



*Human Rights and Equal
Opportunity Commission*
www.humanrights.gov.au

DYNO
Dyno Nobel
Groundbreaking
Performance

RioTinto



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Human Rights and Equal Opportunity
Commission

Distrust to consultation to consent



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2020 VISION - BUILDING CAPACITY FOR GLOBAL EXPANSION

Minerals Industry & Indigenous relationship

- > MCA Indigenous Relations strategic framework:
 - the future success of [y]our industry is inextricably linked to creating new, and continuing to build upon the strong existing relationships established between companies and [Indigenous] communities.
- > How?
 - Free, Prior & Informed Consent



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The future – Free Prior Informed Consent

2005 – UN Economic and Social Council

the realisation of free, prior and informed consent is a major challenge for member states

2007 – Declaration on the Rights of Indigenous People (DRIP)

Art 32: Right to give free and informed consent prior to any project affecting our lands and resources, particularly in connection with the development, utilisation or exploitation of mineral, water or other resources



Today – Consultation

1. The industry

MCA: ‘...we've shifted from a culture of decide, announce, defend to engage, listen and learn.’

ICMM: respect, understand, engage, seek agreement

2. Legal and regulatory framework

Native Title Act

State and Territory land regimes

Environmental and cultural protection laws



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International Guidance to achieving FPIC

- *Corporate and Social Responsibility Principles for a Human Rights Approach to Development and Indigenous Land* developed by HREOC and Griffith University in 2002
- Extractive Industries Review in 2003
- *United Nations Economic and Social Council Report of the International Workshop on Free, Prior and Informed Consent and Indigenous Peoples* - UN Permanent Forum on Indigenous Issues in 2005
- International Council on Mining and Metals Roundtable on Free, Prior and Informed Consent – ICMM 2008



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The future - Free

- > No coercion, intimidation or manipulation
- > Respect traditional owners' and custodians' decisions, decision-making and dispute resolution process
- > Refrain from participating in decision making structures unless by the traditional owners' and custodians' invitation



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The future – Prior

- > Seek consent before authorising or commencing activity
- > Continually seek consent throughout the life of the operation
- > Respect traditional owners' and custodians' time frames for coming to a decision



The future - Informed

- > Provide all the information the traditional owners need to make the decision in a timely, comprehensive and understandable form
- > Recognise language barriers
- > Recognise oral traditions of Aboriginal and Torres Strait Islander people when deciding the format information is provided in
- > Disclose all the information about the project and inform the community when aspects of the project change



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The future – Consent

- > Consent is what the indigenous people understand they are consenting to
- > Communities have the right to withhold consent. Respect their right to say no.

Conclusion

The minerals industry poses one of the greatest threats to Indigenous Australians livelihoods and wellbeing. It also presents one of the greatest opportunities.

Challenge:

- to openly and whole-heartedly commit to adopting the principle of free prior and informed consent
- Make it an integral part of your operations.



Thank you

For further information see my Native Title Reports and other HREOC publications at

www.humanrights.gov.au

