

Who mind the miners?

When the Sacred Site Protection Act is broken and an Approval to a Proposed Mining Lease Agreement is breached?

Aims and Objectives of this Presentation

- To describe the experience of the Kunapa and other families with recognised Native Title Rights associated with the Bootu Mine
- To reflect on the roles of key agencies involved or associated with the establishment development and operation of Bootu Mining
- To stimulate a discussion that might identify new courses of policy, program and practice that might ensure greater integrity in the implementation of agreements between miners government agencies land councils and Native Title Holders

The Kunapa's Families experience of the damage and desecration of a sacred site at Bootu Creek in 2012

Between March 2012 and July 2012 OM Mining (Manganese) Ltd damaged a Sacred Site at Bootu Creek in the Northern Territory

In August 2013 OM Mining (Manganese) Ltd were convicted of one count of damage and one count desecration and fined



Kunapa Country

Nugurrara



Kurnturlparla



Kunapa Country

Karlumpulpa



Banka Banka West



Bootu Mine & Sacred Site



There are many actors involved in the Bootu Mining Case

Native Title Holders

- Kunupa/Kurtinjama/
- Mangirraji
- Jalajirpa
- Yap Yap
- Pirrtangu
- Manunungurra Aboriginal Corporation

Mining interests

- OM Holdings Ltd
- OM Mining (Manganese) Ltd

Land Councils

- Northern Land Council

Northern Territory Government

- Department of Business Industry and Resource Development
- Aboriginal areas protection authority

What did the Native Title Holders think that the mining agreement would provide them?

- Their sacred sites would be respected and protected by the mining company
- They would have a voice in the management of the mine through a Mine Management liaison committee
- They would receive mining royalties
- They would be supported by the Northern Land Council as their agent and as their Native Title Representative Body
- There were mechanisms for redress if the agreement was not honoured
- If there was damage or desecration of an area it would be redressed and compensation would be made

How did the Northern Land Council see their role?

1. Legal advice
2. Mining advice
3. Land use advice

To act as the native title holders agent in matters associated with the Agreement to Proposed Mining Lease 24031

What did OM Mining believe their responsibilities were?

To make a profit

To minimise their costs

To fulfil their legal obligations

To develop good relationships

What Was Manungurra Aboriginal Corporation Role?

- To receive and distribute mining royalties
- To relieve poverty
- To develop Kunapa family lands
- To act as an advocate for the Kunapa families

What did the Northern Territory Government see as its role in Bootu Mine Situation?

Enforcing the Mine Management Act 2013

Implementing the Agreement to the Grant of Proposed Mining Lease 23041 at Bootu Creek

Aboriginal Areas Protection Authorities role in the Bootu Mine Situation

To provide advice to the miners and to the Native Title Holders on preventing damage to any sacred site or site of significance within the mining area

To act on breaches of the Sacred Sites Protection Act 1989

What happened?

What did OM Manganese Ltd do?

- 2004 – 2011 built relationships with all parties
- Provide open site access
- Provided a venue for Mining Liaison meetings
- Desecrated and damaged a site

What did OM Manganese Lt did not do?

- It did not have a Mine Ground Control Plan
- Advise the Mine liaison Committee
- Advise the AAPA of the damage to the site in March

What did the Aboriginal Areas Protection Authority do / not do?

Did do

- On advised of damage site in July 2011 immediately commenced an investigation
- Between September 2011 and 2013 successfully prosecuted OM Manganese Ltd for damage to and desecration

Didn't do

- Provide guidance and advice on the protection and management of sites in the at risk at Bootu Mine Site

What the Northern Territory Department of natural Resources and Energy did / didn't do?

Did do

- Regulated the Mine site in accordance with the Mining Act

Didn't do

- Ensure there was a ground management plan in place
- Advise the other parties of the risk to the Sacred sites when the Mine management plan changed

What the Northern Land Council did / didn't do

Did do

- Provided some legal advice to the native title holders
- Post AAPA successful prosecution held several meetings with OM Manganese Ltd

Didn't do

- Take any action under redress complaint and dispute provisions of the Agreement to the Grant of proposed mining lease Agreement 24031
- Provide reports or advice on their meetings with OM Manganese Ltd post dispute
- Act as the agent of the Native Title Agreement to the Grant of proposed mining lease Agreement 24031

Lessons for Everyone

- Reasonable expectations were not met
 - Legal agreements are NOT enough - policing
- Tyranny of distance and ungovernable spaces
- Capacity and expertise in land / mine management
 - Transition in role of land corporations
 - The need to develop capacity in MAC
- Incentives among some agencies for inaction
 - Resources
 - Relationships
 - Other
- The need for action and justice always comes at a price