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Resource Companies and their Legacy

I acknowledge that I am speaking today on the traditional lands of the Kaurna people and I respect their spiritual relationship with their country. I thank Uncle Lewis O'Brien for his warm and instructive welcome to country yesterday.

As introduced, I am the Chair of Ninti One Limited, a company that manages, amongst other things, the Cooperative Research Centre for Remote Economic Participation (CRC-REP). My topic concerns the legacy of the resource industry and one of the important areas of research for the CRC is directed to the enduring community value of mining. I also acknowledge Flinders University as a member of Ninti One and an essential partner in the CRC.

To complete the introduction; I was born and raised in Wollongong when it could still be regarded as a country town. I qualified in metallurgy from the University of Wollongong and spent 42 years in full time employment in the resources industry. In 1994 I was the Managing Director of a CRA business in NSW. The company decided to leave this business and I then got lucky as I was offered a job to which I was particularly inclined. I was appointed to a new Head Office role of Vice President Aboriginal Relations to work towards an improved relationship with Australia's Aboriginal people. I will return to my personal experiences later in the talk.

Many Australians today still seem to harbour a mental image of the legacy of a big resource company as a large hole in the ground and a lunar landscape of tailings dumps and contaminated waterways. I have been around long enough to recall instances like the Wittenoom situation in Western Australia, Captains Flat and its lingering effects in Lake Burley Griffin and Rum Jungle in the Northern Territory.

I'm delighted to inform you that that image is as out-of-date as the picture of the typical Aussie as an ocker flinging his empty beer can and smouldering cigarette butt out of the ute window to desecrate the Australian landscape and deliberately swerving to run over native wildlife.

There may be the odd rogue – motorist or miner – still around who does the wrong thing by society and our beautiful, ancient landscape but, fortunately, they are in a fast-dwindling minority. And they have no support or approbation from their peers, society – or even from their children.

We have all grown a great deal in the last few decades, in terms of our respect for and understanding of our landscape and all it contains – including its human cultures. On the latter, compare the almost non-existent Aboriginal component of the Melbourne Olympics opening ceremony in 1956 to Sydney 2000 with a significant involvement of Aboriginal and Torres Strait Islander people from all parts of the country sharing their profound culture with the watching world.

Resource companies, too, have grown – often in surprising ways.

Most people still regard them as ‘miners’, but they are now so very much more.

Typically, a big resource company provides its local region with water, roads, railways, airfields and infrastructure, which it needs for its operations, but also shares with the local community.

It often provides educational, sporting and healthcare facilities, not only to keep its own employees trained, healthy and happy – but also to build relationships with the local community among whom it operates. This has long been the situation in the larger mining or extractive industry centres like Broken Hill, Port Pirie, Kalgoorlie and my home town, Wollongong. Now it is becoming increasingly common in the areas where neighbouring communities are much smaller and often with a predominantly Aboriginal population.

Indeed there is a profound and growing appreciation among the resource company leaders that good community relations are at the very heart of their permission to extract mineral resources. Nowadays the term ‘license to operate’ figures prominently in the pronouncements from the Minerals Council of Australia and its member companies.

In this talk I want to spend most of the time on the people side of the legacy without in any way understating the environmental issues.

It is fair to say that the greatly improved environmental performances of the industry have been driven, in the main, by significant regulation. I can also recall attending the 1962 conference that prefaced the proclamation of a *Clean Air Act* in New South Wales. I then worked at a copper smelter in Port Kembla that had been established in 1908 with a mayoral minute approval that (approximately) welcomed the enterprise with the notion that ‘the sulphur from the chimney stack would enrich the surrounding farming fields’.

Interestingly it was the now swallowed Western Mining Corporation that published a report in 1995 that admitted to some sins against the environment. That caused a scramble to be equally penitent!

On the human side there has been a big change in the relationships with the people that live in the communities that surround the mines, particularly in the more remote parts of the country. Without the active approval, support and participation of the local community, a large mining operation worth hundreds of millions of dollars can be halted in its tracks or entangled in endless litigation. The current struggle between the Yinjibandi people and the Fortescue Metals Group shows that some of these situations persist.

However I am pleased to say, it is an increasingly infrequent occurrence, thanks to the lessons which the resources sector has drawn from comparatively recent experiences.

The wealth that Australia presently enjoys from its resource developments is not only the product of spectacular advances in mineral science and technology and shrewd investment – but is also a product of a great enlightenment in how we humans deal with one another and how we have come to



appreciate each others' values, needs and wishes. The industry now invests in new competencies in the social sciences to match the previously dominant fields of geology, engineering, metallurgy and commerce.

In this enlightenment, I am proud to say, Australia is playing a world-leading role.

From a time, only thirty years or so ago, when many mining companies were prepared to dismiss the concerns of local communities, Aboriginal people, farmers and conservationists in their need to develop resources, we have now embarked in an era of much greater understanding, partnership and mutual respect. Admittedly it's not a bed of roses as the current debate over potential coal mining in the Liverpool Ranges of NSW and coal seam gas extraction almost everywhere give testimony.

Similarly the ongoing debate about fly-in, fly-out (FIFO) versus settled local populations has reached an interesting stage. I am familiar with the situation of the Argyle diamond mine which was the first big FIFO operation in Australia in the early 1980s. Now it is working to targets of 70% local and 40% Aboriginal employment. There are economic drivers in this situation but it is also strongly directed to a regional development agenda including, most importantly, the wellbeing of the Traditional Owners of the East Kimberley region. However, the current rate of mining development means that FIFO will continue to be part of the broader Australian scene for some time. As yesterday's discussion with Graeme Hugo mentioned, there will be increased emphasis on drive in-drive out as employment is encouraged from communities more proximate to particular operations.

So, it isn't universal, by any means, but thanks to Australia's leading resource companies – companies like Rio Tinto, Newmont and BHP Billiton – community relations are fast becoming the gold standard by which mining houses and resource developers worldwide are being judged, and either approved or found wanting. It is not only the large multi-nationals that are making a difference. In this state Oz Minerals at Prominent Hill is setting some high standards in community engagement.

Let me share briefly with you a little of the story of how this change of attitude came about, because it didn't come easy. But the lessons learned are profound, of value in many walks of life besides mining – not least, in government and business.

These lessons are guiding an industry which was once seen as mostly about minerals and money to some astonishing achievements in the preservation of human culture, the delivery of social services, the education and inspiration of young people, the protection of human rights and the building of local wealth, enterprises and livelihoods that will endure long after the mines close.

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Because of my detailed experiences over the past 17 years plus the significant focus of Ninti One Limited, I want to concentrate on one particular aspect of the change undergone in the mining sector; that is in its relationship with Aboriginal people. Not only because it has been central to my more recent activities but also because it has been the most remarkable and instructive in the national arena.



In the 1980s and early 1990s the landscapes of Australia seemed fated to be an endless battleground in the struggle between resources companies and Aboriginal people – a confrontation in which both the balance of public approval and the rate of litigation were starting to tilt against the miners. I am sure that many of you will recall the public debates and the slogans like ‘*Land Rights not Mining*’ on bumper bars and banners. Others of you will recall Noonkanbah!

Barely half a generation on, an entirely new spirit has emerged – one in which mining houses and Aboriginal communities have become social and economic partners at the time of the greatest surge in mineral demand the world has ever seen. This new paradigm has enhanced the prospects for preserving some of the Earth’s oldest living human heritage.

It didn’t come easy, and it didn’t come without rancour, challenge, criticism, determination, generosity and huge effort. But in the end it came: peaceably, in good heart and with great promise for the future.

The foundations of the bond that is now unifying miners and their Aboriginal partners were laid in June 1992, when the Australian High Court demolished two centuries of legal fiction which had defined Australia as *terra nullius* (no person’s land) prior to European invasion. In its *Mabo* ruling, the Court found the original inhabitants were entitled at law to lay claim to their traditional lands.

In 1994, after a prolonged and often bitter debate, the Keating government then passed into law the *Native Title Act* (NTA).

Some miners saw *Mabo* and the NTA as direct challenges to their right to mine: others, as a wake-up call to do things differently.

Because the company is widely recognised as the leader in this area and also because of my familiarity, I will use Rio Tinto, and its forerunner CRA Limited, as a case study example of the changes wrought.

When I was appointed to the role of Vice president Aboriginal Relations, CRA was embroiled in two tortuous legal cases, Wik on Cape York in the region of the Weipa bauxite mine and Waanyi in the southern Gulf of Carpentaria, the site of the Century Zinc deposit. A few years before Hamersley Iron’s Marandoo project had been put on ice for two years while lawyers tussled. In the end the Western Australian Government decided to excise the mining lease area from Aboriginal heritage laws, bequeathing a legacy of mistrust.

In the early 1990s the prospect of endless litigation loomed like a thunderhead over the issue of resource security; some miners talked in the media about quitting Australia altogether.

In 1994 CRA’s then Chief Executive, Leon Davis, who had worked all round the world and studied similar situations, considered it time for a fresh approach. Leon is a product of rural South Australia having been raised in Port Pirie and gaining his early management experience in the smelter there.

About the same time, research by CRA’s Vice President for External Affairs, George Littlewood revealed growing Australian public expectations. In return for permission to mine the nation’s resources, miners were not only expected to deliver economic benefit – but also to meet community expectations with regard to environmental, social and Aboriginal issues.

This called for a sea-change in the ethos of mining, in Australia and beyond, and under Davis’ leadership the company responded with intellect and vigour.



In a speech to the Australian Securities Institute in March 1995 that shocked many of his contemporaries, Davis publicly welcomed the Mabo decision, declared CRA was satisfied with the central tenets of the NTA and predicted that in the decade ahead the company would form new resource partnerships with native title holders. Reaction was instant and vehement: media headlines proclaimed *“Mining giant changes direction”*, *“CRA chief hails Mabo law as opportunity for partnership”* and *“CRA sheds its conservatism for new future”*.

There was also an expected backlash from other miners who wanted to fight Mabo, from conservative political forces and from parts of the rural sector. CRA was lampooned in the media as “sensitive new age miners” and digs about ‘rent seekers’ and ‘bleeding hearts’ slipped out at Minerals Council meetings that I attended. They were all very gentlemanly but quite pointed.

I was in the thick of it and can tell you we simply ignored the criticism. We were determined to be the developer of choice. We saw clear competitive advantage in having the most enlightened approach to this and other social and environmental issues.

A week after his speech Davis told the Group’s Managing Directors: *“It is my desire to move away from a litigious framework. I wish to open channels to those who are not favorably disposed to CRA. I want to establish innovative ways of sharing with and/or compensating Aboriginal people.”*

Importantly, he added: *“I believe that a negative attitude will produce negative results. I have an open mind on how we should approach the question.”*ⁱ

It was the shattering of a long-held industry paradigm and it led to a radically new company policy stating:

“CRA recognises that Aboriginal and Torres Strait Islander People:

- have been disadvantaged and dispossessed*
- have a special connection to land and waters*
- have native title rights recognised by law.”*

This was a big step for any mining house to take. The policy went on to affirm that the company respected Aboriginal cultural diversity, aspirations for self-sufficiency and interest in land management and pledged that *“In all exploration and development in Australia, CRA will always consider Aboriginal and Torres Strait Islander people issues.”* In fact, I drafted that Policy in consultation with a number of Aboriginal leaders from around the country.

We made a promise to engage with Aboriginal representative bodies *whenever they wanted to*. This was completely foreign to all previous practice in the industry – but if Aboriginal people wanted it, we would do it.

It was a game-changer. Today Rio Tinto has over 100 exploration agreements signed with Aboriginal and Torres Strait Islander community groups and land councils and 25 major mine and infrastructure agreements on land under claim or registered as native title. Litigation, which impeded almost every major minerals venture in the 1980s, has largely disappeared. Large scale regional deals have been concluded in Western Cape York, the East Kimberley region, very recently on the Gove Peninsula and even on the Queensland and Hunter Valley coal fields where I was once told by the accountable Managing Director that there were no Aboriginal people! (*“There’s none there, mate.”*) The regional approach is currently very active in the Pilbara where negotiations with nine Traditional Owner

groups are concluding. Five have been signed to date. At the Garma Festival in Arnhem Land last month the General Manager Communities for Rio Tinto Iron Ore, Ms Janina Gawler stated:

“Engaging with Aboriginal people in partnership means sharing prosperity and wealth, and that’s a significant change that’s occurred over the last few years of agreement making. Rio Tinto Iron Ore is talking about mining in the Pilbara for the next 50 years, and that means ensuring that we’re working together in a close partnership in acknowledgement of people’s culture and heritage and their strength as families. It’s about their future prosperity as well as the prosperity of the company. Our agreements are based on recognition, mutual respect, mutual benefits and mutual obligations.”

Today, eight per cent of the Rio Tinto Australian workforce is Aboriginal people – the highest non-government employer in the country – and the affirmative target in some Rio Tinto mines is as high as 50 per cent. Most of the workforce has undertaken cultural awareness training and this is increasingly a requirement for those wishing to contract to the company. In the Pilbara recently, 17 contracts worth over \$250 million have been signed with Pilbara Aboriginal businesses.

So effective has its Communities policy been, that Rio has taken it into its mining ventures all around the world, where it is setting the standard for other companies and even governments to follow. As examples: one key contributor to the company’s Aboriginal engagements in the Pilbara and eastern coalfields is now working in India and Janina Gawler mentioned earlier will soon assume the management of communities work in Guinea.

Australia, once viewed as rather recalcitrant, has emerged an international leader in building better relations with native peoples.

In the early days, government had sought to supervise and resolve at-times bitter wrangles between miner and Aboriginal, as in the case of Marandoo. Now mining and Aboriginal representatives have begun to reach agreements under their own steam, because they want to, with Government relegated to a loftier role of endorsing their agreements.

In part, the focus of these agreements is on how financial benefits are to be shared between Traditional Owners and the resource developer, what job opportunities and subcontract work will be created.

But they have come to mean very much more.

Many of these agreements also embrace literacy and early childhood programs for local communities, community health programs and the fostering of new Aboriginal enterprises. They include support for education of young Aboriginal students through the *Parents and Learning Program*, the *Polly Farmer Foundation* and work readiness programs to prepare young people for the highly technical and skilled employment open to them in the mines.

Yesterday John Borseria from the Society for Provision of Education in Rural Australia (SPERA) talked about some of the difficulties with remote education. The *Parents and Learning* and *Polly Farmer Foundation* programs have proved to be highly successful in Aboriginal education in rural and remote areas. In our previous life the CRC was critically involved in the introduction of the *Polly Farmer* program to Port Augusta.

Increasingly they are about the preservation and protection of Aboriginal cultural heritage and tradition – as well as the landscape from which it is derived.

Another significant development was the creation of the Rio Tinto Aboriginal Fund to support communities through investment in health, education, culture and sport, with communities themselves calling the shots about what they want and a Board of predominantly Aboriginal members approving the grants.

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Apart from Rio Tinto there has been significant positive change at many levels. I mentioned before about the barbs that were launched at the Minerals Council (MCA) Land Access Committee of which I was a member in the mid-1990s. The current MCA publication, *Enduring Value* covers many areas where environmental and people issues are treated in a markedly improved way. On Aboriginal engagement it states:

Much of this (land access) hinges on a range of intangible assets, including a good reputation for effectively engaging stakeholders, and for developing partnerships and agreements with Indigenous and affected communities that provide an opportunity for them to share in the benefits of resource development.

Since 2005 the annual MCA Conference has been followed by a MCA supported Australian Aboriginal Enterprises in Mining and Exploration Conference where Aboriginal contracting companies get to share experiences and gain exposure to the industry.

In May of this year the MCA signed a Memorandum of Understanding with the Australian Government to work towards '*closing the gap*' of Aboriginal disadvantage.

BHP Billiton has comprehensive activities in the Aboriginal field. Their Aboriginal contractor engagement practice is world class and they expend considerable energy and funds in mine related deals and community benefit programs. I mentioned the *Polly Farmer Foundation* earlier. BHPB is a significant supporter in this program and has recently tracked alumni from the centres that they support and published their findings.

Newmont Asia Pacific is another leader in this area. They joined with Rio Tinto in driving a lot of the changes within the MCA. They have strong social responsibility plans and all Australian operating sites have agreements with Traditional Owners and are parties to Regional Partnership Agreements. As at December 2010 they employed 247 Aboriginal Australians and they state that Newmont is committed to local communities and Aboriginal people's involvement in planning, operations and continuous improvement. In their previous life as Normandy Mining they were widely acknowledged as ground breakers under the leadership of Robert Champion de Crespigny.

Of course, the bottom line for resource companies is always about obtaining access to resource for a sufficient period to develop them – often 50 years or more. But that bottom line has now become the driver of so many other important human aims and aspirations that will endure long after the mine itself.

After the findings of the High Court in *Wik* the Howard government drafted changes to the *Native Title Act* according to the highly reported 'Ten Point Plan'. The result was the second edition of the Act that became law in 1998. The tenth point of the 'Plan' resulted in allowance of an Indigenous Land Use Agreement (ILUA) in certain circumstances. This provision has been particularly used by the resource industry to secure access through agreement with Traditional Owners.

This established the pattern for today's ILUAs which are registered with the National Native Title Tribunal after the mining company and Aboriginal groups have reached voluntary accord under common law. It is a classic example of democracy in action, with the people defining their wishes and negotiating for them and government acting in support of them.

Among the most significant developments to arise from the ILUAs are the sovereign wealth funds or trusts established by Aboriginal communities to transfer the financial benefits into the future.

Melbourne University's Professor Marcia Langton has long been active in Aboriginal affairs and she leads the work of the Agreement, Treaties and Negotiated Settlements Project. Commenting on the trusts she said:

"The funds are an essential part of engagement with Aboriginal people. They preserve an endowment for future generations, so that when a mine closes, the community still has businesses, jobs, education and skills, infrastructure, wealth and opportunities to participate in the wider economy. Running them introduces both governance and business management skills into the community."

So spectacular has been the recent growth in these funds in Australia that they have caught the eye of government, which has displayed an inclination both to tax and to intervene in their management – a posture with which Professor Langton disagrees, arguing the majority of trusts are well run, and the small ones cannot afford a high burden of bureaucracy.

She said *"If you go back to the 1970s, Aboriginal people were largely excluded from the economy, and we were on course for what appeared to be inevitable conflict with miners. That has all changed substantially now, thanks largely to the success of many of these land use agreements."*

Aboriginal people missed out on two mining booms, but they have participated in the third and it has led to a massive increase in their employment and in the formation of many new Aboriginal enterprises servicing the mining sector.

This has taken place largely out of sight of most Australians who live in cities," she said.

I hope you will agree that something very special is now happening in the resources sector which is replacing the former legacy of a 'big hole in the ground', with an entirely new vision of sustainable wealth, prosperity and livelihoods for the people who live there, far into the future. Every skill acquired, enterprise formed or investment laid down contributes to that future.

Finally I should like to draw attention to a completely unheralded role of mining companies – as protectors and curators of some of the world's most special cultural and spiritual heritage.

In Australia and around the world, miners are now working alongside Aboriginal people to document, understand and conserve what is known as 'intangible cultural heritage'.

More and more miners are realising that respect for a people's cultural heritage and traditions lies at the very heart of good community relations – and they are working increasingly hard to demonstrate that respect.

In some places this consists of the protection of sacred sites, the recording of landscape types, artefacts and structures – but it also involves recording the songs, stories, dances, traditions and religious beliefs of local people, and helping to preserve them in cultural heritage centres. Indeed, in

cases where it is permitted, this helps local people to develop cultural tourism and other enterprises around the sharing of traditional knowledge with outsiders.

There is no doubt that much traditional art, recorded of necessity so mining operations can avoid damaging it, would not otherwise be recorded or preserved for posterity. Only a mining operation could sustain the high costs of fieldwork by teams of archaeologists, anthropologists, botanists and ethnologists, and the permanent recording in books and computers, of what is found, under the supervision and control of the local people, who are also closely involved.

So, if mining is helping to build the future of human civilisations by accessing minerals, I hope you will appreciate how it is also helping to protect the past, the spiritual, the profounder elements of humanity which might otherwise be swept away in the stream of time and change.

Furthermore by investing in contemporary music, dance, art and storytelling it is helping to keep many young people in touch with their own cultures who might otherwise have been wooed away, and enhancing the pride which local communities feel in their culture as well as offering avenues to expose it to a wider audience or create new livelihoods around it.

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I have devoted a good deal of this talk in outlining the changing values and approach of the resources sector – at least of its more enlightened members – because I think the lessons have value for other areas.

What miners have learned about the need to deal openly, truthfully and fairly with local and Aboriginal people is a lesson that applies to all industries, businesses and governments.

In the deserts and remote regions in particular, people are often disadvantaged by their distance from the centres of political and economic power.

They often feel as if they are told what is best for them – and are not consulted about it.

Yet we know, from long experience, that the people who inhabit remote regions know best how to live within the resources and cycles of those regions – as distant bureaucrats and corporate managers usually do not.

Local knowledge and advice are fundamental to the survival, integrity and prosperity of the community.

That, indeed, is the basis of the great knowledge tradition of Australian Aboriginal people, expressed in the songlines and the Dreaming.

It is knowledge that all we Australians may need for our survival and prosperity in time to come, because it involves understanding this great continent and knowing how to live, well within its resources.

Resource companies are coming to recognise the true value of such knowledge and wisdom – and are starting to play their part in helping to preserve it.

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I have been asked to propose recommendations to be discussed at this conference.

My first suggestion is that the principles underlying Indigenous Land Use Agreements could be more widely adopted and applied in all forms of discourse over the use of land, water and other resources.

This will greatly reduce the tendency for conflict between competing uses and users. It will smooth the path to development that is both socially and environmentally acceptable as well as economically desirable.

One thinks of the Murray-Darling Basin, for example.

My second point is about the importance of the sovereign wealth funds, and how essential it is that we bank prosperity today for a future when a mine may have closed or an industry disappeared. These wealth funds, potentially, could be operated by any small or remote community – not just an Aboriginal one.

My third point is about preserving cultural heritage for the future.

In a sense, people *are* their cultural heritage.

Their community pride, their aspirations, their values, their sense of self-worth and their expert local knowledge are all embodied in this intangible but vital quality.

The principle about recording and conserving cultural heritage, creating new cultural heritage in the arts, crafts and traditions, forging new enterprises and livelihoods around it, as so many gifted Aboriginal dancers, painters and musicians are now doing, is a vital one for all remote communities.

It means that when we seek to renew or protect a community, we must give full consideration to the intangible, the creative and the spiritual – as well as to its roads, water supply, school, clinic and business enterprises.

For its culture is the soul of that community.

If we can in some way share the learnings of the enlightened part of the resource development sector in this regard across remote Australia we can, I feel sure, build remote communities for the future which are strong, resilient, proud, vibrant and productive and which offer a healthy and inspiring future to their children, no matter the changes that sweep over them.

And that is precisely what Ninti One and the CRC for Remote Economic Participation is all about.

Thank you.

ⁱ Wand PD, Australia and the Mabo Judgement, Aboriginal Land Rights Conference, London 1996.

