to cover fences and roads” (Blainey 1967:162).

¹⁰⁸ See also Ralph (1991) for further details of the Mawby passion for research and development, exploration, nation building and his influence within the Australian mining industry.

“hammer it out for each local area with the local people” (Carnegie interview 18 October 2002).¹⁰⁹

It was from this basis that CRA responded to the Argyle situation. Hughes and O’Leary were the ‘locals,’ operating closest to the ore body. When they negotiated with the local Aborigines and created the Glen Hill or Good Neighbour Agreement they were given approval by CRA and the Board to do so. It was because of the philosophy to decentralise power and engage locally that Hughes and O’Leary signed the agreement for CRAE.

This approach was not uniformly approved. Following the making of the Good Neighbour Agreement O’Leary and Carnegie were both subject to immediate and direct criticism from the Premier, Sir Charles Court, as well as other Aboriginal people and a number of supporters of the Aboriginal cause.

As O’Leary recalled:

When the Premier, Charlie Court, phoned me, he told me that he was doing the courtesy by phoning me before he phoned my boss and what he was going to say to my boss was that my behaviour was completely unacceptable to the Government of Western Australia. It was not a very pleasant phone call. And Charlie did – he phoned Rod Carnegie and went through it with him. So we were criticised by the left and by the right: but there is no doubt in my mind that if we hadn’t done this deal both ourselves and the aborigines [sic] wouldn’t be as well off today as we are (O’Leary 1993: 18).

I asked Carnegie how he responded to this strong criticism from the Premier.

I said, “Go and talk to Mick” [O’Leary] (Carnegie interview 18 October 2002).

He also said that he was not the first CEO of CRA to be criticised for undertaking an innovative or different approach to particular community

¹⁰⁹ Carnegie provided the following analysis: “there is a very real problem that people don’t understand. Let’s assume that there are, in orders of magnitude, five hundred Aboriginal Tribes around Australia, each one had a particular area and a philosophy of ownership in that particular area, sometimes it is matrilingual (sic) and sometimes patrilingual (sic) and sometimes tribal and sometimes more individual, all sorts of things” (Carnegie interview 18th October 2002).

issues. For instance, he said:

WS Robinson¹¹⁰ was attacked in the thirties for being a dangerous socialist, Maurie Mawby was attacked in the 1960s, I was attacked in the 1970s and 80s (Carnegie interview 18 October 2002).

In relation to the Good Neighbour Agreement he noted that:

The reason why it was a big event was most companies didn't have a philosophy of decentralised power and didn't have a framework where they could articulate the philosophy and operate within it¹¹¹ (Carnegie interview 18 October 2002).

This, then, was the "philosophical" context within which the Argyle Diamond Mine was discovered and developed and the Good Neighbour Agreement made. The historical context was one of political and practical change in the area of indigenous affairs and a very intense period of resource exploration and pro-development politics in Western Australia. There was conflict between Aborigines and Miners at Noonkanbah and Argyle. The question thus arises as to how Hughes and O'Leary went about communicating with Aboriginal people and establishing a basis of engagement with them that enabled the making of the Good Neighbour Agreement. This question will be addressed below.

Early Engagements between CRAE and Aborigines at Argyle

When CRAE discovered diamonds adjacent to Noonkanbah at Ellendale in 1978 O'Leary was sent from his posting at Mary Kathleen Uranium mine to be Managing Director of Diamonds in Perth. Having determined that the Ellendale find was not prospective and that the finds in Smoke Creek on Lissadell Station were more promising, he and the rest of the Ashton Joint Venture team focussed their attention on determining the feasibility of establishing a mine at Argyle. Prior to that time and despite their experiences of Noonkanbah CRA personnel did not make contact with the

¹¹⁰ WS Robinson was Managing Director of the Zinc Corporation at that time.

¹¹¹ Carnegie gave another example of this 'local' responsibility: "In the case of Bougainville we said; 'No statement should ever be issued, absolutely, by anybody about Bougainville except from Bougainville.' So if you're the Chairman you bloody well fly there. Better still you get the General Manager on site to make the statement" (Interview 18th October 2002).

local Aboriginal people or their local community organisations before or during their initial exploration activities in and around the Lissadell Station (Howitt 1981a: 75; Hughes interview 18 July 2001).

It is difficult to know exactly when discussions between CRA personnel in the field and the local Aboriginal people began. Hughes' interviews indicate that he had had some contact with some Aboriginal people in the area prior to the formal contact initiated after Aboriginal people discovered the Ashton Joint Venture's exploration activity in early November 1979 (Hughes interview 20 July 2001). From this point on there was both formal and informal contact between Warmun community, as a representative indigenous organisation, some individual local Aboriginal people, CRAE and some CRAE field operatives. However, communications were sporadic and inconsistent and there was a high degree of suspicion between some of the parties. In particular there were tensions between CRAE employees and the non-Aboriginal people who were employed by local Aboriginal community councils as well as other non-Aboriginal sympathisers. CRAE preferred to engage directly with the local Aboriginal people and because of events at Noonkanbah they were completely unwilling to deal with the Kimberley Land Council. CRAE was also extremely reluctant to be mediated by the Warmun Community Council in their dealings with Aboriginal people (Hughes interview 18 July 2001; O'Leary 1993:13-14).

For example Hughes had this to say about the mediating role of the anthropologists, Akerman and Randolph, in the heritage survey as well as the role of Dillon as the community advisor at Warmun:

I intended that it should be on their [Aboriginal people] own, without the assistance of any anthropologist because I don't need anyone to translate my dealing with Aboriginals or to get a message back to me.

Mike Dillon appeared quite forceful and wanted everything to be put through him and I had to explain to him that I am not going to ask him to translate my words to that man who is there. I can speak to him, thank you (Hughes interview 18 July 2001).

The heritage survey was conducted by helicopter from the exploration

camp at Kingston Rest 16 November (Christensen 1990b: 30; Hughes interview 18 July 2001). The survey team consisted of the two anthropologists, Akerman and Randolph, and some Aboriginal men but no Aboriginal women, although some women were listed as informants in the Western Australian Museum report (Western Australian Museum 1979), which had, presumably, been prepared by Akerman and Randolph.

It is clear that Hughes was very sceptical about 'Aboriginal sites' generally and the heritage survey process in particular, but he recognised that it was a procedural necessity:

We wanted to hurry it up so that we knew where we stood in relation to the Aboriginal community who had some say over the matter. These others – the Turkey Creek people you know and the others whom I'd not met, but they were fairly clearly very much on the fringe of the Toby Family if I can call those sort of people The Toby Family. ... I didn't particularly make note of who it was that went out looking at their sites, they didn't go to the mine area, to where the deposit was. I didn't tell them where it was, they guessed. They must have guessed where it was but I didn't tell them, I didn't have to but I asked them to find the places where the 'no go' areas were or let us know where the 'no go' areas were (Hughes interview 20 July 2001).

Within days a preliminary report was prepared for the Western Australian Museum with a copy being forwarded to the company (Western Australian Museum 1979). There was also an expectation that a more detailed survey would be conducted in the following dry season (Christensen 1990b: 30). The 1979 report identified the custodians of the sites in the area and listed fifty-eight sites of significance.¹¹² Three were in the immediate area of interest to the company. Of those sites, Kilykany (site No.25, Museum registered as K1098) (also known as Tayiwul or Daiwul) was the location of the company's target, AK1. This site, the Barramundi Dreaming referred to in the introduction of this thesis, was of significance to a large number of Aboriginal people with particular significance to Aboriginal women (see for example Palmer and Williams 1990:23-24; Ross and Bray 1989:63; Ryan 2001:135-143).

¹¹² The *Aboriginal Heritage Act (1972)*, Part I (4) defines a "traditional custodian" in the following terms: "“traditional custodian” in relation to any place or object means a person named by the Trustees in relation thereto under section 9.” In the general discourse of the time, an Aboriginal custodian(s) was considered to

Kilykany eventually became the location of the open pit mine AK1 and continues to be of significance to local Aboriginal people.

Hughes was sceptical about the importance of the sites although he did not seem to doubt that there were sites in the area:

Toby told me about the significance of that area generally and he said, "We will find another place for the women, one for my Mona" - that's Mona Ramsay, his lady at the time, "and Peggy Patrick." He couldn't tell Peggy Patrick what to do and he didn't want anyone in the family to do that (Hughes interview 18 July 2001).

Another time Hughes recalled that "Aunty Peg" [Peggy Patrick] had dismissed the importance of the site as a women's ceremonial place by implying that the women could find an alternative location to conduct their ceremonies (Hughes interview 18 July 2001). As noted in Chapter 4, Aboriginal decision-making processes are not located in a simple binary of 'yes' or 'no,' rather, agreeing or rejecting a proposition is embedded in economic, ritual and social relations that are bound by the reciprocal obligations of the wirnan. And, as such Aboriginal people can rarely say "no" to any requests even from their own kin. Within the East Kimberley cultural framing of coming to an agreed position, propositions are negotiated amongst kin in the same way that Toby and Patrick were attempting to negotiate with Hughes (and O'Leary) albeit for activities well outside their previous experience and at a scale that was beyond local practice.

These recollections indicate that Aboriginal men and women were speaking to Hughes about their country and their traditions but it does not confirm that Aboriginal men and women were not concerned about their sites. Indeed Hughes noted that later in the unfolding of events John Toby realised that he was in a very difficult position in relation to the women and their concerns (Hughes interview 18 July 2001; see also Dixon 1990a: 76).

It is impossible to know what John Toby or Peggy Patrick might have

be an Aboriginal person with the requisite knowledge and authority to speak for a specific place or object.

thought if they had known what the mine would look like; if they had been able to source expert assistance and advice; if they had known what physical impact mining would have on the site complexes in the area; and most importantly if it might have been possible to stop the development.

However despite these recollections from Hughes he clearly understood the political importance of these sites. He realised that the target area was compromised:

To me that was an enormous threat if they had decided to oppose us, and muster the kind of Noonkanbah opposition then we would have suffered – indirectly anyway, and quite severely, I'm sure. We'd still be in the courts now (Hughes interview 20 July 2001).

Another site, Devil Devil Spring (No.27, K1100), had been damaged by exploration activities and was later to be impacted upon by activities related to the mining operations. The company had initially dammed the spring as a water supply for their exploration field camp. According to Christensen (1990b: 30) the company was asked by the Western Australian Museum to leave the area and rehabilitate the site. However, the field team then put down a bore about twenty metres to the south of the site which was considered inside the site boundary by Aboriginal people but not, it seems, by the Western Australian Museum (see Christensen 1990b: 45, 48; Dillon 1990a:fn 42 on pg 54; Dixon and Dillon 1990a:175,181). The more recent impact of the operation of the Argyle mine on Devil Devil Spring and the management of that impact continues to be a point of tension between Aboriginal people and Argyle (see Argyle Participation Agreement 2004 Management Plan 8).

The damage to, and potential destruction of, these two sites generated the most concern among local Aboriginal people. CRA knew that these sites were important to Aboriginal people based on the anthropological reports that had been prepared and from discussions with Aboriginal people in the field (Hughes interview 18 October 2001; O'Leary 1993:12-

13).¹¹³

Thus, by late 1979 up until mid 1980, CRA and more specifically O'Leary were confronted with three non-technical problems in relation to securing the Argyle diamond resource (Hughes interview 18 July 2001). One problem was related to industrial relations and in particular to getting unions and workers to accept extremely tight security measures and reduced union presence on the mine site. It was decided that workers for the Argyle site were to be specifically trained with a multi-skilled focus (Gauci interview 3 September 2001).¹¹⁴ The second problem for them was how to deal with Aborigines or more particularly "those people who purport to 'look after' aborigines [sic]" (O'Leary 1993:12). The third issue was how to deal with an aggressive State Government. Up to this point in time CRA had good working relationships with the State Government as explorers in the Kimberley and they did not want to be subject to what they considered heavy-handed State intervention in their dealings with local indigenous people as was happening at Noonkanbah (O'Leary 1993:12; see also Hawke and Gallagher 1989).¹¹⁵ As O'Leary recalled in his 1993 interview:

There were a lot of coordinated activity against us and that activity was based on the fact that no mining could ever be done there and the picture that we faced was that because of aboriginal [sic] heritage reasons the deposit could not be mined. There was a lot of debate going on. Other anthropologists were brought in but none of them denied this fact that it was something of significance to the aborigines [sic]. There was the movement from the right to ride roughshod over the aborigines [sic] and the movement from the left, which was saying you could never mine there at all, and we were in middle. It was not a very good position (O'Leary 1993:13).

¹¹³ In the interview material of O'Leary and during my interview with Hughes there is evidence that both men held contradictory views about the level of 'importance' of the sites and that they believed that Aboriginal people were also inconsistent in their opposition to the mining of the Barramundi site.

¹¹⁴ I will not attempt to explore the industrial relations issues in this thesis.

¹¹⁵ For instance Ashton Joint Venture did not have to take out temporary leases to explore for diamonds in the Kimberley except in the Noonkanbah and Ellendale regions where there was intense exploration being undertaken by a number of different companies searching for a range of minerals and resources (Hughes interview 18 July 2001). The Department of Mines Western Australia noted that the Kalumburu/Ashton Joint Venture "had the diamond exploration scene in the Kimberley area virtually to itself" (1986:9). According to Hughes, they were granted permission to explore on open ground on the condition that they provided the State Department of Mines with their results on a regular basis. He described the relationship in the following terms: "we had what I think was a comfortable arrangement between ourselves, that is the Ashton Joint Venture and the State Government. We provided them with all our results" (Hughes interview 18 July 2001).

Hughes felt that O'Leary was able to handle the industrial and State issues but he would need assistance dealing with the Aboriginal issues. He felt that he, Hughes, was best placed to provide that 'on the ground' assistance and advice (Hughes interview 20 July 2001). Hughes also felt that he, more than any other CRAE person, was more aware of the potential for disruption to the project. He thought he knew what needed to be done to secure the resource and achieve an outcome that would benefit the company while meeting the needs of those Aborigines who had been identified as the right people for the Argyle area and the traditional custodians of the sites, including John Toby and his family (Hughes interview 20 July 2001).

Throughout the following months it seems that there was a general lack of adequate communication between the interested parties including the Western Australian Museum, the company, Warmun community and other local Aboriginal people. From all accounts there was a great deal of confusion and concern as to what the company intended to do, what some of the Aboriginal individuals were doing, how local Aboriginal sites were to be protected, and how the local Aboriginal people and the company were going to resolve their apparent conflict over access to, and protection of, Devil Devil Spring, Barramundi Gap and the diamonds (see Christensen 1990b, Dixon and Dillon 1990a: 173-176 for summary of events).

However, Aboriginal issues were not the only local problem that was facing the joint venture partners. They also had to deal with the added complication of trying to secure the tenements where they had taken positive samples (Gauci interview 3 September 2001; Hughes interview 20 July 2001; O'Leary 1993:20-21). Hughes recalled the difficult position that the company found themselves in at that time.

When we realised where the deposit was, we realised that it was on somebody else's tenement, not a lease but what was called a temporary reserve. That was held at the time by Uranerz – the West German Government uranium exploration arm. There was no legal reason for us not to go and have a look, but it was wasteful in that we couldn't claim anything we might find so we backed off and crossed our fingers hoping that they did not extend their temporary reserve for another year or

whatever it was (Hughes interview 20 July 2001).

Uranerz, a German Government exploration company who had been looking for uranium in the same area, did not renew their licence but the Joint Venture was to face other complications when, due to a technical issue, another company, Afrowest, claimed that it had already pegged the tenement (see O'Leary 1993:20). These events were all happening around the same time that Hughes was beginning to talk to some local Aboriginal people. However Hughes did not meet with either of the local Aboriginal community councils, Warmun and Woolah, and rarely engaged with the non-indigenous community workers.

In January of 1980 a press report indicated that Kilkany would be destroyed if the mining operation were to come on stream (Christensen 1990b: 30). According to some reports the company continued with their exploration programme and disregarded the concerns of Aboriginal people and their responsibilities under the *Aboriginal Heritage Act (1972)* (Christensen 1990b: 30-31). It would appear that CRA did continue work. In a contradictory statement to Howitt in September 1980, Bell stated that CRA took a "serious attitude to sacred sites" and yet, at the same time, he told Howitt how "the company had thought that a more appropriate boundary [for Barramundi Gap] ...would be a distance of 1km from the centre of the site" rather than the two kilometres suggested by John Toby (Bell in Howitt 1985 Appendix 5:11-12).

Hughes was also seriously disturbed by the January press release but for other reasons:

I was horrified to hear once on the radio that the Ashton Joint Venture had discovered a diamond occurrence of significance. But the board had released this information in much more detail than [sic] I would've agreed to having said it was in the headwaters of the Ord River. I was going to make a show of taking out some leases – I think I did – of some clay pans down near Broome but the cat was out of the bag: everybody that was slightly interested could find out what we were doing. It was a fairly open secret – you could hardly breathe without somebody seeing you or knowing, particularly the Department of Transport who monitored the movement of aircraft and choppers. ...Well, after this news release, ...I bought all these maps, there were so many - there were maps available in Kununurra land department. The map sheet "Bow" in particular. The 250-scale map sheet was almost useless but they had a few of them and

I bought them. They had some at the Lands Department Wyndham, Derby and Broome. I got the draftsman in the Perth office to go to the Lands Department and buy up all the "Bow" 100,000 map sheets, which would have been quite helpful to an invader. A hundred or two hundred or something but I bought them all. They're about five bucks or something. I cut the roads (bulldozed them). I wasn't supposed to do that but I did. What else did I do? Something equally naughty – anyway I had to have a few days grace so that we could get some mineral claims pegged in the hope that the claims would entitle us to kick anybody off. ... Oh yeah, I hired all the 4-wheel drives. There weren't very many... there were about four or five that were available and I got them all and put them out at my camp at Kingston's Rest. Everybody had a car including the cook (Hughes interview 18 July 2001). See also <http://members.iinet.net.au/~boxer/argyle.htm> [accessed 24 September 2005].

As the months went by tensions were increasing in the Kimberley generally. Noonkanbah was hot in the news. Local Aboriginal people connected to Argyle were finding that their concerns about protecting sites of significance and the presence of the company were not being adequately addressed. The proposed Western Australian Museum follow-up study for February of 1980 did not eventuate and was indefinitely delayed. There was no consistent response from the Museum regarding their approach, neither to the company nor to addressing Aboriginal concerns about damage to sites. Nor was there any consistent or formal communication between the majority of the local Aboriginal people in the exploration area. The newly formed, poorly resourced Kimberley Land Council was pre-occupied with events at Noonkanbah and unable to offer sustained and consistent support and advice.

In April and May of 1980 CRAE admitted to damaging sites of significance to Aborigines (Howitt 1981a: 80). Following this admission local Aboriginal people pursued a number of other strategies and avenues to try to establish their position and gain access to some kind of action from the State and the company. Their efforts included having the Kimberley Land Council anthropologist, Kim Akerman, prepare a second report about the location and extent of the sites of significance (Akerman 1980b). They sought assistance from the Australian Institute of Aboriginal Studies (now Australian Institute of Aboriginal and Torres Strait Islander Studies) to provide researchers to conduct a more detailed

ethnographic research project of Aboriginal people's land-based relationships to the exploration area (this happened in mid May, see Palmer and Williams 1980, 1990). They also gathered more public support for their cause and greater criticism of CRA's actions at Argyle and sought legal redress (see also Dixon and Dillon 1990a: 173-177 summary of events).

According to Hughes throughout this time a number of Aboriginal people had been visiting the exploration camp at Kingston Rest on an informal basis sometimes seeking mechanical assistance or food and water when their vehicles broke down and engaging in general conversation. These engagements occurred in the context of being neighbourly and as a common bush courtesy, a courtesy that would be offered to any traveller. It was in this setting that Hughes began to establish personal relationships with some of the local Aboriginal people.

I had met a number of Aboriginals [sic] at different places and got on all right with them because I'm easy enough to get on with, and, in particular, I had met the Aboriginal people who were the recognised "Custodians" of the Smoke Creek area. We'd been advised that [information about custodians] as a result of the site survey and [it was] confirmed by what Toby and his family had told me separately. So I was comfortable that I was talking to the right people... (Hughes interview 18 July 2001).

Hughes had relied on the 1979 Western Australian Museum report to confirm his information as to who the relevant Aboriginal people for the proposed mine area were. He did not seek to engage with other Aboriginal people or with the Warmun community council as an indigenous political entity on matters related to the development of the mine although CRA's research officer Mike Bell did. For instance Bell stated that he had prepared a report for the company that, "inter alia recommended that CRA talk with the community advisors and the Kimberley Land Council (KLC)" (Bell in Howitt 1985: Appendix 5:3) and that he had attempted to meet with members of the Kimberley Land Council and he records that he had conducted meetings with the Warmun community (Bell in Howitt 1985: Appendix 5:4-5).

The outcomes of these communications were inconsistent and it appears that Bell was unable to influence CRAE nor was he aware of what Hughes was doing in the field. Bell outlined two competing points of view within CRA. One view was that proposed by himself – that work should cease completely in the particularly sensitive areas until the applications under Section 18 (2) of the AHA were processed by the Western Australian Museum. The alternative view (which Bell indicated appeared to have triumphed) was to proceed with exploration and evaluation of the deposits “as close as possible to the sites as the letter of the law permits” (Bell in Howitt 1985: Appendix 5:4). Bell also indicated that the matter had been discussed at CRA Board level. The Board was apparently divided on the matter (Bell in Howitt 1985: Appendix 5: 4).

At the same time Hughes had established a relationship with John Toby and Peggy Patrick, whom he called “Aunty Peg” throughout the interviews, indicating, in local Gija terms, a relationship of restrained familiarity. The importance of kinship and prescribed ways of relating are discussed in more detail in the following chapter, Chapter 6. As well, he was in contact with John Toby’s sister, Evelyn Hall, in Kununurra. He believed that he had established a “genuine” relationship with John Toby and his family and did not feel that it was necessary to talk to others although he was aware that Bell was attempting to do so (Hughes interview 18 July 2001).

I thought that the Toby family were pretty honest with me. Toby had been around to my hut and my camp on a few occasions in the middle of the night ... I knew he was genuine (Hughes interview 18 July 2001).

Hughes believed that he could talk to Aborigines as well as anyone and that he understood what it was that John Toby’s family wanted to achieve. He believed that CRA could assist in establishing a viable community at Glen Hill (Hughes interview 18 July 2001).

Interestingly, Hughes did not meet with Bob Nyalcas, one of the more senior and influential Aboriginal Law men of the region and chairman of Warmun Community Council at the time until after the Good Neighbour Agreement was signed. Nor did he meet with the Warmun or Woolah

Community Councils even though Hughes understood that the Aboriginal people of Turkey Creek were unhappy about the move on the part of CRAE to make an agreement with John Toby and his immediate family. Hughes clearly resented the role of the Warmun community advisor at the time and the suggestion that he would need an intermediary to talk to Aboriginal people. Hughes and other CRA/CRAE senior corporate managers were very much opposed to "white stirrers." He made the following comment:

Well, they'd [other Aboriginal people] be dispossessed to some extent if we definitely - if we made an agreement with the Toby family and Dillon wanted to get himself involved ... and without much trouble he could have stirred up all sorts of irrelevancies to what was a fairly simple exercise anyway. A fairly simple agreement between the people whom I knew were the four principal Aboriginals. All the others were jealous and they did all right out of this and they're still doing all right out of the Good Neighbour Agreement or whatever we called that (Hughes interview 18 July 2001).

O'Leary also noted that:

The Turkey Creek people were being marshalled in some sort of frenzy by Tom Stephens who was the white adviser or bookkeeper at the time; and is now member of the West Australian Parliament. He was quite open in his opposition to us (O'Leary 1993:13-14).

The relationships between Hughes, the Toby family, members of the Warmun community and the Warmun Community Council were to become more complicated over the ensuing weeks.

On the 27 May 1980, John Toby, with the backing of the Warmun Community Council, lodged a formal complaint against CRA at the Kununurra Court House and a subpoena was delivered to CRAE. The action asserted that CRA had damaged a site of significance without the permission of the Western Australian Museum, thus contravening Section 17 of the *Aboriginal Heritage Act* (1972) (Christensen 1990b: 31; Dillon 1990a: 44-45). The hearing was set down for one month later on 26 June at the Kununurra Court House. Once the subpoena was served on CRAE Hughes informed John Toby that he was unable to continue discussions with him and members of his family because of the legal action.

This action on the part of Toby, which was supported by other Aboriginal

people, stimulated increased action on the part of the Western Australian Museum, the company and other Aboriginal people. The Museum visited the sites of concern in June. The Palmer and Williams (1980) report was completed on 6 June. Members of the Aboriginal Cultural Materials Committee of the Western Australia Museum read the report six days later. They proposed that Barramundi Gap be granted protected status (Dixon and Dillon 1990a: 175). The Palmer and Williams report was more comprehensive than the Western Australian Museum report of 1979 and clearly indicated that there were more Aboriginal people with connections to the Argyle area than had been previously identified (Palmer and Williams 1980:26-27). Hughes said that he had not been given a copy of the Palmer and Williams' report until after the signing of the Good Neighbour Agreement in July 1980 (see F2B Community Relations – Policy 1995-1996: AJV Briefing Paper 1996:7) and that CRA/CRAE had relied on the Western Australian Report (1979) that “delineated the Core Group of Aboriginal Custodians responsible for the sites” (F2B Community Relations – Policy 1995-1996: AJV Briefing Paper 1996:5) to confirm the assertions of John Toby and his family that they could make an agreement.¹¹⁶

Toby later withdrew the action based on legal advice that he had received that indicated that the action would not be successful (Dixon 1990a: 72; Seaman 1980) and he relied on the Western Australian Museum meeting their administrative responsibilities (see Dillon 1990a: 40-54). Toby and the Warmun community contacted the WA Museum on 6 July to notify them of their withdrawal of the complaint in favour of the Museum taking legal action (Christensen 1990b: 31-32; Dillon 1990a: 45). A few days

¹¹⁶ At the time of the signing of the Good Neighbour Agreement the company based its understanding as to who the appropriate Aboriginal people were to take on the responsibility for an agreement, and on behalf of others, on the 1979 preliminary report (Western Australian Museum 1979). The reliance on such a definition was criticised at the time. In the contemporary context the definition as to which Aboriginal people would be the appropriate people with whom to negotiate is couched in terms of the Native Title Act and the anthropological concepts of ‘traditional owner,’ or ‘native title holder.’ All such terms remain problematic as there is no consensus among anthropologists, lawyers or indeed Aboriginal people themselves as to which Aborigines (within their communities) meet these imposed criteria and at what scale of indigenous society these notional representations of the ‘right Aboriginal people’ are relevant to indigenous people themselves. These issues are beyond the scope of this thesis but remain critical in the overall development of appropriate negotiation strategies and processes. For more discussion on these issues see Agius 200a; Rumsey 1989, 1993, 1996; Sullivan 1999a; Sutton 1995a, 1995b, 1998, 2001a, 2001b.

later, at a large meeting at Warmun on 10 July 1980, Aboriginal people again called upon the Museum to use its powers to prosecute the offenders (see for a summary of events Dixon and Dillon 1990a: 175-176). These actions were all directed to preventing further destruction of Aboriginal sites of significance and the development of the diamond mine as well as attempting to secure a reasonable negotiated outcome between the parties if the former objectives were not achievable. However, the Museum delayed a decision regarding this request and in the end they failed to prosecute the company. Apart from the fact that there had been significant changes to the Aboriginal Heritage Act (see Dillon 1984; 1990a), it would seem that the signing of the Good Neighbour Agreement by Toby and others, a few weeks after the withdrawal of the legal action, was a significant factor in this decision (Dillon 1984:70-71; Ian Crawford pers comm 2002). Ultimately CRAE was granted permission to utilise (destroy) three recorded sites – Site 25, Kilykany, the Barramundi site (the only one utilised), Site 55, Canteen Hole (to the east and not used) and Site 10, Barramundi Hole (submerged in Lake Argyle and not used) - within their area of operations under Section 18(2) of the Aboriginal Heritage Act (1972) in September 1980 (Christensen 1990b: 34).

Throughout these months, before the Good Neighbour Agreement was signed, some of the local Aboriginal people, John Toby in particular, were becoming increasingly frustrated with what they considered to be a lack of action or support for their attempts to stop the development of the proposed diamond mine (Christensen 1990b: 32; Dixon 1990a: 72-75; Shaw and Toby 1990:64; Warmun Archive C.R.A. – Argyle Prospect (copy) – Correspondence – File Notes – File A: File Note 3/7/80). There was continuing and increasing evidence to show that the State was not interested in supporting Aboriginal interests against mining developments (Dillon 1984; Dixon 1990b). By this time events at Noonkanbah had escalated to the point where they were attracting daily national press coverage. Things were not looking very encouraging for CRAE or Aboriginal people with interests in the exploration area at Argyle. To

complicate matters even further, internal divisions were emerging within the larger group of Aboriginal people connected to the exploration area. Toby and his family were disappointed because the Warmun community were unable to provide funds to help establish the Glen Hill community (Dixon 1990a: 74). He was disillusioned with supporter groups, including the Kimberley Land Council, who never seemed to be able to deliver tangible assistance (Dixon 1990a: 75). Other members of his family were increasingly interested in establishing an independent economic base at Glen Hill Station away from the pressures of life in Warmun community and the township of Kununurra. They were beginning to see the future diamond mine as an opportunity to secure those funds and provide them with a degree of economic independence (Gauci interview 3 September 2001; Howitt 1981a: 81; O'Leary 1993:14). For instance, Dillon, as the Warmun Community Advisor, recorded that John Toby had been talking directly to O'Leary, Hughes and Atkinson before the Good Neighbour Agreement was signed and that he wanted to fly to Perth to talk directly with Sir Charles Court to discuss compensation for the development of the Argyle mine (Warmun Archive C.R.A. – Argyle Prospect (copy) – Correspondence – File Notes – File A: File Note 3/7/80).

Also, CRAE, unlike local Aboriginal community councils and government service agencies, was able to demonstrate an ability to make unilateral decisions and to act more immediately in meeting some of the demands of the Toby family (Dillon 1990b: 134-135). They were prepared to talk to the family about how they could contribute to their community development aspirations and offer tangible material benefits in exchange for the removal of their opposition to the proposed mine. The CRA philosophical approach and practice of local action and a high degree of autonomy provided a stark contrast to a situation in which Aboriginal communities were constrained by government procedures and very limited budgets. Furthermore, government departments, such as the Western Australian Museum, demonstrated their lack of ability to act for Aboriginal interests in the face of the pro development State Government (Christensen 1990b; Dillon 1984, 1990b; Dixon 1990b). The events of

Noonkanbah were a compelling example. To Aboriginal people, Hughes' actions, at the local level, demonstrated that the company could, and did, act.

Throughout these difficult and confusing times, Hughes maintained his commitment to finding a way to ensure the development of the resources at Argyle. He was convinced that making a deal with Aboriginal people was critical to this process. He was determined that making a deal with those Aborigines who were identified in his view as the 'custodians' of the sites was the right thing to do and he was supported in this view by his colleagues O'Leary and Gauci (Hughes interviews 18 July and 20 September 2001; Gauci interview 3 September 2001).

Hughes wanted to achieve an:

... agreement with the Aborigines that they would not interfere with the activities of the mining at Argyle for the life of the activity and that's exactly what we did achieve. I was delighted, on Mick's behalf anyway. I look back many times and I don't think I could have done it any better if I'd been luckier, yeah (Hughes interview 18 July 2001).

Hughes, O'Leary and Gauci all considered that the members of the Glen Hill community were their near neighbours and as such they should assist them to meet their aspirations (Gauci 3 September 2001; Hughes interviews passim; O'Leary 1993:13). As Gauci stated:

Mining companies forever have been this way. They go and park on some guy's pastoral lease, they go and talk to the guy and along come neighbours, what we could do to help...and we wanted to treat the Aborigines exactly – in that way. And even more so a bit because they'd had strong links to the land. We recognised all that, wanted to come to an agreement with them on what we could do (Gauci 3 September 2001).

Although this view fitted within the CRA philosophy the issues were new, and CRA's responses formative. According to Carnegie the process of engagement at Argyle was:

... very, very, time consuming – very hard – very worrying, didn't know what was the right thing to do at that time ... (Carnegie interview 18 October 2002).

Hughes was not only acting to secure the local resource but he was mindful of the larger issues and felt that his actions were also directed to

avoiding the admonition of the other multinational companies who were also exploring in the region or being accused of improper behaviour (pers comm September 2001). John Toby had noted to Dillon that CRA were concerned that they might be accused of bribery (Warmun Archive C.R.A. – Argyle Prospect (copy) – Correspondence – File Notes – File A: File Note 3/7/80).

Once the legal action was withdrawn by John Toby Hughes recommenced his discussions with him and others. Gauci arrived in Kununurra in early 1980 with his team, Rod Bates as Administration Manager, Neil Butcher as Community Relationships Manager, and later Milton Newman as the first Community Relations Officer. This was the time when:

John Toby dropped his armour and came back to talk to us. He knew he wasn't going to win his case with the land, so his QC [Paul Seaman] advised him to come and talk to the Mining Companies, which he did (Gauci interview 3 September 2001).

Hughes recalled the event in more colourful detail. He also noted that it was at this time that he first became aware that Barramundi Gap was of particular relevance to Aboriginal women.

Toby had told me "We know you're coming, you bastards and if there's anyone going to get run over, it's me." So – he was pretty right actually...he didn't know where the deposit was and I didn't tell him and I wasn't going to either. We stayed away because Uranerz held the ground and we kept staying at Kingston's Rest until we got the title to continue exploring. He said, "If there's a place you have to get to you come and talk to me and you and I will go down and sit down with Charlie Court and reach an agreement and shake hands and I don't want any formal piece of paper. That'll be the agreement shaking hands with the Premier." So that was the approach that he made to me and of course he knew me and I'd known him for quite a while by then – 6 months or so and in this time our copy book hadn't been blotted, we'd done everything that could reasonably be expected. Given him a bit of repair work on his car and put gas in it and this sort of thing. So he wanted that kind of an agreement. I was talking to Mick O'Leary and told him that this is what had happened, I had not approached them but that Toby had come to me and said, "If there is a place that you have to get to, you come and talk to me." And he (Toby) said, rather surprisingly, "You'll be allowed to go there and do what has to be done and we will find another place for the women." And that was surprising, I thought, the women – the women have got something to do with this? And he said, "Yes, one of them is my Mona and I'll soon sort her out but another one is Aunty Peg and she's a different kettle of fish." So, it's a women's site but Toby was telling me that another site could be found, if necessary. They would find another one for them and the women can go away and find another tree to sit under. But that was an interesting comment coming from Toby - I didn't

realise that there was a women's site that we were talking about. I had heard, probably through Dillon, about the Barramundi and the Gap and his right to know and, you know, all that kind of stuff.

So, we agreed to go down to Perth and talk with the Premier about the problem – just tell him, if that's what we wanted to do, tell the Premier and that's virtually what we did ... we had arranged for four of them to come down to Perth (Hughes interview 18 July 2001).

Hughes contacted O'Leary and told him that the Aborigines wanted to have a meeting.

Although the negotiations were primarily channelled through Hughes to O'Leary, Gauci and his establishment team were also involved. Gauci noted:

... we wanted to get the mine going...and the more it was delayed the less chance the project had of getting going. We were held up for some eighteen months I think from exploration in the pipe during those negotiations, and we were endeavouring to talk with the Aborigines and we had some interference from around the place, everybody hops on the bandwagon and...so it was difficult to get anything done with those people round the place – kept running back and telling stories back to the press and whatever. But all we were interested to do was getting to talk to the Aborigines, getting a mine going and doing what we could to help the Aborigines. Mining companies forever have been this way. They go and park on some guy's pastoral lease, they go and talk to the guy and along come neighbours, what we could do to help ... and we wanted to treat the Aborigines exactly – in that way. And even more so a bit because they'd had, you know, strong links to the land. We recognised all that, wanted to come to an agreement with them on what we could do and we said that we could offer some – they wanted to re-establish a community at Glen Hill, they were living in a – under a couple of lean-tos, couple of half tanks and that was the type of thing, and that was their land and John Toby and his family wanted to establish there. So we said you know we'll help you get started and put some capital up to develop your community and put some ongoing finance into ensure the long-term growth, the long-term benefit of the community (Gauci interview 3 September 2001).

According to Hughes, O'Leary and Gauci, John Toby called for a meeting to be held at Glen Hill to discuss the issues with his immediate and extended family along with other senior Aboriginal men and women (Dixon 1990a: 75-76 and 81; Hughes interview 18 July 2001; O'Leary 1993:14; see also Howitt 1981a: 81, 83; Warmun Archive C.R.A. – Argyle Prospect (copy) – Correspondence – File Notes – File A: File Note 3/7/80).

O'Leary recalled these events when he was interviewed in 1993:

Frank had got to know the Aborigines in the area and this group who had been identified as the traditional owners indicated to Frank that they wanted to speak to someone in Argyle. Frank relayed that to me. So a meeting was arranged with the aborigines [sic] and the aborigines [sic] said they didn't want any of their white advisers at the meeting. So I went up from Perth to meet with them and met up with George Gauci and Frank Hughes and we went out to Glen Hill Station where the aborigines [sic] had selected that site for the meeting – and Mike Bell at that time had been transferred over to give us some help. Mike was virtually operating as a mother hen, but was not involved in the negotiations (O'Leary 1993:14).

The meeting was held at Glen Hill, 22 July 1980. According to Hughes, the meeting was organised by John Toby primarily to get consent from his extended family to make the agreement with Argyle. Hughes had been dealing with John Toby because he understood that he was "the central person" (Hughes interview 18 July 2001; see also Howitt 1981a: 83) although he was aware that others were involved. Hughes recalls that John Toby "did say on a number of occasions that 'I can't speak for everybody'" (Hughes interview 18 July 2001).

O'Leary continues:

When we arrived at Glen Hill there were about 40 adult aborigines [sic] there and we started discussing what their wishes were and what were ours. It became quite clear, in fact the aborigines [sic] express themselves quite clearly, that their traditional ways were meaning less and less to the younger people, and they would be far more interested in improving the infrastructure at their Glen Hill Pastoral Station, rather than their concern about the aboriginal [sic] sites. So here was a situation where the white people were virtually beating themselves into a frenzy about how sacred it was and the aborigines [sic] are saying, "Oh whilst it's there, there's no doubt about it, we'd much prefer to leave for the next-generation something here at Glen Hill." So from those discussions emerged what was later called the Glen Hill Agreement (O'Leary 1993:14).

We agreed with the aborigines [sic] that we would help them develop the Glen Hill Station by completing a list of works almost straightaway and then giving an ongoing amount of money for capital improvements each year, indexed, and I think that the first tranche of work was about half a million. At the time we did some estimates right there in the sand and thought it might have been about a quarter of a million but in reality it cost us about half a million in the initial works.... John Toby led the discussion on behalf of the aborigines [sic] and I did the talking for Argyle. So it came to this agreement and for that the aborigines [sic] said they were willing to state publicly and clearly they had no opposition to us mining at Kilcainin [sic], is what they called the site. I said, "Okay,

we're going to do all this work here for you", and they wanted houses built and a school built and water supply and electricity supply. I said, "Okay will do that and then each year will sit down and work out a programme with \$200,000 a year increasing each year to allow for cost increases – and each year we'll sit down and see what you want the money spent on, for as long as we remain mining here (O'Leary 1993:16).

These benefits were to be delivered as capital items and there was to be no cash payments to individuals or the community. This was not what some Aboriginal people had expected (see Dixon 1990a: 75-77). For example, Peggy Patrick and Tim Timms referred to an expectation that they were anticipating a cash sum of "\$5,000.00" from the agreement process (Dixon 1986b). The matter of cash payments was partially met some years later with the introduction of the 'Signatories Fund' (discussed in detail in Chapter 8).

Gauci explained what he considered to be Argyle's position:

We didn't want to give them cash, we were determined to give them capital money for the long-term benefit for the community...we wanted to sit down with the Aboriginals and talk about what they would like to help develop their communities for the long-term benefit of the communities and which didn't include operating costs. They could say they got that from elsewhere. We would talk – we were talking about the long-term development of their communities; housing, schooling and ... education of the kids (Gauci interview 3 September 2001).

Although Hughes had recalled that John Toby did not want a formal written agreement it seems that during the meeting at Glen Hill it was decided that a legal agreement was required. O'Leary recalled that:

The aborigines [sic] said they'd like this to be a fair dinkum legal contract and we agreed with them and said, "Yes, we firmly support you." They said, "Okay, what we want to do, we want to go into Kununurra and get the Aboriginal Legal Service to act for us." Our operation nearby had a helicopter so we sent for it and about three of the aborigines [sic] went into Kununurra in the helicopter; and we continued to sit in the creek bed with the remainder of them and have some quite friendly discussions. When those people returned from Kununurra, they were somewhat distressed and they said to us, "We can't go ahead, the Aboriginal Legal Service refuses to act for us." I said to them, "What reason did they give?" And they said, "The only reason they gave is if you want to go through with that deal, we're not going to help you."

What happened then is that it's pretty obvious that the Aboriginal Legal Service contacted Turkey Creek and the white adviser from Turkey Creek arrived at Glen Hill making some pretty wild assertions. But the aborigines [sic] virtually told him to go away. I said to the aborigines

[sic], "Well look, about the only other places where we could get legal assistance for you is Perth. Would you be willing to come to Perth?" And they said, "Yes." If I remember correctly it was before a long weekend because we contacted Ansett and all their flights were booked, so what we did was charter a light aircraft, and six aborigines [sic] including John Toby came down to Perth but later this story was told in terms of us abducting the aborigines [sic] (O'Leary interview 1993:15–16).

When the legal advisers working for the Aboriginal Legal Service (ALS) refused to act for the group, citing *inter alia* a lack of direct instruction from Aboriginal clients, inappropriate notice of meeting to all affected Aboriginal clients, and raising doubts about the desirability of such a rushed agreement, CRAE engaged alternative legal council (Christensen 1990b: 32; Chulung on Dixon 1986a). Initially they contacted Paul Seaman but he said that he was unable to act because; "he thought he had a clash of interest" (O'Leary 1993:16). Eventually Michael Hunt acted for Aboriginal people (O'Leary 1993:17, see also Dixon 1990a: 77).

Exactly what happened in Perth is hard to know. For example Peggy Patrick still asks "what really bin happen in Perth" (27 February 2002) and continues to believe that there were two agreements and that there were differences in the content of them including who was 'on the list' to benefit from the Good Neighbour Agreement (Dixon 1986b; Dixon 1990a: 75-79). According to Hughes and O'Leary both groups had the opportunity to state what their preferred terms were and finally an agreed outcome was negotiated (O'Leary 1993:17). While this processes was happening other Aboriginal people from Warmun community were attempting to locate those in Perth to try to convince them not to make an agreement in haste and without third party representation. Although at least one telegram was sent to those in Perth, according to John Toby he ignored it (Dixon 1990a: 81).

Signing the Good Neighbour Agreement

On the 26 July 1980, only four days after the meeting held at Glen Hill, the Good Neighbour Agreement was signed in Perth. This was a long way from the East Kimberley, the proposed mine site and the ore body. There

were four Aboriginal signatories to the agreement, John Toby, George Dixon, Evelyn Hall, and Peggy Patrick. Tim Timms signed as a witness to John Toby's signature.¹¹⁷ Mick O'Leary and Frank Hughes signed for CRAE. This agreement has been variously referred to as the "Glen Hill Agreement," the "Argyle Agreement," and the "Good Neighbour Agreement." The agreement was not made public although many of its details were revealed in a press release authorised by Rennie, CRA's Company Secretary at the time (Rennie 1980).¹¹⁸

These decisions on the part of CRA and the five Aboriginal signatories (including Timms) were not unanimously endorsed within the indigenous community, mining industry generally, or the State Government. There was a flurry of criticism in the media and the accepted public history of these events cast CRA in a bad light for apparently exploiting a disadvantaged group, for instance, by arranging legal representation at the last-minute, for conducting the negotiations in secret and with indecent haste without the presence of an independent third party or representative body such as Warmun Community Council or the Kimberley Land Council, and without reference to the wider Aboriginal group (Langton 1983; Christensen 1983; 1990b; Howitt 1981a:82). O'Leary said that, after they released a press statement that the agreement had been made "all hell broke loose" and that "[w]e were attacked with equal ferocity from the left and from the right" (1993:17).

The greater Aboriginal community, with the support of their workers, lobbyists and other pressure groups, continued to call for a more formal and fully negotiated agreement with Argyle in both the public arena and in direct correspondence (see for example Warmun Archive (1) AJV File G June 1 '82 to AUG 10 '82). A letter from Warmun Community Council was forwarded to Senator Susan Ryan outlining the need for a formally negotiated agreement (Argyle File J MAR 83 to MAY 83) and a telex was

¹¹⁷ According to Dillon and Dixon (1990a: 77,79) Timms had thought that he was a "signatory" to the agreement. Timms held this belief until he died in 2002.

¹¹⁸ There was always suspicion that the agreement contained much more than was referred to in the press release.

also sent to Mr M. J. Bryce as Minister for Economic Development and Technology 29 March 1983 seeking a formally negotiated agreement). These attempts to negotiate a more expanded, comprehensive and appropriate agreement were continually rejected by Argyle until 2001 when Argyle commenced formal negotiations for a new agreement with the so-called traditional owners of the mine lease area, the local Aboriginal communities and the Kimberley Land Council (discussed in more detail in Chapter 8).

The Good Neighbour Agreement was to be the agreement to secure the mine, establish cordial relationships with the Aboriginal neighbours to the mine site and to last for the life of the mine. However, this was not to be the case. Argyle had to extend its expression of being a Good Neighbour beyond the Good Neighbour Agreement to include two other Aboriginal communities, Warmun and Woolah. As I will elaborate in Chapter 8, these developments led to the Good Neighbour Programme. Like the Good Neighbour Agreement, the Good Neighbour Programme was directed at ensuring that Aborigines in the East Kimberley would not oppose the Argyle mine's continued development. However, relationships between the local Aboriginal people and the Argyle Miners were not constrained by these agreements and over the next twenty-five years engagements between the parties were to change in surprising and unpredicted ways. However, to appreciate the context within which all of these agreements were being made and relationships enacted it is necessary to have an understanding of the cultural context of the local Aboriginal people and in particular a detailed exploration of particular cultural practices that were to have the most impact on relations between the two groups. Therefore Chapter 6 provides an overview of local Aboriginal culture and Chapter 7 outlines in more detail the particular practices of wirnan, kurarra, manthe and various 'joonba' performances.