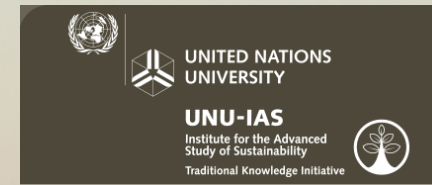




THE UNIVERSITY  
OF QUEENSLAND  
AUSTRALIA

SMI **CSRM**  
Centre for Social  
Responsibility in Mining



## KRED Enterprises: **building and sustaining independent Aboriginal economic development**



An Indigenous Enterprise Initiative Case Study  
**August 2015**  
[www.csrn.uq.edu.au](http://www.csrn.uq.edu.au)



“We need to walk in two worlds where traditional law and culture stays strong and where we can create our rightful place in the modern economy.”

**Anthony Watson, Founding Chairman, KRED Enterprises**



## OVERVIEW

The energy and resources sector has a strong presence in the more remote regions of Australia and is now the largest private sector employer of Indigenous people. While there have been notable gains over the last decade, there is still more that can be done to increase Indigenous economic participation in and beyond the resources sector.

There are success stories but these are relatively isolated and the pool of full-time employees is also relatively small.

The challenge is to build diversified and well managed businesses that also generate a social dividend back to communities and regions, and an expanded labour pool with initiatives that focus on enabling greater skill development and employability, rather than just getting a job.

## BACKGROUND

As part of Centre for Social Responsibility in Mining (CSRMI) Indigenous Enterprise Initiative, the Centre is currently conducting a series of activities funded through donations from University of Queensland (UQ) alumnus. One such activity is to produce a teaching case note for use within CSRMI's education and training portfolio. This project teaching case note concerns the success of KRED Enterprises (KRED) an Indigenous-led organisation based in the Kimberley region of Western Australia. As an enterprise, KRED is largely responsible for the income generation of their members. KRED provides heritage and logistics services to resource companies through their subsidiary company Environmental Heritage and Social Impact Services (EHSIS). KRED promotes and drives initiatives in the Kimberley, such as the Kimberley Agriculture and Pastoral Company. KRED also owns a legal practice, KRED Legal, who operate Australia-wide and exclusively represent Aboriginal Traditional Owners, Prescribed Body Corporates, Native Title groups or Aboriginal-owned companies.

## PROLOGUE - RELEASING THE BENEFITS OF THE BOOM

Throughout the period of Australia's most recent mining boom, covering the period from 2006 to 2012, conversations, forums, policy and legislative instruments emerged in an attempt to spread the benefits of the boom. At a political level, the inaugural Rudd Government (2007 to 2010) adopted taxation reform proposed by the Henry Review, the Resource Super Profits Tax (RSPT). This taxation instrument was heralded as a means of raising Government revenue during the boom years, for the benefit of the broadest number of Australian citizenry. The Minerals Resource Rent Tax (MMRT) emerged from this discussion but was prevented from being implemented with the change in Government occurring preventing its passage through parliament in 2013.

During this same period, Western Australia experienced unprecedented growth in resource extraction. With this growth, land contestations between resource companies and Indigenous communities increased. Under the Native Title Act, companies had to negotiate with Indigenous communities over resource development and often provided employment incentives or community development opportunities during the process. However, Indigenous leaders began to realise that higher-income jobs within companies still remained out of reach for most of their communities and the development programs were often not sustainable without some viable livelihoods that had a growth trajectory.

Local business development and procurement opportunities emerged around resource projects, which provided jobs and access to funds for Indigenous communities. It was at this critical juncture that Indigenous leaders began to consider how best to harness the boom through development of enterprises rather than simple employment targets with companies. The Kimberley region of Australia was the heartland of the movement towards Indigenous enterprise development as well as institutional connectivity between scattered Indigenous clans and Native Title claimants.



## CONTEXT

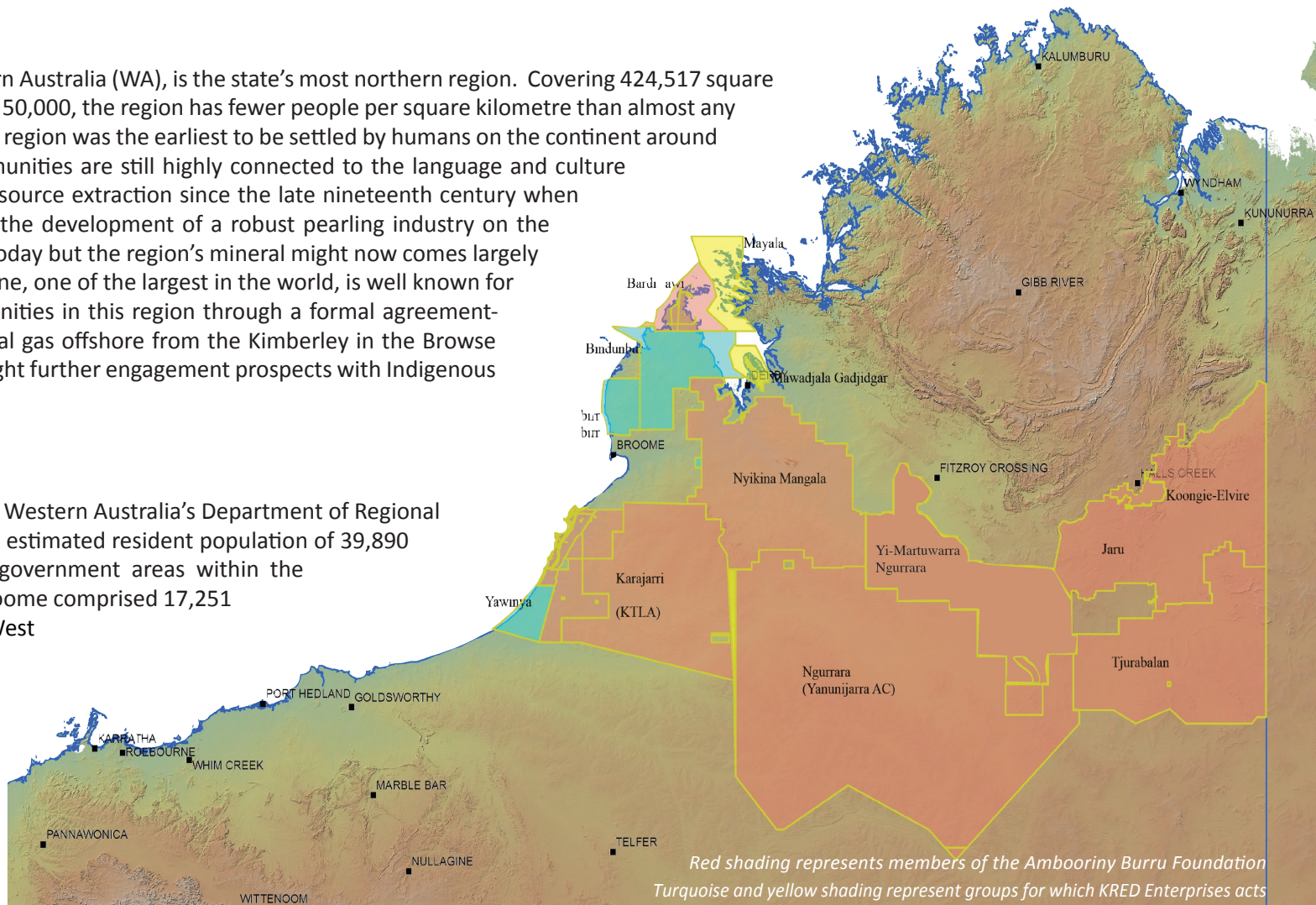
## Geological Profile

The Kimberley, located in Western Australia (WA), is the state's most northern region. Covering 424,517 square kilometres and a population of less than 50,000, the region has fewer people per square kilometre than almost any other place on Earth.<sup>1</sup> Nevertheless, the region was the earliest to be settled by humans on the continent around 41,000 years ago and Indigenous communities are still highly connected to the language and culture in this region. The region has known resource extraction since the late nineteenth century when there was a small gold rush as well as the development of a robust pearling industry on the coast near Broome. Pearling still exists today but the region's mineral might now comes largely from diamonds. The Argyle Diamond mine, one of the largest in the world, is well known for its engagement with Aboriginal communities in this region through a formal agreement-making process. The discovery of natural gas offshore from the Kimberley in the Browse and Bonaparte basins in the 1990s brought further engagement prospects with Indigenous landowners.

## Demographic profile

According to the Government of Western Australia's Department of Regional Development, the Kimberley region had estimated resident population of 39,890 people in 2013. There are four local government areas within the region. In the same year, the Shire of Broome comprised 17,251 local residents, the Shire of Derby-West Kimberley 10,047, the Shire of Halls Creek, comprised 3,940 residents and the Shire of Wyndham-East Kimberley, 8,652.<sup>2</sup>

Figures for the study site local government areas are indicated in the following table:



1 Government of Western Australia, Department of Regional Development, 'Kimberley', Perth, (2015). Available from: <http://www.drd.wa.gov.au/regions/Pages/Kimberley.aspx>

2 Government of Western Australia, Department of Regional Development, 'Kimberley: A region in profile 2014', Perth (2014) 2. Available from: [http://www.drd.wa.gov.au/Publications/Documents/A\\_region\\_in\\_profile\\_2014\\_Kimberley.pdf](http://www.drd.wa.gov.au/Publications/Documents/A_region_in_profile_2014_Kimberley.pdf)

**Table 1: Local Government Population (2013), Percentage share (2013) and Aboriginal Estimated Resident Population (2011).<sup>3</sup>**

|                            | 2013           | % Share 2013 | Aboriginal ERP 2011 |
|----------------------------|----------------|--------------|---------------------|
| <b>Kimberley</b>           | <b>39, 890</b> | <b>100%</b>  | <b>43%</b>          |
| Broome (S)                 | 17,251         | 43%          | 35%                 |
| Derby-West Kimberley (S)   | 10,047         | 25%          | 55%                 |
| Halls Creek (S)            | 3,940          | 10%          | 82%                 |
| Wyndham-East Kimberley (S) | 8,652          | 22%          | 42%                 |

**Source:** Australian Bureau of Statistics.

According to the Western Australian Country Health Service, in 2011 the Kimberley region had a very high estimated resident Aboriginal population of 43% compared to the State proportion of 3.2%. The region's Aboriginal population profile is significantly younger with 43% of the population aged less than 20 years compared with 21% for non-Aboriginal people.<sup>4</sup>

### Introduction to the case

The Kimberley Land Council (KLC), formed in 1978 by Kimberley Aboriginal people, is the peak indigenous body in the Kimberley region.<sup>5</sup> In 2010 the KLC launched the Ambooriny Burru Foundation. The establishment of the foundation was

<sup>3</sup> Ibid.

<sup>4</sup> Government of Western Australia, WA Country Health Service, 'Kimberley Health Profile', Perth, (2014), 2. Available from: <[http://www.wacountry.health.wa.gov.au/fileadmin/sections/publications/Kimberley\\_Profile\\_Sep\\_2015\\_FINAL.pdf](http://www.wacountry.health.wa.gov.au/fileadmin/sections/publications/Kimberley_Profile_Sep_2015_FINAL.pdf)>

<sup>5</sup> Kimberley Land Council 'About us', *Kimberley Land Council*, <<http://www.klc.org.au/about-us>> (at 18 September 2015).

a fulfilment of a long-held vision of Kimberley elders to control their economic future through independent and sustainably driven Aboriginal economic development. KRED Enterprises Pty Ltd sits under the Ambooriny Burru Foundation as a public charitable venture to develop business and economic opportunities for Kimberley Aboriginal people. KRED Enterprises was formed to raise capital for the Foundation.<sup>6</sup>

During the launch of the enterprise the newly appointed CEO of KRED Enterprises, Wayne Bergmann, said:

*With the whole of Australia looking to close the gap between Indigenous and non-Indigenous Australians, KRED Enterprises provides us with the opportunity for economic independence, meaning our people will no longer have to rely on government and business hand-outs. This is about Kimberley Aboriginal people doing something for ourselves. The successes we have had in the Kimberley have always come from our people working together and that will not change. Ambooriny Burru means "people's land" and the Foundation belongs to all Kimberley Aboriginal people. The profits KRED Enterprises generates will be channelled into the Foundation and used for purposes that support our law and culture, land management and economic development. We want to improve the lives of Aboriginal people and create strong communities in the Kimberley.<sup>7</sup>*

This case explores topics related to the background, work, initiatives and engagement KRED Enterprises has had in the region with their members. The case focuses on gaining a better understanding of which aspects of KRED Enterprises, its implementation and/or management, have led to its growth as an Indigenous-owned business.

In addition to the presentation of the case, the study provides questions for reflection, learning exercises and references for further in-depth exploration of the topic areas.

<sup>6</sup> Kimberley Land Council 'KLC Newsletter April 2011', *Kimberley Land Council*. Available from: <<http://www.klc.org.au/docs/default-source/Print-Newsletters/2011-print-newsletters/klc-newsletter-april-2011.pdf>> (2011) 5.

<sup>7</sup> Ibid.

## Evolution of KRED

A turning point in the evolution of KRED was the unexpected way in which negotiations went concerning the development of a LNG gas hub on the Kimberley Coastline.

In April 2009, the KLC had negotiated an in-principle agreement of compensation worth over \$1 billion put forward by the West Australian and the Commonwealth governments and Woodside, to enable the construction of a proposed LNG precinct along the Kimberley coast, near James Price Point. However, strong environmentalist opposition to the project, as well as economic concerns prompted by tough State terms of development, led to Woodside walking away from the project in 2013 as well as much of the larger benefit agreements tied to this deal. Instead of having a terrestrial facility to liquefy the natural gas at James Price Point, the project ultimately was moved offshore with minimal need for Indigenous interactions.<sup>8</sup>

The CEO of the KLC at the time was acclaimed Aboriginal leader Wayne Bergmann. During the negotiations of the proposed LNG precinct Mr Bergmann realised the need to have more unity among Indigenous organisations in order to secure effective longer-term development partnerships and to increase the potential benefits for traditional owners. He was convinced that their reliance on companies and governments for employment would perpetuate dependency and that enterprise development was the way forward for Indigenous communities in the Kimberley.

Moreover, and despite pressure from environmental groups, Mr Bergmann remained focused on the long-term economic benefits that the extractives sector could bring about through the establishment of Indigenous owned enterprises.

*They (environmental groups) argued for an alternative future, well, where is it? Where is their solution? Where are the jobs and the training? Where is their economy? A number of our senior traditional owners have been in the art industry and the eco-tourism industry for over 20 years and they're still broke. Tourism projects require multi-million-dollar assets to generate income — to create enough jobs we'd need to generate the sorts of visitor numbers that really would destroy the environment. We were faced with the reality of the resource sector*

8 Australian Broadcasting Corporation, 'Gas hub: Controversy in the Kimberley' *Australian Broadcasting Corporation*, <<http://www.abc.net.au/news/2013-04-12/browse-lng-timeline/4625232>> (at 18 September 2015).

*and its potential impacts. But, done properly, a resource project can provide opportunities for people with, I think, a smaller impact.*<sup>9</sup>

In 2010, Mr Bergmann brought together several Kimberley traditional owners groups to have a united front in future act negotiations with companies on enterprise contracts and to share their resources in a novel arrangement whereby a foundation would manage their collective assets. KRED was not involved in the Kimberley LNG negotiations.

## KRED IN ACTION

The novel aspect of KRED Enterprises was its symbiotic relationship with a foundation thereby harnessing the power of private capital to benefit a community trust. As the chair of the Ambooriny Burru Board, Bonnie Edwards has underlined dual private and public interests of her mandate and reiterates the aphorism of the founding Chairman of KRED, Anthony Watson: "KRED walks in two worlds". The goal of the organisation has been to mainstream Aboriginal enterprise within the resources economy. Reflecting on her own multilingual, multicultural life Ms. Edwards asserts: "This is my aim. I'm sick of seeing our people walking around like zombies. Inevitably, we have to be part of the Australian economy. We have to try and make what we can out of it, make something of our lives and make something for our people".<sup>10</sup>

KRED operates two wholly-owned subsidiary companies, EHS and KRED Legal. EHS provides staff and logistics to carry out heritage surveys, cultural heritage monitoring and cultural awareness training, while KRED Legal focuses on commercial agreements, Native Title law, litigation and governance work. Additionally, KRED Enterprises is driving the establishment of the Kimberley Aboriginal Pastoral Company, a management concept involving three stations in the region that aims to increase station productivity and boost remote Indigenous employment.

KRED Enterprises supports Traditional Owners (TOs) to make informed decisions about what happens on their country and ensures any development is

9 Taylor, P 'Woodside 'obliges' over \$1.5bn social deal' *The Australian*. Available from: <<http://www.theaustralian.com.au/national-affairs/woodside-obliged-over-15bn-social-deal/story-fn59niix-1226620335631>> (April 15, 2013).

10 KRED "Scutta Girl' New chair of Ambooriny Burru board' *KRED*. Available from: <<http://www.kred.org.au/blog/2014/7/21/scutta-girl-new-chair-of-ambooriny-burru-board>> (as 18 September 2015).



designed and operated to meet the highest cultural and environmental standards. The Foundation has also established the Nipper Tabagee Scholarships supporting Indigenous youth.

## CONSTRUCTIVE CONFRONTATION

The founders of KRED have been very conscious of not being perceived as “sell-outs” to business interests and take the notion of Free Prior and Informed Consent (FPIC) very seriously, even though it is not clearly a legal requirement in Australia. Inevitably, to assert consent they are occasionally willing to have a confrontation with developers as well but on their own terms and not through opportunistic alliances with particular constituents. For example, KRED has environmental interests and sensitivities but they are attenuated to the local community context. KRED has noted opposition to certain forms of mining on environmental grounds when the traditional owners indicate that to be their priority. A uranium exploration project that gained approval from the Government’s National Native Title Tribunal was bitterly opposed by KRED member the Nyikina Mangala traditional owners. Through concerted advocacy KRED and its partners were able to stall this project, although the company claimed withdrawal on “technical grounds”.

In another case, an energy company stopped its exploration work following a complaint made by KRED. KRED worked through the uncertainty with the company on the instruction of the TOs it represented. Navigating the diversity of opinion within Indigenous communities while finding a platform for unity to achieve common aims of self-determination through enterprise remained KRED’s paramount objective.



## THE DEVELOPMENT PATH FORWARD

The Kimberley remains at a crossroads of a resource-driven economic trajectory or a service sector-focused pathway to development. Environmentalists continue to argue that cultural and environmental tourism are the way forward. With a modest but strong workforce of six senior managers and an overall staff of around 20 (65% Indigenous; 75% female), KRED feels comfortable in its ability to grow and deliver on its mandate. Its charismatic leader Wayne Bergmann continues to speak of their unique model of enterprise: “I don’t see myself as a leader, I like pushing the boundaries, I push my agenda, economic development; I push my agenda with instructions, if Traditional Owner’s (TO’s) don’t like it, I back off. At the end of the day I’m an employee.”<sup>11</sup> Such is the approach that has been the hallmark of KRED’s founding leadership.

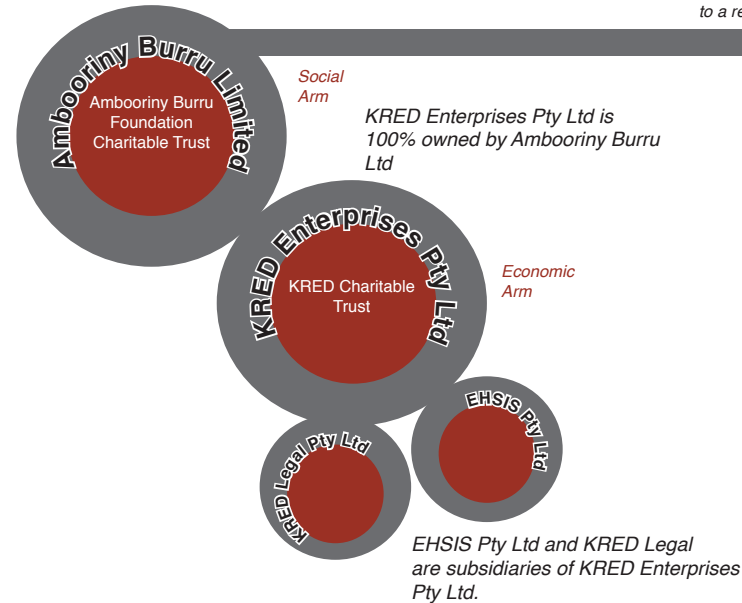
In 2015, KRED also undertook a strategy workshop to consider ways of making the organisation more resilient and consider succession planning. KRED members are now shareholders in the business and this has led to 50% growth in the past two years. The Kimberley Development Commission’s blueprint for a best-case scenario Kimberley in 2036 forecasts extra 34,000 jobs — half filled by Aboriginal people. KRED will certainly be part of this trajectory and perhaps also benefit from the Commonwealth Government’s Northern Australia development strategy.

# APPENDIX

## Structure of KRED

## Corporate Structure

*A condition of membership of Ambooriny Burru Ltd is contribution to a regional fund for the benefit of all ABL members.*



Appointed representative of:

1. Walalakoo/Nyikina Mangala member
2. Yanunijarra/Ngurrara member
3. Karajarri member
4. Jaru member
5. Bardi Jawi member
6. Tjurabalan member
7. Koongie member
8. Yi-martuwarra Ngurrara member
9. Kimberley Land Council
10. Kimberley Language Resource Centre and Kimberley Aboriginal Law and Culture Centre





# TEACHING NOTE ON KRED ENTERPRISES

## CASE STUDY

### Learning objectives

This case would be suitable for educated professionals or those in training or tertiary education.

This case has been written in a manner useful for understanding some of the complexities involved in improving the benefits for Indigenous people from the resource industry. For example, how best to work best with companies to permit goods and services to be procured locally.

In particular, it provides a thought provoking account of issues faced by Indigenous peoples and TOs living close to mining and oil and gas projects and reveals valuable strategies for negotiating greater benefits.

### Methodology

#### Pre Case discussion (5 minutes)

Prepare for the case study by asking participants to name resource rich regions they know about. Are they in remote regions? Are there Indigenous people living there? Prior to starting, check participants' understanding of the term 'Indigenous peoples' and 'TO', as it can vary depending on country of origin.

Get participants to discuss why local business is often not able to benefit from opportunities that arise from mining and oil and gas development.

#### Case study exploitation (10 to 15 minutes)

Ask the Group to read the case and then discuss the following questions in small groups with each group reporting back.

##### 1. KRED Foundation

What is the name of KRED's foundation?

What role does it play for KRED?

How has it helped KRED to operate successfully?

##### 2. Independent Companies

What are the names of the companies operated by KRED?

What is the core business of the companies?

Why do you think they have been successful?

##### 3. Leadership

What are the key aspects of Wayne Bergmann's leadership and negotiation style? (Consider for example the James Price Point negotiations.)

What aspects of leadership identified in the case were particularly important?

##### 4. Negotiation Strategies

What have you learned from the case about the way an organisation like KRED can effectively negotiate with a resource company?

##### 5. Environmental issues

What is KRED's approach to environmental interests? What do you think about this?

### Group Discussion (20 minutes)

List the key factors in KRED's success.

Could these factors be applied elsewhere?

### Summary Key Points in the Case

#### Negotiation strategies

A unique element is providing strict protocols around access to land for developers contingent on respect for country but also respect for TO's decisions about who can and who cannot come on to country.

#### Lessons Learned

What can we learn from this case?

Strong leadership is important but so to respect for TO's rights and opinions.

A united front is essential for negotiation in terms and future benefits. Coming together under one banner affords stronger negotiating power and avoids individual groups ending up signing terms which prevent them from maximising benefits from land use for resource extraction.

# About Us

## The Centre for Social Responsibility in Mining

CSRM is a leading research centre within The University of Queensland in Brisbane, one of Australia's premier universities, committed to improving the social performance of the resources industry globally. We are part of the Sustainable Minerals Institute, which is the world's leading research institute dedicated to finding knowledge-based solutions to the sustainability challenges of the resources sector.

At CSRM, our focus is on the social, economic and political challenges that occur when change is brought about by resource extraction and development. We work with companies, communities and governments in mining regions all over the world to improve social performance and deliver better outcomes for companies and communities. Since 2001, we have contributed significantly to industry change through our research, teaching and consulting.

## The Indigenous Enterprise Initiative (IEI)

The IEI seeks to bring together the strengths at UQ in the areas of mineral policy research and the United Nations University's Traditional Knowledge Initiative to facilitate the success of indigenous businesses in the resources sector.

Mining has a strong presence in the more remote regions of Australia and is now the largest private sector employer of Indigenous people. While there have been notable

gains over the last decade, there is still more that can be done to increase Indigenous economic participation in and beyond the resources sector. There are success stories but these are relatively isolated and the pool of full-time employees is also relatively small. The challenge is to build diversified and well managed businesses that also generate a social dividend back to communities and regions; and, an expanded labour pool with initiatives that focus on enabling greater skill development and employability rather than just getting a job.

Research has an important role to play in supporting this development agenda. Specific areas where there is both an opportunity and need for more work include:

- Studying supply chains and procurement practices to identify concrete opportunities for Indigenous and local businesses;
- Preparing case studies of successful Indigenous businesses;
- Undertaking detailed analysis of local economies, demographic trends and labour market dynamics;
- Trialling innovative approaches to the recruitment, training and career advancement for Indigenous employees ;
- Addressing business governance challenges;
- Analysing of policy settings that may inhibit – or enable – greater Indigenous participation in the resources sector; and
- Building and servicing a “community of practice”.

**For more information about our activities, please refer to our web site [csrm.uq.edu.au](http://csrm.uq.edu.au)**



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