

Stakeholder Engagement – Principles & Practice Relevant to Deep Sea Minerals

Pacific ACP States Regional Training Workshop on Social impacts of Deep Sea
Mineral Activities and Stakeholder Participation



10th-14th June, 2013
Holiday Inn
Port Vila, Vanuatu

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Director, Pax Populus
www.paxpopulus.com

Overview

- Wednesday pm
 - The fundamentals of public participation
- Thursday am
 - Public participation and mining law
 - Engaging stakeholders over contentious issues
- Friday am
 - Role play.

KNOWLEDGE

The fundamentals of public
participation

Why do good public participation?

- **Respect**
 - it's decent behaviour in any society and expected in a democracy
- **Manage risk**
 - understand risks
 - find solutions
- **Better outcomes**
 - less conflict
 - less fear
 - less social impact
 - banish the “resource curse”.

...and another reason...



not doing it well can land you in jail!

U.S. criticizes arrests of Newmont executives

The United States Embassy has criticized the Indonesian police for detaining without charge several executives of P.T. Newmont Minahasa Raya, a mining company with its headquarters in Denver, in the U.S...

The police have named six Newmont executives suspects in the **pollution case** and **jailed five of them**...

The company has **denied the allegations** and backed up their denials with other **independent tests, which proved the bay was normal**, but media reports have shown pictures of villagers living close to the mine with **skin diseases** and large lumps they claimed were caused by pollution from the mine. **Newmont blames** the illnesses on **local miners who do use heavy metals in their processing**.

The Jakarta Post



What is a stakeholder?

- Any entity (organisation or individual) with a declared or conceivable interest or stake in an issue (e.g. a DSM proposal).





Who is a stakeholder?

- Who decides?
- You identify
- They self-identify

Q: What are the +ves and -ves of each approach?

Stakeholder power

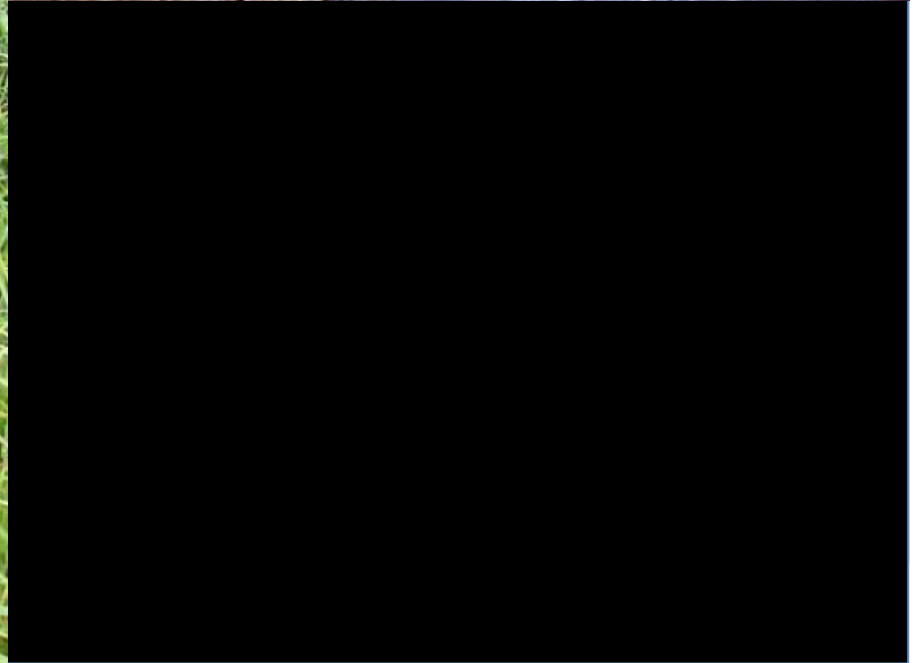
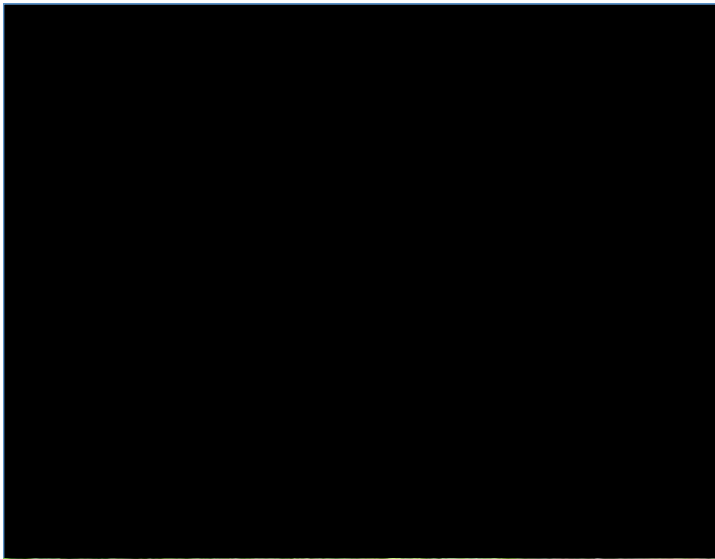
- There are many forms of power that stakeholders can wield:
 - Institutional (decision-making authority)
 - Economic (your resources)
 - Knowledge (what you know)
 - Influence (who you know, media, politics)
 - Reputation (how you are regarded or want to be regarded)
- These all add up to the power to influence an outcome

Q: What aspects of power are most important in determining the current status of DSM?

Stakeholder voice

- Closely related to power
- Loudest are generally most engaged (the squeaky wheel)
- Soft voices may be just as, or more, affected
- Good engagement helps balance power and amplifies soft voices.



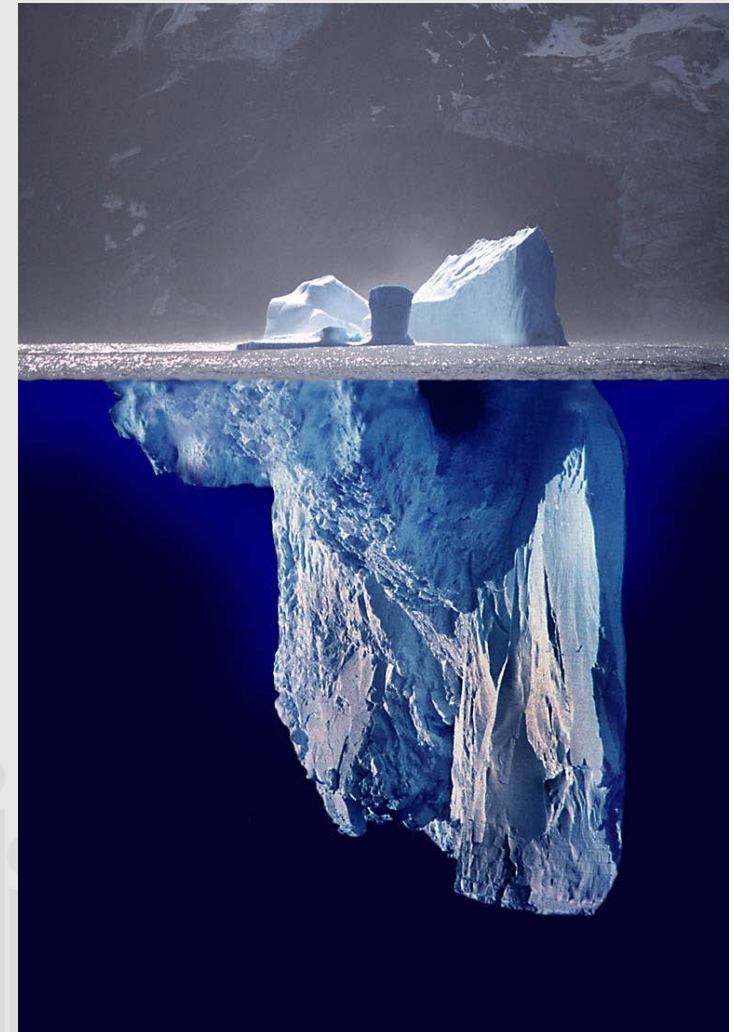


Interests (versus 'positions')



Understanding interests

- Position – what we say we want
- Interests – the reasons why we say we want it
- Interests are important because where a conflict exists over positions, an understanding of the interests can reveal possible solutions.



Some positions over DSM

- There should be no DSM!
- There should be a moratorium until it can be shown that DSM does no harm
- DSM is important to countries and should be progressed
- We need the products that DSM can provide.

Driving interests

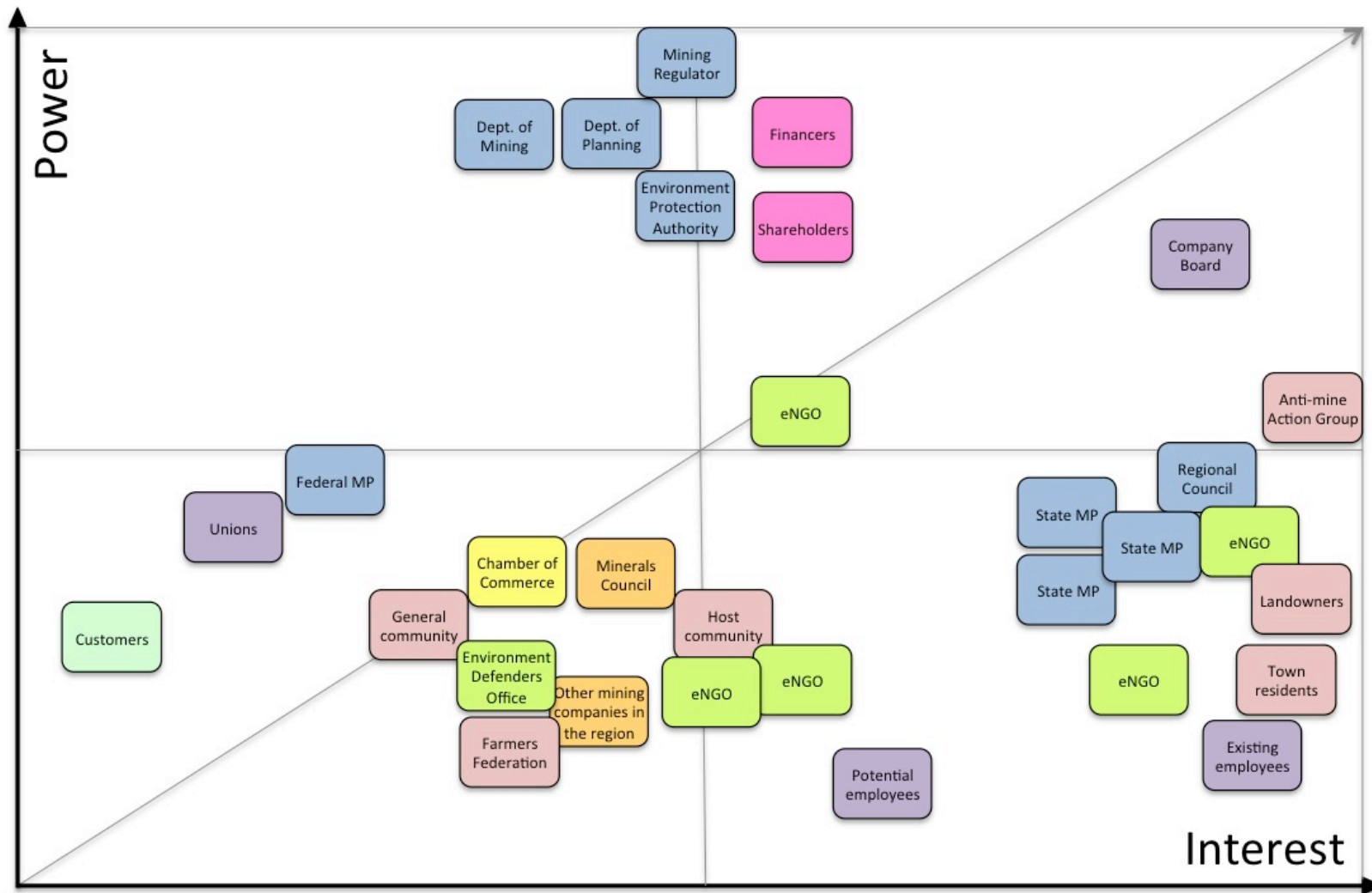
- Civil society
 - Biodiversity/ecology
 - Human livelihoods
 - Future generations
 - Human rights
 - Quality of science
 - Precautionary principle
 - Environmental safety
 - Community safety
 - Community divisions
 - Governance
- Developers
 - Shareholder returns
 - Share price exposure
 - Competitive advantage
 - Access to capital
 - Knowledge of the resource
 - Reputation
 - Certainty
 - Timely approvals
 - Real community benefits
 - Workforce safety
 - Governance

Stakeholder analysis

- Compile a list of stakeholders (as a group)
- Consider their:
 - Positions on the issue
 - Try to work out the interests underlying their positions
 - What is their level of interest in the specific issue
 - Who else do they group with (e.g. industry, community...)
- Tabulate

Group	Stakeholder	Position	Interests
Community	XX Village	Support proposal	Development benefits, jobs, environment protection

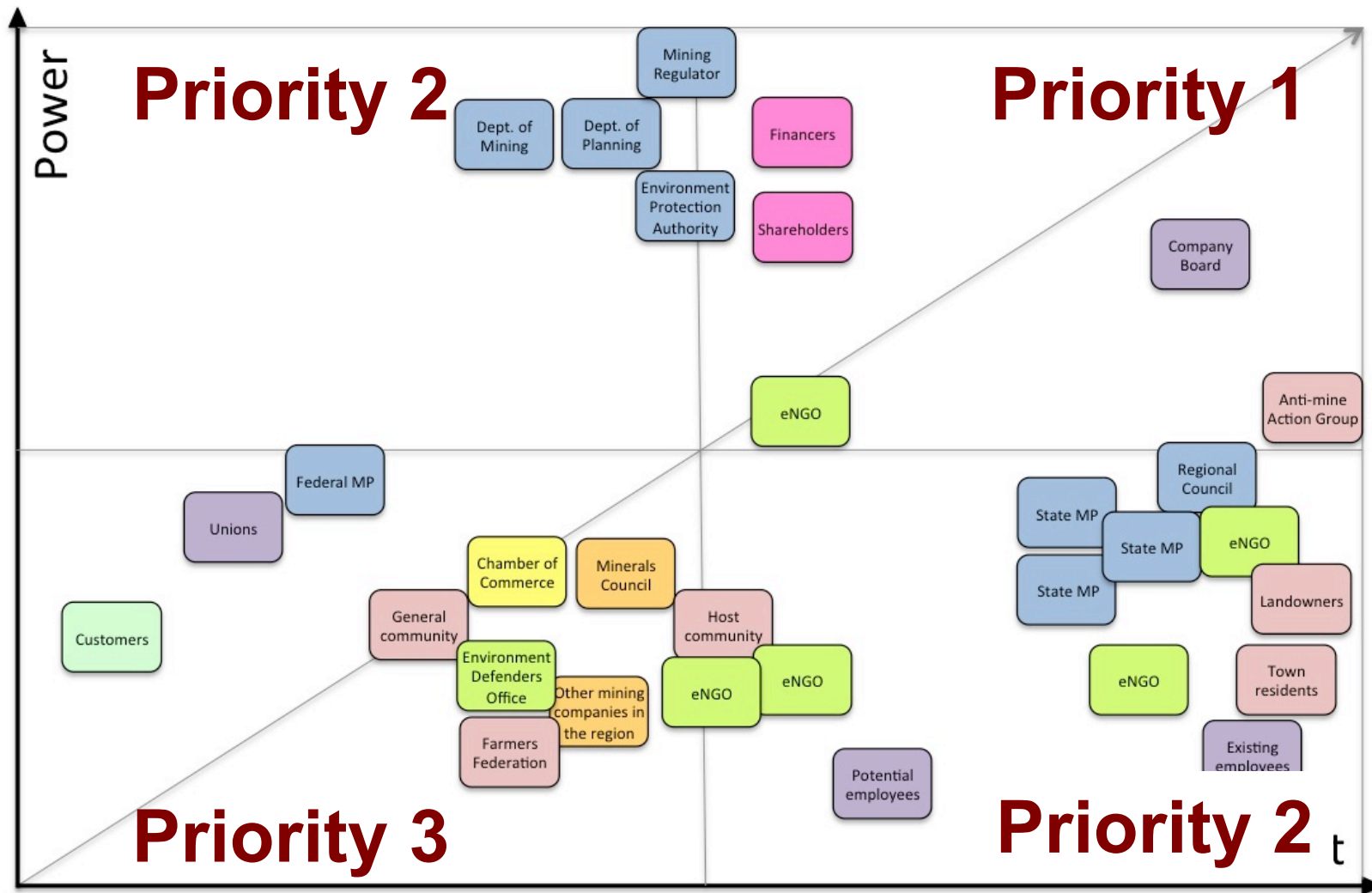
Mapping stakeholders



Mapping stakeholders



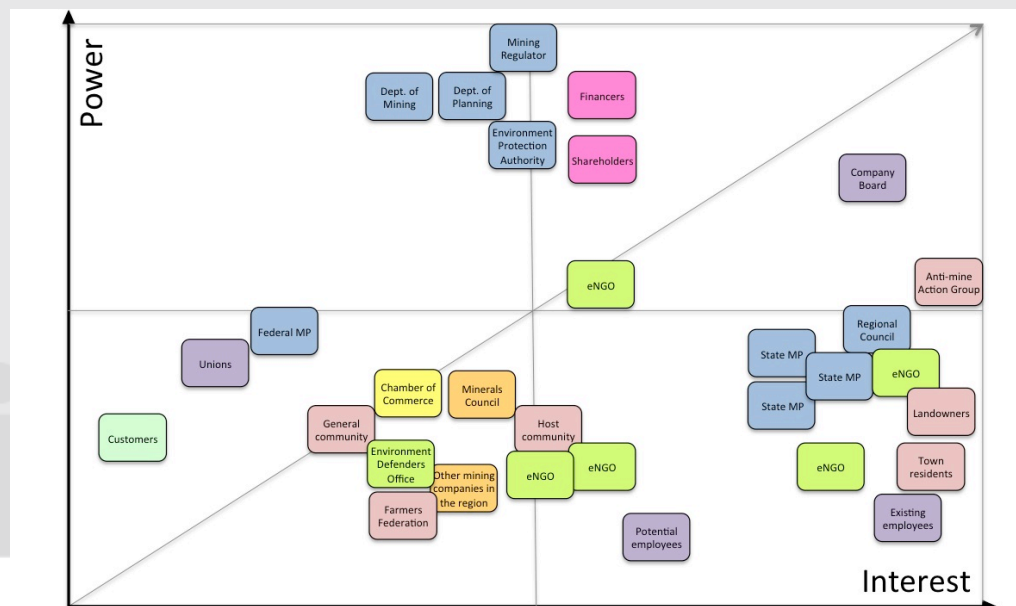
Mapping stakeholders



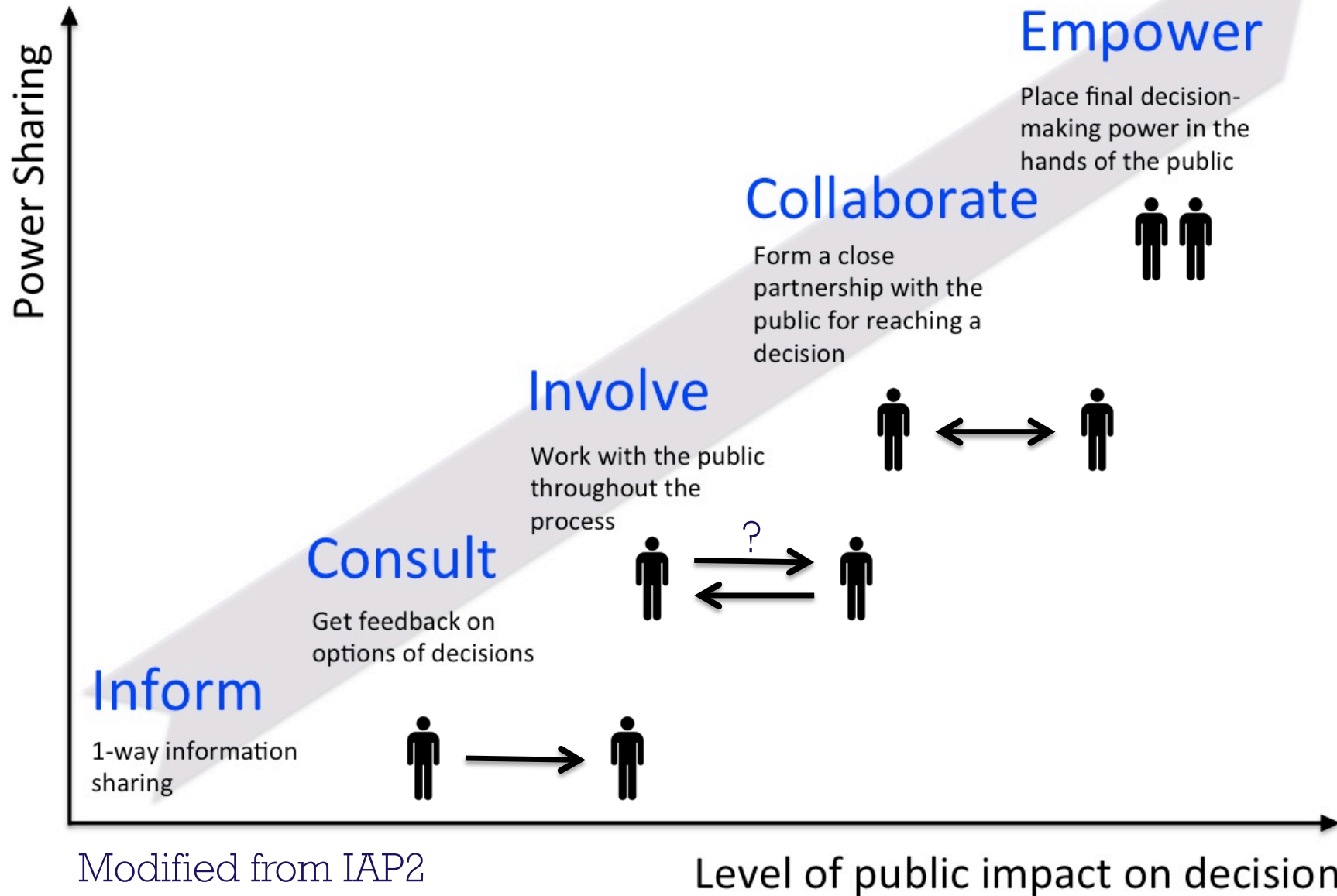
Group exercise

DSM stakeholder mapping

- Each table prepare a stakeholder map of a DSM project (decide on which country yourselves from amongst your group)
- List all the stakeholder groups and key individuals (appoint a scribe)
- Then, write each one on a post it note
- Stick them on a “power-interest graph” on a sheet of flip chart paper.



Level of public participation



Participation and trust

- Trust: “assured reliance on the character, ability, strength, or truth of someone or something”
- Two dimensions of trust:

Character

Integrity

Motive

Intent

Competence

Capabilities

Skills

Results

Track record.

Stakeholders and trust



16 ATTRIBUTES TO BUILDING TRUST

Edelman Trust Barometer research reveals **16 SPECIFIC ATTRIBUTES** which build trust.

These can be grouped into **FIVE PERFORMANCE CLUSTERS** listed here in rank order of importance.

ENGAGEMENT

- LISTENS TO CUSTOMER NEEDS AND FEEDBACK
- TREATS EMPLOYEES WELL
- PLACES CUSTOMERS AHEAD OF PROFITS
- COMMUNICATES FREQUENTLY AND HONESTLY ON THE STATE OF ITS BUSINESS

INTEGRITY

- HAS ETHICAL BUSINESS PRACTICES
- TAKES RESPONSIBLE ACTIONS TO ADDRESS AN ISSUE OR CRISIS
- HAS TRANSPARENT AND OPEN BUSINESS PRACTICES

PRODUCTS & SERVICES

- OFFERS HIGH QUALITY PRODUCTS OR SERVICES
- IS AN INNOVATOR OF NEW PRODUCTS, SERVICES OR IDEAS

PURPOSE

- WORKS TO PROTECT AND IMPROVE THE ENVIRONMENT
- ADDRESSES SOCIETY'S NEEDS IN ITS EVERYDAY BUSINESS
- CREATES PROGRAMS THAT POSITIVELY IMPACT THE LOCAL COMMUNITY
- PARTNERS WITH NGOs, GOVERNMENT AND 3RD PARTIES TO ADDRESS SOCIETAL NEEDS

OPERATIONS

- HAS HIGHLY-REGARDED AND WIDELY ADMIRERD TOP LEADERSHIP
- RANKS ON A GLOBAL LIST OF TOP COMPANIES
- DELIVERS CONSISTENT FINANCIAL RETURNS TO INVESTORS

Table question

- Why is trust important in DSM?



Your commitment

INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
We will keep you informed	We will keep you informed and listen to and acknowledge your feedback	We will work with you to make sure your interests are reflected in the outcome and provide feedback to you on the final decision	We will look to you for direct advice and ideas for creating solutions and will include your ideas in the final decision as far as possible	We will implement what you decide

Modified from IAP2

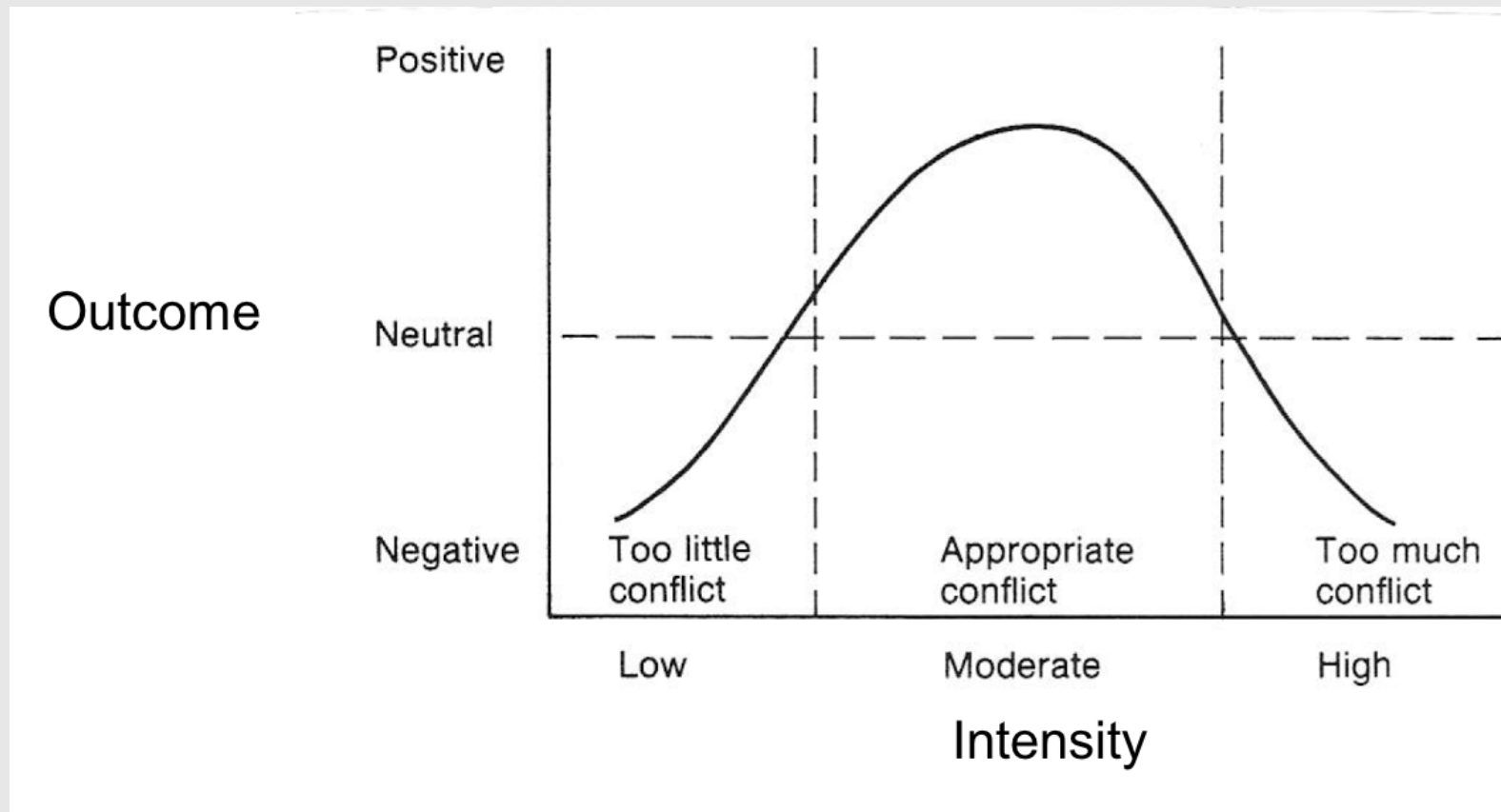
Your toolkit

INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
<ul style="list-style-type: none">• Media release• Letter• Newsletter• Website• TV/radio• Brochures• Fact sheets	<ul style="list-style-type: none">• Feedback form• Focus group• Survey• Open house• Door knock• Village meeting	<ul style="list-style-type: none">• Workshop• Community liaison group• Advisory committee	<ul style="list-style-type: none">• Working group• Consensus-building process• Agreement-making process	<ul style="list-style-type: none">• Delegated decision-making• Vote/ballot

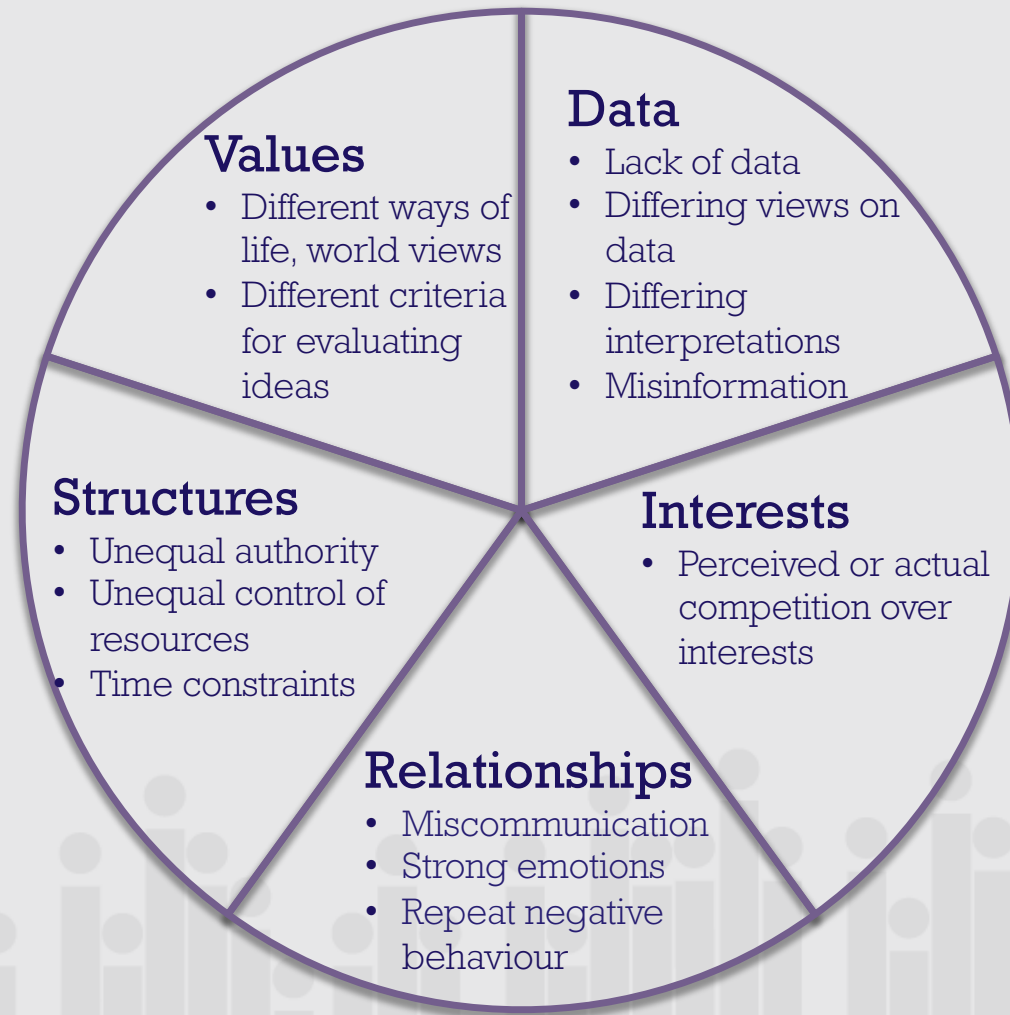
Stakeholder conflict

- **Conflict** defined [Oxford]:
 1. a prolonged armed struggle
 2. a state of mind in which a person experiences a clash of opposing feelings or needs
 3. a serious incompatibility between two or more **opinions, principles, or interests**
- Which are we dealing with in DSM?
- Q: Is conflict always bad? Give your reasons.

Conflict – the good & bad



Causes of conflict



Conflict and anger

- Conflict often involves anger
- People are angry when they feel:
 1. Physically or emotionally hurt
 2. Threatened by risks they didn't cause
 3. Their values and beliefs are challenged
 4. They have been lied to
 5. Feel weak, or
 6. Anger is a useful, strategic response to improve their negotiating position.
- Which are important in DSM?

[Source: Lawrence Susskind, Dealing with an angry public]

Conflict and engagement

- The stakeholder engagement process should pre-empt and be designed to handle conflict
- Data conflicts
 - Joint collection or review of contentious data (e.g. Joint Fact Finding)
- Relationship conflicts
 - Use multi-stakeholder forums, with good facilitation/mediation, to build trust and work through difficult issues
- Values conflicts
 - Find things you can agree on (don't try to argue values)



The husband and wife trapeze team,
The flying Bilenkos, came to a
tragic end one afternoon...

Communication style

“Why Don't People Listen?”

“The truth is that if we approach communication as if it were a process of injection, we will have entirely missed the point.

“We will have failed to notice that you can't separate communication from the idea of a relationship between two or more people and that a relationship is an extraordinarily complicated thing.”

Hugh Mackay, Australian social researcher

Relationship-based communication



Traditional PR

- Immediate wins are the goal
- Communication focus is on persuading
- Somebody loses and somebody wins the PR war
- Public opinion shapes around winners and losers, and losers prepare for the next battle
- The PR battle is played out in the public arena, stakeholders watching
- Brand and reputational threat
- Tactical (short-term)

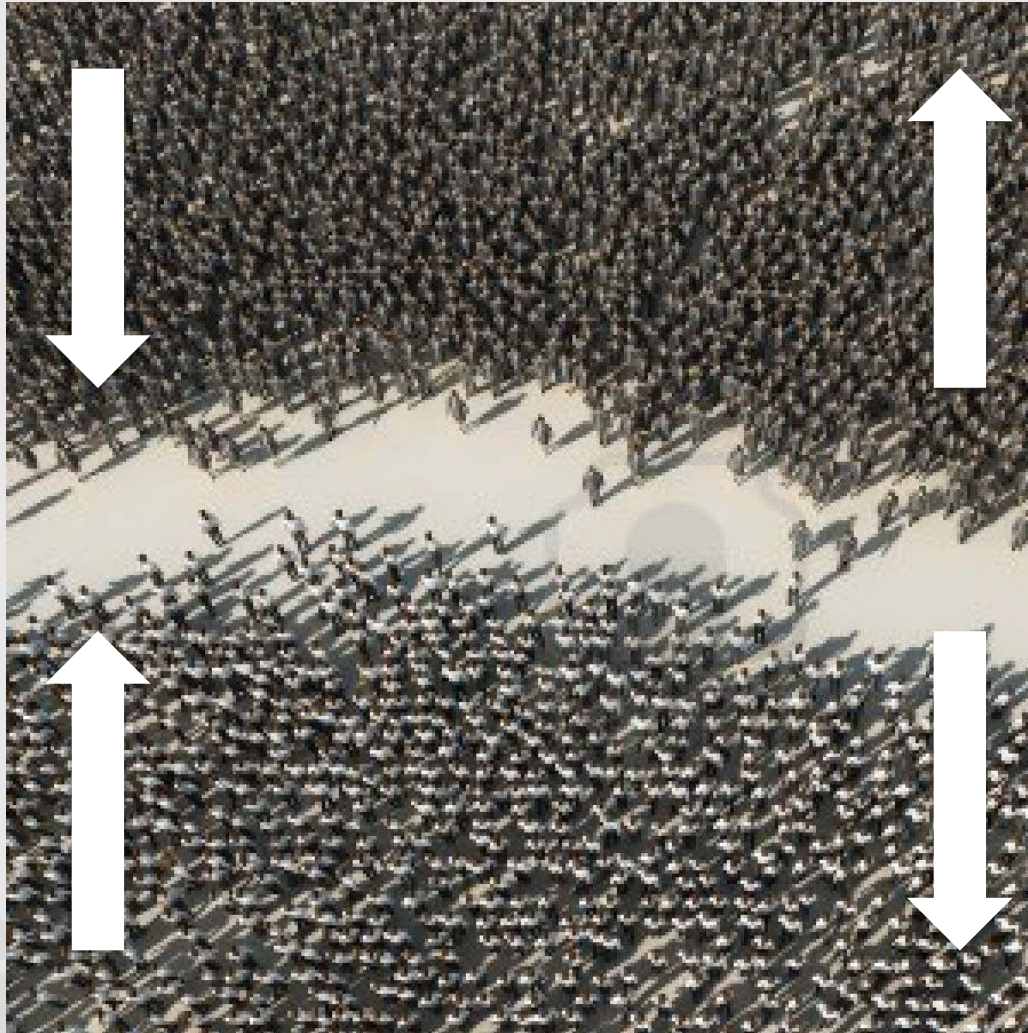
Relationship-based

- Long-term, shared wins are the goal
- Less adversarial, less media focus
- Communication focus is on listening and responding
- Focus on desire to find common solutions
- Public opinion witnesses leadership over the issue
- Problems are resolved through effective dialogue & negotiation
- Brand and reputation building
- Strategic (long-term)

Tools & polarities

Consensus-building:

- Dialogue
- Mediation
- Roundtable discussions
- Workshops
- Joint fact finding



Polarising:

- Media
- Debates
- Public meetings
- Public hearings
- Courts
- All those on the left done badly!

Summary

- Be inclusive, not exclusive
- Understand stakeholder interests
- Trust is essential for good communication
- Trust is largely created through behaviour
- Understand type of conflict & match response
- In DSM use trust & relationship-building tools
- Problems aren't solved through the media.

KNOWLEDGE

Public participation and mining law
Issues relevant to DSM

Legal aspects - overview

- Some guiding principles
- Example 1: An Australian approvals process
- Public access to information
- Third party rights & judicial review
- Example 2: IFC standards
- Grievance and dispute handling

Application to DSM

- Governments need to have DSM regulation
- You can decide what public participation goes in law or policy
- Good participation in DSM law will:
 - Increase community understanding
 - Reduce fear and anger
 - Reduce resort to legal action
 - Increase community trust in government.

Some guiding principles

- What's important for regulatory process from the **public's** perspective?
 - **Clear process** (awareness, communication)
 - **Transparent** (requirements, applications, decisions)
 - **Accessible** (awareness, availability, literacy, time)
 - **Accountable** (enforcement, appeal, review)

Some guiding principles

- What's important from the **companies'** perspective?
 - **Certainty** (clear, consistent application of law)
 - **Timeliness** (no delays)
 - **Efficiency** (streamlined, no duplication)
 - **Flexibility** (approvals and variation processes commensurate with project risk)

Example 1: Australian Mining

- Exploration (part 1)

```
graph TD; A[Invitation to apply for an Exploration Licence (tender)] --> B[Application published in State and local newspaper]; B --> C[Public comment (only for coal and petroleum)]; C --> D[Determination by Department of Mining]; D --> E[Environmental assessment before work can start];
```

Invitation to apply for an Exploration Licence (tender)

Application published in State and local newspaper

Public

Public comment (only for coal and petroleum)

Public

Determination by Department of Mining

Environmental assessment before work can start

Case study: Australian Mining

- Exploration (part 2)



Community/landholder consultation begins (e.g. CLC)

The diagram illustrates a five-step process for exploration. A large purple arrow on the left points downwards, indicating the sequence of steps. The steps are contained in purple rectangular boxes. The first two steps have orange arrows pointing left towards the word 'Public'. The background features a faint illustration of stylized people.

Public

Written access arrangements with landowners

Public

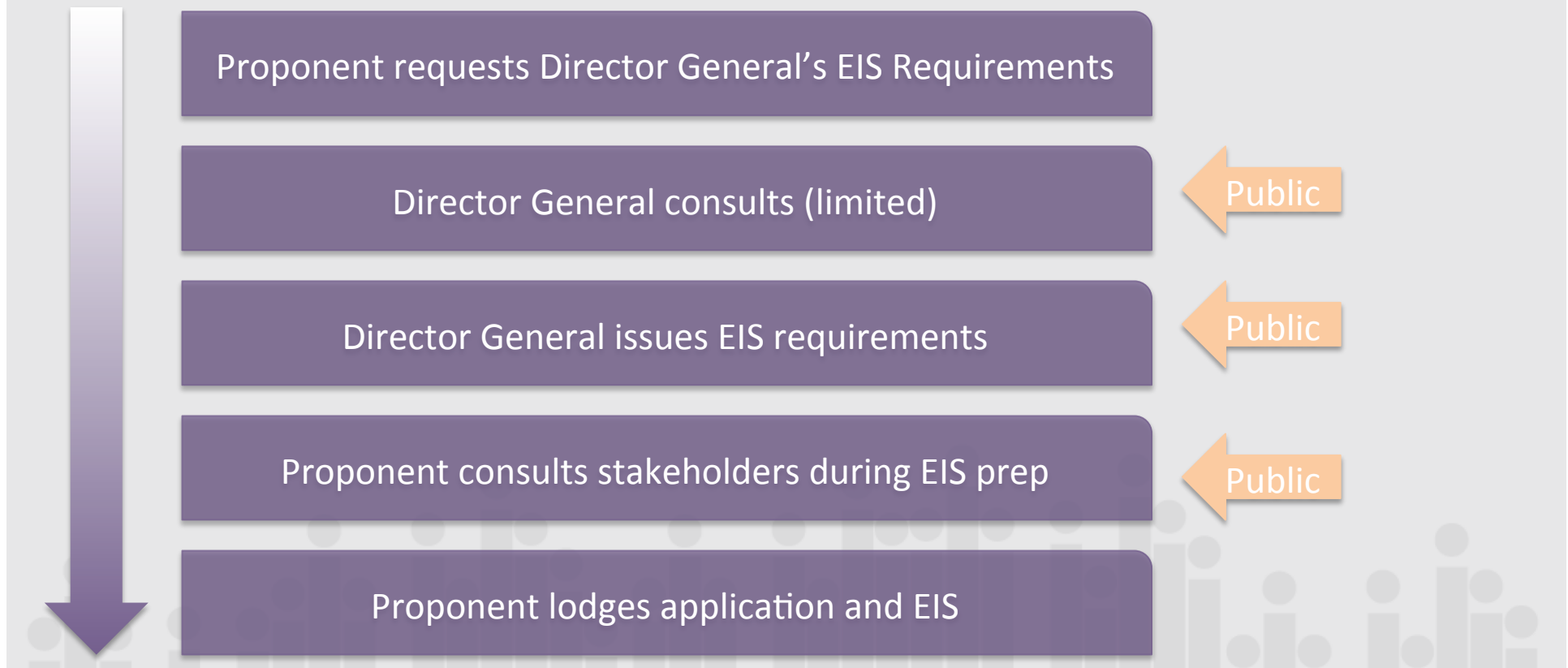
Exploration, environmental & feasibility investigations

Resource defined

In principle support from government (Gate 1)

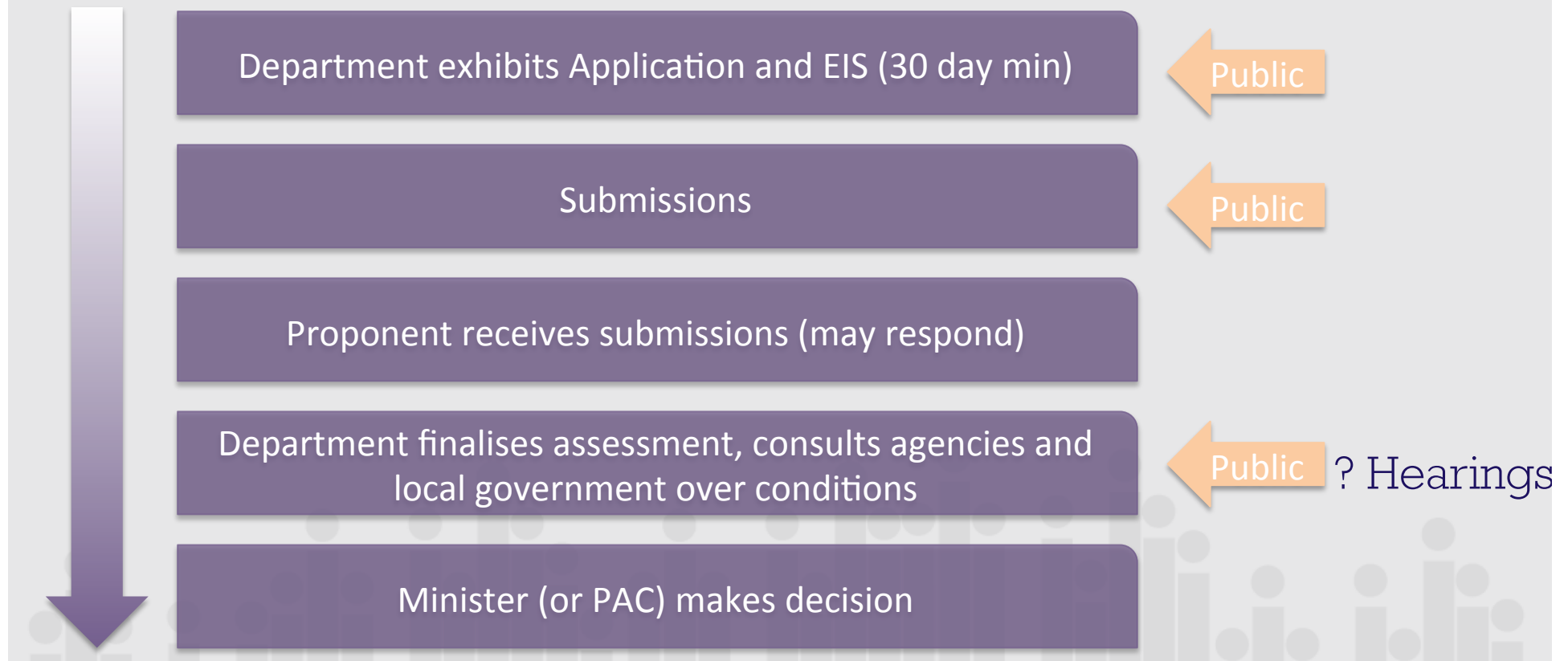
Case study: Australian Mining

- Mining approval (part 1)

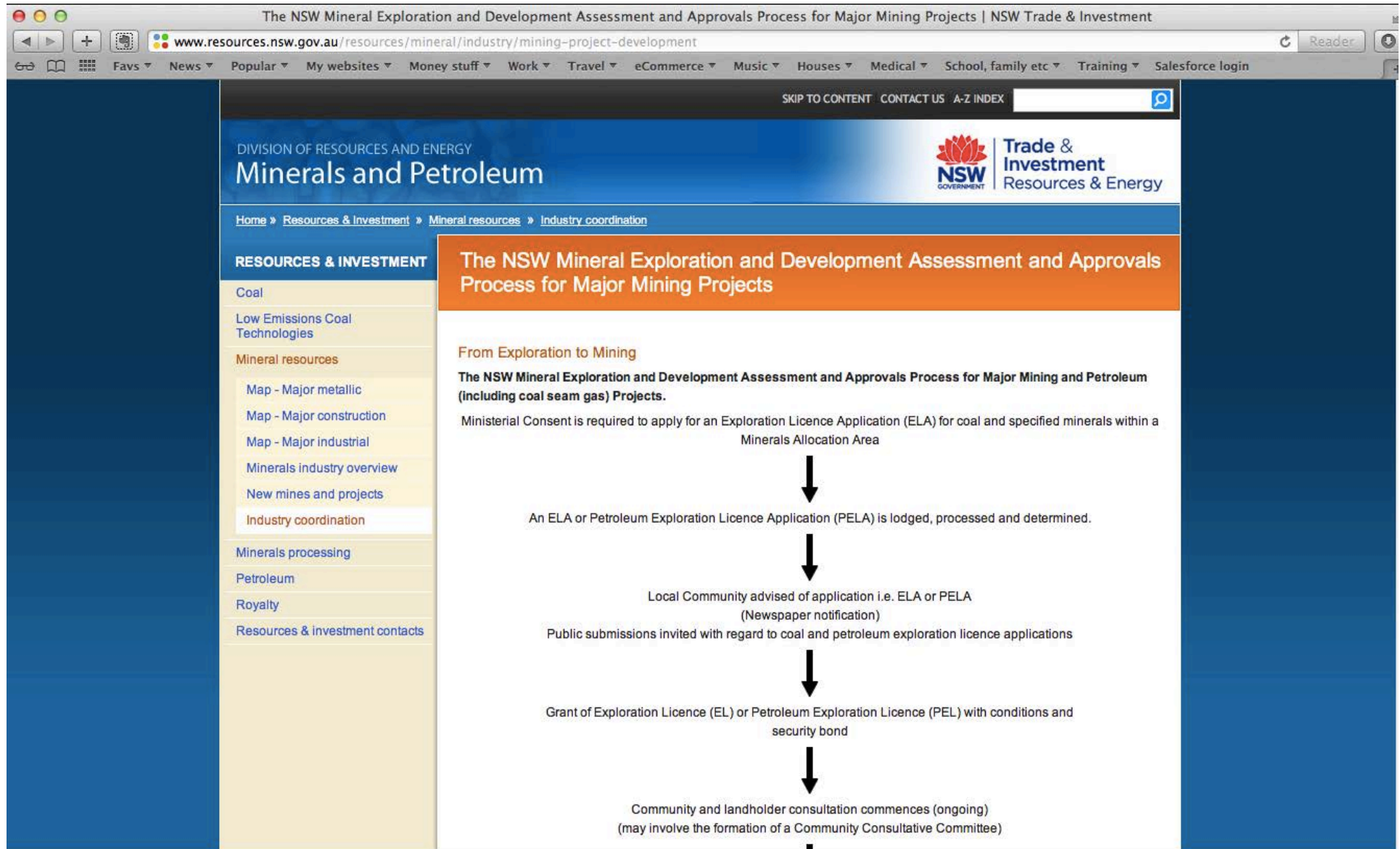


Case study: Australian Mining

- Mining approval (part 2)



Clear process



Transparent



Notices for exploration 2013 | NSW Trade & Investment

www.resources.nsw.gov.au/environment/ref/notices-for-exploration-2013

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DIVISION OF RESOURCES AND ENERGY
Minerals and Petroleum

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ENVIRONMENT

- Environmental assessment
- Coal and Mineral Exploration
- Mining
- Subsidence management
- Petroleum exploration (incl. CSG)
- Petroleum production (incl. CSG)
- Compliance and Enforcement
- Derelict mines program
- Activity approvals (REFs)

Notices for exploration 2013

Approval documents containing conditions associated with each REF are in the process of being uploaded to this webpage. In the interim, please contact the Environmental Sustainability Unit for access to copies of the approval documents.

Email: minres.environment@industry.nsw.gov.au **Phone:** 02 4931 6605 **Fax:** 02 4931 6790
Office Hours: 8:00am to 5:00pm Mon – Fri (excl public holidays)

Local Government Area	Title	Company	REF	Status	Approval date	Details
Lithgow City Council	Auth232	Airly Coal Pty Ltd	REF Proposed Boreholes, Airly Mine, Capertee NSW (AIS Included)	Pending	Mar 2013	17.7 MB
Mid Western Regional Council, Warrumbungle Shire Council and Wellington Council	EL7394	COBBORA HOLDING COMPANY PTY LTD	REF Geotechnical Investigations	Pending	May 2013	9.3 MB
Mid Western Regional Council, Warrumbungle Shire Council and Wellington Council	EL7394	Cobborah Holding Company Pty Ltd	EL7394 AIS Geotechnical Investigations	Pending	May 2013	4.8 MB
Richmond Valley	EL8066	DTIRIS	REF Mena Murtee 1	Pending	May 2013	7.5 MB

Transparent - FOI

- Freedom of Information Laws
- Legal right to access government (and sometimes company) information
- Can be very slow
- Open to interpretation
- Proactive transparency much more effective.



Accessible

- Dependence on advertising for awareness
- Community networks & legal advice
- Written submissions.

PUBLIC NOTICE OF APPLICATION FOR MINING LEASE AND ENVIRONMENTAL AUTHORITY (MINING LEASE)

Mineral Resources Act 1989 – Section 252B

Environmental Protection Act 1994 – Section 211

**Proposed open cut mining operation -Mining Lease Application Number 80169 and ofr a term of 30 years
- Rockhampton Mining District**

It is advised that application has been made for a mining lease and environmental authority (mining lease) under the provisions of the above mentioned Acts, for the mining/purpose of coal on the following land parcels within the Central Highlands Regional/City Council: **Lot 8 on KM44 Freehold located at approximately six kilometres north of Baralaba.**

The applicant is:	Baralaba Coal Pty Ltd	100%
Date and time Application Lodged:	23 July 2010	at 10:30am

Mining activities to be carried out include: **open cut coal mining.**

The application documents for the application for the environmental authority consist of the Application for Mining Lease together with an application for Environmental Authority. Copies of or extracts from, the application documents, and the endorsed Certificate of Public Notification detailing the location and description of the land applied for (including surface area and access), may be inspected at the Department of Environment and Heritage Protection (Level 2, 209 Bolsover Street, Rockhampton) and the office of the Mining Registrar - Building E, 25 Yepoon Road, Parkhurst QLD 4702 or may be obtained by contacting the Mining Registrar on **(07) 4936 0362**.

It is advised that any person/entity may make an objection to the grant of the mining lease, and/or about the application for the environmental authority, the draft environmental authority (EA) for the application, or a condition included in the draft EA. **The objection period**, during which objections can be given, concludes on **Friday 22 March 2013**.

A properly made objection must be made in writing, in the approved form, addressed to:

**Mining Registrar
Department of Natural Resources and Mines
PO Box 3679
RED HILL QLD 4701**

And be received/lodged on or before the last day of the objection period

A properly made objection is one that: states the grounds of the objection and the facts and circumstances relied on in support of the grounds; is signed and dated by each person/entity (ie. signatory) making the objection; states the name and address of each signatory. Intending objectors should contact the Mining Registrar, on **(07) 4936 0362** and obtain the approved objection form. If the objection is in respect to the grant of the mining lease, a copy of the objection must also be served upon the applicant on or before the last day of the objection period at the following address:

**Baralaba Coal Pty Ltd
Level 4, 10 Eagle St
BRISBANE QLD 4000**

Accessible

Free legal advice, fact sheets and updates

- EDO NSW runs a free Environmental Law Advice Line
 - Monday – Thursday
 - 2pm-5pm
 - 02 9262 6989 or 1800 626 239
- Fact sheets are available on our website:
 - www.edonsw.org.au
- For updates on environmental law and policy, sign up to our weekly e-Bulletin

Room poll



Totally disagree

Maybe

Fully agree

Poll

1. All DSM exploration **applications** should be publicly advertised (but not made publicly available)
2. All DSM exploration **applications** should be advertised and made publicly available
3. Only DSM exploration **leases granted** should be publicly advertised.

Accountable: Merits Appeals

- Merits: based upon the facts presented in evidence and the law applied to that evidence
- The most common area of environmental litigation
- Involves a complete re-hearing of the application
- Review body takes on original decision-maker's powers
- The applicant must have **standing** (statutory or common law)
- Merits rights of appeal must be available in statute.

Accountable: Merits Appeals

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GAMEOVER
FOR OPEN-CUT COALMINE

HOME TOWN
BULGA, NSW



AWAY MINING GIANT
RIO TINTO



NSW court verdict on Rio's coalmine expansion a blow to jobs

LAST month a decision of the NSW Land and Environment Court served to move the goal posts when it comes to major investment in that state.

In **overturning approval for an extension** of the Rio Tinto-managed Mount Thorley Warkworth Mine, the judgment unleashed a whirlwind of uncertainty not just for every major new investment project planned in NSW, but also for existing mines requiring approvals to continue operating.

Accountable: Merits Appeals



Warkworth Judgement:

“I have found, amongst other things, that the Project would have significant and unacceptable impacts on biological diversity, including on endangered ecological communities, noise impacts and social impacts...

“These matters must be balanced against the economic benefits and positive social impacts in the broader area and region, which are substantial. In my view, balancing all relevant matters, the preferable decision is to disapprove of the carrying out of the Project.”

The Honourable Justice B.J. Preston
Chief Justice of the NSW Land & Environment Court

Poll

1. DSM law should include the right to **appeal the merits** of a mining licence
2. The closest communities should have standing to appeal
3. Anyone should have standing to appeal.



Accountable: Judicial Review



- It is not concerned with the merits of the application
- It is concerned with procedural impropriety and legal error
- Judicial review exists in Common Law (case/precedent law).



Photo: Save the Tarkine

Tarkine Mine Injunction Upheld

A FEDERAL court judge has upheld an injunction against mining company Shree Minerals over a proposed mine in the Tarkine.

Environmental action group Save The Tarkine filed the injunction this month to prevent the company from starting work on its Nelson Bay mine.

It had already filed a legal challenge against Federal Environment Minister Tony Burke's decision to approve the mine, claiming it was contrary to environmental protection legislation.

At the Federal Court in Melbourne this morning Justice Shane Marshall rejected Shree Minerals challenge of the injunction and ordered the company to pay the action group's legal costs.

The injunction will remain in place until Justice Marshall releases his decision, after a two-day hearing in July.

And counter-strike...

Libs' appeals plan costly to taxpayers: Jordan

STATE Liberal plans to axe third party planning appeals would force more matters into the courts, Save the Tarkine frontman Scott Jordan said...

Opposition small business spokesman Adam Brooks on Thursday said the **Liberals would ban the sorts of third party appeals** Save the Tarkine had mounted against West Coast Council approval of a planned mine near Tullah.

“Scott Jordan does not live next to the proposed Venture mines, he will not be affected in any way. Why should he have the right to appeal?” Mr Brooks asked.

Poll

1. The administration of DSM law should be subject to judicial review



Table discussion

- What third-party rights exist in your existing country laws relevant to DSM (e.g. environment)
- What third-party rights do you think should be included in DSM law?



Example 2: IFC

- International Finance Corporation (IFC)
Performance Standards on Environmental and Social Sustainability 2012
- Social and environmental standards for World Bank funded projects
- Equator Principles (banks) – require fundees to comply with IFC Standards
- Largely self-monitored (management system)
- Banks may covenant to require adherence.

IFC Performance Standard 1



Assessment and Management of Environmental and Social Risks and Impacts

- To identify and evaluate **environmental and social risks** and impacts of the project.
- To adopt a mitigation hierarchy to **anticipate** and **avoid**, or where avoidance is not possible, **minimize**, and, where residual impacts remain, compensate/offset for risks and impacts to workers, Affected Communities, and the environment.
- To promote **improved environmental and social performance** of clients through the effective use of management systems.
- To ensure that **grievances** from Affected Communities and **external communications** from other stakeholders are **responded to and managed appropriately**.
- To **promote and provide means for adequate engagement** with Affected Communities throughout the project cycle on issues that could potentially affect them and to **ensure that relevant environmental and social information is disclosed and disseminated**.

IFC Performance Standard 7



Indigenous peoples

- To ensure that the development process fosters full respect for the **human rights, dignity, aspirations, culture, and natural resource-based livelihoods** of Indigenous Peoples.
- To **anticipate and avoid adverse impacts** of projects on communities of Indigenous Peoples, or when avoidance is not possible, to minimize and/or compensate for such impacts.
- To **promote sustainable development** benefits and opportunities for Indigenous Peoples in a culturally appropriate manner.
- To **establish and maintain an ongoing relationship** based on Informed Consultation and Participation (ICP) with the Indigenous Peoples affected by a project throughout the project's life-cycle.
- To **ensure the Free, Prior, and Informed Consent** (FPIC) of the Affected Communities of Indigenous Peoples when the circumstances described in this Performance Standard are present.
- To **respect and preserve the culture, knowledge, and practices** of Indigenous Peoples.

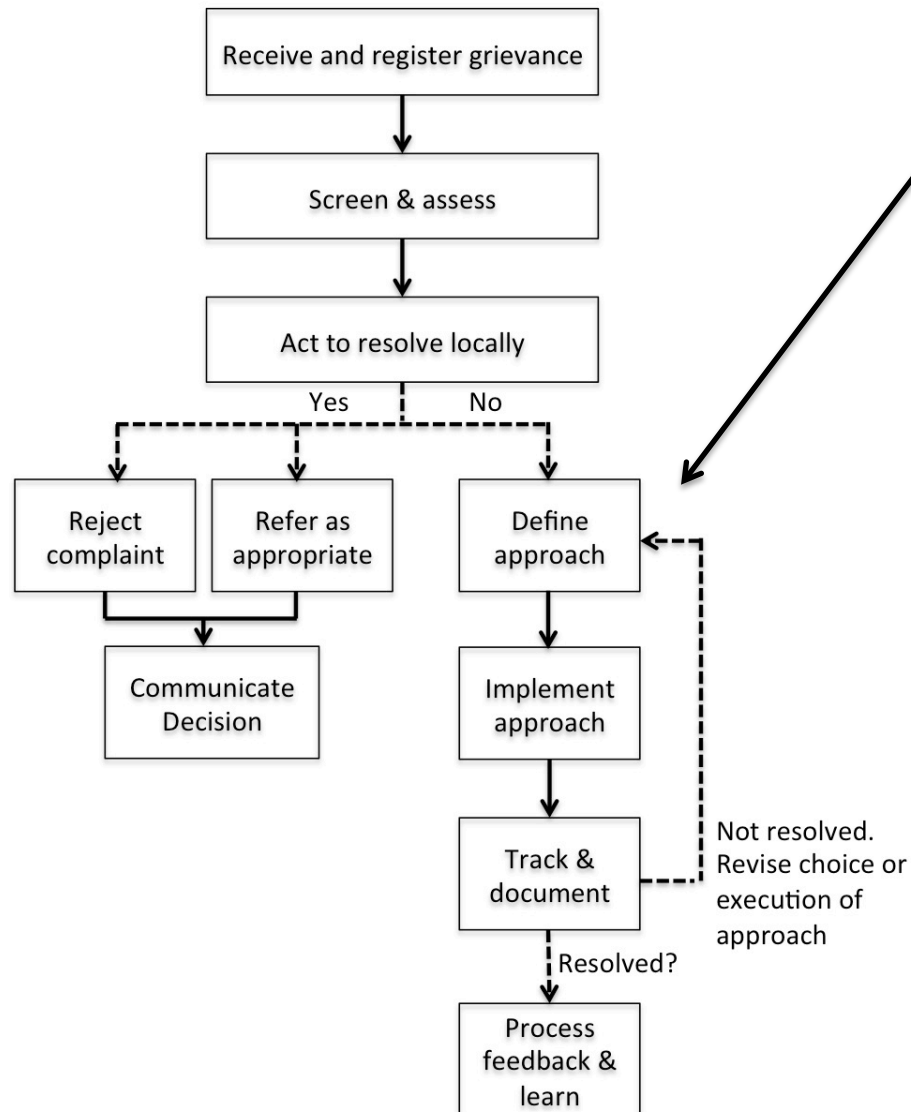
Grievance handling

- Grievance = complaint
- Ref: IFC Performance Standard 1
- Good communication is key
- Relevant to project development and operations
- Governments and companies both need grievance handling processes.

Grievance handling

- Criteria for effective mechanisms:
 - **Legitimate** (trusted by the groups it is intended to serve)
 - **Accessible** (widely known and can be accessed)
 - **Predictable** (clear procedures & timeframes)
 - **Equitable** (fair process, allows informed participation)
 - **Transparent** (keeps parties informed, but protects privacy)
 - **Rights compatible** (compatible with human rights standards)
 - **Continuous learning** (learning used to improve process).

Grievance handling



Resolution approaches:

- Investigation
- Meeting
- Facilitation/mediation
- Arbitration
- Ombudsman (statutory)
- Advocate (e.g. NGO)

Hierarchy of approaches according to nature of grievance.

Ombudsman - discussion

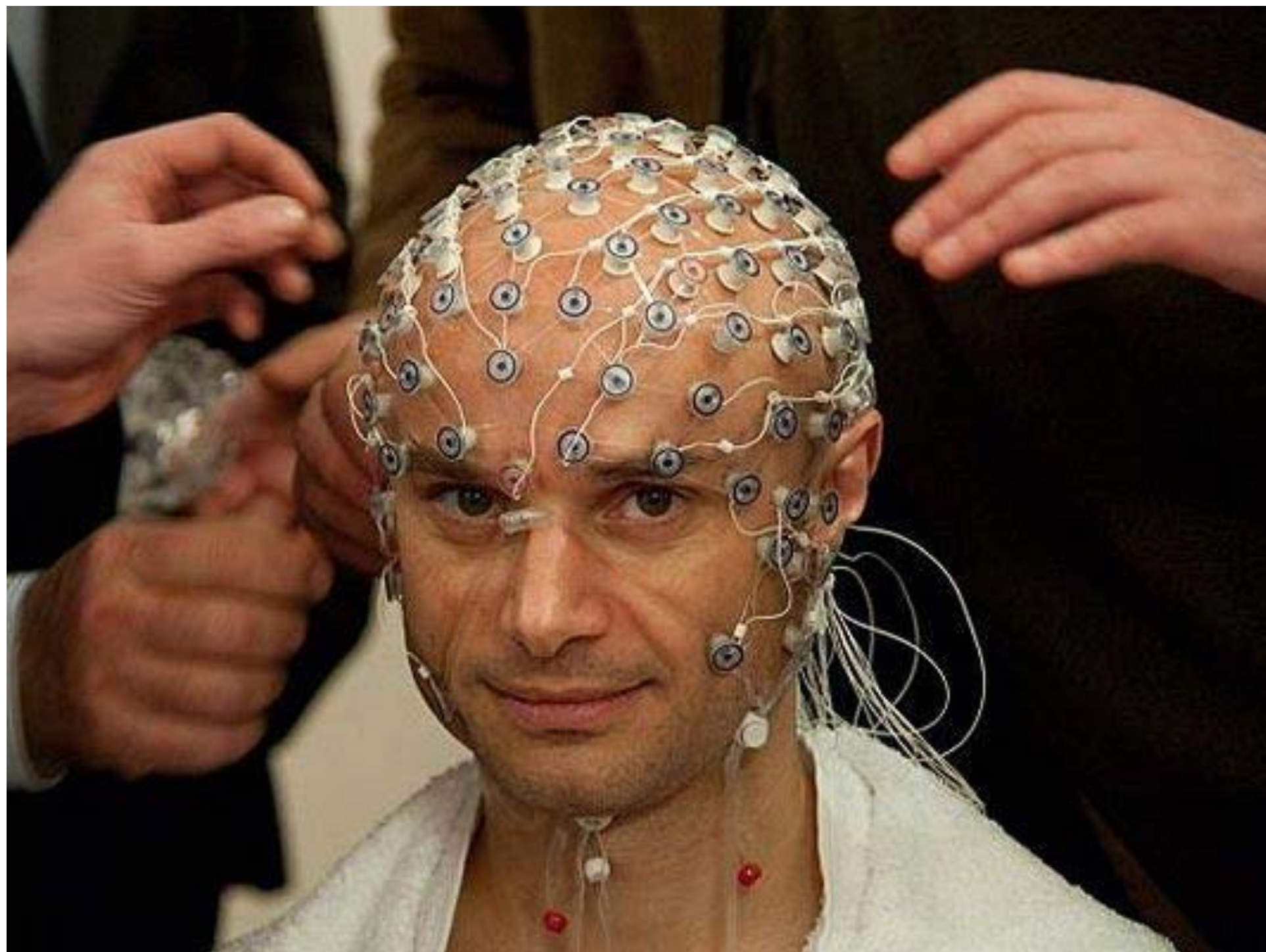
- An official, usually appointed by the government or by parliament but with a significant degree of independence, who is charged with representing the interests of the public by investigating and addressing complaints of maladministration or violation of rights (generally looks at government process).
- Q: Should your country have an ombudsman to oversee mining approvals? Put up arguments for & against and see if your group can decide.

Learnings

- Build effective participation into the approvals process statute and regulation
- Good participation will reduce conflict and incentive for legal redress
- Need for balance:
 - Regulatory certainty to enable development
 - Regulatory rigour to instill public confidence
 - Legal redress to protect rights and provide checks
 - Ability to limit vexatious claims
- Scope for inter-country collaboration (e.g. public database of applications)

INTEGRATION

Engaging stakeholders over
contentious issues



Poll

- Cocktail parties should include cocktails! (not just beer and wine)
- Tomorrow's session should finish early enough so we can fit in a shopping trip!



Overview

- Typical stakeholder engagement strategy
- Building conflict resolution into engagement
- Joint Fact Finding for data conflicts
- Key considerations for multi-stakeholder process.

Stakeholder engagement

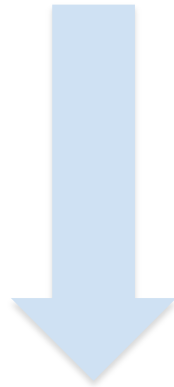
- Who is this relevant to?
- Best approach is to combine communication and stakeholder engagement in the one strategy
- Typical strategy & plan involves:
 1. Goal/objectives
 2. Situation analysis
 3. Strategic approach
 4. Key messages
 5. Stakeholder analysis
 6. Communication & engagement tools
 7. Measurement
 8. Action plan (who, what, when etc.)

Handling conflict

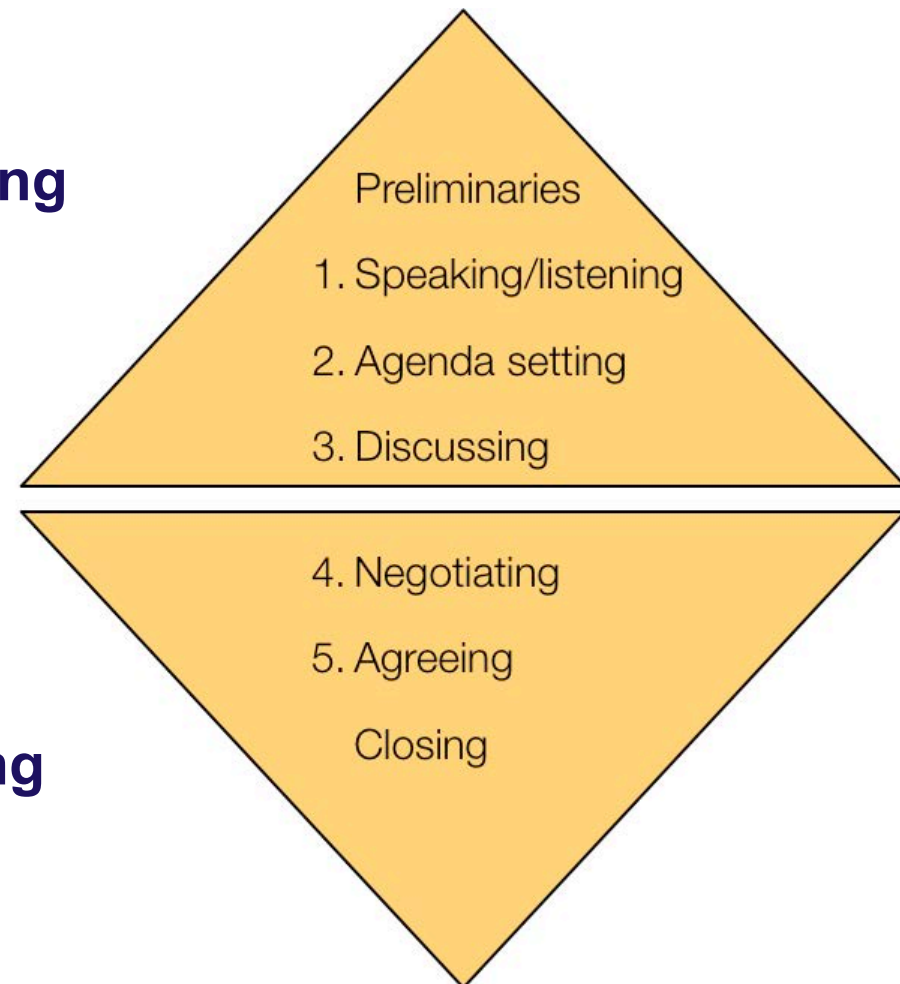
- Normal stakeholder engagement fails in high-conflict situations
- If conflict is expected, design process to withstand (and resolve) conflict
- Usually multi-stakeholder (often very many!)
- Critical aspects are:
 - Transparency
 - Listening / reflecting
 - Independence
 - Facilitation.

Mediation

Problem (& opportunity) **defining**



Problem (& opportunity) **solving**



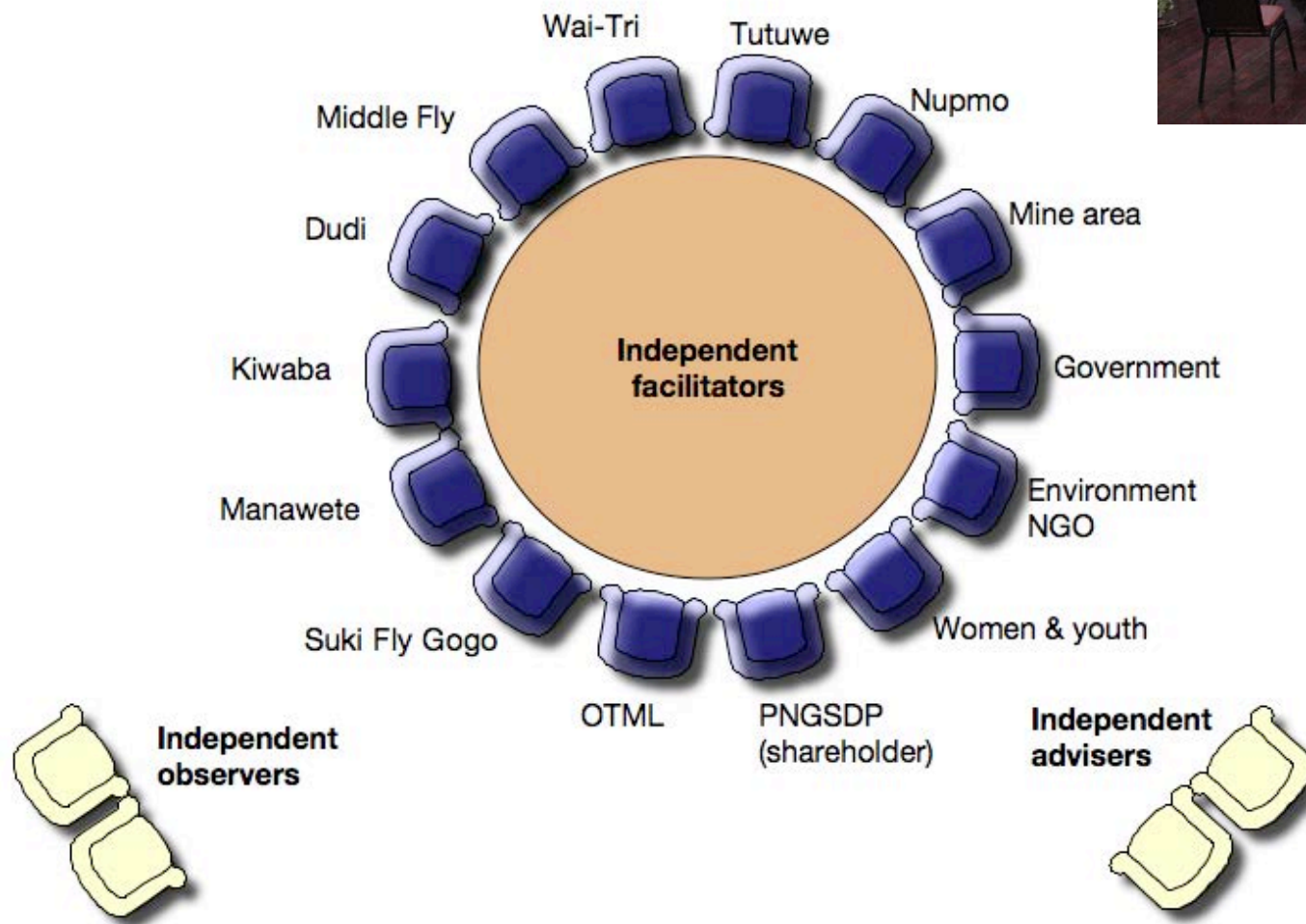
Informed consensus negotiation

- Design based on mediation and interest-based negotiation principles
- Strong process for many stakeholders and conflicting perspectives
- Parties commit to **Principles** to guide behaviour
- Observers ensure transparency, reporting
- Facilitators maintain function

Guiding principles

Integrity	Moral soundness, honesty, freedom from corrupting influence or motive
Transparency	Being clear and transparent (see through)
Equity	All parties have equal access to information and opportunities to contribute and respond
Fairness	The process, and agreements arising from the process, was free from discrimination and dishonesty
Respect	To care for and heed the interests and concerns of another, to give due time for consideration of issues
Responsiveness	Demonstrating that concerns have been heard and respected through changing behaviour and communicating that change
Adequacy of information	Communities and their representatives have been provided with the information necessary for them to make informed judgments, decisions and actions
Timeliness	Communication and responsiveness are done within a reasonable timeframe so as to be of practical use

Informed consensus negotiation



OK Tedi IC process

- 18 months re-negotiation of compensation agreements
- 152 villages, 50,000+ people
- Three tiers of representation
- 500+ meetings
- Agreed package \$400m+



Ok Tedi's relevance to DSM

- Strong dialogue process that handles disagreement
- Allows lots of stakeholders to participate
- Works just as well at a much smaller scale (and much cheaper!)
- Develop agreed approaches to aspects of DSM
- SOPAC could convene.

Facts do not persuade



“There are two sides to any argument
– mine and the one that’s wrong”

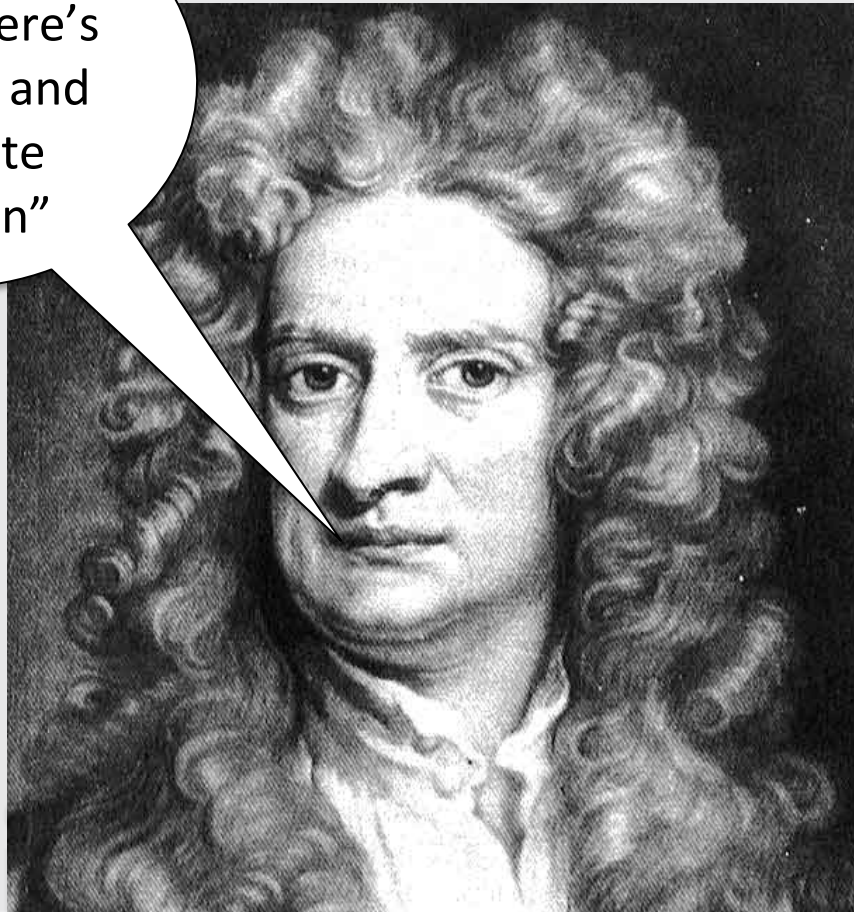


Adversarial science



or to put it another way...

"For every
action there's
an equal and
opposite
reaction"



Disputed “facts”

Poll backs mining of seabed – but opponents question result

A survey that found that Taranaki people would support the responsible mining of seabed iron stands or falls on one word, recreational fishing representative Kevin Moratti says.

Trans-Tasman Resources Ltd, which proposes carrying out seabed mining off the south Taranaki coast, has released the findings of a survey commissioned to ascertain interest and support its plans.

The poll found 87 per cent of the 327 people surveyed...supported “the responsible development of all of New Zealand’s natural resources; South Taranaki iron ore in particular”.

Taranaki Daily News online

Joint Fact Finding (JFF)

- For resolving **data** conflicts (e.g. environment)
- Multi-stakeholder process – JFF group formed
- Can sit within a larger engagement process
- JFF group jointly:
 - Establish the ground rules
 - Formulates the questions to be answered
 - Selects appropriate people to provide the answers (e.g. scientists, consultants)
 - Shares the answers with the broader community
- Result – removes disagreement over the “facts”
- Helps resolve relationship conflict, but values conflict may remain.

Joint Fact Finding (JFF)

Potential applications of JFF in DSM:

- Oversight of technical studies
- Independent review of key data on contentious issues
- Independent advice on what data are needed
- JFF can be included into other multi-stakeholder collaboration and dialogue process when needed.

JFF examples



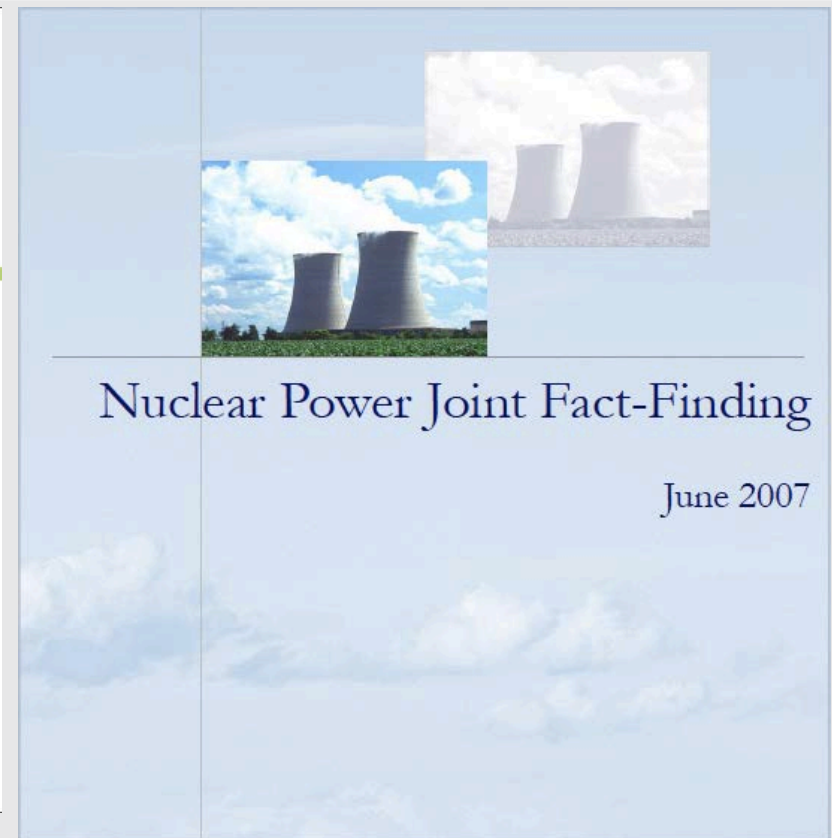
Developing Information in Wind Siting: Joint Fact-Finding

Stacie Nicole Smith
October 26, 2012



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www.keystone.org



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Table discussion

- What aspects of DSM science are most controversial, or you think will be most controversial?
- What are the most important questions that need answering in these areas at the moment?



Key points

- Strong debates need strong processes able to handle and resolve conflict
- Strong engagement process can be built into the regulatory process (but seldom is!)
- Opinions are not based on facts – you will fail if you try to persuade using science
- Contentious issues with a high reliance on data benefit from collaborative processes like JFF

Resources

- Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets (IFC/World Bank Group)
- Public participation spectrum – www.iap2.org
- Ok Tedi compensation negotiation – www.paxpopulus.com/wanbelistap
- Joint Fact Finding – www.cbuilt.org (Consensus Building Institute)