

## Wild Coast Dune Mining Venture

# *Milestone, Millstone or Tombstone?*

By Richard Spoor and John GI Clarke

**Australian Mining Company, Mineral Commodities LTD (MRC) has ambitions to mine titanium oxide which is concentrated in the coastal dunes of South Africa's Pondoland Wild Coast. Their geological explorations indicate a resource of some 346 million tons of minerals in a lease area known as the Xolobeni Mineral Sands that, over an estimated 22 years of open cast mining will net their shareholders billions of dollars.**

MRC consider the recent lodging of a Mining Rights Application with the Department of Minerals and Energy to be a "milestone". For the local community that might be spelled "millstone". For the 196 rare endemic plants growing in the area it will be a "tombstone".

What little knowledge Australian shareholders have of the project is limited to what MRC CEO Mark Caruso has provided. That information is both inaccurate and incomplete. A complaint was laid with Australian Securities Exchange Commission, but they did not consider it justified under Australian law. A complaint has now been filed with the South African Human Rights Commission on behalf of local communities. In the complaint it is alleged that MRC has violated at least two fundamental rights; the right to information relevant to the exercise or protection of rights, and the right to have the environment protected for the benefit of present and future generations.

It is inconceivable that Australians would tolerate a similar mining project in their own country. The Pondoland Wild Coast is an area of inestimable cultural and environmental value, hosting the

Pondoland Centre of Endemism, a global biodiversity hotspot. It may be difficult to quantify aesthetic values but it is arguably the most beautiful coastline on earth.

Mining the Pondoland Wild coast is the moral, cultural and aesthetic equivalent of quarrying Ayers rock for granite or the great barrier reef for Calcium carbonate. The dry and dispassionate language of the mining legislation and the spin and hype put out by MRC belie the outrage that they propose to inflict not only on the environment but the amaMpondo people. Only in South Africa where we appear to have become inured to outrage could such a proposal be flighted without attracting universal condemnation.

To illustrate and to make the point let us assume that the roles were reversed and it were a South African junior mining company, whose only other substantial prospect is a diamond tailings dump in Sierra Leone (a fact also borrowed from MRC), making application to mine a site of comparable similar cultural, ecological and aesthetic significance.

*A South African mining company having discerned a rising demand for dimension stone has identified a sizeable deposit that can be economically mined. But the Australian authorities, having enacted progressive legislation similar to South Africa's Mineral and Petroleum Resources Development Act needs to be satisfied that the project will bring social and environmental benefits besides making economic sense. To address these concerns the South African Mining Company proposes a 26% stake to historically disadvantaged Australians living near the deposit and commits to do a comprehensive environmental impact assessment to mitigate any harm occasioned by mining.*



Mzamo Dlamini at the Nyameni estuary. Tourist accommodation for 24 people has been approved by local tribal authorities, but investors are wary about mining operations which will excavate all dunes around the estuary, and draw water from the Nyameni river for the mineral separating plant.

Investigations show the best deposit to be at a place the Aborigines call “Uluru” - a large monolith consisting of Arkose Sandstone which can be quarried easily from above the surface. The terrain for access routes is flat, so although distance to ports is far, this development would increase the feasibility of upgrading the trans-continental tolled highway from Sydney to Darwin, which has been on the cards for years, but never within the bounds of feasibility – until now.

It looks like an absolute winner all round. The World Bank’s international finance committee is ready to fund the project.

A hiccup however emerges. The satellite mapping neglected to point out that ‘Uluru’ is alternatively known as ‘Ayers Rock’ one of Australia’s best known landmarks, attracting almost half a million tourists annually and of huge cultural significance to aboriginal people.

The South African mining company having set its heart on the idea, tries to continue the negotiation, by proposing to “only quarry from one side, and keep a 600 meter façade to satisfy the tourist trade”; and argues that “having a mining operation will create jobs and bring investment in an area that is desperately poor and underdeveloped”. Local tribal leaders - who have been co-opted onto the board of the company and

who stand to make significant sums of money if the project goes ahead - enthusiastically endorse the proposals as do local political leaders who are on the take for any opportunity to exercise their power and largesse in return for a modest payoff. The company commits to “employing local aboriginal labour” and to provide a dozen educational bursaries. Community elders opposed to the project are intimidated and one prominent opponent is killed.

The authorities in all seriousness commit to give the applicants a hearing and to judge the application on its merits.

We could continue the parody, but the point should now be made as to why there is overwhelming opposition to MRC’s plans to mine the Wild Coast of South Africa.

MRC might retort that the crucial difference between the Pondoland Wild Coast and Ayres Rock is in the sheer numbers of poor, unemployed and

helpless people to be found on the Wild Coast, unlike the sparsely populated Australian outback. If MRC was a humanitarian agency that engaged with local people as protagonists of their own development, rather than regarding them as objects of ‘charity’, ‘development’, ‘empowerment’ or any other abstract benefit, perhaps the scheme they propose would be more justifiable. But all evidence thus far points to MRC having much the same motive that animated the lead character in *Blood Diamond*, Danny Archer (Leonardo di Caprio) before he saw the light – an obsession with mineral wealth. Ironically that film was largely shot on the Pondoland Wild Coast, in the very location that MRC is targeting for its mineral wealth.

If the local residents are not to experience the same fate that

befell Solomon Vandy (Djimon Hounsou) the other *Blood Diamond* star, whose family is torn apart by forces competing to get their hands on mineral wealth, two complementary processes need to be nurtured among the Amadiba people.

The first process is to ensure that community’s legal rights are protected – a matter of law and *fundamental human rights*. The second process is to promote collective insight into how cash-poor households can satisfy their *fundamental human needs* in a self-reliant and sustainable way – a matter of social development.



Mzamo Dlamini, spokesman for the Sigidi community looks over the Mzamba River gorge, the location used for the alluvial diamond mine set for *Blood Diamond*. Dlamini worked as an extra on the film.

## Fundamental Human Rights

The South African Constitution, adopted in 1999, is often hailed for its innovative inclusion of environmental rights in the entrenched Bill of Rights. The Constitutional Court has yet to interpret and apply “*the right to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development*”. (Section 24(b))

The complaint to the South African Human Rights Commission also asks that they investigate violations of the right of access to information. This violation will be easy to prove as local people have been prevented from speaking to journalists. Directors of the BEE company that ostensibly owns a 26% stake in the project, who are drawn from the local community are kept in the dark to the extent that they were even unaware of the withdrawal of the previously favoured BEE partner Ehlobo Heavy Minerals (EHM) from the project. Few have any understanding of the detail of what is proposed or the implications for the community that they ostensibly represent. Yet they were expected to co-sign the Mining Rights Application lodged with DME, and accept fiduciary responsibility for promoting the mining scheme,

despite having only the most minimal knowledge about it.

The clash of interests involved in the Wild Coast dune mining saga are emblematic of the larger ‘war’ that South Africa has to declare sooner or later, viz how to ensure that it uses its spectacular abundance of non renewable mineral resources to improve the re-productive capacity of its equally spectacular renewable resources – so called eco-systems services upon which we are absolutely dependent. Creative and far sighted leadership is required here in order to find a compatible way forward.

Mining is essentially a wasting industry, and if it takes place at all has to ‘pay its rent’ in the sense of contributing revenues that leave the environment better off and the fundamental needs of people more satisfied and the community more capable of providing for themselves and future generations. This perspective comes from a reputable mining economist Lance Stillwell, who convincingly argues that just as gold mining failed to pay a fair rental to South Africans when the gold price was booming, indications are that platinum is likewise failing to pay rent. The question to be answered is whether the Pondoland Dune mining will pay a fair rent. Considering the enormous environmental, social and economic cost of mining the area, the limited benefits that will accrue to the local people, the company vagueness about beneficiation and their dubious calculations, on the face of it, the rental will **not** be paid and the costs **will** outweigh the benefits.



Human rights attorney Richard Spoor with residents from the Sigidi community, one of five coastal communities facing disruption from dune mining. Spoor says rural women and the environment bear the real hidden, long-term costs from mining while powerful elites derive the benefits.

When one considers that tourism is currently the fastest growing industry in South Africa, a contextualised application of Stillwells mineral rent formula on the Wild Coast dune mining scheme shows up the sheer stupidity of the scheme even on commercial grounds alone. For an investor to buy shares in a non-sustainable mining enterprise that effectively delays returns from a sustainable tourism investment by 20 years must either be very

gullible or have another interest besides profit.

The local community has learned to its cost that the **prospect** of dune mining alone has put a damper on the success of their eco-tourism based livelihoods. An established eco-tourism business has pulled out of the area and potential funders of a second new venture have withdrawn. Some believe the mining company has actively sabotaged community based eco-tourism precisely to rig the mineral rent equation so that the opportunity costs to tourism during 20 years of dune mining operations do not have to be factored into the mineral rents calculation. There is a simpler explanation.

Like the invasive black wattle trees that are such a threat to Southern African river systems, once mining interests take root in a money-poor community they tend to spread very quickly, and become hard to eradicate once established. Mining companies have largesse to offer, and sophisticated tactics which some may consider immoral but are not illegal, in order to win over well-meaning community members from one view-point to another.

Corruption is illegal and to sustain such a charge one has to provide evidence that proves corruption beyond reasonable doubt. But where there is a fundamentally unequal power relationship between mining companies and rural communities the mining companies don't have to break any laws to co-opt elements of the community to support their mining agenda regardless of the impact on the broader community. Often even a relatively small incentive – a job or a few hundred rand offered to a hungry man or woman - is sufficient to persuade a community member to put his own and his family's interests before those of the community as a whole. It's as simple as stealing candy from a child.

This is exactly what MRC has done in the area. But its culpability is more serious. Not only have they destroyed tourism based livelihoods, but their scheme threatens biodiversity essential to the well being of present and future generations as well. Endemic plant species continue to be found in the area that do not even have names yet, but are threatened with extinction. As such it is a violation of constitutional rights,

because it is neither ecologically sustainable nor socially and economically justifiable. A constitutional court rule to this effect will fill the current vacuum with respect to case law on environmental rights.

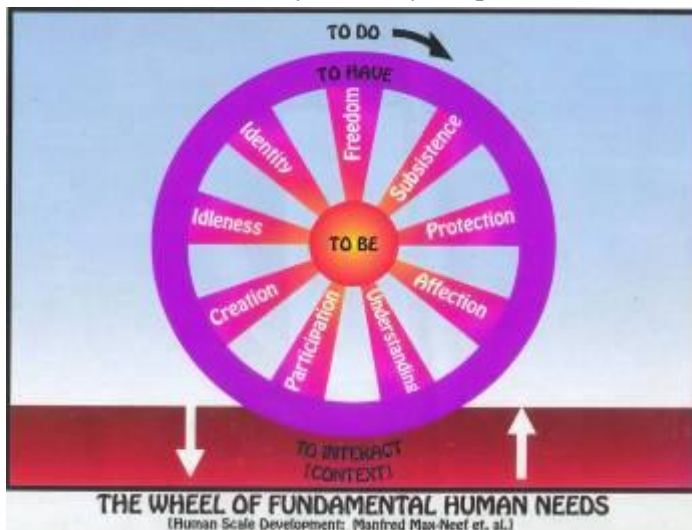
But it is not only 'nature' that abhors that particular vacuum, but 'humanity' as well. This will become even more obvious by interrogating the concept of "development" that MRC (and the mining industry in general) follows.

### Fundamental Human Needs and Poverty.

MRC have commissioned studies that present some abstracted numbers to show the worsening levels of poverty that local inhabitants suffer from, this providing a "diagnosis" perfectly suited to the "prescription" it happens to have. Welfare economists like the late John Kenneth Galbraith called this bluff decades ago – a "solution looking for a problem" is what he called it.

Some journalists buy into the 'supply driven' logic by describing local residents as "living in abject poverty in mud huts". This characterisation is pejorative, if not offensive, and says more about MRC and its media propagandists than it does about the humanitarian needs of the Amadiba community. They may be cash-poor but have endowments of wealth that are the envy of cash-rich city visitors.

Inserting the word 'cash' as an adjective to 'poor' and 'rich' makes the point that 'poverty' manifests itself in various other ways besides a lack of money, and by corollary the presence of too much money can mask or even aggravate other "poverties". This inspiration comes from critical reflections of peasant communities in several South American countries and elsewhere, assembled by Chilean development economist Manfred Max-Neef, who found that in order to survive the 'poor' invariably had to find ways of circumventing the perverse dynamics of the national economy, and in particular the artificial way in which 'needs' were simplistically conflated with measures of consumption of material goods and services.

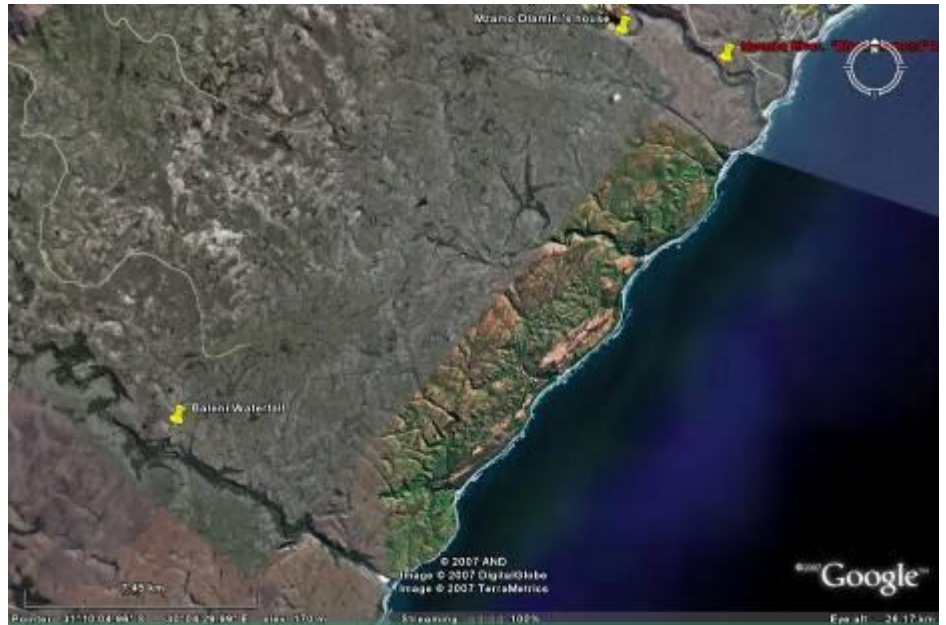


Taking issue with Abraham Maslow's famous, but extremely simplistic hierarchy of needs theory, Max Neef identifies a non-hierarchical system of at least nine human needs that he considers fundamental to all human beings irrespective of their cultural, historical or socio-economic context. To the extent that one or more need is not satisfied it manifests a 'poverty'. Thus we can talk of poverties of protection, affection, understanding, participation, identity etc, and not only material poverty of subsistence.

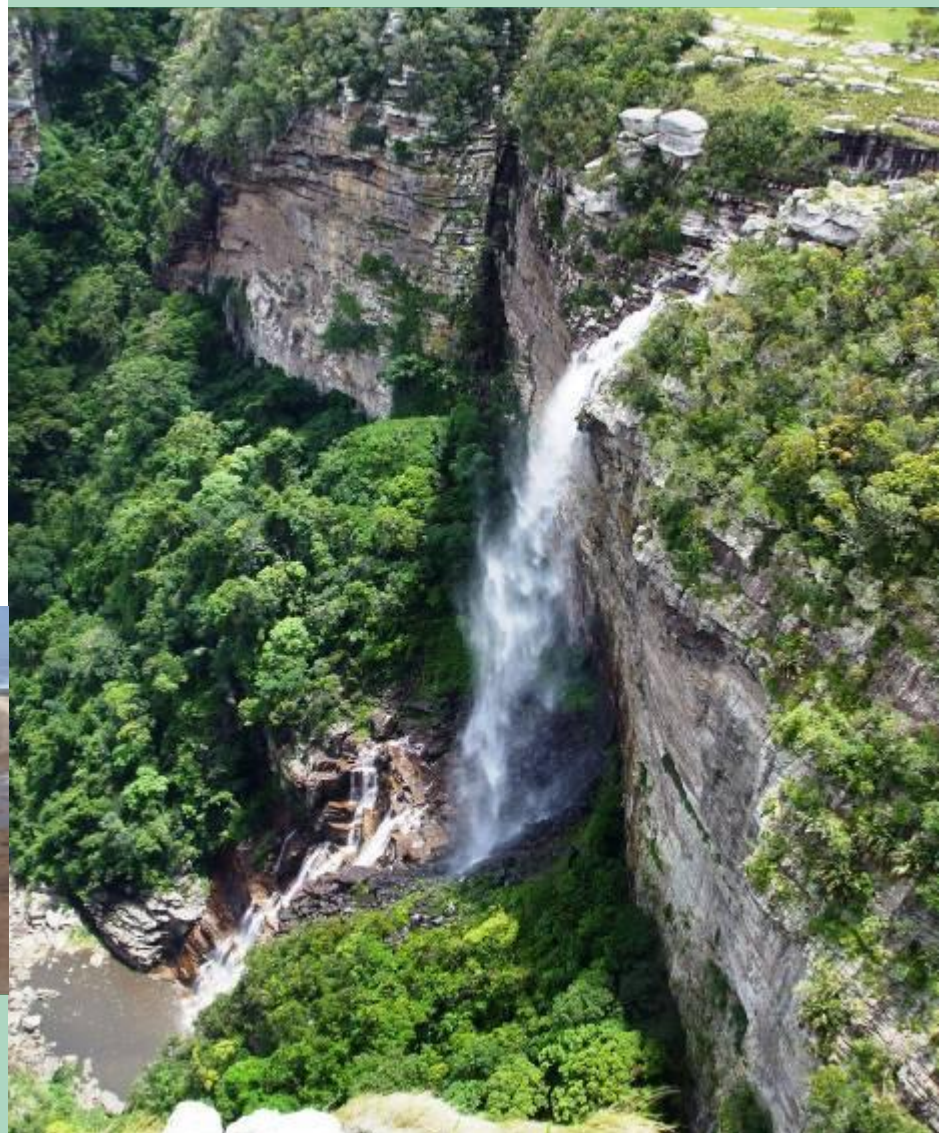
The mining industry generally doesn't understand this development language, because it knows only the mantra of "profit maximisation". The discourse on sustainable human development requires of them rather aspire to a different outcome "benefit optimisation". But this is a paradigm-shift too far for enterprises steeped in commercial fundamentalism.

Although our consumer culture would have us believe otherwise, satisfaction of fundamental human needs doesn't necessarily require money. Human needs for affection, understanding, identity, freedom, participation, understanding, protection, leisure and creation are more fundamental than the 'need' for TV sets, the latest cell-phone, fast cars, overseas holidays, jewellery and winning the Cricket World Cup.

Too much money can in fact inhibit and frustrate the satisfaction of fundamental human needs. The quality of life of the rural communities is in many respects far superior (until mining companies arrive) than the quality of urban life in Johannesburg's Northern Suburbs. Poverties of protection (due to crime), participation (due to isolation behind high walls for fear of crime) and understanding (due to over dependence on commercialised and sensationalised television news bulletins, that one watches privately in our security patrolled homes) can be as debilitating to health and mental well-being, as the subsistence poverty that our modern cash-obsessed economy creates. How many 'created jobs' in our industrial and bureaucratic economy are in fact 'creative jobs'?



Google Earth image of Xolobeni Mineral Sand mining site, indicating proximity of Baleni Waterfall (pictured below) on Mntentu River Gorge, to coastal dunes.



ABOVE. Richards Bay Minerals dune mining operation on KZN North Coast.

Mineral wealth may in time bring material prosperity to some but it cannot ipso facto guarantee personal well-being. On the contrary for those on opposite ends of the rural-urban spectrum the acquisition of city-building wealth from mines in rural areas, tends to have precisely the opposite impact on the well-being of rural communities. The AmaMpondo know this only too well.

It is a supreme irony that while MRC is trying to sell the virtues of mining to the AmaMpondo, the Ex Mineworkers Union representing widows and ex- mineworkers who live in the very same area, is desperate for someone to pay attention to their plight. If MRC is genuinely concerned about alleviating poverty they would earn huge credibility if they listened and responded to the tragic stories of Ex MWU members telling how the mining industry has left them chronically ill with occupational diseases like silicosis from years of hard migrant labour on the mines, and in many cases summarily dismissed without pension benefits, after their participation in the general mine workers strike of 1987. In deteriorating health they desperately cling to the only wealth they have – their mutual solidarity and attachment to the land.

Further evidence of this can be seen in the ongoing saga of the Wild Coast Casino land-dispute that is taking place in the community neighbouring the proposed mining area, that Elias Ogle bravely leads to secure compensation and reparations for the families whose land was stolen in the 1980's to make way for Sol Kerzner's second major casino and golf course resort. To understand the dynamics of extractive

industries like mining, one need look no further than the gambling industry, for it has perfected the art of extracting wealth for the benefit of very few at the cost of very, very many.

With this lesson from recent history to inform them it becomes clear why the AmaMpondo communities would be naturally ill disposed towards both gambling and mining as 'justifiable' social and economic development. Both are essentially wasting industries, and in the Wild Coast context seem to reinforce each other. However with mining there is much more at stake than the fortunes of hapless individuals seduced into the addictive lure of the Wild Coast casino. Gambling presupposes hard cash, which cash-poor people by definition don't have. Mining robs rural households of the only resource they do have: their land and its capacity to generate renewable resources.

Thus even if MRC's claims prove correct and "billions" do accrue to alleviate cash-poverty, this would still be an insufficient justification to mine the Wild Coast. Increasing quantities of consumption and economic growth does not automatically produce a better quality of life. MRC has yet to explain how they will prevent other 'poverties' from taking hold when people are no longer rooted in the earth. Mining 'prosperity' has yet to show how it can alleviate poverties not quite so amenable to such quick fixes as is cash-poverty. Poverties of identity, creation, participation etc, that, in prolonged deprivation lead to something worse – collective pathologies of frustration, manifested by delinquent and criminal behaviour, recourse to prostitution, and the shredding of the social fabric.

If the Constitutional Court is to be deprived for still longer of the chance to make a landmark ruling on environmental rights and establish legal content to the term 'justifiable' social and economic development, it is not only the Department of Minerals and Energy who have to make sure they do not put a



Elias Ogle, leader of Mzamba Land Claimants.

foot wrong as they pick their way through the Xolobeni Mineral Sand land mines. The Department of Land Affairs has to ensure the AmaMpondo communal land rights are protected and not compromised or sold for a fraction of their real worth. The Department of Social Development has to respond with programs that go beyond welfare grants, and promote the synergistic satisfaction of fundamental human needs as well as the protection of fundamental human rights. And the Department of Environmental Affairs and Tourism has to stick to their guns in making sure that a

'tombstone' to 196 extinct species, once endemic to the Pondoland Wild Coast isn't the only tourist attraction worth visiting in 22 years time.

*Richard Spoor is an attorney specialising in human rights and occupational health and safety issues in the mining industry.*

*John Clarke is a social worker in private practice and freelance writer investigating the inter-connections between humanitarian, development and environmental issues for the Southern African Faith Communities Environment Institute ([www.safcei.org](http://www.safcei.org)).*