

THESIS TITLE

‘A Critical Analysis of Decision-making Protocols used in Approving a Commercial Mining License for the Beverley Uranium Mine in Adnyamathanha Country: Toward Effective Indigenous Participation in Caring for Cultural Resources’

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Abstract

An exploratory approach via a single case study is used in this thesis to better understand two embedded units of analysis: the first unit of analysis explores Adnyamathanha resources management and decision-making protocols, and the second unit of analysis explores the Environmental Impact Assessment for Beverley Uranium Mine. ‘Adnyamathanha’ literally translates into English as ‘name for the people of the rock country’ and is associated with several sub-groups of Indigenous peoples from the northern Flinders Ranges region of South Australia. These sub-groups include Kuyani and Adnya-Kuyani, Biladapa, Warlpi, and Yadliawada and all are inextricably linked through complex relationships between people, land, kinship and language.

This thesis involves a critical examination of the various levels of participation by Adnyamathanha in the decision-making processes surrounding the commercial licensing at Beverley Mine. It clarifies issues and raises new questions about the interface between players involved in land use through a qualitative and participatory research methodology and set of methods used to explore the topic. Theoretical understandings are linked to Indigenous heritage and resources management to highlight the cultural values of past, present and future relationships between Indigenous peoples and customary lands. Deconstruction of the geographical landscape offers an insight to the spaces and places necessary for an equitable assessment of commercial, social and environmental land values.

In this study the trajectory of cultural heritage protection and resources management is examined as part of the key legislated processes that relates to heritage security and sustainability in Adnyamathanha country. Native Title was a focal point of engagement within the Beverley case and is therefore central to many of the discussion points throughout this thesis. An examination of the extent to which mining proponents and governments are responsible for impact assessments goes hand in hand with this discussion regarding participation by Aboriginal players in land use.

Examination of the Environmental Impact Assessment (EIA) in the Beverley case reveals that government and industry processes facilitated mining and devalued Adnyamathanha cultural heritage and site protection. I argue that the ideology behind ‘impact assessment’ and land use procedures within Australia remains dominated by a colonial framework committed to prioritising commercial perceptions of what is valuable based on national and global business-related interests. This ideology fails to accommodate Indigenous cultural heritage values and

denies Indigenous peoples' human rights. Findings reveal a disturbing scenario of inequitable engagement that unequivocally favoured miners' rights and brutally disempowered Adnyamathanha, a pattern consistent with global trends.

The significance of this thesis lies in the validation of a culturally diverse range of understandings of land resources, especially the meanings of Adnyamathanha identity and Indigenous connectivity to the environment. Cultural heritage protection is explicitly linked to Indigenous governance and Indigenous engagement through prioritisation of Indigenous needs and values. This thesis identifies how capacity building and self-determination can improve governance and engagement strategies to galvanise and strengthen future outcomes for Adnyamathanha and other Indigenous players dealing with exploration and mining. Improving impact assessment participation using culturally appropriate protocols is one part of this multi-faceted solution.

Acknowledgements

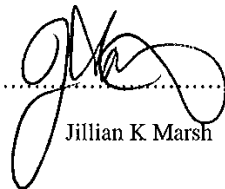
I acknowledge the valuable guidance and support I have received during my time as a Doctoral candidate from members of the Yura Language Consultative Group and Anggumathanha Law Adnyamathanha Elders (Yuras that were born and raised in traditional camps) for providing cultural advice and sharing their experiences. Their support has assisted me in telling the story of Beverley Mine in a way that might never have been told otherwise – *in an Adnyamathanha way*. I am also grateful for the efforts of my supervisors in helping me navigate a successful path through the PhD process; there have been plenty of challenges for all of us. Many thanks also to my family and friends who have encouraged me and believed in my commitment to ethical research and Aboriginal peoples' struggle for justice. I say a big 'thankyou' to my daughter Clare for her patience and understanding when I was tired and forgetful and couldn't go places. Finally thanks to the small number of research students who became my peer group; life as an Indigenous researcher is isolating and your support and encouragement has helped me succeed where others have failed.

I wish to state that the intellectual and cultural knowledge shared by Aboriginal participants' remains their property and this thesis in no way infringes on that right.

Student Declaration

This work contains no material which has been accepted for the award of any other degree or diploma in any university or other tertiary institution and, to the best of my knowledge and belief, contains no material previously published or written by another person, except where due reference has been made in the text. I give consent to this copy of my thesis, when deposited in the University Library, being available for loan and photocopying.

Signed:



Jillian K Marsh

Date:

15.02.2011

Dedication

I dedicate my efforts in completing this thesis to all Yura Yakarti (Adnyamathanha Children) and the special bond they develop with the physical and spiritual environment from a very early age. This bond grows through the learning privileges provided by our Elders and parents, and time spent in ‘the bush’. The bush is the most precious part of Adnyamathanha Yarta (our land) and is like a home away from home where we can relax and rejuvenate; a cool shady creek in the summer time, a warm sunny hollow in the winter time, or a panoramic view down to Manda (Lake Frome) that is breathtakingly beautiful. Yura Yakarti go out bush with their nganginyi (family), visiting special places, listening to all the peaceful sounds, sleeping under the stars, going for long walks in the daytime, and sitting around the fire at night. Together we enjoy all the wonderful foods like urdlu varlu (kangaroo meat) and mai (plant foods) cooked in the ilda (ground oven), warratyi vipi (emu egg) and nguri (wattle gum), and we drink fresh awi (water) from the creeks and springs. For our Yura Yakarti to have these experiences we as parents must demonstrate our knowledge and respect for Adnyamathanha Yarta and our nganginyi, making sure both are looked after now and for future generations. Learning to know and respect your country is about learning to know and respect yourself.

I also dedicate this thesis to the peaceful movements of people on a global scale who truly believe our world will be a better place when it becomes decolonised and nuclear free. Decolonisation of our minds and our daily lives provides a peaceful strategy that every individual person can nurture and utilise toward a solution for global peace and a cleaner, sustainable environment. The threat of a nuclear holocaust is real for all global citizens, and responsible leadership alone cannot guarantee our children and their children a safe presence on this Earth if uranium continues to be extracted and marketed on a global scale. Ordinary citizens of every nation must act to ensure a safe environment for our children.

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Section One: INTRODUCTION

Chapter 1. Overview of Thesis

The topic of this thesis explores the cultural relationships between Indigenous peoples and lands and how human knowledge systems are used to identify and realise these connections. This single case study examines knowledge with a primary focus on Adnyamathanha experiences and perspectives and the establishment of Beverley Uranium Mine. The intention is to find ways to improve heritage protection and cultural resources management for Adnyamathanha and other Indigenous peoples.

The quality and style of this case study is based on a conscious effort to bring together peoples' experiences in a way that is honorable and forthright. Comments made by participants cannot be generalised to a population of players, rather they are regarded in this thesis as real experiences that are meaningful in the context of ideas. The key idea in question is embedded in the title of this thesis: toward effective Indigenous participation in caring for cultural resources. I believe the approach and the research topic are indicative of an ethical responsibility on the part of the researcher toward Adnyamathanha Yuras and all other participants.

Anyone with an interest in the uniqueness of Indigenous cultures, or with a prior knowledge of the passion in which many Adnyamathanha experience identity and tradition, will find the work within this thesis to be a confirmation and at times revelation of the intense spirituality that exists between Yura and Yarta. This thesis reveals Australian society's lack of good governance structures and community understanding in regard to legislation, policy and best practice for environmental impact assessment and Indigenous engagement. The pattern of engagement used by mining proponents and governments raises concerns by non-government groups and ordinary citizens and stands out as a controversial factor within the realm of 'development'. For those readers with a specific interest in mining or the nuclear industry, this case adds to the body of evidence and knowledge that already exists in relation to patterns of community engagement. This study also highlights the urgent need to nurture an ideology of genuine community governance and engagement within exploration and mining impact assessment procedures as opposed to covert attempts at instilling new forms of colonialism.

1.1 Use of non-English Language and Appropriate Terminology

Words from the language known as Yura Ngawarla are used in this thesis. Yura Ngawarla is primarily used by persons identifying as Adnyamathanha or Yura. The orthography or writing system and terminology used is endorsed by the Yura Language Consultative Group Incorporated (YLCG), a community based organisation involved in researching and publishing Yura Ngawarla. As part of a reciprocity agreement formalised during the early stages of research, all Yura Ngawarla featured in this thesis will be made available to YLCG for purposes determined by the organisation, subject to approval by Confidential Interview Participants. Individual speakers will not be identified unless prior permission has been obtained. A glossary of Yura Ngawarla words and phrases and Udney Ngawarla (English) translations is included (see Appendix One). Yura Ngawarla is used to highlight the centrality of Adnyamathanha values and beliefs in this thesis. The term ‘Yura’ is used with specific reference to an Adnyamathanha individual or to Adnyamathanha cultural tradition (for example, yura way) and the plural indicator ‘s’ is sometimes added to make a sentence correct according to Udney Ngawarla grammar; either ‘Yura’ or ‘Yuras’ can be used.

Terms used to describe or refer to people collectively or individually include Adnyamathanha (group or nation), Yura (regional identity) and Anggumathanha (Camp People). The term ‘Elder’ refers to someone in a position of seniority based on age (usually over 50 years old), cultural knowledge and experience. These people often assume the role of a leader in meetings and as part of family clusters, and often work comfortably with others of a similar status. The term ‘Young Person/s’ is used in this thesis to refer to someone aged less than 50 years old who seeks to actively engage in cultural resources management and heritage protection. These people can also assume a leadership role, particularly in relation to deciphering written and spoken Udney Ngawarla for other Adnyamathanha who are less articulate in Udney Ngawarla. Sometimes these people can act in a liaising capacity at meetings. Often there is a degree of tension between Elders and Young Person/s.

Indigenous is used generally in reference to Indigenous peoples, lands, and cultures to denote an original connection between the three which is socially determined and perpetuated. As a sign of respect for persons quoted who prefer the term ‘Aboriginal’, I will maintain consistency with such terminology throughout the relevant discussion. Both words are capitalised consistently throughout this thesis as a gesture of respect for Australian and other Indigenous peoples given that ‘Indigenous’ or ‘Aboriginal’ is often the only form of identity

assigned to or imposed on displaced first nation peoples subject to colonisation. I would deem it improper to refer to the identity of Australian citizens or the culture of these people as *australian* therefore I also deem it improper to use lower case for Indigenous or Aboriginal. Other common terms include Yarta (land), Native Title and native title; title case is used to refer to legislation or respective administrative processes, and lower case is used to refer to the ideology of sovereignty and sovereign rights associated with land and resources.

The term ‘participant’ is used in this study to identify any person including the researcher who actively contributes either through the generation of new understandings, through directly influencing the environment in which observation is taking place, or through sharing of perspectives and experiences for the purpose of informing this thesis. Interview participants will be required to give informed consent for their part in this investigation, and any persons who become involved through indirect means eg. through participant observation at a public meeting, will not be identified. The term ‘I’ is used instead of ‘the researcher’ to denote my role as author and participant in the research setting. I choose to employ terms such as ‘us’ and ‘our’ and not ‘their’ or ‘them’ when referring to Adnyamathanha collectively, as a way of reminding readers that I am part of this group and my role as researcher is explicitly subjective and participatory. I also sometimes use these inclusive terms as a show of solidarity with broader Indigenous experiences and perspectives.

This study seeks to identify spaces for equitable and ongoing interaction relating to cultural heritage protection and resources management in Adnyamathanha Yarta and elsewhere. The term ‘heritage protection’ refers to Indigenous understandings, beliefs, and values that denote places of cultural significance worthy of preservation. The term ‘resources management’ refers to broader socioeconomic understandings of land use. The terms ‘security’ and ‘sustainability’ are used in this thesis to refer to the ways in which Adnyamathanha cultural resources are perceived, valued, and cared for within Adnyamathanha Yarta. Security explicitly refers to cultural resource arrangements at any given moment, whereas sustainability refers to cultural resource arrangements over a period of time.

An unpacking of terminology will inform this thesis across a range of significant milestones including historic moments affecting cultural resource arrangements (pre-Native Title and post-Native Title legislature), governance of uranium and the nuclear industry, and the dynamics of key concepts such as *negotiation*, *consultation*, and *participation*. Colin Tatz (Tatz 1982) offers useful insight to these commonly used terms of ‘negotiation’, ‘consultation’, and ‘participation’ and to what extent theory and practice run parallel during

decision-making processes. Tatz claims these terms are often volatile yet widely used with little or no definition. These terms will be explored and clarified during the collection of primary data, and analysed within the final chapters of this thesis.

Cross references throughout this thesis will be marked with the use of the symbol ‘§’ to refer to Chapters or sub-sections of Chapters. For example (see §6.2) may be used in Chapter Seven or Eight to refer the reader to something discussed in an earlier Chapter. This symbol is NOT used in reference to one of the four Sections of the thesis. The purpose of including this discussion on terminology is to minimise any misunderstanding that may arise throughout this thesis, and to recognise Yura Ngawarla as a fundamental aspect of Adnyamathanha cultural identity.

1.2 The Beverley Project

Heathgate Resources Pty Ltd became the designated proponent for the Beverley proposal in October 1996 (Environment Protection Group and Environment Australia 1999) and State and Commonwealth governments were also major players in the regulatory process. Following completion of the exploration and ‘trial mine’ phase for the Beverley project, an Environmental Impact Assessment (EIA) was undertaken as a joint effort between Commonwealth and State governments; regulation was facilitated by Environment Australia and the Minister for Environment. Requirements under Commonwealth legislation known as the *Environment Protection (Impact of Proposals) Act 1974* (Commonwealth of Australia 1974), hereafter referred to as the *EPIP Act 1974*, were managed by the Environment Protection Group within Environment Australia. The Beverley proposal was also subject to impact assessment under the legislated conditions set out in the *Development Act 1993* (SA Government 1993) and policy guidelines for Major Developments or Projects criteria which are administered by the Environmental Impact Assessment Branch at Department of Transport, Urban Planning and the Arts (Thomas and Elliot 2005). Largely the impact assessment for the Beverley case was administered at the State level.

Public participation and Indigenous engagement remains controversial from the early stages of the Beverley proposal and continued throughout the entire impact assessment phase which took place during the latter part of the 1990s. Possibly the most intense period of proponent-public interaction and media coverage occurred during 1998. This was also the year when Adnyamathanha sought registration of two Native Title Claims and began developing a new

framework for local governance. In March 2009 there was a successful Adnyamathanha Native Title Consent Determination (Federal Court of Australia 2009).

The impact assessment for Beverley involved a Ministerial declaration of a Major Development under the *Development Act 1993*. A Ministerial determination in the late 1990s triggered the Major Developments Panel to establish an appropriate level of assessment using a scoping exercise and issues paper for public comment and interaction with the proponent. This led to a set of guidelines (Planning SA and Environment Australia 1998) for an environmental impact assessment for the Beverley proposal. The South Australian Department of Transport, Housing and Urban Development played a leading role in regulating the approval process for the proponent Heathgate Resources in their bid to gain a commercial license to mine at the Beverley site (Heathgate Resources Pty Ltd 1998a).

1.3 Research Topic

Through an analysis of the Beverley Uranium Mine, this research examines the effectiveness of Adnyamathanha participation in managing and caring for Adnyamathanha cultural resources. The first unit of analysis involves the documentation and understanding of a broad historical perspective of Adnyamathanha resources management and decision-making protocols. The second unit of analysis explores a specific chronological period of engagement purposely driven by key players at the time of the Environmental Impact Assessment for Beverley Uranium Mine.

Key research questions within this case study include:

1. What factors consistently influence Adnyamathanha decision-making in relation to cultural resource security and sustainability?
2. What are the perceived strengths and weaknesses within the consultation and negotiation processes according to the various stakeholder and interest groups?
3. To what extent are Adnyamathanha expectations regarding cultural resource security and sustainability met?
4. What are the lessons to be learned regarding security and sustainability for Adnyamathanha cultural resources?

Cultural resource security and sustainability have been widely discussed within the context of resource management (Howitt, Connell et al. 1996a) and specifically refer to meaningful

arrangements that offer stability and long term security to Indigenous peoples' lands and cultures. As evaluative tools, these terms also describe and critically analyse the extent to which beliefs and values intrinsically Adnyamathanha are understood, respected, and reinforced within resource development processes. As strategic tools, these terms assist in identifying how cultural resources can be sustained for the benefit of future generations. This leads to greater understanding of Adnyamathanha experiences of dispossession as a result of development processes led by government and industry, and assists in situating these experiences within a national and international context of native title and impact assessment.

Perspectives, perceptions and experiences held by participants and interest groups inform the focus and analysis of this thesis; however, I acknowledge these will continue to change or evolve over time and in no way offer a representative view of any particular group. This thesis pinpoints and maps similarities and contrasts, some gaps in understandings, and the strengths and weaknesses that characterise the effectiveness of cultural resource security and sustainability. The purpose is not to characterise Adnyamathanha culture and identity or individual players, but to try and better understand the politics within key interest groups.

1.3.1 Research Objectives

The objectives in this thesis are to:

1. Describe and critically analyse Adnyamathanha participation in the consultation and negotiation processes surrounding the approval of Beverley Mine as a commercial operation,
2. Identify opportunities for and impediments to Adnyamathanha participation,
3. Scrutinise the relationships between Adnyamathanha participation and cultural resource security and sustainability.

1.3.2 Literature Review

The scope of literature reviewed includes documents that inform discussions, draw on previous research, and assist in setting the parameters of this thesis. Particular attention is paid to the extent to which literature reflects and/or directly includes Indigenous perspectives. Theoretical frameworks featured in this review include postmodernism and postcolonialism, cultural theories, critical theories, Indigenous theories, and feminism. These help develop an in depth understanding of cultural resources management from an Indigenous perspective and

the actions of government in response to Indigenous peoples' concerns regarding heritage. Disciplinary frameworks include anthropology, sociology, and geography.

The lived experiences and concerns of people feature in this review. These include experiential knowledge of the impacts of mining and other forms of commercial development such as pastoralism, how decision-making links to Indigenous ways of working, and persistence of Indigenous values and beliefs. O'Faircheallaigh claims an absence of a '...comprehensive record of resource development agreements in Australia ...' (O'Faircheallaigh 2004a, p. 6) and a lack of case study research into negotiations. O'Faircheallaigh concludes: 'We must be able to explain existing outcomes if we are to offer conclusions about how more positive outcomes can be achieved' p. 11). In identifying these limitations, this article provides a strong basis for arguing the significance of this thesis. Contributions likely to be made from this thesis include areas such as case study research into native title governance, resource development, agreement making, and positive outcomes for Indigenous peoples generally, and in South Australia specifically.

1.4 Ethical Considerations

Ethical considerations are examined in greater detail in Chapter Two to extend this discussion beyond ethical conduct toward an evolving Indigenous Research Methodology within academia in Australia and elsewhere. Participatory Action Research (PAR) is the preferred methodology that informs the philosophical approach and ethical practices within this thesis. The intention is to create a research approach that endorses working *with* Adnyamathanha people rather than conducting a case study *about* Adnyamathanha culture and people.

Ethical practices include ways of working with Indigenous Australian peoples and ways of conducting research within Indigenous Australian communities that are respectful of the cultural and property rights of Indigenous Australians. Guidelines developed specifically for researchers and research organisations include both practical and theoretical considerations (AIATSIS 2000; Australian Heritage Commission 2002; DKCRC 2003) and these have been reviewed as part of the early stages of developing the research proposal which later became the basis of this thesis. Other relevant literature informing ethical considerations includes academic articles and government guidelines written by Australian Indigenous and non-Indigenous researchers regarding ethical conduct in the field (Kickett and Kickett 1992; Hubbs 1999; Atkinson 2001; Rigney 2001; Australian Heritage Commission 2002; Marsh,

pers. comm. 2004). I have personally talked with these people and read their views and recommendations regarding research based on their lived experiences.

Some of the key aspects of ethical research include ways for researchers to engage Indigenous peoples, their ideas and their values in a meaningful way within research. One way I have tried to do this is by establishing an Indigenous reference group (see §1.3.2) with three or four members to discuss the purpose of this study and to oversee representation of cultural knowledge and other elements such as confidentiality (personal and cultural). Reciprocity includes ways I am able to offer support and/or advice to people throughout as well as beyond the scope of this thesis, and provides a way of acknowledging the enormous benefits I gain as a researcher.

1.5 Solutions to Problems for Researchers

As key researcher in this case study I believe a strong ethical position must seek to anticipate problems and offer direct benefit to community participants. I have tried to develop an approach to research that was recognisable and appropriate for Indigenous peoples generally, and in this case for Adnyamathanha in particular. The ethical priorities I have adopted include voicing Adnyamathanha perspectives through Yura Ngawarla and leading discussions with direct quotes. I also encouraged Yuras to look for innovative ways of improving their situation. This approach adds to the documentation of an endangered language, actively encourages engagement in good governance, and helps to empower Elders. Ethics also demands the researcher declare their positionality within research.

To minimise development of an ‘unspoken’ or ‘hidden’ agenda within this case study I wish to articulate my position as *researcher* at the beginning of this thesis as part of a participatory discussion. I acknowledge that personal issues such as family relationships, sickness, or a death in the community can impact directly on research at any given time. I also understand that major new developments relating to the case can impact on research. I believe this must be acknowledged in a professional way in the early stages of research so as to maximise my ability as researcher to effectively manage this case study. I recognise that my position as researcher, my status as an Adnyamathanha woman, and the background knowledge I bring to this thesis inevitably affects the data collection and analytical processes.

Participatory Action Research or PAR (Stringer 1996a) fully acknowledges the role of the researcher, and the influence a researcher can have on a research setting. PAR provides the

space for the relationship between me as the researcher and the research process to be discussed within this thesis, and an opportunity to explore and articulate the degree to which the two are separate entities.

Consideration of the existence of power relationships within and outside of the Adnyamathanha kinship system is a key to recognising my positionality. Existing cultural relationships, protocols and decision-making processes must be respected by me as researcher. As a member of the Adnyamathanha group it is my duty to honour these relationships through mutual trust and respect, and to ensure that the 'ownership' status of this case remains with the Adnyamathanha community at large. In particular, I need to ensure that the production and sharing of research knowledge respects individual as well as collective rights. The next part of this discussion introduces other ways in which I have tried to address issues of ownership, cultural respect and reciprocity.

My intention as key researcher was to establish an Adnyamathanha Reference Group (ARG) comprised of three or four Adnyamathanha Yuras. This body was formed during the very early stages of developing the thesis topic and well prior to commencement of data collection. I anticipated that the role of the ARG was to guide me in determining the scope and application of the research, advise me on issues relating to respect for cultural protocols and ways of working, and to oversee a large portion of this case study in accordance with key principles of Participatory Action Research (Stringer 1996b). I hoped that this group would act as an advisory body throughout all stages of developing methods of inquiry in regard to the gathering of primary data and during data analysis. I also hoped that the ARG would steer the thesis and act as a collective 'double check' when uncertainties arose for me as the key researcher. Establishing a reference group was also intended to ensure that sufficient opportunities for active Adnyamathanha participation were created, and provide a mechanism for accountability for myself as researcher. As key researcher I was attempting to take every possible step to ensure the group could offer cohesive support through a balance of age, knowledge and experience, gender, and kinship alignment. The input I received from Elders was a valuable contribution to this process.

A reference group referred to in this thesis as the Adnyamathanha Reference Group (ARG) consisting of three people was established to oversee the study as I entered the early stage of fieldwork. These people are Adnyamathanha persons with a broad knowledge of cultural resource management issues and cultural protocols relevant to Adnyamathanha. The researcher encouraged the group to work cohesively, covering dimensions such as age,

knowledge, gender, and kinship alignment. This was regarded as an important first step in building and maintaining positive relationships around the case study. The role and composition of the ARG has remained fluid so as to be able to respond appropriately to the emerging issues and needs within this case study. In the latter parts of the thesis the ARG was composed of a group of Elders who were able to provide advice in the final stages following a presentation of findings.

Informed consent has been another key consideration throughout all stages of this case study. Interviewees were asked to discuss with me and then complete a written consent form prior to being interviewed which clearly states the purpose of this study and the interview, and their right to withdraw at any stage. Interviewees have received written copies of the transcripts of their own interviews, and have had numerous opportunities to edit or withdraw comments that they feel are confidential or too sensitive to publish.

Each participant has been asked on more than one occasion if they wish to remain anonymous. Advice has also been sought from the ARG about the ownership of intellectual property and issues relating to the sharing of cultural knowledge. There may be some knowledge that is deemed 'private' or 'secret/sacred' by the ARG or an individual and has been omitted or only referred to in a vague manner. In the case of Native Title claimants, it has been essential to protect their identity in the public arena for legal as well as social reasons.

The building of relationships based on mutual trust has been an important aspect of this research topic because it is complex, highly political and addresses issues that are steeped in conflict. From the onset I have felt responsible for ensuring the topic is investigated using a great deal of sensitivity so as not to create further division in the community and to protect the anonymity of all participants.

1.6 Thesis Structure

Section One of this thesis introduces key conceptual tools and an overview of the research topic. For example, an explanation of the use of a language other than English (namely Yura Ngawarla) is provided at the beginning of Chapter One. Yura Ngawarla is used as a means of incorporating culturally appropriate terminology and as a show of respect for Adnyamathanha participants and Adnyamathanha culture. A glossary of terms at the end of the thesis includes Yura Ngawarla words and phrases along with definitions of Udnyu Ngawarla (English) terms

used frequently. The topic of inquiry is also introduced in this section to determine the parameters and scope of this thesis along with the steps used to examine the topic.

The significance of this thesis is outlined in Chapter One together with the benefits likely to emerge from use of an approach to research that is ethically strong, action-based, culturally sensitive toward Indigenous peoples and cultures, and acknowledges the positioning and participation of all players including the researcher. Benefits gained emerge through a reciprocal process established primarily between participants and researcher; academic departments within Adelaide University and other relevant institutions such as Desert Knowledge Cooperative Research Centre also benefit from the research undertaken as part of this thesis. Mining companies and other commercial development proponents seeking to improve their cross-cultural awareness skills and credibility with Indigenous peoples and human rights advocates will also gain new insights from this thesis.

Section Two explores relevant literature in Chapters Three and Four which begins to provide a context for this case study. Literature of particular importance includes case study research from the field of natural resources management including topical areas related to environmental planning, impact assessment, and cultural heritage identification and protection. International, national and local case study literature is also included to build a historical profile for the Beverley case and compare best practice.

Section Three offers an overview that is specifically Adnyamathanha. Chapters Five and Six describe the experiences of Adnyamathanha involvement in cultural resources management, the scope of this case study, the commercial development of the Beverley Mine, and the interactions between proponent, government, Indigenous and environmental players.

Section Four includes an analysis of the topic and some recommendations for Adnyamathanha capacity building and future research. Chapter Seven has its focus on determining the extent to which the Beverley EIA provided appropriate opportunities for effective Indigenous participation in heritage protection, and some theoretical implications emerging from this thesis. This is followed by a Chapter Eight which includes a discussion of what type of future approaches may be useful in building greater capacity for Adnyamathanha to participate locally, nationally and globally. The idea of Indigenous participation in caring for cultural resources remains firmly cemented in many Indigenous traditions but is yet to be fully embraced by non-Indigenous peoples and cultures due to ongoing reinforcement of colonialism. Decolonisation of our minds and the way we do business is a key part of reconciliation and Indigenous self-determination.

1.7 Conclusion

A single case study provides a ‘snapshot’ in time and space of the Beverley case and is in no way representative of other cases or how the Beverley case may be unfolding at present. This thesis makes an important contribution toward building a more complex understanding of Indigenous participation in cultural resources management and heritage protection generally; it also contributes to greater understanding of the specific context of Adnyamathanha governance and engagement in regard to the Beverley Uranium Mine. A qualitative action-based approach that prioritises the needs of Aboriginal participants helps to explore peoples’ perceptions and values about decision-making and develop practical solutions. Examination of the interface between government, Adnyamathanha interest groups and individual players, and mining proponents has provided new insight to engagement and governance.

This thesis therefore offers a new contribution to Indigenous research methodology and an appropriate ethical framework. The next part of Section One provides greater detail of how the researcher has devised and implemented an appropriate methodology and ethics framework. An evaluation of these aspects is included in Chapter Eight of Section Four.

Chapter 2. Research Methodology and Methods Employed

Chapter Two explores the implications of incorporating or alternatively dismissing Indigenous ways of knowing within the research process and details how I address this matter in a culturally sensitive and ethical way. The chapter begins with a discussion of the philosophical beliefs that distinguish quantitative and qualitative research (Stake 1995; Denzin and Lincoln 2000; Yin 2003). It provides an overview of positivist approaches that validate the use of quantitative methods, and similarly that of post-positivist approaches used to validate qualitative methods. An examination of the social construction of knowledge and research paradigms highlights the relationships between epistemologies and ontologies within a context of land values, cultural beliefs, and strategies of survival in colonial Australia.

The second part of this chapter gives credence to an Indigenous Research Methodology through a focus on the design of methods or means of inquiry. This discussion starts with an examination of the relationships between a researcher, a research topic, and other participants so as to highlight the importance of an appropriate set of research methods. Methods such as case study techniques are identified for use in gathering and analysing data, and these are related back to the methodology (approach) and ethical considerations. An outline of culturally appropriate principles and methods (means of inquiry) are presented for use within this thesis based on multiple world views.

2.1 Philosophical Issues within Social Research

2.1.1 Introduction

The term ‘paradigm’ as it relates specifically to a researcher can be defined as ‘... the basic belief system or worldview that guides the investigator, not only in terms of choices of method but in ontologically and epistemologically fundamental ways.’ (Guba and Lincoln 1994, p. 195). A researcher therefore holds a position of power that is related to the way knowledge is constructed and utilised.

The purposes and intentions of social inquiry are often at the heart of what type of approach is used to investigate within research. A recent study of environmental scepticism literature (Environmental Network News 2008) refers to the overwhelming bias from researchers ‘...often identified as independent’ when in reality their affiliation to political think tanks and industry is commonplace. The study is noted for its particular mention of the need to evaluate the voices within literature in order to be able to determine the merit of claims being made by so-called ‘independent’ or ‘objective’ persons.

The uniqueness of this thesis is its grounding in an Indigenous approach for investigating this particular topic of Indigenous cultural resources management. At many stages during this investigation there is understanding gained that can only emerge from a pre-existing body of knowledge that is intrinsically *Adnyamathanha*. An Indigenous approach aims to provide the necessary space for Indigenous understandings to be fully acknowledged as a valid part of the research process.

2.1.2 Paradigms of Research: Positivism and Post-Positivism

Paradigmatic revelations within social research tell the audience a great deal about the philosophical and conceptual foundations within research. The two main paradigms that are recognised as the basis of research within the social sciences are known as *positivism* and *post-positivism* (Kumar 1996a). Although these paradigms both originate from the physical sciences, the former is often regarded as superior because it is claimed as the only form of systematic, scientific, and objective research. The latter is deemed opposite to positivism because of its naturalistic, ethnographic, and qualitative characteristics. Opposition and resistance between these two paradigms have historically evolved due to fundamental differences that relate to *truth* and *value-free* or *value-laden* research (Denzin and Lincoln

1998). Advocates of both paradigms have developed particular terminology, methods and techniques for gaining an understanding of social phenomena that distinguish each paradigm within social research (Kumar 1996a).

The term *quantitative* generally emphasises a need to identify one truth or reality that is measurable, and can be ‘... studied, captured and understood ...’ (Denzin and Lincoln 1998, p. 9). The term *qualitative* generally emphasises the social constructions of identity, reality, and phenomenon, and an inherent subjectivity within any social research process (Denzin and Lincoln 1998). Other distinguishing elements of qualitative and quantitative research pertain specifically to the gathering and analysing of research data. Robert Stake articulates this as ‘... a difference in searching for causes versus searching for happenings’ (Stake 1995, p. 39) which suggests how a researcher’s approach influences not only *what* is being researched but *how* something is being researched.

Positivist research paradigms have gained a reputation for reducing Indigenous cultures and peoples to a ‘measurable’ state of imperialist knowledge, and have historically been used as a means of subjugating Indigenous peoples and Indigenous knowledge (Hartmann 1992). One author who captures the reasoning behind the premise for an Indigenous approach is Dennis Foley who writes: ‘Indigenous philosophy is based in the oral traditions, and the contemporary Indigenous scholar should never trivialize this’ (Foley 2003). An underlying assumption of this comment by Foley is a consistent lack of sensitivity and awareness, often prominent in the work of social researchers. Another assumption is that Indigenous ways of knowing, like all other, deserve a position of respect within the research process. The aim of this focus on ‘ways of knowing’ is to cultivate a research methodology that primarily works *with* Indigenous peoples, rather than engaging in a research process that is *about* Indigenous peoples or issues.

Claims abound that social research approaches grounded in positivism often result in misappropriation of Indigenous peoples’ identities, intellects and knowledge due to distortion (Nakata 1998; LT Smith 1999; Foley 2003; Gunaratnam 2003). The continued popularity of data gathering and analysis based on quantification (Denzin and Lincoln 1998) indicates that Indigenous peoples need to remain wary of social research. Despite a trend away from positivist to post-positivist within the social sciences, Linda Smith asserts that “re-research within late-modern and late-colonial conditions continues relentlessly and brings with it a new wave of exploration, discovery, exploitation and appropriation” (LT Smith 1999). Ways of

knowing and ways of working with Indigenous people, and claims of colonialism will be discussed in greater depth throughout this thesis.

The aim of discussing distinctions between research paradigms is to maximise the chances of ensuring this thesis does not perpetuate a pattern of social research that is harmful and disrespectful toward Indigenous peoples. For example, I do not seek to determine the total number of persons who identify as Adnyamathanha Yuras, nor the percentage of people who have identical beliefs or values, or to explore the monetary value of compensation being received by groups or individuals as a result of the Beverley Uranium Mine. This thesis is about documenting and analysing the experiences and views of players regarding consultation and negotiation processes involving Adnyamathanha and Adnyamathanha Yarta. I seek to highlight the level of satisfaction held by players as to the effectiveness of the impact assessment process in recognising and protecting Adnyamathanha cultural resources. A qualitative approach enables a full range of happenings to be included in the research process that might otherwise be excluded if a quantitative approach were used.

As key researcher I believe the level of awareness and choices made about the approach to research are primarily informed by my world view, and in this thesis my choice is to use a qualitative rather than quantitative approach. The choice of a qualitative approach reflects a constructivist attitude to social inquiry as noted by Stringer and others (Stringer 1996b pp. 40-41), which emphasises a process of social inquiry that reveals and validates the ‘...different truths and realities – constructions – held by different individuals and groups’ (Stringer 1996 p. 41). I seek to validate a range of perceptions about the meaning of land resources and explore the governance strategies currently in place. In particular, this case study highlights the importance of Australian Indigenous and Adnyamathanha perceptions in order to identify pathways for more effective participation by Indigenous peoples in cultural resources management.

2.1.3 Detrimental Impacts of Social Research on Indigenous Peoples

In this section further attention is paid to claims that social research perpetuates the subjugation of Indigenous knowledge systems, which results in research that continues to be of little or no benefit to Indigenous peoples, and is often detrimental for Indigenous participants and communities.

There are widely held concerns within social research that many traditional and contemporary social research processes are harmful, offensive, repressive, and culturally biased against Indigenous peoples (Cowlshaw 1992; Rowse 1992b; Pimbert and Pretty 1997; Gill 1999; Hubbs 1999; LT Smith 1999; Gunaratnam 2003). Particular disciplines within social research that have been the primary source of this oppression include, but are not limited to, anthropology (Rowse 1992b; Sillitoe 1998) and archaeology (Hubbs 1999; Wylie 2000).

These disturbing claims arise across a range of academic disciplines, but are not entirely an academic issue given that the ramifications of social research are felt far beyond the walls of academia, to include social policy development and administration (Rowse 1992a), school policy, higher education pedagogy, and curriculum development (Christie 1991; Foley 2003), and resource governance arrangements (Brunckhorst 2002).

Ideological perspectives that determine research interests, parameters and outcomes can often be quite distinct depending on the cultural, socio-economic, and historical circumstances. For example, the ideology of development for industrial nations (Young 1995a) is usually about advantages, benefits and progress yet these are rarely the experiences of Indigenous peoples situated in colonial settings, particularly in regions deemed remote (Young 1995c). Often the language associated with procedures such as EIA is loaded to reflect this industrial ideology. Prior awareness of this is critical for any researcher undertaking a thorough investigation of a study such as the Beverley Uranium Mine.

Research paradigms or belief systems within far more recent disciplinary areas that boast qualitative paradigms also harbour reasons for wariness in the context of Indigenous research. For example, the assumption that Western feminists somehow represent all women is pointed out to be fundamentally flawed by its lack of applicability to Indigenous women (L Smith 1999). Many Indigenous peoples regard the issues raised within feminist research as divisive and oriented toward the sufferings and achievements of non-Indigenous women. In part this may be due to social research approaches that emphasise or assume one reality or truth rather than multiple truths.

Environmental research is another area fraught with difficulties for Indigenous peoples. For example, concepts such as *wilderness* remain ambiguous in that they seek to distance or detach humans from the natural environment (Gill 1999). Some critics claim that researchers and policy-makers that embed *wilderness* concepts in areas such as conservation risk engaging in an approach that can alienate Indigenous peoples, denigrate Indigenous identities, and deny Indigenous knowledge systems (Langton 1996, and Bird Rose 1988 cited in Gill

1999). Educational research is also considered by some researchers within education as a contentious area, claiming that Aboriginal Education is noted for its reliance on Western concepts and approaches (McInerney 1992; Nakata 1995).

Detrimental impacts can and do result from inappropriate approaches to social research and strongly suggest that exploration of issues relating to Indigenous cultures and peoples through ideas derived from elsewhere can distort and limit the scope of understanding within research. I believe that advocacy through an approach grounded in the needs of a group or community of players offers a mechanism for Indigenous peoples to achieve greater understanding of the political environment we are in, and increases our level of control over our lives. Within social research, advocacy is a key principle that can bring direct benefit to Indigenous peoples.

2.1.4 Epistemological Issues

At a general level of understanding it is claimed that “Knowledge is a belief, or set of beliefs, about a particular segment of reality” (Denzin 1991, p. 30). Another interpretation more specifically describing Indigenous knowledge is as follows:

‘Traditional knowledge is a term used to describe a body of knowledge built by a group of people through generations living in close contact with nature. It includes systems of classification, a set of empirical observations about the local environment, and a system of self-management that governs resource use’ (Davis 1997, p. 12)

Michael Christie claimed ‘... Aboriginal science is much more in tune with the whole ecology and therefore boasts an ontology rich in successive layers of metaphor ...’ (Christie 1991, p. 28). He identified four principles that characterise ‘Aboriginal science’ as: the contextual focus within scientific study, the multiplicity of perspectives; a methodology that ensures ongoing negotiation of knowledge, and the focus on pooling perspectives to achieve balance. Another strength in Christie’s work lies in its grounding through repeated educational application and evaluation, and his open acknowledgement and inclusion of Indigenous Elders’ knowledge. The expression ‘Aboriginal science’, according to the above description, can be interpreted as a research *paradigm* according to the definition given by Stanley and Wioe who define this term as ‘... a theoretically derived world view ...’ (Stanley and Wioe 1983 , p. 152).

An increasing number of academics are challenging the domination of Western knowledge and discourse, stressing the distinctions between ‘local knowledge’ and ‘professional knowledge’ (Corburn 2003), the use of ‘etic’ or outsider approaches and ‘emic’ or insider approaches (Denzin 1991; McInerney 1992) and the importance of synthesising these for more effective and appropriate research outcomes for Indigenous peoples. Others concentrate on the research process at a more holistic level (LT Smith 1999; Foley 2003). Their efforts not only bring greater clarity to the research process and the development of research theses, they also advocate for researchers to share the balance of power in an equitable way with Indigenous participants. This means a research process that evolves to accommodate the direction and priorities of Indigenous participants, which may require exceptional patience and understanding and a willingness on the part of the key researcher to forfeit a certain amount of decision-making power.

Other authors who raise discussions in their research about ways of knowing the world around us refer to ‘world views’ (Hubbs 1999) or ‘epistemological dimensions’ (Gunaratnam 2003). An interpretation of their focus on philosophical issues in social research suggests that as researchers, they feel obligated to develop an appropriate methodology aimed at recognising the possibility of exploitation and subjugation of Indigenous peoples and Indigenous knowledge. Their caution stems from a belief that detriment toward Indigenous peoples can and does frequently happen as a result of social research. An underlying assumption of their concerns is their dismissal of the notion that there is only one (Western) scientific way of knowing the world around us, and that no one way is superior to others.

Many research bodies that fund Indigenous research are also responding to the demands placed by communities for greater control over research theses (Ivanitz 1999; AIATSIS 2000; Australian Heritage Commission 2002). As communities express their concerns about social research and devise ways of better protecting their cultural and intellectual knowledge (Pearson 2000), drivers of organisational practices such as the Australian Public Sector (Ivanitz 1999) have become increasingly aware of a need to address past failures through changing the way in which cross-cultural research is conducted. Individual researchers are also being subjected to more stringent measures when working with Indigenous communities and individuals to ensure the research environment is equitable. These precedents within the research environment lead to a strengthening of ethical requirements and greater accountability within the research process.

The recognition of Indigenous knowledge systems and development of an Indigenous approach does not mean total rejection of Western theory or knowledge; rather it endorses a process of critical informed choice about what is appropriate in any given research context. However, a researcher cannot know what is appropriate without opening up control over the research process. Anna Hartmann advocates: ‘We need not discard our (Western) knowledge, but we must be open to local knowledge, to the narratives and truths of our clients.’ (Hartmann 1992, p. 484). This recognition indemnifies the existence of many ways of knowing the world around us and signifies a crucial shift from traditional views regarding the relationship of power and knowledge between the researcher and participants.

According to Paul Sillitoe (Sillitoe 1998), interdisciplinary approaches to research and development theses that synthesise with anthropological issues may provide greater understanding, sustainability and productivity especially if a *facilitatory* approach is endorsed. Sillitoe’s attention to the different ways that knowledge is shared and stored suggests that social research is yet to accommodate these phenomena. Another significant challenge raised by Sillitoe relates to the distortion of knowledge through cross-cultural communication. As a researcher I endorse the adoption of an interdisciplinary and facilitatory approach for similar reasons to those highlighted above. I believe that the challenges I face as a researcher will contribute to beneficial outcomes in the form of further insight into the development of Indigenous approaches to research.

2.1.5 Indigenous Ways of Knowing

One of the Indigenous participants I spoke with also provided some important tips on how to communicate successfully with Aboriginal people and cited the need for ‘a range of communicative tools ... for a range of people, taking into consideration their life experiences’ (Interview 16 Confidential 2005). This person insisted that as a professional it was:

‘... important to consider the broader issues that affect Aboriginal people; you can’t just deal with one section such as ‘health’ or ‘education’ or ‘employment’ and you must be transparent in your role as leader’ (Interview 16 Confidential 2005)

As an Aboriginal leader this participant made a valuable contribution not only to the content of this case study but also to the methods used and methodology employed.

Christie’s claim that Indigenous ways of knowing have a contextual focus (Christie 1991) suggests that the way knowledge is constructed, shared, and modified may depend on the

topic in question, the level of trust and respect between players, and the likely gains or losses that may eventuate. An article by Christie flags an important issue that directly relates to ontologies, or ‘...the picture of the world that a scientific system develops.’ (Christie 1991). It highlights the constant renegotiation that occurs and the existence of multiple truths or ways of knowing within an Indigenous context. Christie claims that all knowledge systems involve the building of knowledge on a simultaneous framework of metaphor and censorship (Christie 1991). He argues that in the formation of Indigenous knowledge the negotiation process is celebrated and central in ways that demonstrate that Aboriginal people constantly re-negotiate their ontology as the physical and social universe changes. These ‘ways of knowing’ highlight a constantly evolving or dynamic set of truths that should never be ignored within research.

Tunbridge has done many years of linguistic research with Adnyamathanha, and her published work refers to the existence of different versions of the same Adnyamathanha oral account (Tunbridge 1986). She suggests it is usual for knowledge to be shared in a particular way in each family based on their own unique perspective and understanding of a particular issue or event. Indigenous constructions of knowledge can be described through reference to the oral traditions of generating, sharing, and reinforcing the way we understand the world around us (Anyon cited in Hubbs 1999). Indigenous ways of knowing can vary dramatically, but each function in a way that intimately connects land, people, and spirituality in a holistic and contextual manner. I have attempted to embed Adnyamathanha ways of knowing into this study in order to reveal similar connections.

Researchers prominent for their work in South Australia (Brock 1985; Mattingley and Hampton 1988) claim that colonisation within the Northern Flinders Ranges region impacts on Adnyamathanha ways of knowing and has led to a continual process of rapid re-negotiation and endurance over the past 50-100 years. For example, the concept *Muda* (x-ref see Ch) may provide an appropriate way of knowing for some Yuras but not for others. Its most obvious manifestation occurs in Adnyamathanha oral accounts or Dreaming Stories, noted for their reference to ‘...events which do not recognisably pertain to recent history.’ (Tunbridge 1986, p. xxviii). In this thesis the focus on the existence and evolution of Adnyamathanha ways of knowing is central to understanding the multiple views of Adnyamathanha and the ways in which decision-making takes place.

2.1.6 An Indigenous Methodology

This thesis prioritises the need for a research methodology that is closely aligned with goals inherent to the ongoing agenda for reform of research that involves Indigenous people (North Australian Indigenous Land and Sea Management Alliance 2007). Generally, this requires an approach that is both collaborative and participatory (Ivanitz 1999; Henry, Dubar et al. 2002). The importance of designing a methodology appropriate to the needs and values of participants is strongly argued by the work in St Denis' *A process of community-based participatory research: a case study* (St Denis 1989) and Agger's *Critiques of Critical Social Theory* (Agger 1998).

Work specifically espousing Indigenous approaches to research include Linda Smith's text *Decolonizing Methodologies* (LT Smith 1999), Rigney's *Indigenist Research Methodology*, (Rigney 1997), Atkinson's *Privileging of Indigenous Methodologies* (Atkinson 2001), and Foley's *Indigenous Standpoint Theory* (Foley 2003). Foley claims 'The Indigenous epistemological approaches in an Indigenous standpoint enables knowledge to be recorded for the community, not the Academy.' (Foley 2003, p. 50). In other words, he is claiming that epistemologies within social research that are not appreciative of Indigenous ways of knowing effectively discount local ways of knowing, and tend to result in a research focus that is relevant primarily to the researcher, the research academy, or the funding body.

Despite striving for more appropriate approaches to research there is always a potential for research and researchers to subjugate Indigenous people and Indigenous ways of knowing (Hartmann 1992). Academia and academic research provide a far reaching mechanism for influencing institutions and policy makers, but at the same time there are substantial risk factors associated with taking part in research as the 'primary investigator' or 'facilitator' or 'researcher'. These risks emerge from the time a research proposal is first articulated and continues through every stage of the research process thereafter. Assuming that all research involves risk factors or that no paradigm or methodology guarantees a 'better way' of doing research, there are some approaches that can decrease the chances of exploitation and inequality, and increase the chances of real benefits for Indigenous people.

As key researcher I have devised an approach that is tailored to the issues and needs specified by people closely connected to this case, and I acknowledge this may not necessarily be applicable to other Indigenous research. My approach should not be regarded as a blueprint for an Indigenous Research Methodology; however, its design principles may have broader

application in modified form. The principles are based on careful consideration of all aspects of the research process, particularly methodological and ethical issues, explored in the early stages of this thesis and reflected on in the final stage (see §8). During the evaluative stages of this thesis an account will be provided that offers a self-assessment of how well these principles have been implemented. I consider a set of principles an important part of this case study in agreement with the assumption that ‘...until you get in there and get hold of your data, get to understand the context, you won't know what theories (explanations) work best or make the most sense.’ (Gillham 2000, p. 2).

The first principle stipulates that an Indigenous approach must bring about actual benefits for the participant community. These benefits may be direct or indirect and are not necessarily determined through measurable outcomes. This principle highlights a commitment to *process* rather than *product* and aims for high qualitative standards within the process of doing research (Howitt, Crough et al. 1990) such as meaningful participation, worthwhile training, and positive articulation of issues. Benefits are intrinsically linked to genuine participatory characteristics, and these should feature throughout all stages of the research process.

The second principle stipulates that an Indigenous approach must acknowledge that at the macro level of research there is a pivotal relationship between power and knowledge that shapes every research project in a subjective manner. Knowledge is socially and politically constructed and defined (Denzin 1991), and must be understood in relation to power. This principle openly acknowledges the historical legacy of social research and its negative impacts on Indigenous peoples (see LT Smith 1999). It justifies a research philosophy that strives for a design that seeks to privilege Indigenous voices, and respect Adnyamathanha ways of knowing and ways of working. This principle is adopted so as not to reduce Indigenous philosophies through a ‘skimming off’ process whereby existing Western paradigms dominate (Scott 1996). Examples of this principle being enacted will include searching for and citing relevant literature in which Indigenous voices are accurately represented and brought to the forefront. Another example that relates to power and knowledge is the attention given in this proposal to the positionality of the researcher.

The third principle stipulates that an Indigenous approach is a participatory approach that recognises and incorporates Indigenous people and Indigenous ways of knowing and working. Research that leads to effective arrangements for Indigenous cultural resources must be grounded in Indigenous beliefs and values (Howitt, Crough et al. 1990). This study will identify and incorporate Adnyamathanha ways of *knowing* and ways of *working* throughout

this investigation, with particular attention to the gathering and analysing of primary data. Adnyamathanha ways of knowing will enable deep understanding of the research topic from an Adnyamathanha perspective. Defining and exploring Adnyamathanha ‘cultural heritage’ and ‘values’ and ‘decision-making processes’ can only be fully articulated and understood by placing Adnyamathanha knowledge systems in a central position within this study. This will be achieved through exploring the role of language and family relationships and how these influence decision-making processes and connect Adnyamathanha to the landscape around us. It will enable in-depth analysis of what happens at the cultural interface of Adnyamathanha and non-Adnyamathanha encounters, and how these encounters affect definitions and boundaries relating to Adnyamathanha identity. Making Adnyamathanha knowledge systems a central part of this study prioritises Adnyamathanha perspectives.

The fourth principle stipulates that an Indigenous methodology is based on a holistic paradigm. Effective categorisation or separation of causes and effects is virtually impossible given that everything is in a constant state of simultaneous interaction and change (Lincoln and Guba 1985). This assumption denotes an approach that is sometimes referred to as hermeneutic, and is closely linked to a naturalistic (constructivist) interpretive paradigm. Holistic case study research tools (Yin 2003) are examined in greater detail in § 2.2.2. Here holism is highlighted as a principle in recognition of the widespread influences of colonialism and the persistence of Adnyamathanha identities within Indigenous cultural resources management.

2.1.8 Conclusion

I believe reviewing philosophical aspects of the research design to be a critical step toward developing into a well-informed Indigenous researcher and an advocate for self-determination by Indigenous peoples. Discussion on the approach to research and the role of the researcher helps determine the scope of this thesis and helps build my capacity as a researcher to undertake a meaningful investigation, and self-evaluation at the conclusion of this case study.

2.2 The Design of Methods

2.2.1 Introduction

Emphasis on the *design* of methods is crucial to an appropriate cross-cultural methodology that works for Indigenous peoples (Ivanitz 1999). The intention in this thesis is to identify and negotiate opportunities for direct benefit that make sense to participants, particularly Adnyamathanha, to encourage broad participation in the research process, and to contribute to the existing body of case data. Research techniques that influence the design of methods used in this thesis include case study research, naturalistic inquiry, and Participatory Action Research. I have combined elements in a way that facilitates acceptance by and compatibility with Indigenous, and in this particular case Adnyamathanha, ways of working and ways of knowing.

2.2.2 Case Study Inquiry

The justification for choosing case study research as a method of inquiry considers a number of factors highlighted by Yin (Yin 2003, pp. 40-43), Gillham (Gillham 2000), Stake (Stake 1995) and Flyvbjerg (Flyvbjerg 2001b). Each of these authors raise significant areas of discussion relating to the purpose of social and qualitative research and these are worthy of further elaboration at a philosophical level prior to creating a set of methods that are suited to this thesis.

One of the issues raised relates to whether a case study is more suited to identifying peculiarities within a case as claimed by Stake, who states that 'the real business of case study is particularization, not generalization' (Stake 1995, p. 8). Gillham (Gillham 2000) claims that case studies are useful in that '...specificity refers to the unique characteristics that define a group or individual and the issues tested...' (Gillham 2000, p. 6). This suggests that case studies are not suited to the construction of generalisations pertaining to a broad population of people - rather their usefulness lies in the potential to highlight unique qualities and important issues. Yin (Yin 2003) takes this discussion in a somewhat different direction. He claims that case studies are '... generalisable to a theory and not to populations or universes...' (Yin 2003, p. 21), and refers to this type of research as capable of generating an analytic or qualitative generalisation, as distinct from statistical generalisations based on enumerate frequencies. These important observations suggest that case study inquiry is applicable for a

broad range of purposes and is suited to this thesis because it enables links the Beverley case with broader discussions and ideas. Another important reason for choosing a case study approach is based on a personal and openly subjective response from me as the author and investigator of this thesis. I felt a need to document some of the key experiences and priorities of Adnyamathanha in regard to resource management and to ‘tell the story of Beverley from an Adnyamathanha perspective’.

This discussion raises questions regarding the expectations of players and participants and the credibility of the findings, as well as the design adopted in this thesis and its alignment with a theoretical disposition. The emphasis on theory-building for Yin is based on an assumption that linking data to theoretical propositions is paramount to the identification of patterns (Yin 2003, p. 33) so that a researcher can construct generalisations. For Yin, the role of theory-building runs parallel with the research design and analysis of data, and this is not entirely at odds with the claim by Gilman (Gillham 2000, p. 2).

This discussion is useful in raising awareness regarding the need to create an appropriate balance in research that acknowledges the existence of different areas of emphasis for different researchers, and one that is suited to a particular research topic. It highlights risks associated with ‘theory- building’ at the expense of ‘listening’ to the data with an open and reflexive mind. It also highlights risks associated with data collection in the absence of a theoretical framework, and the likelihood of such a project being unable to support generalisation to an abstract idea. Tailoring the research process to a particular research question was therefore a fundamental step in developing an effective research strategy to overcome such risks.

The aim in this thesis was to demonstrate that an emergent design as defined by Gillham (Gillham 2000) is capable of supporting generalisation, and that this can combine successfully with theory-building requirements as stipulated by Yin (Yin 2003). The emergent design in this thesis is demonstrated by an awareness of theoretical frameworks prior to commencement of the literature review to raise preliminary attention to theory in a way that informed the thesis but did not foreshadow the data collection and analysis phases. As data collection proceeded following the major review of literature, a further review of theory was undertaken to enable an emergent design for organising and analysing data. This demonstrates how theory can be interwoven through all stages of the research process whilst at the same time creates a space for the primary data to be positioned at the forefront of this thesis.

Naturalistic methods of inquiry distinctly refer to post-positivist research rather than positivist research and have many features that are appropriate to the design of methods I have used (Agger 1998); (Lincoln and Guba 1985). One feature within Naturalistic inquiry relates to the approach used when collecting primary data. As a design method, using a naturalistic approach in this thesis favoured an interview schedule and process that was designed to create a comfortable environment for interview participants. Data collection has been conducted in an environment that was familiar and comfortable to participants so as to yield a greater sense of participation as well as a minimal level of anxiety. Naturalistic inquiry assumes an interview process that is more like a conversation than a formal question-answer schedule. As interviewer I have placed emphasis on incorporating language into the discussion that is familiar to the participant; akin to a sharing process rather than an extraction of information.

A second related area worthy of elaboration in case study research is the identification of patterns and pattern theory (Stake 1995; Denzin and Lincoln 1998; Yin 2003). The linking of data to theoretical propositions (Yin 2003, p. 33) is a formulaic process used by Yin for identifying patterns, which is claimed to help the readers to better understand a particular case and assists the researcher in the theory-building process. This focus on patterns is also identified by Gillham (Gillham 2000), who insists that case study research is most effective where ‘... theory that is grounded in the evidence that is turned up’ (Gillham 2000, p. 12) is important to the validity of research methods and to the subsequent findings. Other authors (Denzin and Lincoln 1998) identify grounded or pattern theory as explicit to presenting findings within a constructivist paradigm, clearly linking this process to case study research (Denzin and Lincoln 1998, pp. 34-35). The attention paid to patterns and pattern theory within case study research emphasises the need to adopt pattern construction as an inherent part of the design and use of methods, as a way of adding context and validity to the project findings.

Case and context are regarded as fundamental in understanding human behaviour (Flyvbjerg 2001a), and this recognition dates back to the writing of the famous Greek philosopher Aristotle according to the work of Flyvbjerg, who also cites the works of Hubert Dreyfus and Pierre Bourdieu as a way of bringing clarity to the construction of theory in relation to social sciences and natural sciences. A critical examination of the links between theory (rules and laws) and concrete phenomena (human behaviour or human activity) opens up a discussion on the role of theory within the social sciences as different to that within the natural sciences. Flyvbjerg argues that social science has ‘...nothing else to offer than concrete, context-

dependent knowledge, and the case study is especially well suited to produce this knowledge' (Flyvbjerg 2001a, p. 72), and that '...there does not and probably cannot exist predictive theory in social science' (Flyvbjerg 2001a, p. 72). However, using the case study method of inquiry is primarily useful in adding to the cumulative development of knowledge and discourse through analysis of new case data. Whilst a case study itself cannot provide the breadth that large samples can, the case study method offers depth in understanding of certain phenomena within the wider context of other cases.

This thesis makes a contribution to the discipline of geography by adding to the body of case study literature that focuses on preparatory stages of capacity building that lead up to Indigenous peoples' initial interactions with resource companies. Additionally, this thesis makes a contribution through engagement with participants, particularly Adnyamathanha, regarding the meanings and implications of the research findings within this case study. I place a lot of importance on spending time building and maintaining solid relationships with various players. I feel this is paramount to the effectiveness of contributions that this thesis will make at a community level.

2.2.2.1 Single Case Study Research

There are several reasons why a single case study approach is used as opposed to a multiple case study as a means of inquiry. One rationale relates to the potentially revelatory properties (Yin 2003) within a case study, in particular the ethnographic richness within a single case. This descriptive and exploratory aspect of case study research is desirable in this thesis as it is likely to offer all players, and particularly Adnyamathanha participants, a deeper and more informed understandings of what happened in this case and how it is situated in a broader context generally. The thesis will dwell primarily on 'what' questions, 'how' questions and 'why' questions in an attempt to describe and analyse the characteristics of this case in the context of a broader understanding of Australian Indigenous governance of land and cultural resource management.

A single case study provides a foundation for further investigation (including a comparative analysis with other cases) which may in turn influence future policy direction and practices in relation to Indigenous resource management and heritage protection. This thesis facilitates exploration as well as explanation of the case at hand to help fill a gap in research knowledge

relating to Adnyamathanha decision-making protocols or social and cultural issues surrounding the Beverley uranium mine.

The second rationale relates to longitudinal properties (Yin 2003) within a case study. There will be scope within this thesis to study aspects of the case at different points in time in considerable depth that would not be possible within a multiple case study. This has led to the identification of significant conditions and stages, particularly in relation to the balances of power and the depth of knowledge and understanding (conditions) that influence decision-making processes at any given time (stages). Practical aspects, such as the development of a simple record keeping process for Adnyamathanha site surveys and a reflective process for working through negotiations, have arisen from the focus on a single case. This provision has been helpful in a very practical way for individuals seeking alternative or additional options to the existing ones. Greater transparency in the relationships between players has also started to emerge.

This second rationale has also offered a tool for helping to determine who should be invited to participate in an interview, consistent with an emergent design that transpired through the ethnographic circumstances. Within this single case there have been focal points such as the two month period of time for public consultation during the Environmental Impact Assessment process, where key persons were identified for their understanding of and participation in this process. There has also been an opportunity to identify and in some ways address the lack of substantive literature, and relying on key persons to 'fill the gap' in knowledge or experience has been an important part of sharing and learning for all participants, including me as the researcher.

A third rationale relates to the potential level of uniqueness (Yin 2003) posed by a single case study which helps identify qualities of uniqueness within this study. It also identifies representative qualities and general ideas that make this study an example of a typical case within Indigenous resource management. Through the identification of patterns during the analytical phases of this thesis there have been opportunities to reveal links between theoretical ideas and primary data that give breadth to this particular case as well as to the wider context within which it is situated.

In addition to Yin's comments, one further rationale identified by the researcher that lends itself particularly to Indigenous case study research relates to a possibility of increased attention to Adnyamathanha affairs through a single case study. Levels of Indigenous (particularly Adnyamathanha) participation and benefit may be enhanced by choosing a single

case study firmly grounded in Adnyamathanha affairs at a time of unprecedented legislation regarding the governing of resource management. I believe there is greater likelihood of Adnyamathanha ownership of the ideas and issues arising within this thesis and resource management due to knowledge-sharing processes such as small group discussion. It is possible that publication of this case study will evoke an increased level of literature from a range of Adnyamathanha perspectives.

However, a renewed interest in Adnyamathanha affairs or the impacts of the nuclear industry on Indigenous communities also has the potential to impact negatively on Adnyamathanha in the future. As an Adnyamathanha researcher, I feel this required a personal commitment to address potential pitfalls that may be generated through increased attention on Adnyamathanha affairs. Importance has therefore been placed on critically appraising Indigenous research guidelines to ensure that this thesis assists local development of best practice as well as meeting academic protocols of best practice within research.

2.2.3 Reliability and Validity

Robert Yin (Yin 2003) identifies three important principles of case study research that maximise reliability and validity. These principles are: using multiple sources of evidence, create a case study database, and maintaining a chain of evidence. One serious problem within case study research relates to the attention given to an issue posed as a question in the design of any case study, and how this has the potential to impact on the case study per se. This thesis therefore acknowledges that ‘...there is an abiding tension between the case and the issues.’ (Stake 1995, p. 25). A related factor is the extent to which preparatory planning is offset with flexibility throughout the lifetime of a project (Stake 1995). In this thesis I have used a list of questions in a flexible manner within the interview schedule to enable the research to evolve. This strategy allowed me to develop in-depth familiarity over time as the case study investigation took place, and for wider participation and collaboration as deemed necessary. Given that participation is focused on people’s ideas and experiences in a qualitative way, using one standardised set of questions for all participants was deemed inappropriate based on the belief that this would fail to yield a high level of participation across the various players.

Naturalistic inquiry incorporates reflexivity to ensure an evolving process of observation, analysis and further observation that ‘grows’ a research project in an academically rigorous

manner. Creating a case study data base that is part of a non-invasive process (Adler and Adler 2000, p. 382) is a useful strategy in the context of a case study that could be regarded by some people as controversial and culturally sensitive. Within Indigenous research it is possible that some people will regard any form of inquiry as negative and detrimental to Indigenous peoples because of the history of over-inquiry into Indigenous affairs. As a researcher I have maintained a reflexive approach that allows me to respond to problems that I see emerging, such as making participant details confidential although they have agreed to being identified during their interview or at the time of personal communication.

2.2.4 Qualitative Practices and Perceptions in Data Collection

There are some aspects to the approach I have used in data collection that constitute standard forms of qualitative inquiry. All participants must understand the thesis aims and interview process and be willing to sign the Informed Consent form. For some participants this will be a simple and straightforward exercise because of their familiarity with academia, or due to their level of familiarity with me as a person. Attention will be given to the use of appropriate language by the researcher when facilitating informed consent, and when interviewing, observing, and disseminating information. Emphasis will be placed on the appropriateness and thoroughness of discussion to ensure interviews are conducted in a sensitive manner, data is properly checked, interviews are not rushed, and data analysis is undertaken in a meaningful way that includes rather than excludes participants, particularly Adnyamathanha participants.

For example Yura Ngawarla, the language spoken by Adnyamathanha, is incorporated into the thesis. The purpose is to show respect for the language used by Adnyamathanha and to provide conceptual clarity during the collection and analysis of data. Incorporating Yura Ngawarla is also as a demonstration of respect and understanding of culturally bound terminology, as well as an acknowledgement of the personal status of Adnyamathanha individuals. Cultural sensitivity has been a key protocol throughout all stages of this thesis.

Another example relates to an awareness of 'Indigenous politicking' (Trigger 1992) and how this impacts on the way that people might react or respond to this inquiry and to me as the chief investigator. Indigenous politics are often volatile and a mix of both personal and professional views therefore may not be indicative or representative of a collective view. The

practice of keeping an open and prudent approach was important when I began developing a proposal for this thesis, when working with people and during the writing up of this thesis.

2.2.4.1 Primary Data

The repertoire of Adnyamathanha experiences and perspectives offered a unique cultural and contextual framework for gathering, organising and analysing the primary data within this thesis. Collection of primary data took place via interviews and participant observation. These methods are based on data collection principles derived from Grounded Theory procedures, Naturalistic inquiry, ethnographic interviewing, and case study research methods.

Direct observation (Yin 2003) and participant observation (Stake 1995; Yin 2003, pp. 93-96) each play a key role in data collection and participant observation made a useful contribution to my thesis and in the evolution of interview questions. Data source triangulation (Stake 1995; Yin 2003) verified that evidence was being supported by more than one source which gave credibility to patterns and conclusive findings.

2.2.4.2 Secondary Data

Secondary sources of data such as historical literature were used to cross-reference with primary sources of data to enable a critical data analysis. Secondary data also provides greater understanding of theoretical aspects of this thesis, and aids in producing a meaningful analysis of relevant issues. Wherever possible, Indigenous perspectives and Indigenous authors are highlighted. A multidisciplinary approach has enabled inclusion of a diverse range of perspectives that characterise Indigenous land use and processes of negotiation. I have included community and professional reports authored by Indigenous persons that directly relate to the Beverley Mine case or, more broadly, to Adnyamathanha heritage issues. Some of these are not readily available to the general public as they are part of a limited edition and there is currently no keeping place identified to house such documents. Relevant newspaper articles, videos, websites and posters pertinent to this case study were also reviewed. International, national and local perspectives were gained through reviewing secondary sources of data; however interviews with individuals from a wide range of relevant organisations also provided quality data.

2.2.5 Interview Processes: Approach and Design

The interview process incorporated procedural aspects derived from Grounded Theory (Corbin 1990) to inform interview schedules, data analysis, and observation. Grounded Theory procedures have enabled the process of data collection to evolve, yet still provide a set of parameters that ensure a standard scope across all interviews. This approach aimed for a reflexive process that maximised data collection opportunities and made the process relevant not only for myself as researcher but also for interview participants.

The interview process adopted principles of ethnographic interviewing (Spradley 1979) that seek to make the process more like an everyday conversational encounter than a formal, unnatural and uncomfortable encounter. Ethnographic interviewing ensured an emphasis on relationship building, resulting in mutual trust and respect between interview participants and interview facilitator. Naturalistic inquiry (Stake 1995) also assumes an interview process that is more like a conversation than a formal question-answer schedule and is a technique used by ethnographers.

In this case study, interviews were aimed at maximising the comfort levels of participants so as to yield a greater sense of participation and to minimise anxiety for interviewees. For example, as part of the interview process, all participants were asked to nominate their preferred environment for the conduct of the interview to maximise their level of comfort. There were instances where short camping trips in order to visit sites, or small group meetings in an outdoor barbecue area, were included to facilitate a relaxed and enjoyable environment. Adnyamathanha participants were given the option of doing an interview with another friend or family member present if this was more comfortable. Some participants preferred to respond to questions in Yura Ngawarla (Adnyamathanha language). All translations to Udneyu Ngawarla (English) were carefully checked to ensure accurate representation. This approach was designed to create a sharing process rather than a one-sided process of extraction of information.

This overall approach to interviewing recognises existing levels of familiarity between interviewee and interviewer (Spradley 1979; Windschuttle and Elliot 1999) in a way that builds a gradual and positive relationship of trust and respect. As an Adnyamathanha person researching a sensitive and controversial topic, my perceived position varied immensely depending on who was being interviewed. This variation included how an interview participant viewed me and how they were related to me, the timing of the interview and the

current issues pertinent to the case study, and the subsequent focus of discussion based on experience and a willingness to share. A sensitive and responsive approach was adopted to minimise perceived levels of intervention which enabled me as the interviewer to take on a facilitating role.

2.2.5.1 The Interview Schedule

The interview schedule was semi-structured with approximately four broad ‘grand tour’ questions accompanied by a series of consecutive ‘mini tour’ questions. Broad open-ended ‘grand tour’ questions were followed by more specific ‘mini tour’ questions as part of an approach that allowed the interviewee to elaborate (Spradley 1979). This design also sets a standard parameter that links each interview session to the research objectives in this thesis. I anticipated that no more than four ‘grand tour’ questions would be asked, and that the time spent on each session would not exceed an hour. However, in several instances multiple sessions were required with participants, and some participants chose to continue well over the one hour timeframe.

A maximum number of twenty interviews were planned with an actual figure of eighteen being conducted. Some participants interviewed twice required an additional interview schedule that elaborated on the first set of questions. Emphasis was placed on the appropriateness and thoroughness necessary to ensure interviews were carefully conducted, data was properly checked, follow-up interviews were not rushed, and data analysis was undertaken in a meaningful way that included rather than excluded Adnyamathanha participation. Participants had multiple opportunities to amend their transcription.

In summary, this thesis focused on a single case and used a qualitative approach with methods derived from naturalistic inquiry (Spradley 1979; Lincoln and Guba 1985; Adler and Adler 2000; Gillham 2000). Case study research principles were used to facilitate collection of primary data. Data source triangulation (Stake 1995; Yin 2003) allowed for multiple methods of data collection so as to be able to systematically gather and analyse data. One of the aims in the data collection phase was to work with participants in a way that provided multiple and varied opportunities for interaction and ensured adequate time was spent on building and maintaining relationships of trust and reciprocity. The overall goal was to promote the knowledge of participants and generate new and informed ways of talking about and dealing with land use that are beneficial and respectful primarily to Adnyamathanha.

2.2.5.2 Interview Participants and Data Collection

Written and verbal information about my thesis topic was provided, sometimes repeatedly, to Indigenous and non-Indigenous people, professional and community people, government and non-government. Individuals were invited to participate regarding their involvement, experiences, values and perceptions in regard to the protection and management of Australian Indigenous cultural heritage. A particular emphasis was placed on the granting of commercial mining or exploration licenses, and on involvement in the Beverley case. Identification of persons or groups invited to participate, as well as the way in which discussion evolved during interviews, was influenced by existing relationships between regulatory bodies within State and Federal government, Adnyamathanha cultural heritage management, and the development of mining industry activities. During 2005 and 2006 I spoke with many people interested in making a contribution to this case study.

Indigenous participants included individuals from a broad range of backgrounds. Members of formal Adnyamathanha organisations for example Yura Language Consultative Group (YLCG) willingly contributed their advice and support, some of whom contributed via participation in an interview, via unstructured personal communication rather than through an interview, or as a member of the advisory team that guided this inquiry. All of the nine key players acting within Native Title legislation were invited to participate with two agreeing willingly to participate in an interview. A group of Elders from the Adnyamathanha community, some of whom were also YLCG members, met with me to hear about the case study I was undertaking and nominated two Elders to do an interview with me. Two ‘younger’ Adnyamathanha persons with a substantial history of involvement with Adnyamathanha heritage issues or projects were approached and agreed to contribute. As a result of advertising my thesis broadly, Yuras interviewed include a range of people, some of whom were directly involved in the Beverley consultation and negotiations and others who participate as Elders in heritage business (Interview 7 Public 2005; Interview 17 Public 2005; Interview 4 Confidential 2006; Interview 5 Confidential 2006; Interview 10 Public 2006; Interview 15 Public 2006). All Yuras that spoke with me or shared their views and experiences believe that the Beverley mine site like many other places in the region is an area of special cultural significance for Adnyamathanha.

Employees and volunteers from Green non-government organisations (NGOs) that took part in interviews included persons associated with environmental campaigns moderated by the

Australian Conservation Foundation and Friends of the Earth (Interview 11 Public 2005; Interview 14 Public 2005). These people were identified as potential participants due to their direct involvement in national or regional campaigns at the time of the Beverley EIA. Other NGO employees invited to take part included employees of the Native Title Unit (NTU) a sub-branch of the Aboriginal Legal Rights Movement (ALRM), the sole agency in South Australia that administered Native Title applications in this State at the time of the Beverley case. No current employees from ALRM or NTU were willing to participate in this case study despite repeated efforts to engage their views and experiences. Two former employees from NTU who had previously been employed as Case Manager of the Adnyamathanha Native Title claim (Interview 12 Public 2006) and Aboriginal Liaison Officer (Interview 8 Public 2005) agreed to participate.

Personal communication also became an important means of gaining first hand information, particularly from public servants and members of the community who wanted their identity protected. Employees from within government departments included persons from within Planning, and Primary Industries, who were identified as potential participants for their knowledge or experience in legislature, policy or practices relevant to this case. Instead of a structured interview the two employees preferred personal communication as an appropriate process of information sharing rather than an interview. At South Australian State government level I spoke with persons from the Dept of Aboriginal Affairs and Reconciliation and members of the Aboriginal Heritage Committee, identified for their involvement in administering and interpreting the *Aboriginal Heritage Act* (SA Government 1988). One employee from the South Australian Police who was locally based immediately following the Beverley EIA agreed to a confidential interview (Interview 3 Confidential 2005) to share views of the community law and order issues relating to the Beverley case.

Industry persons invited to take part included professionals from the legal and mining sector, including employees of Heathgate Resources, the mining proponent that holds the commercial license over Beverley Mine. I was asked by a senior member of staff within Heathgate Resources to sign a legally binding agreement before anyone was allowed to be interviewed, an obligation I was later able to decline because of a former employee's willingness to participate in an interview with me minus any formal agreement. I subsequently undertook two confidential interviews (Interview 1 Confidential 2005; Interview 6 Confidential 2006). Another interview was undertaken with an anthropologist (Interview 9 Public 2006)

employed as Heritage Consultant and Expert Witness under Native Title requirements set by ALRM and NTU.

A total of 18 participants took part in interviews for the purpose of this case study. Some of these people were interviewed over two or three sessions, and each person had an opportunity to review the transcript of their interview. Some people chose to remain anonymous and their identity including gender is carefully guarded throughout this thesis.

2.2.6 Observational Methods

Participant observation was used in the early stages of this case study and as part of a method of reciprocal advice and information throughout the latter stages. Observation can facilitate primary data collection during the early stages of qualitative inquiry through ‘...broad areas of interest but without predetermined categories or strict observational checklists ... to discover the recurring patterns of behaviour and relationships’ (Marshall and Rossman 1995, p. 78). I believe that participant observation allows me opportunities to engage in a way that demonstrates my genuine intention of ‘giving back’ to people, in the form of follow up or debriefing sessions after meetings or helping people to prepare themselves prior to meetings.

Participant observation as a data gathering method is regarded as ‘... an essential element of all qualitative studies’ (Marshall and Rossman 1995b, p. 78), a position reinforced by the claim that participant observation provides insight that cannot be gained through an interview or focus session (DeJong, Monette et al. 1990). As a sole researcher and member of the Adnyamathanha community, I feel that observation complements the overall emergent design of this thesis as it adds strength to the construction of patterns and provides space to acknowledge my role as researcher.

The role of researcher as observer is regarded as important in this case study. A researcher can adopt various membership roles when observing, and these include a ‘peripheral’ role which allows a researcher to ‘... observe and interact closely enough with members to establish an insider’s identity without participating in those activities constituting the core of group membership’ (Adler and Adler 2000). This form of observation was particularly appropriate and practically useful for me in understanding the sensitivities of the Beverley uranium mine case and its wider context. Participant observation enabled examination of actual events and an analysis of peoples’ experiences and the relational characteristics of these events.

The degree of participation is also important. Spradley (Spradley 1980) identifies varying degrees of participation ranging from ‘non-participation’ to ‘complete participation’ as part of an ethnographic approach to research. He highlights differences between an ‘ordinary participant’ as an insider who is not intentionally seeking to observe minute details, and a ‘participant observer’ (Spradley 1980) who due to the intention of this role can experience being both insider and outsider simultaneously. The focus here is on the experiences and abilities of the researcher. For others (9, Monette et al. 1998) there is greater discussion on whether a researcher is primarily a ‘participant’ or primarily an ‘observer’, and focus here is placed on the degree of intervention a researcher might adopt and to what extent this may impact on the event being observed. I chose to adopt a peripheral role of ‘participant observer’ which provided the opportunity to build levels of familiarity, trust and connectedness with potential interview participants and members of the wider community who have witnessed my presence at meetings. For the purposes of this study I have adapted a participant observation record keeping chart (Spradley 1980, p. 58) for recording my own perceptions of how I influence a given environment during an observational exercise.

2.2.7 Conclusion

The design and implementation of a customised set of research tools in this thesis draws on previously tried methods including case study research, naturalistic inquiry, participatory action research, feminist research, and ethnographic research. I have combined elements in a way aimed at being acceptable to and compatible with Indigenous, and in this particular case, Adnyamathanha ways of working and ways of knowing. These methods require patience on my part as researcher and a level of respect that may appear to outsiders as tedious, over-conservative, and time-consuming. This thesis demonstrates a set of methods that are academically rigorous as well as appropriate to the context of Indigenous research. Collection of primary data took place using a range of techniques including semi-structured interviews and participant observation. The repertoire of experiences and perspectives held by participants offered a cultural and contextual framework for organising and analysing the data and literature within this thesis.

Section Two: LITERATURE REVIEW

Chapter 3. Looking After Cultural Heritage and Valued Resources

This chapter develops an understanding of the social significance of land and how cultural heritage is constructed and managed. The purpose is to explore the ways in which ideas relating to ‘cultural heritage’ and ‘cultural resources’ intersect and what this means for Indigenous heritage protection. The first part looks at broad understandings of cultural heritage followed by Indigenous cultural values and beliefs regarding cultural heritage and cultural resources. Literature reviewed in this chapter provides a broad understanding of the opportunities and impediments for Indigenous participation in cultural resources management of land. The ideological shift from culture as heritage to culture as resources provides an avenue for exploration of the changes in governance regarding natural, environmental and cultural resources.

Understanding the ideological shift from ‘cultural heritage’ to ‘cultural resources’ will enable a critique of the way in which Indigenous cultural heritage and resources are understood and managed within the mining sector and the extent to which Indigenous perspectives were valued in the Beverley Environmental Impact Assessment (EIA). Cultural Heritage Management (CHM) and Indigenous Cultural Resources Management (ICRM) are introduced in this chapter to map this ideological shift within government and industry; this does not necessarily mean that all players are fully engaged with or accepting of this shift. Indigenous Natural Resources Management (INRM) offers another variation in terminology within government frameworks under the ‘Caring for our Country’ banner (NRM Team 2008) and includes Indigenous Engagement as a key target in its 2008 business plan.

3.1 Cultural Heritage – Identification, Protection and Management

3.1.1 Introduction

The historical evolution of Australian heritage and its management provides a background for understanding how Australia's Indigenous heritage is posited and managed. State and Federal government intervention in identification, planning, funding and implementation have been the forte of heritage protection, with limited input from private and corporate sectors. The purpose of this chapter is to develop an understanding of the conceptual tools that generally inform heritage identification, protection and management as a way of explaining how Indigenous heritage within Australia is protected and sustained. This chapter offers an analysis of Indigenous cultural heritage management within commercial development outside of Native Title.

3.1.2 The Identification and Governance of Australian Heritage Places

On a general level 'heritage' can be understood as a person's birthright or family legacy and these can be tied to inheritance of land and customs (Tardiff and Bernard 1998). At a community-based or collective level 'heritage' takes on a meaning that links people collectively to land and other culturally identified processes or resources. The idea of 'heritage' therefore relates to a responsibility toward looking after or caring for something of value, so that it is accessible to and valued by present and future generations. The value and accessibility of a heritage place can be determined and justified through a broad range of socially determined signifiers attached to a physical or geographical landscape.

The impetus to preserve and promote cultural heritage became known as Cultural Heritage Management (CHM) in Australia. This resulted from an increased popularity and need to know about things uniquely Australian as part of an evolving process of '... growth from concentration on single issue concern for ... high aesthetic architecture ... to an appreciation of everyday places ...' (Taylor 1989, p. 28). This historic paper by Taylor on rural cultural landscapes published almost two decades ago helped to define Australia's CHM within a colonial timeframe from 1788 to the present; in other words from British sovereignty over Australia. This terminology is still currently used in the management of cultural heritage or resources, and the term 'heritage' is specifically used to refer to '... an inheritance from the past; something to be valued and which has beneficial social connotations in promoting a

sense of place and belonging’ (Taylor 1989, p. 28). Taylor also discusses the legacy of the term ‘cultural landscape’ (Taylor 1989, p. 29), originally used to refer to changes to the ‘natural landscape’ by human culture. This theoretical context for a ‘...landscape conservation ethic’ (Taylor 1989, p. 29) is directly informed by Western philosophies embedded in geography, archaeology, history, and conservation. These offer an insight to the typically Eurocentric approach to cultural heritage identification and management that remains a dominant force within Australia.

A large portion of Australia’s cultural heritage is identified and managed within government according to the *Australia ICOMOS Burra Charter 1999* (Australia ICOMOS 2000). This charter established a code of practice for managing places of cultural significance, and was developed and endorsed by Australia ICOMOS in response to international resolutions put forward by the International Council on Monuments and Sites (ICOMOS) originally dating back to 1964. Definitions from the Burra Charter (Australia ICOMOS 2000, p. 2) help to understand some key elements relating to ‘heritage’ as an idea. These definitions and explanatory notes provide a foundation for tracking the changes that occur in relation to the meanings attached to heritage. ‘Place’ is defined as a ‘...site, area, land, landscape, building or other work, group of buildings or other works, and may include components, contents, spaces and views’ (Australia ICOMOS 2000, p. 2) and explained as a concept that ‘...should be broadly interpreted’ (Australia ICOMOS 2000, p. 2) with the possibility of ‘...a range of values for different individuals or groups’ (Australia ICOMOS 2000, p. 2). ‘Cultural significance’ is defined as ‘...aesthetic, historic, scientific, social or spiritual value for past, present or future generations (Australia ICOMOS 2000, p. 2). These key definitions are given further meaning in practical terms through various guidelines (Australian Heritage Commission 1998; Australian Heritage Commission 2002) that assist communities, local councils and nature conservation groups wishing to engage in CHM.

Protecting local heritage places: a guide for communities (Australian Heritage Commission 1998) provided greater inclusion of Aboriginal perspectives than the Burra Charter. It included a broad set of standards for heritage conservation, including the ‘Draft Guidelines for the Protection, Management and Use of Aboriginal and Torres Strait Islander Cultural Heritage Places, 1997’. The guidelines defined a heritage place based on the inherited meanings or values that people share about a place, and a place can be ‘... a specific area or site, perhaps a large area such as a whole region or landscape, or a small area such as a feature or building ...’ (Australian Heritage Commission 1998, p. 4). The key assumption within this

guide rests with the value or significance that people attach to such places, and these values can be social or cultural, scientific, aesthetic, or spiritual. An ambiguity within this document is that there is no limitation on what might be regarded as Indigenous or non-Indigenous, although there is specific reference to 'Indigenous heritage'. This framework's reliance on social meanings attached to heritage places is more culturally inclusive but still lacks a definitive process of assessment. However, on a broader scale the guide offers an action based workbook which attempts to engage more readily with Indigenous peoples and cultures than previous attempts at dealing with Indigenous perspectives using CHM principles in Australia. This guide suggests a significant shift away from the more traditional approaches to CHM which have fundamentally failed to be inclusive of Indigenous values and beliefs in the past.

The Australian Natural Heritage Charter (Commonwealth of Australia 2002) notes that conservation issues arising from cultural values may influence the way that natural heritage places are managed, therefore enabling a wider set of values to be considered within the management of heritage places. Although this literature also suggests a shift, it continues to use Western scientific terminology such as physical, biological and geological spaces and places as the basis for identifying and managing 'natural heritage'. Indigenous perspectives remain outcast in this Charter.

From an Indigenous perspective there are two problems with the identification of heritage in this Charter. A Western approach to CHM assumes practices, policies and guidelines that make distinctions between 'natural' and 'cultural' heritage with the latter referring explicitly to human activity (Taylor 1989). At an epistemic level of understanding there is a fundamental denial of Indigenous knowledge in this Charter and subsequent framework. A second interconnected issue relates to the identities of Australian peoples. The growing sense of what it means for humans to 'belong' to a place with a value that is uniquely constructed and reinforced as part of Australia's cultural heritage is embedded within CHM. A 'taken-for-granted' approach to CHM based on an assumed understanding that natural and cultural heritage is part of an all-Australian identity perpetuates an identity and history that is steeped in colonialism.

Eurocentric conceptual frameworks of land ownership based on hegemony continue to dominate Australia's land ownership system (Plumwood 2003). The paradigm of land ownership based on expenditure, exploitation and human labour contrasts with the Indigenous paradigm of historical dialogical relationships between people and land resources (Plumwood

2003). I would also argue that the persistence of a colonialist lens continues to influence the ways in which land ownership, land uses, and Indigenous rights are interpreted in Australian society.

To suggest that Australian people's sense of belonging and identity since colonisation is somehow widely understood and agreed on (Taylor 1989) raises vexed questions about the inclusivity of policies and practices for CHM in Australia. This position assumes that European heritage in Australia is part of a narrow body of knowledge and experiences devoid of non-European cultural groups, and assumes that the identification and value of European heritage in Australia has taken place in isolation. This artificial separation of views creates a vacuum in which the Australian psyche remains transfixed by colonialism regardless of our individual or collective affiliations and actual experiences.

In September of 2003 the Federal Parliament of Australia passed new heritage legislation for the governance of places of 'national heritage significance' (Department of Environment and Heritage 2005). This new legislation was to '...usher in a new era of protection and management for Australian heritage places' (Department of Environment and Heritage 2005) and supersede the functions and responsibilities of the Australian Heritage Commission. The legislation was designed to establish an advisory body to the Australian Government on heritage matters, and maintain and add to the Register of the National Estate. The Australian Heritage Council comprises 'independent heritage experts' appointed through the *Australian Heritage Council Act 2003* (Commonwealth of Australia 2003). This body became responsible for assessing applications for inclusion on the Register of the National Estate, a central database established to promote and protect places of 'natural' and 'cultural' significance.

As part of a joint initiative the Natural Heritage Trust produced a toolkit for natural resources information management (Natural Heritage Trust, National Land and Water Resources Audit et al. 2003) that encouraged the acquisition and sharing of existing spatial data for improved access and use of natural resources. The idea of what constitutes 'natural resources' within this initiative is not clearly defined; however, it is assumed as having a Western scientific basis as it is characterised by the collection of data that is deemed 'natural' or 'non-human'. Within the broader notion of 'heritage', this toolkit demonstrates a specific framework for developing and managing data that is resource-oriented for human use. This implied focus on *uSage* is employed to build a case that justifies protection of heritage not simply for its aesthetic appeal but for its practical or economic value as a resource.

The discussion above demonstrates that meanings associated with heritage are not universal or static. Additionally, heritage can be defined differently by governments, community groups or industrial corporations, where each player makes a decision about whether or not to include non-tangible forms of cultural significance based on their particular world view. This may include a decision as to whether or not heritage includes ‘natural heritage’ and to what extent notions of ‘cultural’ heritage are understood and recognised by governments and corporations. Each sector defines and engages with CHM understandings in a way that is not governed by any standardised set of best practices regarding CHM in Australia.

3.1.3 Commercial Development and Indigenous Heritage Places

The significance of the previous discussion on identification and protection of Indigenous heritage becomes acute in the context of commercial development. Commercial development of resources such as minerals is a particularly contentious arena for the identification and protection of Indigenous heritage, and involves both formal and informal aspects of Indigenous engagement and participation. The formal planning phase of development commonly known as the ‘impact assessment’ includes consideration of environmental, social, and cultural issues (see §4.2.5 for further explanation).

At a national level, during the 1980s the Aboriginal and Torres Strait Islander Heritage Protection Act (1984) became the key piece of legislation likely to influence the way environmental and Indigenous cultural heritage and cultural resources were managed and regulated within development. Prior to the introduction of Native Title legislation in the early 1990s, in South Australia the *Aboriginal Heritage Act* (SA Government 1988) was the only legal mechanism in relation to planning for heritage protection apart from the Environmental Impact Assessment (EIA) process. According to the *Aboriginal Heritage Act*, all proposed disturbances to Aboriginal sites require consultation via the Minister for Aboriginal Affairs. As the key decision maker for determining the significance of a site, the Minister is ultimately responsible for management of Indigenous heritage during planning. However, both State and Federal Acts have been strongly criticised as ineffective mechanisms for Indigenous engagement and heritage protection (Fergie 1995; Evatt 1996; Fergie 1996; Malone 1996) due to the narrow interpretations placed on heritage and the privileged status of corporations and development projects.

During the 1990s, commercial development of natural resources brought another layer of interpretation in relation to the various cultural perceptions that can be attached to a heritage site. Viewing heritage as a useful or valued resource became common in the field of resources management (Howitt 2001), which has particular significance for Indigenous peoples engaged in negotiations over commercial proposals. Executive members of the Balkanu Cape York Development Corporation claim that ‘...environmental concerns could stifle economic opportunities ...’ (Pearson 2008), showing an example of the way in which Indigenous peoples are exemplifying land in a ‘resourceful’ manner as an integral part of an economically sustainable future. A newspaper article (Lloyd 2006) highlights the potential for increased tensions between the various interest groups associated with heritage protection if a ‘... strict economic rationalist ...’ (Lloyd 2006) model is used to govern heritage. This article by Lloyd offers a limited understanding as to what constitutes *heritage*, as the article refers specifically to the protection of buildings; however, it raises the question of what is regarded as ‘resourceful’ and therefore valuable within a framework of assessment and protection for cultural heritage in Australia. Evidence suggests that a degree of shift in a rhetorical sense toward greater acknowledgement of *Indigenous* CHM continues to evolve; however, the emphasis on economic viability as a key outcome has the potential to jeopardise heritage protection through a process of economic commoditisation. This ‘industrialised’ interpretation of Indigenous heritage within commercial development such as mining signifies a new phase for protection of Indigenous peoples’ cultural heritage.

This shift resonates with the changes in the pastoralist industry that date back to the late 1800s (Duncan-Kemp 1961) and the end of an era in the history of outback Australia with the passing of both Aboriginal custodians of traditional knowledge and the first wave of English and Scottish pastoralists. The passing of these people for Duncan-Kemp was expressed as a social and cultural change in understandings and meanings attached to the land: ‘Now the country was slowly turning into a business proposition, a price always extracted in the name of progress’ (Duncan-Kemp 1961, p. 27). Prior to this ‘turning point’ there had been a ‘spirit-of-the-thing’ and the country was ‘...more or less the Happy Hunting-grounds’ (Duncan-Kemp 1961, p. 27) of the old and new inhabitants of the land. These comments recognise the depth of Indigenous cultural knowledge and the impression this created on early colonisers through human curiosity and basic survival. It also suggests that cultural affiliations to land were surpassed by economic commoditisation. The more recent changes in CHM suggest a

similar transformation where ‘socially rich’ has been replaced by ‘economically rich’ as part of the process of commercial development.

3.1.4 Indigenous Heritage Protection Precedents in South Australia

During the 1970s, at the ‘Aboriginal Site Recorders’ Conference’ (Aboriginal & Historic Relics Unit 1978), there was national concern expressed at the fundamental lack of understanding and commitment within governments regarding the protection and promotion of Australian Indigenous cultures. Discussion at this forum centred on the roles of Traditional Custodians and Governments in preserving Indigenous cultures, and the failure by governments in ensuring Elders are properly involved and Aboriginal communities directly benefit from research projects (Aboriginal & Historic Relics Unit 1978, pp. 1-4). A strong contingency from South Australia resulted in specific reference to the effects of commercial development in the Northern Flinders Ranges and the need for ‘conservation measures in an area of extreme cultural importance’ (Aboriginal & Historic Relics Unit 1978, p. 5). Issues raised at this conference in 1978 provide a snapshot of the frustration and disappointment experienced by Aboriginal people working in the area of heritage protection, and their attempts at gaining recognition and building capacity in collaboration with government and industry.

A major experience of the impacts of mining on heritage relates to the destruction of the Yulura (Azure Kingfisher Spirit Man) Trail (Coulthard, Coulthard et al. 1987; McKenzie 1987). Yuras regard this as a pivotal turning point culturally and many remain sceptical of any site protection regimes as a result of this precedent set by coal mining at the Leigh Creek Coalfield (Coulthard, Coulthard et al. 1987; McKenzie 1987; Marsh, pers. comm. 2002). This devastating event stands as a fixated point of community concern regarding heritage and land use from when it was first mined for coal to the current time.

Two key case study examples of Indigenous heritage protection issues in South Australia in the 1990s were the Hindmarsh Island Bridge and the Olympic Dam Mine. These cases are distinct in that they benchmark South Australian CHM and set precedents for the development of new practices within resources management or ICRM. Prominent attention was given to Hindmarsh Island and Olympic Dam due to the extraordinary steps taken by industry and government to override CHM heritage protection laws during planning and development. These cases emerged during the transitional stage of Aboriginal Heritage

legislation and Native Title legislation and set some firm precedents within South Australia. Events surrounding these cases send a particular message to players contemplating a role within CHM and ICRM, particularly at the interface of Indigenous engagement and commercial development.

Examination of the historical content of legislation as well as the ways in which it is interpreted provides a crucial discussion point to current understandings of Indigenous and non-Indigenous relations in Australia. An abundance of literature exists on the Hindmarsh Island Bridge case covering many perspectives, experiences and philosophies regarding heritage protection. The importance of this literature in exploring the Beverley case rests with the range of views and perceptions on the acclaimed 'secret women's business' and the extent to which legislation, policies and practices are effective in recognising and caring for Aboriginal cultural heritage. Some authors (Goldflam 1995; Mead 1995; Brennan 1997; Trevorrow and Trevorrow 2001; Taubman 2002; Simons 2003) claimed these cases were linked to a push by Australian government and the High Court to gradually erode Indigenous heritage protection laws in Australia. Critiques of the Commonwealth heritage legislation (Evatt 1996; Malone 1996; Taubman 2002) strongly suggest that current legislation is failing to protect Aboriginal heritage in Australia generally.

According to Frank Brennan in his writings on the Hindmarsh Island Bridge case (Brennan 1997), a key element of the 1967 referendum in Australia was to prevent the making of laws that would discriminate in a negative way against Indigenous peoples of Australia. He argues that cultural, political and legal ideologies are often the basis upon which laws are interpreted and decisions are made regarding governance in Australia (Brennan 1997). This article argues that constitutional rights can be interpreted in various ways (Brennan 1997): so as to offer Indigenous peoples benefits, or so as to oppress, exclude or discriminate on the basis of race. This focus on rights raises questions about the Beverley case and how issues of 'due process' for Adnyamathanha interest groups can be markedly different to the 'due process' for the general public. The case of the Hindmarsh Island Bridge opens discussion on a possible pattern of engagement that emerged in South Australia during the 1980s and 1990s.

Ngarrindjeri Elder Tom Trevorrow (Trevorrow 2001; Trevorrow 2003) wrote how he and other Ngarrindjeri were forced to seek United Nations assistance following unsuccessful legal action in Australia's legal system. He argued that the debacle that led to accusations surrounding the spiritual claims of Ngarrindjeri women's business in 1994 (Saunders 2003) raised issues of human rights abuse, racism, and sexual discrimination. Trevorrow claimed

that the approval given to build a bridge between the mainland and Hindmarsh Island amounted to an act of ‘... cultural genocide ...’ (Trevorrow 2001, p. 89). The author spoke as a prominent Ngarrindjeri Elder and offered an Indigenous insight as well as a specifically Ngarrindjeri perspective on the affairs surrounding Hindmarsh Island. Trevorrow challenged the processes that led to the building of a bridge. He also denounced accusations made by some critics (Partington 2003) that Ngarrindjeri were unable to distinguish between their own cultural beliefs and the perspectives of non-Indigenous academics.

Notwithstanding the deep and bitter contestation over the validity of women’s claims to a spiritual connection to Hindmarsh Island, many authors were concerned by the levels of fairness and sensitivity surrounding the case at large. Questions arose over the existence of Indigenous spirituality and the credibility of professionals that took on an advocacy role (MacDonald 2002; Partington 2003). Partington’s claims of bias and fabrication of evidence are flawed in that he fails to engage Ngarrindjeri perspectives such as those published by Trevorrow. Such a denial of Ngarrindjeri perspectives raises a broad issue of the extent to which validation of Indigenous peoples’ views occurs within CHM and ICRM.

An Indigenous author Sandra Saunders (Saunders 2003) raised concerns relating to professional accountability. Saunders questioned why a prominent employee within the Museum of South Australia was not held accountable for his part in formulating the theory that led to a claim of cultural fabrication, despite the claim being overturned in the Federal Court. Saunders’ questioned accountability within the legal justice system, and the level of protection offered to perpetrators and victims, claiming ‘The real fabricators have not been called to account for the roles they played’ (Saunders 2003, p. 61). The Federal Court ruling did not prevent the developers Tom and Wendy Chapman from pursuing legal action against the so called ‘advocacy professionals’ who supported the women’s claims of spirituality. Jennifer Clarke (Clarke 1997) questioned the reasoning behind enactment of a Bill introduced to resolve conflict over the building of the Hindmarsh Island Bridge, claiming that it breached international conventions of human rights and set a precedent within government that lacked credibility. The level of accountability attached to professional persons and bodies is of interest in this thesis and will be later reviewed.

Eliza Taubman (Taubman 2002) noted that, historically international conventions have been influential in developing policies and procedures about CHM in Australia. In the case of Hindmarsh Island (Taubman 2002), there were links drawn between this historical trend and the move by Ngarrindjeri to seek international intervention. This Hindmarsh saga is useful in

that it raises two questions: does international Indigenous heritage legislation provides a means of empowerment to Australia's Indigenous peoples, and to what extent are Australia's Indigenous peoples forced to rely on international intervention?

Another key commentator anthropologist Deane Fergie, assessed two cases: the Lake Eyre Basin Heritage Proposal and the Hindmarsh Island Bridge case (Fergie 1996). Her findings strongly criticise the limited levels of heritage protection offered by State and Federal governments, noting that '...Aboriginal peoples have had their selves, identity and heritage assaulted in political processes which surrounded a request for the protection of their cultural heritage ...' (Fergie 1996, p. 141). These precedents, which occurred before the Beverley case, offer a disturbing insight to the existing landscape of CHM within South Australia and at a national level, and to question to what extent Indigenous peoples can expect future cases to be dealt with fairly.

Two issues emerge from this discussion. One issue focuses on the validity of Indigenous peoples' views within Australia's legal system, both at the level of legislation, and at the various levels of interpretation of this legislation within the court systems. These examples of legislation failing to provide an adequate framework for CHM and favouring the likes of industry and government suggests practices of neo-colonialism or the reworking of colonial principles into a modernised form that dominates CHM, and is likely to do the same with ICRM, given the ongoing absence of Indigenous perspectives.

The other issue focuses on the international human rights standards and the level of empowerment these give Indigenous Australians within CHM and ICRM. Ngarrindjeri (Trevorrow 2001) and other Indigenous Australians such as Mirrar (Katona 1998) chose to take their concerns to the international arena via United Nations; however, this has not prevented industries from continuing to trespass on or damage their land. The United Nations can only make recommendations to governments and bring international attention to breaches of human rights. The UN Forum for Indigenous Issues (United Nations High Commissioner for Human Rights 1994/45), the United Nations Declaration on the Rights of Indigenous Peoples (United Nations High Commissioner for Human Rights 1994/45) and other NGOs such as the Nuclear Free Future Award (Nuclear Free Future Committee 1997-2008) encourage Indigenous Australians to continue to participate internationally so as to learn about international standards, to share their experiences and ideas, and to gain political strength.

Concerns of government intervention were also raised in the case of Western Mining Corporation seeking an indenture over their mining lease at the Roxby Downs and Olympic Dam sites. The Olympic Dam mine in South Australia is sometimes referred to by the name of the nearby township of Roxby Downs, where workers reside when not on the actual mine site. This uranium mining venture is another example of where Indigenous rights have been challenged and overridden. One article written by Sarah Wright (Wright 1998), a researcher from the Mineral Policy Institute, highlighted the influences of industry, the marginalisation of Aboriginal peoples, and the lack of government integrity within this case, consistent with the findings of the Senate Inquiry (The Senate 2003). Wright used a legal framework to describe the events and analyse the claims made by some players. The article noted a Bill or Indenture passed in relation to this case (Wright 1998) which granted the mining company Western Mining Corporation exemption from the South Australian *Aboriginal Heritage Act* and CHM principles. This move set a significant precedent within the law relating to mining and CHM whereby the level of cooperation between industry and government demonstrated in the Roxby Downs Olympic Dam effectively bypassed Indigenous concerns and rights. Similar historic influences were claimed during the 2003 inquiry of the Beverley case (The Senate 2003).

Wright's article is in some ways limited by its lack of Indigenous views, particularly from the Traditional Owners of this area. Despite including direct quotations from various interest groups, there is a complete absence of Kokotha or other local Aboriginals' perspectives within this article. This again raises questions about the omission of Indigenous perspectives within any debate on Indigenous governance within CHM and ICRM. However, Wright flagged some important issues relating to the use of an exemption process by industry which circumvented Indigenous rights to heritage protection. The historic context of these cases preceding Beverley Mine shows precedents within South Australia for the mining industry, the government and the Adnyamathanha community about the likelihood of interest groups coming together equitably and according to due process.

3.1.5 Conclusion

The construction of heritage and in particular Indigenous cultural heritage has an important influence over the way it is governed and critiqued in Australia. The omission of Aboriginal perspectives stands as a disturbing trend within published works, suggesting that some non-Indigenous commentators remain comfortable with the idea of talking *about* Indigenous

peoples rather than engaging *with* Indigenous peoples. The idea of heritage having a useful quality offers a new justification for its protection under the banner of ICRM; however, it also opens up the possibility of exploitation. Exploring the understandings for ‘managing’ cultural heritage in Australia provides a background to the history of Indigenous heritage protection, and to what extent contemporary Indigenous values and beliefs are shaped by this legacy and the ideology of culture as resources.

Links between Indigenous engagement and commercial development, as shown in these cases, give an insight to the practices that emerge through legal requirements of proponents in the context of a new development. This insight offers greater understanding of the context within which Indigenous participation takes place. The consultation and negotiation process surrounding these two cases contextualises the approval of Beverley Mine and provide clues as to how Adnyamathanha can improve our role in CHM and ICRM at a local level and beyond. The range of perspectives arising out of the Hindmarsh Island and Olympic Dam cases highlights a critical determining factor within governance of CHM and ICRM – the level of equity that exists within the relationship between power and knowledge and colonialism is relative to the effectiveness of Indigenous engagement. This leads to a further discussion on the future direction for management of Indigenous heritage as a resource in Australia and the role that Indigenous peoples might play.

3.2 Indigenous Cultural Heritage as a Resource, and Indigenous Engagement

3.2.1 Introduction

Issues around ICHM and ICRM faced by Indigenous groups, such as Native American, Maori, Canadian, and Papua New Guinean peoples, are useful in understanding international themes related to Indigenous engagement. A broad view of the struggles by other Indigenous peoples provides a critical context in which to examine the distinctions between ICHM and ICRM governance and how these inform mining and impact assessment procedures including the Beverley case. A brief review of the latest government initiative, known as INRM (Indigenous Natural Resources Management), is also provided.

3.2.2 International Perspectives on Resources Management

Comparative international research (Young 1995d) regarding Canadian and Australian Indigenous resources management explores issues linked to colonialism including Indigenous capacity, geographic distribution of resources, population figures, and land ownership. Key characteristics of mining impacts explored via Australian and Canadian case study materials (Young 1995b) offer insights that raise awareness of ‘remoteness’ as an influential resource-based factor in the level of capacity and support Indigenous peoples are likely to experience and the level of recognition placed on cultural significance. The limited capacity of Indigenous players is seen as a key factor that reduces Indigenous participation to a non-equitable level. Practical strategic issues such as how to bring about improved communications between various players through more effective engagement raises awareness of another key factor within heritage protection generally.

Arnold’s empirical study of environmental justice and land use regulation involving minority groups (Arnold 2002) critiques the effectiveness of what he refers to as traditional ‘oppositional’ models that strive to address environmental justices in the United States. Arnold argues that it may be more effective to engage with local planning regulations and strategies as a means of greater empowerment for grass roots community groups or individuals, rather than seeking to engage at the Federal or State levels of governance. The basis of this argument provides a possible strategy that may be useful to Indigenous players at the ‘grass roots’ level of engagement in a practical sense as it encourages people to consider a range of ways to engage with heritage protection. The other useful aspect of this work stems

from the approach to research based on social justice and advocacy, and helping to highlight less powerful voices at the community level.

Land reform and ‘non-native title outcomes’ via a comparative study (de Villiers 2004) of southern African and Australian experiences raises concerns of the loosely defined yet widely used concepts of ‘non-native title outcomes’. De Villiers claims the meaning is at present ‘...rather vague, general, weak at law and in many instances an escape route to side-step real issues ...’ (de Villiers 2004, p. 2). This paper compares the claim-driven process in Australia with similar complexities experienced in the southern African countries of South Africa, Zimbabwe and Namibia. Brief principles recommended include clear and measurable objectives and outcomes to tighten the definition of ‘non-native title outcomes’, potentially useful for a wide range of applications in Australia where there are competing interests for land.

Following the introduction of Native Title legislation in Australia in the early 1990s, there were concerns raised over the need for ‘...more time and patience ... in the negotiating process’ and that ‘...due respect be paid to their sacred sites, their role as caretakers of the land and to themselves as representatives’ (Lippman 1996, p. 174). Principles of engagement raised by de Villiers and Lippman reinforce the need for improved clarity and definition of the role of government once agreements are reached outside of the Native Title legal process in Australia. These comments from the late 1990s suggest that greater definition of engagement principles would offer increased certainty to Indigenous peoples regardless of which political party was in power and regardless of further amendment to relevant legislation.

The *Native Title Act* (Commonwealth of Australia 1993) was originally intended as one of three complementary approaches to address the dispossession of lands and waters through colonisation in Australia. The other two included a social justice package which has never been implemented and a land fund that is widely claimed to have its focus on economic gain rather than reparation for dispossession (ATSI Social Justice Commissioner 2008, p. 41). The 2008 annual review of the Native Title system in Australia conducted by the Social Justice Commissioner raised concerns about the lack of government recognition and protection of native title within the government’s reform agenda. The Commissioner was concerned that the Australian government sought ‘...a more efficient and effective native title system’ that did not prioritise ‘...the realisation of Indigenous peoples’ rights and legitimate aspirations’ (ATSI Social Justice Commissioner 2008, p. 23). The lack of commitment from government in support of non-Native Title measures has placed enormous pressure on Native Title to

deliver outcomes on issues it was never intended to address. The Commissioner concludes ‘...native title is not producing land justice for the majority of Aboriginal peoples and Torres Strait Islanders...’ (ATSI Social Justice Commissioner 2008, p. 42). One interview participant, employed to act as Case Manager for Adnyamathanha Native Title, stated ‘As a lawyer, one of my fundamental concerns is that the Native Title legislation is based in a white legislative framework and is therefore biased’ and ‘The notion of “rights” and “interests” simply equates to money’ (Interview 12 Public 2006). Therefore it can be argued that Australia is failing to protect Indigenous rights and failing to take a lead role internationally.

Examination of the continued struggle faced by Indigenous populations on a global scale (Coates 2004) reveals a pattern of prominent persistence and uneven results, and suggests that Indigenous peoples in industrialised countries tend to achieve greater benefits than Indigenous peoples in the ‘developing’ world. Coates claims that transformation of Indigenous international politics represents a link between improved public understanding of Indigenous rights, and the rhetoric and politics of decolonisation. However, Coates also acknowledges that international criticism persists regarding governments in first world nations claiming to respect the rights of Indigenous population. Critical review (Coates 2004) suggests that this trend is based on the luxury of wealth rather than on a genuine move toward decolonisation.

Other work from the southern African region (Jones 2003) highlights resource management issues from a conservation perspective drawing on a three-pronged framework regarding economical, political and social structures and relationships. This article and several other reports (MacDonald 2003; Oviedo 2003; Pathak, Islam et al. 2003) collectively provide an international conservation perspective that specifically explores community-based conservation via community conserved areas or co-managed protection areas. Concern lies with improving decision-making powers for Indigenous communities in relation to land resources, and in modifying conservationist thought to form new models that are more appreciative of Indigenous values. Ideology and governance are key issues that feature strongly in southern Africa and Australia.

The importance of these global claims regarding Indigenous engagement highlights the profound challenge in Indigenous diversity and the range of approaches used historically to address resources management. Effective collaboration at an international level will require greater preparedness by non-Indigenous peoples and Indigenous peoples to work together at achieving reconciliation, and identification and implementation of equitable solutions grounded in a decolonising process.

3.2.3 Australian Perspectives on Resources Management

This section has its focus on issues that typify Australian understandings and experiences of resources management approaches. An examination of cases raises some aspects that are unique to Australia at a national level, and some which relate to a particular Australian landscape. It also raises aspects that situate Australia at a regional and global level.

Jacqui Katona (Katona 1999), an Indigenous activist who has worked closely with the Gagadju community in coming to terms with the effects of Ranger Uranium Mine, raised concerns regarding the emergence of economic dependency on mining, claiming it as a form of neocolonialism. The theoretical framework forming the basis of Katona's argument resonates with the work of Elspeth Young (Young 1995d); both shed light on ways of identifying and challenging patterns of exploitation that arise as a result of 'development'. Young claims the negative impact is a common theme in developmental theories that examine exploitation of third world nations by first world multinational companies through monetary compensation. Development and economic dependency and exploitation within the Ranger case study echo sentiments voiced by others regarding the issue of cultural security and ongoing sustainability (Girrabul 1982). Although there is the potential for lessons to be learned through responsible networking of Indigenous players negotiating with mining companies and other developers, this is often difficult to achieve at an independent level.

Young explores the ideological basis upon which development is planned and carried out (Young 1995c), highlighting the geographical and demographic factors (Young 1995d) and the impacts of mining (Young 1995c). Young's advocacy for holistic and culturally sensitive approaches, together with a synthesising of environmental, economic, and cultural perspectives reinforce a need for greater understanding of cross-cultural participation and an urgent need to implement an alternative scheme more appropriate for heritage protection. Whilst Young and Katona may be directing this initiative primarily at professional players, I argue that the responsibility also lies squarely with Indigenous players. Despite our limited capacity, it is crucial to achieve self-determination through an ideological shift as it can play a key role in the decolonising of development. The need for a synthesised ICRM and CHM approach without compromise to the needs of Indigenous values offers a useful strategy and goes hand in hand with culturally appropriate professional engagement.

The idea of emphasising local participation is broadly acknowledged as a strategy for strengthening land management. The broad interpretation of 'negotiation' at an informal level

(Baker, Davies et al. 2001b) and including rather than overlooking local knowledge (Pimbert and Pretty 1997) is fundamental to an inclusive approach yet fails to transfer from non-commercial to commercial ventures. A strong link between self-governance and justice has been ascertained in Canada through a multiple case study examining self-government discourses and justice discourses (LaPrairie 1995). These studies provide a critical insight to the processes that have influenced the emerging Native Title arena in Australia during the 1990s. The case of Coronation Hill illustrates how complex negotiation is a necessary part of all Indigenous approaches to caring for land, and that it comprises of a range of obstacles and complex issues with no short term solutions. Baker distinguishes between the concepts of ‘consultation’ as a one sided, predominantly government initiative, and ‘negotiation’ as a two way process where cooperation is fundamental to achieving an outcome (Baker, Davies et al. 2001b). Inequity within consultation and negotiation processes was raised as a key concern back in the 1980s (Coombs and Ross 1989) regarding impact assessment and commercial development in the East Kimberley region. These Australian perspectives suggest an inequitable position of power across interest groups in heritage and resources management, and the particular focus on Native Title and impact assessment provides key understandings pertinent to examining the Beverley Mine case.

The claim that legal and political frameworks are vital in determining the environment in which Australian Indigenous peoples can negotiate with resource companies (O’Faircheallaigh 1996) addresses some critical elements of institutional power play within ICRM. O’Faircheallaigh provides understanding of the trends which shape negotiating outcomes such as access to information and resources. This work offers an important precursor in understanding the broader legal and political frameworks regarding land use and social justice for Indigenous Australians. Case research done with Canadian Aboriginal communities (LaPrairie 1995) suggest that there are two key issues worth considering in regard to the impact of State law on local justice; first, the reliance Aboriginal community people have on State law, and second, the effect of national interests which is used by powerful players to unify and standardise diverse local systems. The importance of legislation and regulatory frameworks that offer an equitable playing field and appropriate outcomes for Indigenous Australians has been apparent for many decades but still fails to become a reality under new arrangements, according to the 2008 review of Native Title (ATSI Social Justice Commissioner 2008).

Government perspectives, priorities and initiatives regarding the monitoring of land and water resources in Australia's Rangelands areas were outlined in a national strategy devised by the Natural Heritage Trust (Natural Heritage Trust 2001), where Rangelands are determined using three criteria: climate, land use, and geography. The approach used in this strategy is primarily driven by statistical data gathering and analysis, using Western scientific means of interpretation. Its primary purpose is to assist government in monitoring land and water resources and the effects of industry. Limitations include an approach that lacks consultation and lacks the ability to be reflective and reflexive.

This strategy for land use, developed in consultation with a range of stakeholders including Indigenous Land Corporation and PIRSA, has limited application in helping local Indigenous community groups other than being able to access statistical data based on Western scientific understandings. Within this strategy there is no means of evaluating the effectiveness of monitoring, nor is there any strong correlation with social justice and equity initiatives. An example of Western ideology dominating the interpretation of land use that resonates with this case study is the exclusion of Indigenous perspectives evident in the Public Environmental Report (PER) for the Beverley Four Mile Project and Mining Lease Proposal (Heathgate Resources Pty Ltd 2009). The Australian government's introduction of a framework designed to encourage public participation and voluntary environmental disclosure was intended to address the 'community right-to-know' principle mandated through the Earth Summit United Nations forum (Natural Heritage Trust 2000, p. 4). However, the absence of Indigenous perspectives in the Four Mile PER suggests that rhetorical commitment by government is no guarantee of best practice in the mining industry. Similar concerns have been raised within other Indigenous groups in Canada (LaPrairie 1995) regarding the lack of a pluralistic approach which continues to foster a colonial relationship between Aboriginal communities and State institutions.

Culturally appropriate frameworks coincide with appropriate concepts. Research identifies commonly used terms that conceptualise resources important to Indigenous peoples such as 'wildlife' and 'management' (Suchet 2001). Suchet claims these concepts continue to suppress Indigenous knowledge and expertise of how best to care for country. A willingness and an ability to scrutinise concepts that are widely assumed as 'common sense' within resources management are identified in this article as a necessary component of engaging meaningfully with Indigenous communities in improving policies and practices (Suchet 2001). This work reinforces a general need for ICRM projects based on equitable and

collaborative approaches and demonstrates ways in which this can be achieved outside of a colonial framework.

Suchet's claims are reiterated in the work of John Bradley (Bradley 2001) who scrutinises Western assumptions of land management despite the existence of a general principle in Australia that asserts a '...pressing need to recognise the stature of indigenous modes of thought ...' (Bradley 2001, p. 295). Bradley emphasises a challenge for local Indigenous communities and pays no attention to the need for greater accountability from developers and government within resource management. Whilst it gives a useful overview of some of the intangible aspects surrounding Indigenous perceptions of land management it does not offer any critique of the practices of all players, and does not place accountability with the most powerful players. These pieces of literature again confirm that resources management in Australia is yet to fully recognise 'Indigenous' and 'cultural' aspects within policy and practice.

As one of the longest examples of Aboriginal involvement in ICHM and ICRM national parks commands a unique position. Hill (Hill 1992) claims that a legacy of mistrust and suspicion arising out of competing interests and Western ideologies of conservation and wilderness continues to marginalise Indigenous peoples and Indigenous world views. Using Queensland as its case study, this article illustrates the powers of Australia's state governments to determine access and control over national parks, offering two models for comparison with South Australia's approach. Although not central to this thesis, national park management models and evaluative studies are acknowledged as historical attempts to develop cross-cultural land use strategies and decision-making processes and planning, implementation and evaluation of models and practices.

Guidelines for joint management within national parks in South Australia and in other States raise several key issues relevant to this case study. Over the past decade, there have been at least three extensive studies produced (Davies 1991; Combes 1999; Atkinson 2001) with a specific focus on joint management in South Australia, in addition to other Australian perspectives (Birckhead 1991; Royee and Daphney 1991; Wellings 1995; Wallace, Accoom et al. 1996) and international work (Stevens 1997a).

Governance policies, models and practices are abundant, yet few directly acknowledge or include Indigenous perspectives. A rare exception to this is a case of cross-cultural collaborative management (Robinson and Munungguritj 2001) which directly draws on local knowledge and local perspectives. However, the lack of Indigenous perspectives goes hand in

hand with a lack of implementation within existing governance strategies. The trend of governing bodies failing to implement change and incorporate evaluative mechanisms is a concern raised by many authors (Davies 1991; Curtis, Robertson et al. 1998; Brunckhorst 2002; O'Faircheallaigh 2002). This trend identifies a crucial need for action-based research that can resolve some of the issues around failed implementation and absence of evaluation within Indigenous governance.

A report conducted by Davies (Davies 1991) for the South Australian National Parks and Wildlife Service (SANPWS) discusses perspectives on Indigenous cultural resources within the context of national parks management. Although this report is limited by its stated lack of explicit consultation with Aboriginal communities or Departmental staff within the contract brief (Davies 1991, p. 6), and by its pre-Native Title dating, it emphasises a need for Indigenous cultural interpretation to take place '... with appropriate Aboriginal people in conjunction with relevant Aboriginal organisations and authorised by them' (Davies 1991, p. 58). This report raises discussion on the use of conceptual tools that influence decision-making processes. The idea of Aboriginal ownership of Aboriginal culture and heritage demonstrates a conceptual shift within Australian academic thought away from colonial paternalism toward Aboriginal self-determination, amidst a lagging shift within government and possibly other players.

As the final report of phase two of a project funded to '...further Aboriginal involvement in park management in South Australia' (Davies 1991, p. 6) the author openly states that the contract terms are limited in that they did not provide scope for consultation with Indigenous people with an interest in South Australian joint management of parks. However, Davies explores concepts such as 'joint management' and the problems arising in developing joint management between unequal parties. Davies highlights a lack of resources for both Aboriginal and Departmental parties and the unlikelihood of joint management to develop under these constraints. This report (Davies 1991) is an important historic link between pre-Native Title and post-Native Title arrangements, and is useful in exploring data within this thesis. It highlights the need for greater Indigenous involvement in research projects and a greater need for objectives that meet the priorities set by Indigenous players in the community. The issues raised offer a non-Indigenous perspective that openly recognises this need at multiple levels including national, State, local, Indigenous, and Departmental. Despite almost 20 years having passed, there are still major gaps in government policy (DEWHA and PIRSA 2009).

Public and government institutional arrangements through a hybrid approach to land management (Lane 2002) provides a management perspective that offers an alternative to the previously tried and failed models of the past. Referring to this as ‘... mediated community-based natural resource management ...’ (Lane 2002, pp. 839-940), Lane argues for a combined effort that utilises state institutional resources together with community-based institutional resources. This article flags seven key factors influencing Indigenous participation (Lane 2002, pp. 829-830), such as ‘...constraints on the capacity of indigenous people to participate effectively in resource management, relative to other stakeholders (Lane 2002, p. 829).

The mediating approach in this article (Lane 2002) can be interpreted as an alternative to existing and tried models, but it can also be interpreted as yet another assimilatory approach for two reasons. First, reference to ‘...strong institutional capability ...’(Lane 2002, p. 841) assumes that institutions are culturally aware and therefore able to effectively engage with Aboriginal people at a community level. Despite raising the importance of institutional capability, Lane fails to address the continued lack of cross-cultural understanding within state institutions. Second, this article does not emphasise a need to rectify this problem, yet there is expectation of ‘indigenous access to mainstream organisations and policy processes’ (Lane 2002, p. 841). A valuable point raised by Lane is the suggestion of a hybrid approach; however, his article lacks conviction. It recognises the dominance of Western views yet fails to strategically address internalised institutional exclusion of Indigenous views for land use arrangements. As with previous academic work presented by Davies (Davies 1991), the key ingredient of an Indigenous ownership strategy is missing and the responsibility for non-Indigenous decolonisation within institutions is not forthright.

Research undertaken for the Central Land Council’s Land Assessment and Planning Unit (Gambold 2001) provides important grounding for this thesis because of its participatory qualities. The article highlights an initiative that claims beneficial outcomes for traditional owners managing their land. Gambold claims that through participation, a sense of Indigenous ownership of the assessment processes and planning processes has developed within land management in the Tennant Creek region of the Northern Territory. Whilst acknowledging that this work is not yet fully participatory and that participation is time consuming and costly (Gambold 2001), the author of this chapter claims the capacity building, sense of ownership, and greater cross-cultural understandings that have occurred far outweighs the effort required to establish a participatory process of governance. The

experiences and issues shared in this chapter provide a unique insight to perspectives on governance in relation to the Central Land Council and how they are actually transforming their visions into participatory action. This article illustrates how assessment, evaluation, implementation and ongoing monitoring of resources can work for Indigenous peoples.

3.2.4 Indigenous Heritage Legislation and Administration in South Australia

After two hundred years of Indigenous Australians' experiences of dispossession (Pittock 1970; FRAHCC 1991), heritage protection for Indigenous peoples and lands remains in a fragile and fragmented state, partly due to the lack of legal recognition of prior ownership of land by Indigenous Australians (Parkinson 1994). South Australian ICHM since the 1980s has been primarily governed by the *Aboriginal Heritage Act* (SA Government 1988), hereon referred to in this section as 'the Heritage Act', which was introduced in the 1980s and administered via the government agency Aboriginal Affairs and Reconciliation Division (AARD). The Heritage Act recognises Indigenous peoples as Traditional Owners of the land through community consultation and archaeological evidence and does not commoditise Indigenous heritage as 'resources' in the sense that monetary compensation for Traditional Owners is not included in the Heritage Act. Administration of the Heritage Act has involved South Australian government departments providing advice to the Minister for Aboriginal Affairs in South Australia, who has the ultimate right of say regarding the preservation or destruction of an Indigenous heritage site.

The Heritage Act specifically relates to Indigenous consultation, registration of physical land sites, and general advice given to the Minister for Aboriginal Affairs in making determinations in relation to the cultural significance of physical sites in South Australia. A former CEO of AARD, when asked to define Aboriginal heritage protection, claimed there was a '...history of 'gate-keeping' and lack of accessibility and accountability within the government system' (Interview 16 Confidential 2005). Another claim was made that 'Indigenous affairs in South Australia is managed primarily by non-Indigenous people, many of whom have been repeatedly appointed across various States to control and dominate in a 'white' way' (Interview 16 Confidential 2005). These extraordinarily frank comments were offered openly and accompanied by a passionate view that engagement with Aboriginal people required a 'holistic and transparent approach' and 'assertiveness with other professionals'. This person also claimed that various decision-making models for Aboriginal engagement had been 'developed and implemented with little or no success', primarily due to

‘people on the ground’ not being listened to or included in the planning process (Interview 16 Confidential 2005).

A key State function has been to establish and maintain a Sites Register according to the Heritage Act. The centralised database known as the Sites Register houses a limited number of records based on anthropological and archaeological data mostly gathered in the 1980s, when government funds were readily available to facilitate the process of adding to the Sites Register database. The purpose of this Sites Register is linked to the planning and development processes that make up the EIA requirements in South Australia; however, claims abound that the Heritage Act has been thwarted when cultural resources are under threat (Wright 1998; Trevorrow 2003). A common perception of the Sites Register as a ‘complete’ set of data often favours development (Hubbs 1999) provides a mistaken view that potentially denies Aboriginal peoples’ oral and intellectual knowledge.

Heritage legislation lacks the breadth to acknowledge or accommodate Native Title legislation in both legal and political terms (Evatt 1996) and does not offer an adequate framework for heritage protection (Calma 2005). At a provincial level the requirement to engage under the Heritage Act is frustrating yet mandatory for all players. As part of the current legal framework that underpins ICHM and ICRM in South Australia, the Heritage Act as a stand alone mechanism denies recognition of Indigenous ownership of lands within its legislative framework. Additionally, policy direction and administration remains inadequately funded. The lack of a comprehensive weaving of Native Title and Aboriginal Heritage policy into a truly adequate framework fails to champion best practice and fails to protect Aboriginal sites of cultural significance.

The Mabo and Wik cases overturned the Australian legal myth of ‘Terra Nullius’ or the notion that the land belonged to no one at the time of colonisation (Keon-Cohen 2001), creating a major breakthrough in how government and industries were to understand and respond to Aboriginal land rights and interests in the future. This new framework for the formal recognition of Australian Indigenous peoples and cultures known as ‘native title’ emerged at the national level during 1993 (Commonwealth of Australia 1993). Through this legislation the High Court gave legal recognition to Indigenous Australians as the original inhabitants and owners of the Australian continent. Native Title legislation stands as Australia’s newest legally binding national arrangement for compensation and co-existence or shared land use for Indigenous Australians.

A template for South Australia's Indigenous Land Use Agreement or ILUA (Crown Solicitor's Office 2004b, pp. 1-2) stipulates a voluntary settlement process aimed at avoiding litigation. A review of online information relating to Native Title in South Australia (SA Government, ALRM et al. 2005) show that generic guidelines on how to conduct a mapping survey prior to negotiating an Exploration Agreement under the ILUA Framework were developed and published in 2003 which attempt to dovetail the requirements of Aboriginal Heritage legislation with Native Title requirements. This is an important demonstration of how the government after ten years of Native Title legislation have attempted to address the inadequacies of current legislation. Attempts to synchronise the two Acts based on a legal approach a decade after the inception of legislation shows a serious lag between political enactment of legislation and political initiative in policy making. These guidelines do not include or refer specifically to Indigenous protocols set by Indigenous groups and do not provide a solution to non-Native Title aspirations. I argue that the issue of the lagging responses in relation to relevant policy making and guidelines poses a serious lack of commitment by government and industry, and a serious setback to the inclusion of Indigenous players within heritage protection and resources management.

A legal and political critique of the implications of the Mabo decision (Watson 1993) provided by an Australian Indigenous author Irene Watson highlights the limitations of a legal decision which overturned the historic doctrine of 'terra nullius' in Australia. This article is significant because it questions the continued denial of Aboriginal existence in Australia, and the extent to which the Doctrine of Discovery may be replacing the Doctrine of Terra Nullius. (see also Parkinson 1994). These concepts of Australia's governance of Indigenous peoples, resources, and cultural rights prompt Watson to question: 'Who can make the claim for Aboriginal title?' (Watson 1993, p. 7). This question emerges repeatedly throughout this case inquiry in the form of Adnyamathanha cultural knowledge and identity, and who has the right to speak for country.

3.2.5 Indigenous Governance and Issues of Justice

During the past two decades, critical examination of traditional government-based processes of Indigenous governance has led to a changing trend toward non-government models of negotiation or a reduced role of government (Bird Rose 1995; Jackson 1996; Environment Protection Group and Environment Australia 1999; Lane, Balogh et al. 1999; Keon-Cohen 2001; Wooley 2001; Davies 2001, 2nd - 4th September; Lane 2003); hence a shift away from

'heritage' or ICHM models to 'resources' or ICRM models. This section explores the extent to which Indigenous peoples have gained a more empowering position as sovereign owners.

Practitioners from the community level directly involved in Native Title negotiations have been less than forthcoming in regard to guidelines for Indigenous engagement. The introduction of voluntary land use agreements known as ILUAs became a part of the Native Title process during late 1998 after the Beverley case had been finalised, and this case was possibly one of the early 'test cases' that influenced the introduction of a non-government land management strategy. Introduction of the ILUA process has led to a template (Crown Solicitor's Office 2004b) is yet to be fully endorsed and interpreted by Indigenous peoples. This template, developed by the Crown Solicitor's Office, has not been incorporated into Adnyamathanha governance and there is no evidence to suggest it has been integrated into the practices of other Indigenous groups. A key Indigenous player within Native Title in South Australia, Parry Agius, claims that legislation governing Aboriginal sites has created new challenges and new understandings of the ways in which Indigenous governance of cultural resources ICHM and ICRM occurs (Agius, Davies et al. 2002). However, the leadership role played by Agius and others directly involved in administering Native Title is limited by the lack of vision regarding good governance. Another commentator (Baker, Davies et al. 2001b), who speaks more broadly, claims that ICRM involves many perspectives on management and many forms of negotiation but is not necessarily committed to heritage protection. This suggests that unless there is greater emphasis placed on developing and implementing practical strategies based on participatory action there is little likelihood that 'new challenges' and 'new understandings' will directly benefit Indigenous players seeking to enhance heritage protection.

Indigenous peoples from the Kaurna, Ngadjuri, Peramangk and Ngarrindjeri Nations have been directly involved in developing governance strategies for natural resources management intended as a 'respectful guide for practitioners in the field' (Four Nations NRM Governance Group 2007, p. 10). This document was constructed and endorsed by people such as Richard Hunter (Four Nations NRM Governance Group 2007, p. 5), who are recognised as long term practitioners and leaders in the area of heritage protection. Information about Native Title and Aboriginal Heritage legislation is presented in a way that is easy to understand and practical for a broad audience including community people. It clearly states a set of 'Principles for Engagement' (Four Nations NRM Governance Group 2007, p. 13) which form the basis of a consensus strategy endorsed by all local practitioners in the NRM Adelaide and Mount Lofty

Region (AMLR). These principles provide a starting point for other groups such as Adnyamathanha that are yet to actively develop a governance strategy.

The move from government to non-government negotiation is discussed by a solicitor formerly in the ALRM in South Australia, who regarded the implementation of Native Title legislation in South Australia as advantageous because it ensures ‘... State government is not a party to negotiations...’ (Wooley 2001). This article positions Indigenous governance as significant due to its leadership potential in reform, particularly in the area of resources management. However, this article omits any discussion of the transitional period of capacity building and how this major gap in the system fails to protect Indigenous heritage and cultural resources. The initiative shown by the AMLR and the Four Nations is possibly a significant step toward grass roots reform but is yet to be replicated in other areas.

Resources sovereignty in Australasia, Melanesia and Southeast Asia (Howitt, Connell et al. 1996a) specifies control over resources as a key justice issue and highlights poignant experiences that form a common thread among Indigenous peoples in these geographical regions. The definition given to resources in this text includes ‘... land, water, minerals, timber, tourist sites, inland and offshore fisheries, cultural knowledge, education, and language’ (Howitt, Connell et al. 1996a, p. v) and the relationships of control over these resources form the basis of sovereignty. Justine Smith claims that ‘Native rights activists reject a single-issue framework in favour of a framework of sovereignty...’ which ‘...enables Native peoples to recognise and address various issues in a comprehensive manner’ (J Smith 1999, p. 203). The identification of resources control and human relationships with resources are a critical element in the reshaping of a model that combines ICHM and ICRM. Howitt captures many of the common issues faced by Indigenous peoples on a global scale and provides a critical lens for investigating the Beverley case. The breadth of issues raised in this text facilitates opportunities to critique the effectiveness of negotiations across a number of different areas: first through the roles and status of Indigenous women, second through the implications of different ontological positions, third through the various approaches used to govern at state levels of legislation and government policy, and fourth through the continual patterns of denial and marginalisation of Indigenous issues and peoples.

The level of institutionalisation of Indigenous governance signals a desperate need for change and reiterates many of the previous issues already highlighted. Mary Edmunds provides further useful background to the emergence of the national Native Title process and its interpretation at a national and state level (Edmunds 1997). Its focus on the role of women

and the production and uses of knowledge is highly relevant to a discussion on mining, an industry noted by other authors (Bird Rose 1995; Robinson 1996) for its masculine characteristics. Given that only a few of the many dozens of articles reviewed in this thesis discusses the role of Indigenous women in mining negotiations, this suggests a gap in the literature and poses an opportunity for further investigation beyond this study. Inherent problems within the Native Title governance processes have led to the entrenchment of current land use practices, at the expense of Aboriginal aspirations and rights (Jackson 1996).

Another worthwhile and appropriate contribution to this thesis (Gelder and Jacobs 1998) examines land issues and cultural resource interpretation and management. The central aim in this text is to offer greater understanding of the ways in which 'Aboriginal sacred' is articulated (Gelder and Jacobs 1998, p. xi). Post-colonialism as a theoretical framework explores societal understandings of Australian heritage, and how this is legislated and administered. This work is relevant for its focus on the discourse of 'sacredness' in the context of 'modernity' using the Freudian concept 'uncanny' (Gelder and Jacobs 1998). Gelder and Jacobs unpack discourses of sacredness and identity which offer insights to historical as well as current Australian perspectives. In the context of this study, such multidisciplinary insights will help clarify the persisting influences that continue to limit Indigenous participation within ICHM and ICRM.

Within a legal framework, an Environmental Impact Assessment (EIA) is required prior to government approval of a commercial mining license; however, it remains void of any reference to Indigenous notions of spiritual connections to land. Lane (Lane 1993) claims that the domination of physical sciences and scientists within research and impact assessment effectively shuts the door on issues and perspectives relevant to Indigenous peoples. The paper recommends a political or participatory approach to achieve greater community empowerment and representation, and posits this model as ideal when '... bargaining determines land use outcomes ...' (Lane 1993). The EIA model proposed here assumes a level of competence among Indigenous players in being able to confidently use the EIA process as a decision-making tool, when it realistically may be limited to an advisory tool. The EIA procedure is traditionally modelled in South Australia on a Western interpretation of land use; however, the empirical and theoretical insights of Lane's document are critical of its effectiveness for Indigenous heritage protection.

Recognition of sovereignty for Indigenous peoples within ICRM and ICHM is a complex challenge for Australia and other colonised nations. The ongoing domination of Western

ideas and practices currently facilitates destruction of Indigenous cultural rights and lands with little or no regard for Indigenous rights.

3.2.6 Government Initiatives within Natural Resources Management

Funding and support for Indigenous heritage protection has been available through a range of Commonwealth and State government initiatives, but there has been very little assessment of the success of these initiatives. Specific guidelines for ways of working with Indigenous people and respecting Indigenous knowledge (Natural Heritage Trust 2004a; Natural Heritage Trust 2004b) were designed to assist regional bodies and community groups to enhance their ability to participate within natural resources management sectors including mining, via an Indigenous Natural Resources Management (INRM) planning process. Both documents include a set of 'good practice' standards for INRM with key components such as an Indigenous Knowledge Support Plan or IKS Plan (Natural Heritage Trust 2004b) and results listed on the Natural Heritage Trust (NHT) website (Natural Heritage Trust 2008) confirms that at least 100 projects include the term 'Indigenous' in their title, and many of the projects include funding that is directly linked to development of an IKS Plan. NHT has also commissioned a series of case studies in Indigenous engagement (Smyth, D., et al. 2004) for use as resource material in community workshops, by regional NRM boards, and for wider dissemination.

Recent restructuring at the Federal level has led to an integrated approach by government regarding natural resources management, Indigenous heritage and cultural resources (NRM Team 2008). NHT ceased to exist on 30 June 2008, and was replaced by a new government initiative 'Caring for our Country'. This new NRM body includes the Indigenous Heritage Program (IHP) established through the Commonwealth Department of Environment, Heritage, Water and the Arts, and offers support to Indigenous communities as part of a national grants program (Australian Government 2008). Evidence shows some projects funded in previous rounds related specifically to Indigenous heritage; however, comparatively small numbers of grants were listed for South Australia. This may suggest there are other more effective options or that this program was little known or utilised in South Australia.

This framework focuses on delivery of two Australia-wide natural resource management (NRM) initiatives: the National Action Plan for Salinity and Water Quality (NAP) and the Natural Heritage Trust (the Trust). The ecological approach for Indigenous engagement

acknowledges Indigenous peoples' ongoing and lengthy interaction with the natural environment (NRM Team 2008) and seeks to streamline this knowledge with priorities and directions set by a range of departments. The funding package is pitched at national, regional and local partnerships and aims to record Indigenous knowledge, build capacity among Indigenous Australians in resources management, and protect Indigenous heritage. Within South Australia there are eight regions identified by government in regard to NRM management. These regions are each governed by a Board that is required to negotiate an Indigenous engagement strategy as part of their role. Indigenous peoples have engaged with this new NRM framework at various levels; most prominent in South Australia is the regional call for a strong emphasis on developing guidelines for community consultation and governance protocols in the absence of existing guides (Four Nations NRM Governance Group 2007).

The views published by the Four Nations Group (Four Nations NRM Governance Group 2007) showcases how Indigenous peoples in one part of South Australia have begun to address these problems via opportunities under the new government banner of Natural Resources Management (NRM). Reaching this point has not been without pain and anguish as stated in the various Ngarrindjeri testimonies regarding the impacts of colonisation and development including the Hindmarsh Island Bridge saga (Four Nations NRM Governance Group 2007, pp. 86-101). Tom Trevorrow's statement in the Four Nations document reads:

“The land and waters is a living body. We the Ngarrindjeri are part of its existence. The land and waters must be healthy for the Ngarrindjeri to be healthy. We are hurting for our country”

(Tom Trevorrow cited in Four Nations NRM Governance Group 2007, p. 89)

The ongoing struggle between commercial development and Ngarrindjeri concerns over contemporary land uses is being channelled into this new set of consultation and engagement protocols in the hope that the fight for truth, justice and equity brings Ngarrindjeri Spirits to a peaceful resting place (Four Nations NRM Governance Group 2007, p. 87). This example of how these Four Nations have managed to work together with each other and have their values and expectations endorsed by a Government agency, namely the AMLR Natural Resources Management Board, is a remarkable show of goodwill and persistence by all players and interest groups. The key ingredient to its future success and widespread applicability rests in the frank articulation throughout the document that these guidelines do not represent a guaranteed outcome for any players; however this may bring people a step closer to

postcolonialism. As a guide for practitioners wanting to operate in an ethically sound manner, this document sets a benchmark for best practice that has a potential for much broader application. Ultimate responsibility will rest with the general public to ensure developers and governments face increasing pressures to demonstrate best practice within Indigenous engagement. The Four Nations' efforts may offer a working precedent that proves impossible for future governments and developers to ignore but much will depend on the quality of governance at the local Indigenous level.

A new framework of Indigenous engagement emerges from these government initiatives and includes responses to the introduction of Native Title legislation. The ILUA process introduced in South Australia (Agius, Jenkin et al. 2007) suggests a way of integrating Native Title into a State-wide negotiating strategy that may offer Indigenous players a new basis for contesting the assumed role of colonial settlement. On the one hand this pathway offers a potential framework for coexistence; on the other, it also has the potential to assert the rights of non-Indigenous peoples in a way that recolonises land (Agius, Jenkin et al. 2007, p. 196).

3.2.7 Conclusion

Heritage protection in this thesis refers broadly to the conservation of heritage sites and ICHM to the conservation of Indigenous cultural heritage. Resources management can refer more specifically to commodity-based management of heritage sites as resources under the banner of ICRM. Examining previous government initiatives (National Heritage Trust 2001; SA Government, ALRM et al. 2005) strongly suggests that ICHM and ICRM remain entrenched in Western science as a means of heritage protection and resources management, and both place a low priority on Indigenous perspectives and issues. The idea of a hybrid approach (Lane 2002) raises the issue of 'institutional preparedness' as a possible alternative to current arrangements. The more recent Commonwealth government joint initiative known as Indigenous Natural Resources Management or INRM (NRM Team 2008) seeks to use a nationally based approach based on ecology as the new holistic 'science' for heritage and resources management. Throughout the remainder of this thesis, Indigenous engagement and Indigenous governance will be used to explore the effectiveness of heritage protection and resources management and commercial land use.

Widespread use of the Australian Native Title framework for community consultation and negotiation over ICRM (Agius, Davies et al. 2002; Agius, Jarvis et al. 2003; O'Faircheallaigh

2004a; Minerals Council of Australia 2004b) makes it impossible to have any comprehensive discussion without considering the role of Native Title legislation. Subsequent policies and practices that emerge to include this new legal framework for Indigenous engagement have been examined in this chapter to provide a basis for understanding the Beverley case.

The conceptualisation and implementation of governance strategies for Indigenous heritage and resources management continue to evolve in response to the increasing pressures with natural resources management. Literature reviewed suggests a shift away from traditional CHM models for Indigenous heritage toward an economically driven mode of ICRM or an ecological model of INRM. These approaches regard Indigenous cultural heritage as comprising 'resources' or assets relative to their usefulness and monetary value for Indigenous peoples. I am not convinced that this shift is grounded in Aboriginal or Indigenous values and beliefs because it remains aloof from Indigenous sacredness and our spiritual relationship with the land.

Chapter 4. Exploration and Mining of Land Resources and Engagement with Indigenous Peoples

Key concepts in mining influence the framework for environmental, cultural and social impact assessments; examination of these concepts inform theoretical as well as practical debates surrounding engagement with Indigenous peoples and governance of Indigenous heritage. Indigenous management regarding land resources within the broad NRM sector (Baker, Davies et al. 2001; Howitt 2001) and Native Title negotiations (Keon-Cohen 2001; Strelein 2006) are key examples of heritage protection intersecting with resources management and mining. Trends in mining and Indigenous engagement highlight critical aspects that inform the case analysis in later chapters. Uranium mining and expansion of the nuclear industry are of particular relevance to this case study and are of national significance within Australia. Literature in this chapter reinforces how a human rights framework offers a critical framework for examining community engagement and Indigenous participation in impact assessments. Human rights abuse also situates this thesis in a wider international context of global colonisation of Indigenous peoples and lands through mineral exploration and mining ventures.

Exploring concepts of land use provides greater understanding of the historicity of land resource development preceding the EIA for Beverley Uranium Mine. Further insights to key influential frameworks for ongoing management of Indigenous resources are possible through brief examination of Commonwealth government Indigenous land acquisition and management programs (Australian Government Indigenous Land Corporation 2006) and protection of Indigenous land (Australian Government Department of Environment and Heritage 2006). The wide range of models available across the various sectors of resources management are regarded as too broad to be examined in detail within this thesis; however, in several places throughout this chapter, models and best practice standards are discussed for their relevance to the Beverley case.