

Mining rites



Billion-dollar decision: Kimberley Land Council chairman Tom Birch and John Watson at the Broome meeting. Photo: *Joe Armao JAA*

- **Ruth Williams**
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MEN and women mingle in the palm-fringed courtyard of a beachside Broome hotel. They've come from all over the Kimberley, from towns like Kununurra and settlements such as One Arm Point. Shaded by frangipani trees and blossoming bougainvillea, they talk and smoke and prepare themselves for the afternoon ahead.

The people, mostly traditional owners of the Kimberley, are here for a meeting. Inside the hotel, in a cool, dark function room away from heat, a whiteboard faces clusters of tables and chairs. It is, on the surface, like any committee meeting. It doesn't look particularly important and it certainly doesn't look as though there are billions of dollars at stake.

In the courtyard, and at the meeting, one word keeps popping up - "gas". Gas, gas, gas. Do we want it? Where should it go? What could it mean? Who could it help? The word is shorthand for a potential liquefied natural gas processing hub somewhere on the pristine Kimberley coastline - an enormous undertaking worth billions of dollars - that would change the Kimberley and its residents forever.

Australia's mining industry has reshaped the landscape of disparate regions. Look at the Hunter Valley, Victoria's goldfields, central Queensland and Cape York. Mining's importance to the country was illustrated this week when Treasurer Wayne Swan

forecast a budget surplus of \$21.7 billion, fuelled by the mining boom and the ensuing boost to company taxes.

Now the momentum of development has swung the Kimberley's way, bringing with it many potential consequences. The Browse Basin off the Kimberley coast holds a huge amount of gas and, if it is to be extracted, it must be processed somewhere - on the coast, or even offshore. For the Aboriginal people of the Kimberley, the gas could mean jobs, training and a long-term source of money. It would also mean a change in the landscape, a sudden swelling of the population, and a rise in living costs.

The West Australian Government has pledged that development will not proceed without the full co-operation and "informed consent" of the traditional owners. The Kimberley people hold the fate of the multibillion-dollar development in their hands. They are in the middle of a consultation process, led by the Kimberley Land Council and its executive director, Wayne Bergmann.

"If we say yes, we are making our own decision for a change, and that is one of the most important things," says Irene Davey, a senior Bardi woman from One Arm Point.

These talks, involving all the region's Aboriginal coastal communities, come after a string of agreements in WA that, some hope, have raised the bar when it comes to land access deals.

From traditional owners, government and much of the mining industry itself, there's a growing call that the nation's most disadvantaged people ought to get a better deal from Australia's boom. There are many agreements between miners and native title groups that have proved advantageous to both sides, but most Aboriginal communities remain poverty-stricken, despite the recognition that they are, in some "traditional" way, the owners of the land.

"I think a lot of Aboriginal people recognise that this (boom) is a real chance," says federal Indigenous Affairs Minister Jenny Macklin. "This is a real opportunity for them to get out of poverty, to get off welfare, to have a better life."

As the people of the Kimberley reflect on their options, the Martu people of the mineral-rich East Pilbara are in negotiations with a company seeking access to their lands.

Their commercial adviser, Joe Procter, says the deal is likely to include substantial equity in the company and is "very close" to being signed.

Last month, the Martu signed a deal with listed potash explorer Reward Minerals granting them options that, fully exercised, would be worth about 10% of the company. To compare, a deal struck three years ago, then dubbed "historic", gave the Wongatha people of the WA goldfields up to 350,000 Crescent Gold shares - equivalent to less than 0.3% of the issued shares at the time.

In the wake of last month's potash deal, the chairman of the Western Desert Land Aboriginal Corporation, Teddy Biljabu, its chief executive, Clinton Wolf, and Martu

leader Brian Sampson called for an "underlying assumption of equity in any project on our land".

Brian Wyatt, the chairman of the Kalgoorlie-based Goldfields Land and Sea Council, talks of a "growing mood for change" in how mining companies and Aboriginal people interact. In March, Northern Territory leader Galarrwuy Yunupingu called for indigenous people to share more broadly in the "mineral wealth" of the land and to be "equal players" with mining companies.

Historically, when it comes to black and white relations, Australia's mining industry is where platitudes about reconciliation and forgiveness fade out and hard economic reality kicks in.

IT WAS less than 30 years ago that Kimberley protesters lay in the path of semi-trailers to try to stop a US company from drilling for oil at Noonkanbah cattle station, then held under leasehold by the Yungngora community.

The equipment was trucked into Noonkanbah under police escort. Fifty people were arrested during the protests, which failed to stop the drilling.

Noonkanbah attracted worldwide attention and created a deep rift between the federal and state Liberal governments of Malcolm Fraser and the late Sir Charles Court.

Sir Charles, pushing the US company to go ahead with the drilling, said most of the Noonkanbah people did not have "direct or spiritual links with the land", labelling their call for land rights "absurd".

Watching the events unfold in Canberra, then federal Aboriginal affairs minister Fred Chaney dispatched Jim Bowler from the Australian National University to the Kimberley to assess the situation. Professor Bowler's assessment, as quoted in the *National Times*, said the WA Government was trying to "break Aboriginal resistance now" to allow for "other mineral exploration on Aboriginal land".

Looking back, Professor Bowler, says the events "had a terrible effect on community attitudes relating to the mining and indigenous interface".

Last financial year, Australia's resource exports were worth \$91 billion, or two-thirds of the country's total commodity trade. And mining now accounts for a quarter of Australia's total capital investment.

It is an industry so rich and powerful, so productive and valuable, that it is widely tipped to shelter Australia from a global economic slowdown and the recession in the US.

The Kimberley gas development would be a giant of the sector, potentially producing \$20 billion in revenue a year for 50 years, perhaps a century.

Meanwhile, many reports have confirmed the terrible extent of social degradation in some remote Aboriginal communities. Whether it's life expectancy, income, employment or the level of education, the gap between indigenous and non-

indigenous Australia remains appallingly vast. This was made starker last year with the release of research by Ciaran O'Faircheallaigh from Griffith University. His study of 45 mining agreements over 10 years found half were either "basket cases that should never have been entered into", or deals that delivered few benefits to native title parties.

About 60% of Australia's busy mining operations neighbour Aboriginal communities. And now, the extent of disadvantage in those communities has never been more conspicuous, 15 years after their land rights were recognised by Mabo and the Native Title Act.

A FACTOR may be the confidential nature of many deals between mining companies and traditional owners. This has meant precedents are hard to establish - when one group strikes a good deal, no others can see it. Coupled with a shortfall in funding for native title representative bodies (NTRBs) - such as land councils - it means robust negotiation is a struggle for many groups.

Underfunding of land councils was highlighted in 2005 by Warren Snowdon, the Labor member for the NT seat of Lingiari. Snowdon, now a federal minister, said there had been "a severe underfunding of NTRBs", while the National Native Title Tribunal (NNTT) had been "more than adequately funded".

Even the Minerals Council has made repeated calls for the "chronically underresourced" bodies to be better funded, saying the lack of resources has delayed negotiations.

Macklin says Labor is looking at it. "We do need to make sure that the land councils are able to do their job," she says. But there was no increased funding for land councils in the latest budget, save a previously announced \$5.5 million for a Pilbara organisation to help with mining negotiations.

Even though commodity prices helped Swan deliver a record surplus, this newspaper noted a "lamentable" lack of "bold initiatives" on indigenous issues overall.

But the Government has moved to investigate the management of one council, the NT's Northern Land Council, citing its "financial management and governance".

It is not the first land council to run into problems, adding to a suspicion by some that mining money is sometimes mismanaged or misappropriated. Professor O'Faircheallaigh argues that this has been overstated. But there remains a problem of perception.

After a decade of land use agreements, and untold money paid in royalties, the media are still dominated by tales of indigenous disadvantage. As far as mainstream Australia can see, mining money seems to have achieved little for Aboriginal people - whether from mining-fuelled budget surpluses or from deals with mining companies.

Not surprisingly, Macklin supports agreements that spread mining benefits over the long term, such as equity in projects and companies, employment targets and properly managed community trusts. Trusts can provide seed funding for indigenous

contracting businesses that, in turn, can provide services back to the company. Macklin believes these agreements are becoming widespread.

An example is the 2006 agreement between Tanami Gold and the Tjurabalan people of the Kimberley, which included employment targets and a community trust. The Tjurabalan's communities include Balgo, once considered one of the most disadvantaged in the country.

Denis Waddell, Tanami's executive chairman, said the community's elders were determined to ensure the mining benefits were long-lasting. Lifting living standards will take "time and effort", Waddell says. "But the Tjurabalan have really gone about it in a very responsible way ... working with us on an agreement which benefits the Tjurabalan people as a whole, as opposed to just individual payments."

Former Consolidated Minerals chief Michael Kiernan, now chairman of gold explorer Monarch Resources and iron ore producer Territory Resources, says companies have an "obligation" to local communities.

About 30% of the operators at Territory's Francis Creek mine are indigenous, and the company's community program, fronted by footballer Chris Judd, includes funding for training and scholarships.

Kiernan says there has been a "change of heart" in the industry, especially in the past five years, when it comes to partnerships with traditional owners - perhaps a generational change as "old-school" operators have left the industry.

But he suspects with some of the smaller companies it is lip service, they just "play around the edges" with modest employment targets.

Waddell says his company had a "very positive" experience negotiating its agreement with the Tjurabalan. But he believes there is still "a long way to go, in a lot of areas", when it comes to mining-traditional owner relations. One problem is misunderstandings on both sides - the significance of Aboriginal culture on one side and the limit on what companies can pay on the other.

The mining sector's conversion to the cause of Aboriginal disadvantage may have been hastened by its own problems. Companies simply cannot dig fast enough to meet demand, and the shortage of workers is a severe capacity constraint.

According to the Minerals Council, the mining industry will need another 70,000 employees over the next 10 years - 42,000 in WA alone. It is logical to look for those workers in the underemployed communities nearby.

The 2006 census shows that, nationally, fewer than 2500 indigenous people were employed by the mining industry, out of a total workforce of 105,000. According to Wayne Bergmann, part of the problem is that many potential indigenous workers are not "job ready" - they have health or literacy problems. It is not simply a matter of putting them in a job, they need support and training, and that costs money.

"Housing is an issue," Bergmann says. "Employees aren't going to last long if they aren't getting a decent night sleep. It becomes very complex."

Complex, but not impossible. In 2005, Argyle Diamonds and the KLC struck what was, according to the Human Rights and Equal Opportunity Commission, "arguably the most comprehensive arrangements ever made between a resource company and traditional owners negotiated in Australia".

The agreement provided for two new trusts, and set benchmarks for Aboriginal employment at the mine. Indigenous people now make up 25% of the total workforce, or 192 people, 75 of whom are apprentices and trainees. But it is here that political clout becomes important. While the Argyle agreement may have appeared generous, the high profile of Bergmann and the KLC would not have hurt their negotiating position. Plus, protests from the site's traditional owners against an underground mine like Noonkanbah would have been terrible PR.

"The mining sector worked out some time ago that there's a sound business case for this," says Graeme Neate, president of the NNTT. "Clearly, if there's any sort of local resistance it makes it that little bit harder to get a project off the ground."

Bergmann says there is now an "overwhelming expectation" that a project has the "full participation" of traditional owners. "The big companies see this is the right way to do business, that the old days of just deciding and defending are gone," he says.

BUT what of those traditional owners outside the pristine Kimberley, where connection to the land is less obvious? With its red dust and craggy cliffs, its undeveloped wilderness and its traditional customs still alive, it is easy to acknowledge that the Kimberley is Aboriginal land.

But in the Pilbara, for example, multiple mines pock the landscape and ore trains mark its open spaces. On the Burrup Peninsula, it is not known how much ancient rock art has been destroyed and moved since the area was developed for mining in the 1960s. But things may be changing. Last year's United Nations declaration on the rights of indigenous people called for their "free, prior and informed consent" before any project affecting their lands is approved, especially those that develop, use or exploit "mineral, water or other resources".

The declaration has already shaped a new mining policy at the Goldfields Land and Sea Council, where Brian Wyatt is calling for a "paradigm shift" in Australia's relationship with Aboriginal people, "ensuring they get a fair share of the opportunities that the nation provides". And the Government's apology to the stolen generations has raised hopes of a shift in federal indigenous policy.

But Professor O'Faircheallaigh is cautious about whether the WA agreements are setting a strong precedent for the rest of the country. To win good agreements - to build on precedents set elsewhere - traditional owners need political clout and strong representative bodies. "Companies operating in NSW put things on the table that they wouldn't dream of putting on the table in the Kimberley or even the Pilbara," he says.

And yet he sees reason for optimism. "Ten years ago, people got absolutely nothing," he says. "People weren't even spoken to. It does make a big difference to traditional owners to be recognised."

Are things really changing between mining groups and traditional owners? Are Aboriginal people starting to share in the mining spoils? Or is the situation as cyclical and capricious as the boom from which all the riches flow?

Macklin believes a "significant change" is under way. "When I speak to senior management they recognise that they really do have a major obligation to their neighbours," she says. "They are conducting this mining in areas where there's such appalling poverty and disadvantage."

When news broke of the Kimberley coastal groups' right of veto on the gas development, WA Liberal MP Colin Barnett, a former WA resources minister, said it was a "dangerous precedent" and "a huge danger to future development". But Bergmann rebuts this stance. "There are cynics who say you shouldn't give Aboriginal people this sort of say over these developments that are in the national interest," he says. "That belittles Aboriginal people's understanding. We understand how significant this is."

BACK in Broome, as a light lunch is served in the courtyard, those at the Kimberley meeting debating the gas issue are well aware of what's at stake. Whatever decision these people make, their children and grandchildren will feel it - the good and the bad.

"What we'd like to see in the next 30 years, if this gas thing comes right, is Aboriginal people not living in the third world," says Edna O'Malley, a senior Miriuwung woman from Kununurra. "We're supposed to be the richest people. For the people that own the land, we are the poorest people around."

Memories are long here. One of the men at the meeting, John Watson, was among those who lay on the ground in front of trucks at Noonkanbah.

Professor Bowler says Noonkanbah "awoke a lot of Australians to what were then inevitable tensions between economic development and Aboriginal land occupation", he says. "These issues, whilst they have not gone away, are now being handled in a much more sympathetic and mutually supportive way."

Watson hopes his grandchildren never have to do what he did. He doesn't think they'll have to. "Those days are gone," he says.

But he can't help reflect on what else is gone. "I always think that all these places we have built, Perth, Canberra, these places have been built on sacred ground."

It is the great Australian paradox, that the recognised traditional owners of the land are the poorest people living on it. At the Broome meeting, Edna O'Malley pictures her people owning businesses and having a life expectancy beyond middle age. "We want an ordinary lifespan like everybody else," she says. "I'd like to see our people be on top for a change, instead of being the underdogs in our own land."