



## The Memorandum of Understanding between the Australian Government and the Minerals Council of Australia and the East Kimberley Regional Partnership Agreement

### Introduction

Throughout Australia's history the relationship between the mining industry and Indigenous peoples has been less than harmonious. The drive for resources has seen the rights and interests of Indigenous peoples sacrificed in favour of economic growth. While many problems still remain today, there is evidence of a recent shift in the attitude of mining interests towards neighbouring Indigenous communities. Leading resource corporations such as Rio Tinto and Newmont have demonstrated willingness to formally recognise obligations towards traditional land owners and local Indigenous communities. To this end, there is evidence that the mining industry is increasingly acting upon its social responsibility to include Indigenous people in opportunities created by their mining activities.<sup>1</sup>

Over 60 percent of the Australian mining industry's operations are located adjacent to Indigenous communities. It therefore follows that both industry and Indigenous communities stand to benefit from the development of reciprocal and sustainable relationships.<sup>2</sup> For Indigenous communities, mining operations present opportunities in terms of employment, infrastructure and services. For mining companies, local communities provide a potentially stable workforce. Given the current industry boom, the need for constructive relationships between mining interests and Indigenous people is all the more significant.

Evidence to date demonstrates that Indigenous people are not realising economic opportunities presented by current industry expansion. Even in regions like the Pilbara, abundant in natural resources, Indigenous unemployment rates remain as high as 41 percent.<sup>3</sup>

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- 1 **Argyle Diamond Mine**, *Aboriginal Partnerships*, available online at [http://www.argylediamonds.com.au/comm\\_aboriginal\\_text.html](http://www.argylediamonds.com.au/comm_aboriginal_text.html), accessed 9 January 2007; **Newmont**, *Australian Indigenous Peoples Statement of Commitment*, available online at <http://www.newmont.com/en/operations/australianz/social/community/statement/index.asp> accessed 9 January 2007.
  - 2 **Minerals Council of Australia**, *Indigenous Relations Strategic Framework*, available online at [http://www.minerals.org.au/environment/indigenous\\_engagement](http://www.minerals.org.au/environment/indigenous_engagement), accessed 15 December 2006.
  - 3 *Regional Partnership Agreement on Indigenous Employment in Port Hedland*, 7 November 2006, available online at <http://www.indigenous.gov.au/rpa/wa/porthedland.pdf>, accessed 1 February 2006.



The reasons for such disproportionately high unemployment rates in the Indigenous population are complex. In part they are related to a paucity of job opportunities in remote communities, but largely they are influenced by the immense set of obstacles created by dispossession and intergenerational disadvantage. According to the *National Aboriginal and Torres Strait Islander Social Survey* of 2002, 90.5 percent of unemployed Indigenous persons aged 15 years or over had difficulties in finding work; the primary difficulties being insufficient education, training or skills, transport problems and distance, and a lack of jobs in their local area or line of work.<sup>4</sup> These data demonstrate that in order to address unemployment in Indigenous communities, it is necessary to do more than create additional jobs. Communities require tools to enable them to overcome the wide range of employment obstacles that stand between opportunity and employment.

## Minerals Council of Australia Memorandum of Understanding

In recognition of the need to take a comprehensive approach to address Indigenous economic disadvantage, in June 2005 the Australian Government and the Minerals Council of Australia (MCA) signed a Memorandum of Understanding (MoU) which documents a commitment to work with Indigenous people to build sustainable, prosperous communities in which individuals can create and take up social, employment and business opportunities.<sup>5</sup> When launching the MoU's joint commitments, The Hon Ian MacFarlane, MP explained:

The MoU is about building partnerships between the mining sector and Indigenous communities. The objective is to improve the flow of mutual benefits between regional employers, their Indigenous workers and the wider Indigenous community.<sup>6</sup>

According to the consultant employed to coordinate the MoU negotiations, the MoU was developed in response to the need for mining companies to fulfil commitments made through Indigenous Land Use Agreements (ILUAs).<sup>7</sup> Whilst individual companies were pursuing a large number of initiatives in this area, the MCA identified potential benefit from a coordinated whole of industry and whole of government response.<sup>8</sup> For example, one of the features of the MoU is that it promotes collaboration across mining companies in the areas of human resources and Indigenous relations. Mining companies, previously in competition, are now in negotiations to pool and coordinate resources, increasing their capacity to provide employment and training services.

4 Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Social Survey*, ABS series cat no. 4714.0., Commonwealth of Australia, 2002, p43, Table 16.

5 Australian Government, *Memorandum of Understanding between the Commonwealth of Australia and the Minerals Council of Australia*, 1 June 2005, available online at [http://www.minerals.org.au/\\_\\_data/assets/pdf\\_file/11514/MCA\\_Commonwealth\\_MOU.pdf](http://www.minerals.org.au/__data/assets/pdf_file/11514/MCA_Commonwealth_MOU.pdf), accessed 1 February 2007.

6 MacFarlane, I., (Minister for Industry Tourism and Resources), *Minerals Council of Australia*, address to the Minerals Council of Australia, 3 June 2005, available online at <http://minister.industry.gov.au/index.cfm?event=object.showContent&objectID=3F717786-65BF-4956-BBF2D594C905A7FA>, accessed 15 December 2006.

7 Gawler J., Principal, *Cooperative Change Pty Ltd*, Project Coordinator of the National Steering Committee of the Australian Government and Minerals Council of Australia MoU.

8 Minerals Council of Australia Secretariat, *Correspondence with the Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of the Native Title Report 2006*, 21 December 2006.



In terms of Indigenous involvement, the MoU negotiation process involved local Indigenous leaders through the *Indigenous Leaders Dialogue*.<sup>9</sup> The *Indigenous Leaders Dialogue* is a forum through which local Indigenous leaders advise the MCA about Indigenous aspirations and anticipated outcomes from the MoU.<sup>10</sup> The MoU establishes broad principles to guide regional engagement with Indigenous communities. They are:

- collaboration and partnership between the parties based on mutual respect;
- collaboration and partnership between the parties and Indigenous communities based on shared responsibilities and respect for culture, customs and values;
- integration of sustainable development considerations within the MoU partnership decision-making process; and
- joint commitment to social, economic and institutional development of the communities with which the parties engage.<sup>11</sup>

## Regional Partnership Agreements

Parties to the MoU decided on eight regional locations to focus the coordinated activity of the MoU during its five year timeframe. At each site, a Regional Participation Agreement (RPA) will be developed between local mining companies, government bodies and community organisations. These RPAs are intended to do the following:

- Operate as regional frameworks to coordinate strategies to increase the employment opportunities and the employment skills of Indigenous people;
- Foster Indigenous business enterprises; and
- Build prosperous communities, families and individuals that endure beyond the life of the mine.

Currently two of the eight pilot sites have completed an RPA. In November 2006 agreements were signed in the East Kimberly and Port Hedland regions. Both completed agreements are similar in their content and outcomes. Table 1 outlines the status of each RPA in the 8 trial sites.

9 Note: The Indigenous Leaders Dialogue is 'a dialogue between Indigenous leaders and the MCA Board members that occurs twice a year and facilitates engagement between industry and Indigenous leadership, to build common understanding and discuss capacity building initiatives of mutual interest and benefit'; Minerals Council of Australia, *Indigenous Relations Strategic Framework*, available online at [http://www.minerals.org.au/environment/indigenous\\_engagement](http://www.minerals.org.au/environment/indigenous_engagement), accessed 1 February 2007

10 Minerals Council of Australia Secretariat, *Correspondence with the Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of the Native Title Report 2006*, 21 December 2006.

11 Australian Government, *Memorandum of Understanding between the Commonwealth of Australia and the Minerals Council of Australia*, 1 June 2005, available online at [http://www.minerals.org.au/\\_\\_data/assets/pdf\\_file/11514/MCA\\_Commonwealth\\_MOU.pdf](http://www.minerals.org.au/__data/assets/pdf_file/11514/MCA_Commonwealth_MOU.pdf), accessed 1 February 2007.



**Table 1: Status of Regional Partnership Agreements linked to the MoU, 2006**

Pilot site	Industry parties	Project plans	Status of negotiations
East Kimberley (WA)	Argyle, Roche, Voyages El Questro	<i>300 club</i> ; work readiness; business development; child care; building accommodation for trainees	<b>RPA completed</b> and signed; communications ongoing.
Port Headland (WA)	BHP Billiton, Ngarda, Fortescue, Newcrest	Coordination, motivation and mentoring initiatives; drivers license program; child care provision; drug and alcohol support; housing support; Youth Pathways; Indigenous business development; Indigenous education and training for employment.	<b>RPA completed</b> and signed; communications ongoing.
Newman (WA)	BHP Billiton, Newcrest, Ngarda	No activity for the period.	No activity for the period.
Karratha/ Roebourne (WA)	Rio Tinto Iron Ore, Woodside Energy, Chevron Australia, BHP Billiton Petroleum	Improve the work readiness of Indigenous people in the region through targeted education and training for employment, drivers licences, drug and alcohol support, support for youth at risk. Sustainability through child care, housing and the development of sustainable business opportunities.	Project planning under discussion.
Wiluna (WA)	Newmont Asia Pacific, Nickel West	Initially will focus on training, employment and business development.	Steering committee established. Still in discussion phase about content of the RPA.
Boddington (WA)	Newmont Asia Pacific	Initially will focus on training, employment and business enterprise	Steering committee agreed and Traditional Owners have selected representatives.



Tanami (NT)	Newmont Asia Pacific	Initial focus on training employment and business enterprise, Also a focus on school retention and community well being.	Steering committee established and meet on a regular basis. Draft RPA currently circulating. First projects identified under RPA are currently being scoped out e.g. Rehabilitation business.
Western Cape York (Qld)	Comalco	Working groups formed for Western Cape Baseline Study, Indigenous business analysis, youth engagement, housing, regional transport and work readiness training.	Project framework drafted; draft RPA planned for end January 2007.

**Source:** Gawler J., Principal, Co-operative Change Pty Ltd, December 2006; McMartin S., Senior Regional Manager, External Affairs, Newmont Asia Pacific, 8 February 2007.

## East Kimberley Regional Partnership Agreement

This case study profiles one of the eight agreements, the East Kimberley Regional Participation Agreement (RPA); the most progressed of the 8 trial sites. As the agreement is in an early stage, this case study describes the structure, the objectives and some of the early outcomes of the East Kimberley RPA.

### Background

The East Kimberley is located in the North-East of Western Australia. The East Kimberley RPA covers the regions of Kununurra, Halls Creek, Wyndham and Warmun communities and outstations.<sup>12</sup> Approximately 38 percent of the East Kimberley inhabitants are Indigenous.<sup>13</sup> The Indigenous population is overwhelmingly young, with approximately 40 percent of people under the age of 15, and growing rapidly.<sup>14</sup> Economic development in the region is primarily sustained by agriculture, mining and tourism. In 1985, the Argyle Diamond Mine was established and it has since become the largest supplier of diamonds in the world. Pastoral and irrigated agricultural operations are also operating in the region.<sup>15</sup>

12 Australian Government and WA Government, *Regional Partnership Agreement on Indigenous Employment in the East Kimberley*, 7 November 2006, available online at <http://www.indigenous.gov.au/rpa/wa/eastkimberley.pdf>, accessed 1 February 2006.

13 Australian Bureau of Statistics, *2001 Census of Population and Housing, Wyndham-East Kimberley*, ABS series cat no 2002.0, Commonwealth of Australia, 2002.

14 Taylor J., *Aboriginal Population Profiles for Development Planning in the Northern East Kimberley*, CAEPR Monograph 23, 2003.

15 Kimberley Development Commission, *Economic Activity in the Kimberley An Overview*, available online at [http://www.kdc.wa.gov.au/index.cfm?menu=250&page=ff\\_econ](http://www.kdc.wa.gov.au/index.cfm?menu=250&page=ff_econ) accessed 21 December 2006.



While there is a prosperous regional economy, the Indigenous people of the East Kimberley remain severely disadvantaged. The labour market indicators of the Indigenous population show high unemployment rates, falling participation rates in the mainstream employment and poor literacy and numeracy. Table 2 shows various labour market and associated statistics for the East Kimberley region.

	<b>Indigenous</b>	<b>Non-Indigenous</b>
Median Weekly Individual Income 15+	\$160-\$199	\$500-\$599
% of people 15+ unemployed or on CDEP	64.6%	3.6%
Participation in mainstream labour market	16.2%	81.3%
Participation in CDEP scheme	29.5%	1.4%
% of households owned or being purchased	5.7%	40.6%
% of persons aged 15+ who have completed Year 12	6.7%	39.3%
% students attained Yr7 benchmarks for reading	22.1%	82.6%
% Internet usage	5.4%	32.8%
Life expectancy	47 years	78 years

**Sources:** Taylor, J., *Aboriginal Population Profiles for Development Planning in the Northern East Kimberley*, Research Monograph 23/2003, CAEPR, ANU, Canberra; Australian Bureau of Statistics, *2001 Census of Population and Housing, Wyndham-East Kimberley*, ABS series cat no 2002.0, Commonwealth of Australia, 2002.

## Content of the Agreement

The aim of the MoU and the RPA agreements is to directly address the poor education, economic and employment outcomes for Indigenous people. The East Kimberley RPA aims to place at least 300 additional Indigenous people in jobs each year for the next 5 years. Based on current levels of Indigenous unemployment in the region, it is hoped this will reduce unemployment by 50 percent by 2011 and equalise Indigenous and non-Indigenous employment rates within 10 years. These are ambitious targets. In order to achieve them the East Kimberley RPA incorporates five projects with further projects expected to be developed during the course of the agreement. Table 3 describes the current projects.



**Table 3: East Kimberley Regional Partnership Agreement projects 2006**

Project	Objective	Action
<b>300 Club</b>	<ul style="list-style-type: none"> <li>To increase Indigenous employment in the region. The project hopes be a driver for attitudinal change within the corporate community by linking local employers with one another and with Government and working with the RPA partners to achieve their targets.</li> </ul>	<ul style="list-style-type: none"> <li>The <i>300 Club</i>, or the East Kimberley Corporate Leaders Group, will be established to engage local employers, support local business involvement, share labour market information, promote job matching and work experience opportunities.</li> </ul>
<b>Work readiness (Coordination, Motivation and Mentoring)</b>	<ul style="list-style-type: none"> <li>To improve links between employers, service providers and Indigenous people in the region in order to assist them to overcome barriers to employment such as poor literacy, numeracy and life skills.</li> </ul>	<ul style="list-style-type: none"> <li>Place case managers in certain communities to support Indigenous people to enter and remain in the workforce;</li> <li>Motivation and mentoring between employers and employees;</li> <li>Education and training options to enhance job readiness.</li> </ul>
<b>Business development</b>	<ul style="list-style-type: none"> <li>To support business development in order to create jobs, enhance the entrepreneurial climate in the community, retain businesses, accelerate local industry growth and diversify local economies.</li> </ul>	<ul style="list-style-type: none"> <li>Using a business incubation program, this project. will work with both Traditional Owner and non-Traditional Owner groups to support business development opportunities.</li> </ul>
<b>Child care</b>	<ul style="list-style-type: none"> <li>To overcome the barrier to employment posed by lack of child care.</li> </ul>	<ul style="list-style-type: none"> <li>Create additional childcare places and more flexible childcare services in the region;</li> <li>Develop and implement a child care course at TAFE specifically designed for Indigenous women.</li> </ul>
<b>Building accommodation for trainees</b>	<ul style="list-style-type: none"> <li>To address the lack of suitable accommodation in Kununurra which makes it difficult for young Indigenous people to take up training and employment opportunities.</li> </ul>	<ul style="list-style-type: none"> <li>Engage Indigenous apprentices and trainees to work alongside other tradespeople to build accommodation units that will later be utilised to provide accommodation for Indigenous trainees.</li> </ul>



## Negotiation process

The East Kimberley RPA was a product of 18 months of discussion regarding employment and job pathways strategies. Talks initially focussed on employment in the mining industry in the Kununurra region but later expanded to take in other communities and industries. They were coordinated by Janina Gawler<sup>16</sup> of *Cooperative Change* in conjunction with the *Kununurra Indigenous Coordination Centre* (ICC). Other parties to negotiations included local industry members and interested businesses as well as Traditional Owners and Indigenous community organisations. The signing of the MCA MoU in July 2005 added greater impetus to discussions.

In the end, not all parties involved in negotiations became signatories to the agreement. Unfortunately, the initial negotiation process was viewed by many parties as one of the major weaknesses of the agreement. However, as membership is not closed, organisations and groups are able to participate in communications and meetings relating to the RPA even though they are not formal signatories.<sup>17</sup> This allows them to stay informed of activities and opportunities that may arise. One such example is the Gelganyem Trust Traditional Owner group who are not a party to the RPA but are active participants in discussions in view of involvement at a later stage. Given the central role that continuing communications and negotiations in the implementation of the East Kimberley RPA, it will be important to encourage broad participation in the agreement as this is an excellent capacity building opportunity.

There are currently 15 parties to the East Kimberley RPA as identified at Table 4. RPA membership is flexible and may change over time as projects progress and activities expand.

**Table 4: Partners to the East Kimberley Regional Partnership Agreement 2006**

Sector	Parties	Area of Responsibility
<b>Government</b>	<ul style="list-style-type: none"> <li>• Shire of Wyndham East Kimberley</li> <li>• WA State Government (East Kimberley DIA)</li> <li>• Australian Government (Kununurra ICC)</li> </ul>	<ul style="list-style-type: none"> <li>• To coordinate service delivery and development of project plans and actions with communities</li> </ul>

16 Gawler J., Principal, *Cooperative Change Pty Ltd*, Project Coordinator of the National Steering Committee of the Australian Government and Minerals Council of Australia MoU.

17 Sherwin, A. (Manager, Kununurra Indigenous Coordination Centre), *Correspondence with the Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of the Native Title Report 2006*, 19 December 2006.





<b>Industry</b>	<ul style="list-style-type: none"> <li>• Argyle Diamond Mine</li> <li>• Voyages El Questro</li> <li>• Roche</li> </ul>	<ul style="list-style-type: none"> <li>• To participate in local leadership group of East Kimberley businesses to support actions and other local businesses that are committed to increasing employment of Indigenous people</li> </ul>
<b>Employment and training providers</b>	<ul style="list-style-type: none"> <li>• Work Base</li> <li>• Kimberley Group Training</li> <li>• East Kimberley Job Pathways</li> <li>• Kimberley TAFE</li> <li>• East Kimberley CDEP</li> </ul>	
<b>Indigenous organisations</b>	<ul style="list-style-type: none"> <li>• Wunan Foundation</li> <li>• Ngoonjuwah Council Aboriginal Corporation</li> <li>• Kununurra Waringarri Aboriginal Corporation</li> <li>• Warmun Community (Turkey Creek) Incorporated</li> </ul>	<ul style="list-style-type: none"> <li>• To coordinate and promote local efforts, informing and encouraging individuals to participate</li> </ul>

A number of parties to the RPA reported that negotiation process leading up to the RPA was impaired by two factors: the poor strategic coordination and communication; and a lack of Indigenous engagement. With respect to the first factor, the RPA negotiation process was very lengthy, inefficient and ambitious in what it was able to achieve in the development phase. In addition there was a lack of transparency and “it was very unclear for all parties involved, including government. No one had a clear strategic plan for development.”<sup>18</sup> In addition, a lack of bipartisanship between the State Government and the Australian Government was a major impediment to early negotiations.<sup>19</sup>

The initial lack of direction and coordination, together with the ad hoc nature of communications meant that translating the commitment of all parties into an RPA agreement was ‘incredibly frustrating.’<sup>20</sup> Problems with communication generated widespread confusion about the agreement to the point that some parties are still uncertain as to their exact role under the agreement, even after its execution.

The second problem affecting negotiations was a lack of community engagement. This has been described as a major and continuing concern by the majority of parties to the RPA. From the outset, parties to the RPA saw it as an initiative of the Australian Government. ‘The project is not currently community and industry-

18 Anonymous, Representative from an Indigenous organisation party to East Kimberley RPA, 2006.

19 Anonymous, Representative from an Indigenous organisation party to East Kimberley RPA, 2006.

20 McLeish, K. (General Manager, Argyle Diamond Mine), *Correspondence with the Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of the Native Title Report 2006*, 2 February 2007.



driven, it is government driven.<sup>21</sup> There is evidence that the negotiation processes were run according to the Government's own agenda and plans were hastily developed in a rush to meet fixed deadlines leaving other parties feeling pressured to follow for fear of being left behind.

The Government seems to be making policy on the run and addressing this issue on a 'take it or leave it' basis. Communities are being forced to agree to things, knowing that otherwise they will be left behind when it comes to funding and services.<sup>22</sup>

According to the architects of the RPA, one of the key features of the agreement is that is driven by local communities:

The design of the RPA is developed in direct response to local Indigenous community needs which makes it radically different in its approach to Indigenous employment and business enterprise.<sup>23</sup>

As part of the RPA development process, the Wunan Foundation, one of the signatory Indigenous organisations, was allocated resources to conduct consultations with Indigenous communities. These consultations are considered to have been relatively extensive. However, notwithstanding the Wunan Foundation negotiations, the level of community engagement is regarded as greatly inadequate.

As a result of the lack of engagement with Indigenous people, there is a critical lack of understanding within the community about the RPA, and what it aims to deliver.<sup>24</sup> For example, there was reported confusion between the RPA and other changes to regional governance arrangements including changes to the Community Development Employment Project. This kind of confusion has the potential to skew commitment and expectations of the RPA, and may lead to dissatisfaction with outcomes. In addition, as long as communities are uncertain about the nature of the RPA, they will be unable to take advantage of the opportunities it creates.

Concerns have also been raised regarding inequality between negotiating parties. According to several of the community organisations involved, negotiations have been weighted in favour of resource-rich industry and government parties whose interests control the agenda. Some organisations have not become signatories because they fear they will lose control over their programs and initiatives by joining the RPA process.

Involvement of the local corporate partners is a good thing; but they should not be allowed to fully shape the process. The process has to be conducted with all parties on an equal footing.<sup>25</sup>

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21 Anonymous, Representative from an Indigenous organisation party to East Kimberley RPA, 2006.

22 Anonymous, Representative from an Indigenous organisation party to East Kimberley RPA, 2006.

23 Gawler, J., Co-operative Change Pty Ltd, December 2006, *Correspondence with the Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of the Native Title Report 2006*, 23 January 2007.

24 Anonymous, Representative from an Indigenous organisation party to East Kimberley RPA, 2006.

25 Anonymous, Representative from an Indigenous organisation party to East Kimberley RPA, 2006.



## Status of the RPA

Given that the RPA was signed late 2006, it is not yet possible to measure tangible outcomes for Indigenous stakeholders. Nevertheless, outcomes will need to be measured, monitored and assessed over time against targets such as those set out in the employment projects.

At this stage it is only possible to assess the appropriateness of the strategies that have been developed for improved Indigenous participation in the workforce and the local economy. The projects of the RPA demonstrate that the potential of the Agreement is that it seeks to do more than simply create jobs through Indigenous employment quotas. By implementing programs to address education and training, motivation and mentoring, business development and childcare, the RPA has been designed to enable Indigenous people to overcome barriers which prevent participation in employment.

According to the projects of the RPA, the Indigenous community can expect to see more places for education, training and apprenticeships, as well as programs to develop long-term skills that are applicable to the community in general, not just specific to industry. Training in areas such as engineering, building and maintenance will be targeted to enable individuals to service current mining operations and later contribute to other aspects of community infrastructure.

Along with business development, it is hoped that these strategies will build the capacity of individuals and the community as a whole, contributing to the sustainable economic development of the region.

## Changing policy to improve access to employment

The RPA has provided impetus for the WA Government to modify policies in some areas that affect Indigenous employment opportunities. One disincentive to Indigenous people entering the workforce was the sudden loss of eligibility for housing and welfare subsidies. Due to chronic housing shortages in many regional and remote towns, Indigenous families are unlikely to take up employment if it means they have to move towns and schools and struggle with elevated rental costs.<sup>26</sup>

Following the signing of the East Kimberley and Port Hedland RPAs, the WA Minister for Indigenous Affairs, introduced a public housing initiative to allow Indigenous employees some transition time as they move from welfare to employment.<sup>27</sup> Under this initiative, public housing tenants will be allowed to remain in public housing for up to 2 years while they find private rental accommodation or build or purchase their own home. In addition, the Department of Housing and Works will provide advice and education on home ownership and budgeting.

26 Calma, T., (Aboriginal and Torres Strait Social Justice Commissioner), *A Level Mining Field: The Path to Achieving Outcomes for Indigenous and Non-Indigenous Stakeholders in Mining*, Sustainable Development Conference, Sheraton Perth Hotel, WA, 26 October 2006.

27 Roberts, M., (Minister for Housing and Works, Heritage, Indigenous Affairs and Land Information), media statement, 14 December 2006, available online at <http://www.mediastatements.wa.gov.au/media/media.nsf/d3ea7ba6c70aeaae48256a7300318397/c39259385f76bdde48257244002a8c17?OpenDocument>, accessed 23 January 2007.



The need for consideration of housing policy demonstrates that overcoming the barriers to employment will require more than a focus on education and training. Cooperation and change will need to occur across a range of government departments encompassing a number of policy areas. For example, one aspect of Indigenous employment not currently addressed by the RPA is the accommodation of Indigenous cultural rights. According to the *NATSIS Survey* of 2002 more than 20 percent of employed Indigenous persons felt they were unable to meet cultural responsibilities due to their work.<sup>28</sup> The accommodation of cultural rights, like the accommodation of housing interests may be required as a special measure to overcome Indigenous disadvantage.<sup>29</sup>

While Indigenous employees should not be exempt from means testing on government subsidies, policy should be responsive and flexible. Governments should be working closely with industry to ensure that they are not operating at cross purposes.<sup>30</sup>

According to the Committee on the Elimination of Racial Discrimination (CERD), when applying International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) state parties are required to provide Indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics.<sup>31</sup>

Cultural responsibilities at certain times of the year that do not coincide with Christian holiday periods such as Christmas, may be a factor which limits Indigenous people in being able to meet work obligations. The RPA provides a forum for discussion of matters such as cultural rights. Ultimately all matters that potentially impede employment must be canvassed in the interests of assisting the Indigenous people of the East Kimberley to develop their full potential and lead productive, creative lives in accordance with their needs and interests.<sup>32</sup>

## Collaboration amongst community organisations

A key outcome of the East Kimberley RPA has been collaboration and networking between local community groups. Since completion of the RPA, negotiations have continued through meetings and communications involving interested

28 Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Social Survey*, ABS series cat no. 4714.0., Commonwealth of Australia, 2002, p.42, table 15.

29 Human Rights and Equal Opportunity Commission, *What are 'special measures' and why do we have them?* Website, available online at: <http://www.hreoc.gov.au/faqs/general.html#5> accessed 7 March 2007. Note: Special measures are policies or actions by organisations or governments which recognise that the past or present disadvantage suffered by certain groups based on their race, gender or disability has affected their access to equality of opportunity and basic human rights. In order to ensure that such groups or individuals enjoy equality of opportunity and protection of their basic human rights, special measures permit 'positive discrimination' in favour of these groups. Special measures are an exception to the general rule that discrimination on the basis of race, gender or disability is unlawful.

30 Calma T., (Aboriginal and Torres Strait Social Justice Commissioner), *A Level Mining Field: The Path to Achieving Outcomes for Indigenous and Non-Indigenous Stakeholders in Mining*, Sustainable Development Conference, Sheraton Perth Hotel, WA, 26 October 2006.

31 Human Rights and Equal Opportunity Commission, *Human Rights Based Approach to Mining on Indigenous Land*, available online at [http://www.humanrights.gov.au/social\\_justice/corporateresponsibility/hr\\_approach.html](http://www.humanrights.gov.au/social_justice/corporateresponsibility/hr_approach.html), accessed 1 February 2007.

32 Human Rights and Equal Opportunity Commission, *Human Rights Based Approach to Mining on Indigenous Land*, available online at [http://www.humanrights.gov.au/social\\_justice/corporateresponsibility/hr\\_approach.html](http://www.humanrights.gov.au/social_justice/corporateresponsibility/hr_approach.html), accessed 1 February 2007.



organisations and employer groups. The regular meetings provide opportunity for collaborative action across a range of regional actors including industry, government, and Indigenous groups.

The RPA has the potential to see all parties working on the same issues in an environment of cooperation and coordination.<sup>33</sup>

A number of community organisations reported that the current level of funding is insufficient for them to fully participate in ongoing negotiations. The availability of funding was a primary motivation for community organisations joining the agreement.

Community organisations claiming to be already under resourced fear they are likely to struggle with the increased demands placed on them by the RPA such as increased administrative workloads and reporting requirements.<sup>34</sup>

There is a bombardment of information but no resources provided to assist communities in understanding it all.<sup>35</sup>

So far the Australian Government has made an initial commitment of \$1.5 million to the East Kimberley RPA with the potential for further funding as additional projects are developed.<sup>36</sup> In order to create equality between all negotiating parties, an assessment of resource allocations is required so that community organisations can participate fully and effectively to achieve the objectives of the RPA.

## Conclusion

Regional Partnership Agreements have the potential to become a valuable mechanism for the coordination of community development strategies between multiple levels of government, industry and communities. By bringing existing and future projects under regional facilitation, RPAs aim to identify gaps and overlaps in policy and initiatives that facilitate Indigenous participation in the local economy. The RPA provides an overarching framework for their coordination.

Even though there are many problems with the negotiations process and the dynamics of the various groups involved, this is a good direction from government and has the potential to achieve big changes.<sup>37</sup>

The keys to the success of the East Kimberley RPA at this point are greater engagement with local Indigenous stakeholders and the development of processes to maintain momentum in the projects. The RPA is currently at a turning point, requiring the coordinators to establish mechanisms to drive action, to improve and maintain communication, to increase the number of Indigenous partners, and to develop procedures for formal evaluation of projects and the RPA.

33 Clear C., (CEO, Warmun Community Incorporated), *Correspondence with the Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for Information in preparation of the Native Title Report 2006*, 12 December 2006,

34 Anonymous, Representative from an Indigenous organisation party to East Kimberley RPA, 2006.

35 Anonymous, Representative from an Indigenous organisation party to East Kimberley RPA, 2006.

36 Brough, M., (Minister for Families, Community Services and Indigenous Affairs), *1,500 Indigenous people to get jobs in the East Kimberley*, Media Release, 7 November 2006.

37 Anonymous, Representative from an Indigenous organisation party to East Kimberley RPA, 2006.

