



**PRODUCTIVITY COMMISSION**

**DRAFT REPORT ON THE NON-FINANCIAL BARRIERS TO MINERAL  
AND ENERGY RESOURCE EXPLORATION**

**MR M. WOODS, Presiding Commissioner**  
**MR J. COPPEL, Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**AT BRISBANE ON WEDNESDAY, 3 JULY 2013, AT 10.45 AM**

**Continued from 27/6/13 in Perth**

## INDEX

	<u>Page</u>
AUSTRALIAN MINES AND METALS ASSOCIATION: JULIE COPLEY LUKE ACHTERSTRAAT	72-89
AUSTRALASIAN INSTITUTE OF MINING AND METALLURGY: ALICE CLARK WAYNE ROBINS	90-107
QUEENSLAND RESOURCES COUNCIL: KATIE-ANNE MULDER and QUEENSLAND EXPLORATION COUNCIL: GEOFF DICKIE	108-122
AUSTRALIAN NETWORK OF ENVIRONMENT DEFENDER'S OFFICES: NICOLA RIVERS ELIZABETH McKINNON	123-133
MARK VALE	134-135

**MR WOODS:** If I can welcome people to the Brisbane hearings of the commission's inquiry into non-financial barriers to mineral and energy resource exploration. I'm Mike Woods. I'm the presiding commissioner on this inquiry and I'm assisted by my colleague Jonathan Coppel.

The commission issued a draft report in May this year, which has been made publicly available and widely circulated. Up to that point we have received over 30 submissions and we would like to thank participants who have provided us with submissions, others who have assisted us in visiting particular areas that can illustrate issues relating to the inquiry, and those who have provided further information. I would like to remind participants that a full transcript of the hearings will be taken and made available on the public record.

Emergency procedures are that you exit the door to my left and then the fire stairs are at the end of the corridor and, unless we're advised otherwise, assemble out the front of the hotel.

I would like to welcome our first participants for this inquiry, being the AMMA. Could you please for the record, each of you individually, give your name, the organisation that you are representing and the position you hold.

**MS COPLEY (AMMA):** Julie Copley, the Australian Mines and Metals Association, AMMA; policy manager.

**MR ACHTERSTRAAT (AMMA):** My name is Luke Achterstraat, Australian Mines and Metals Association, and my role is policy adviser.

**MR WOODS:** Excellent. Thank you. Do you have an opening statement you wish to make?

**MS COPLEY (AMMA):** We do. Thank you, commissioner. Mr Achterstraat and I thank the commission for the opportunity to appear today. We commend our initial written submission dated April 2013 to you. It's AMMA's intention to provide a further written submission in response to the draft report.

While we look forward to discussing with you this morning issues addressed in our initial submission, I thought I would start by putting those issues in a current industry context. I will do this using four case studies. The first three case studies are similar. They're amending bills rushed through the federal parliament last week before it rose ahead of the forthcoming federal election. Each amending act was passed last Thursday or Friday by the Senate and each act received assent over the weekend.

These three case studies exemplify the concerns raised in AMMA's written

submission that, as stated in the Policy Transition Group's report, investment in exploration drives sustained and sustainable growth in Australia's resource industry, and national economic growth, and strength in mineral and energy resource exploration is the backbone of the resource industry and national economic growth. However, too often the policy settings, particularly of the federal government, have been ill conceived, poorly designed and insufficiently evaluated. They haven't responded to genuine industry needs.

These three amending acts exemplify that. In relation to each, the concerns of the resource industry employers was roughly the same; that is, that each act addressed the wrong issues and either fails to respond to or will exacerbate existing problems. The effects of the legislative proposals and the interaction with other parts of the legislative framework haven't been sufficiently considered. The amendments will create more litigation, more disputation and more confusion and will move us even further away from an innovative, cooperative and productive industry.

There was no evidence to support the choice of prescriptions being pursued and no justification for imposing additional costs on businesses. Each set of amendments imposes yet another component of compliance costs and administration upon a highly regulated industry which already, for reasons of corporate social responsibility, risk management and contractual compliance, for example, already imposes very high standards upon itself.

The first case study is the Fair Work Amendment Act of 2013. Industry had four particular concerns which stood out. They were: union access to the workplace, consultation over changes to regular rosters, the right to request flexible working arrangements, and anti-bullying measures.

In relation to one of these, I will provide some examples of industry concerns; that is, in relation to union access to the workplace. The legislation failed to respond to existing problems with union access to work sites. In fact, it will cause more problems. Imposing greater requirements to open up work sites to unions is a recipe for significant compliance and safety risks. It will encourage increased union militancy and industrial disputation.

A particular concern for our industry is the impractical and unrealistic union entry arrangements proposed for remote and offshore facilities. No reason was given why, for example, a greater use of technology couldn't meet the same objectives.

The second case study is the Migration Amendment (Temporary Sponsored Visas) Act of 2013. In relation to this act, AMMA was greatly concerned by the lack of supporting evidence, damaging rhetoric and poor process associated with the proposed changes to the 457 visa scheme, along with the considerable risks posed for investment, job creation and economic growth. There was minimal consultation with

industry about the change. No regulation impact statement was conducted.

The legislation risks undermining the capacity to fill identified skills gaps in a timely way, without a proper assessment of whether there is a genuine problem to be solved. The most damaging initiative in the legislation is a return to labour market testing even though this was abandoned following a major departmental review in 2001 that found labour market testing to be costly, ineffective and inferior to the system we have in place currently.

The resource industry is a small user of skilled migrants but, when engaged, these people are often vital to the safety, maintenance and project delivery. It's clear that the changes in this act will only discourage and undermine investment in resource exploration, with geologists and geoscientists, for example, remaining in persistent shortage.

The third case study is the Migration Amendment (Offshore Resources Activity) Act of 2013. In relation to this legislation, AMMA warned that the existing law was clear, functional and properly constructed. It rested on solid international and domestic legal foundations with regard to a wide range of legal and industry considerations. However, in direct contrast, the amendments that were effected by the 2013 amending act, AMMA said, constituted an inappropriate delegation of legislative power, were incompatible with human rights principles, inconsistent with Australia's international obligations, inconsistent with Australia's constitutional arrangements, inconsistent with the Offshore Constitutional Settlement of 1973, inconsistent with industry practices, and impractical, and concerningly AMMA said that the legislation would be damaging to the Australian economy and Australian jobs.

For existing and future projects, this amending act will require all people on vessels operating in support of offshore resources activities, including foreign crews on foreign-flagged vessels, which never enter Australian waters and operate purely in international waters, to have visas equivalent to 457 visas.

In short, for each of these three new acts, the administrative, financial and productivity costs upon all stages of the resource industry, including the exploration stage, will be crippling.

The fourth case study, you will be pleased to hear, is far more positive. The reason it's positive and constructive is that it is industry driven. It's provided as a direct contrast to demonstrate the usefulness and wider benefits that accrue from initiatives which are well thought through, expertly designed and tailored to meet genuine industry needs. In short, the first three case studies exemplify the problems that arise if government has the wrong agenda and misguided objectives. The fourth exemplifies what can result from the right agenda and industry-driven,

demand-driven objectives.

The fourth case study is the AMMA-Pit Crew Labour Market Index, which is a biannual report of labour availability in the resource industry. It was launched a month ago and it uses innovative labour market modelling techniques to forecast accurately the true extent of skills and labour demand driven by major Australian resource and infrastructure projects.

A key element of the index is that it recognises that private resource projects will be competing for labour, particularly skilled tradespeople. The competition is with the major public infrastructure projects that are being built as a result, in many cases, of the productiveness of the resource industry.

The AMMA-Pit Crew Labour Market Index provides information about labour availability and demand and identifies key skills shortage occupations. It is enabling industry employers to undertake more informed and better targeted labour force planning and industry training. AMMA will be happy to provide more relevant detail about the AMMA-Pit Crew Labour Market Index in its written submission or later this morning.

The positive contrast of the fourth case study with the previous three case studies is stark and the AMMA-Pit Crew Labour Market Index is just one example of the real solutions that have been and are being developed by industry. There are others that we've identified already in our initial written submission and it's important to note that some of these, such as AMMA Skills Connect and AWRA, the Australian Women in Resources Alliance, are in receipt of federal government funding. So it's not just about industry acting alone; it's about industry driving new initiatives where appropriate in partnership with government.

In conclusion AMMA, the national resource industry employer group, has been serving the mining, oil, gas, related construction and allied sectors since 1918. Our members directly and indirectly employ more than half a million working Australians in exploration, mining, hydrocarbons, maritime, energy, transport, construction, smelting and refining, as well as suppliers to these industries.

AMMA's vision is to grow Australia's economic prosperity by ensuring our resource industry is an attractive place for investment and employment. Australia's future economic prosperity makes it imperative that we continue to grow the exploration of mineral and energy resources. Thank you.

**MR WOODS:** Thank you for that, and can I thank you also for your first submission and, in anticipation, for your subsequent submission, which has a short deadline but I'm sure you will meet that deadline. We found the original submission quite useful.

You've used your opening statement to draw a contrast between three legislative events and the release of your index. Could you spend a little time talking through the recommendations that we have put forward in our draft and your reaction to those; whether they provide sufficiently concrete proposals that can be actioned; and, if not in any case, where you would be able to assist the commission in providing further evidence so that we can consider that in our final report; if there are any gaps in our recommendations, so any areas that you think that we haven't appropriately covered. I'm not looking for a sort of recommendation-by-recommendation analysis - hopefully that will come in your submission to us - but do you have any general reactions at this stage?

**MS COPLEY (AMMA):** Yes. Our initial response to the draft recommendations is disappointment that chapter 8 of the draft report doesn't itself contain recommendations. As we said in our initial submission, we recognise that workforce issues aren't all of the solution, but we do think that they are part of the solution or the concerns that need a solution, and that's because, as we said in the initial submission, the non-financial barriers are in themselves financial barriers in terms of competitiveness and productivity.

In terms of recommendations, we draw attention to the fact that although there have been reviews, as the draft report says, of workforce issues, particularly in terms of the Fair Work Act, the responses that have been put in place by government haven't responded to the industry concerns, so rather than providing solutions for industry or putting in place some of the reforms that industry had suggested, what has happened in terms of Fair Work amendments instead, as I explained briefly in my opening statement, is that the Fair Work Act has actually become quite unbalanced and has been amended to respond to union demands, which in many cases haven't, as I said, been driven with the right agenda or in order to respond to industry issues, even issues such as safety. So that would be the initial response we would make in terms of the recommendations.

I might leave skills shortages to Mr Achterstraat to address, but I might go back to recommendations in relation to the nature of resource exploration and the role of government. As identified in our initial submission, the proper role for government is to facilitate exploration as one part of the resource industry. It's to ensure that Australia is able to be competitive in a global industry and that the processes that resource industry employers have to follow are clear, straightforward and don't impose an undue regulatory burden upon industry.

However, the first three legislative case studies that I gave provide a very good example of the way in which the role of government, if used somewhat arbitrarily and without due regard to balance, as with the Fair Work Act amendments similarly, can actually add to cost, can decrease competitiveness and can create a huge lack of certainty.

Just looking at one of those cases studies that I gave - for example, the Migration Amendment (Offshore Resources Activity) Act - although there was a process of consultation and industry had an opportunity to make submissions and participate by way of consultation, the final report of the relevant task force was never released and so the first that industry knew of the legislative amendments in the form that they were was when the bill was introduced into the lower house of parliament.

At that stage, because it was clear that the legislation was going to be rushed through, it was very difficult for industry to communicate the significant concerns that it had about the costs that the legislation would impose, and one of the reasons that it will impose completely unforeseen costs is that to date it's been an accepted part of industry that, because offshore hydrocarbons are usually conducted in the Exclusive Economic Zone or in the waters above the extended continental shelf - so in some cases hundreds of kilometres off the Australian coastline - the labour mobility is actually not just labour mobility from within Australia, it's also labour mobility from people who operate within the global industry, and so a lot of deliveries, for example, are effectively governed by international law rather than Australian law, and the work conditions, which are similar to Australian work conditions, are imposed currently by way of the international regulation of those work conditions; for example, under the Maritime Labour Convention 2006.

However, to require each of those people - for example, on a delivery vessel which might be coming from Malaysia with a foreign crew - to make a delivery in the EEZ and to turn around and go back will impose not just another layer of regulation upon an operator within the industry that wasn't anticipated, hasn't been budgeted for in contractual arrangements, for example, and that now has to, I guess, change the way in which some arrangements have been made to meet the new legislative requirements, but there will be that additional time and cost of complying, for each of those people on board the vessel, with the equivalent of the 457 process.

**MR WOODS:** Before we deal with skills shortages, can I just pick up on a couple of those. You went through the first three legislative amendments and you described them as "crippling"; that is a word you used. I'd look to evidence that that's sort of a wisely chosen word that can be backed up. But, more generally, we're very keen to have documented evidence on these issues that substantiate such phraseology and if in your submission to us you can provide links back to your submissions on - well, your contributions to the consultation processes and the like, that would be helpful to us. It's very hard for us to examine the evidence, et cetera, if the rhetoric is high but the substance behind it is not fully aligned with that. So we just need to work our way through that carefully.

**MR ACHTERSTRAAT (AMMA):** I would actually like to take that point up briefly if I may.



**MR WOODS:** Yes, please.

**MR ACHTERSTRAAT (AMMA):** In relation to one of the bills mentioned by Mrs Copley, which is the Migration Amendment (Temporary Sponsored Visas) Act now, 2013, I think that word "crippling" is actually apt and it's supported by evidence that the department itself had previously released.

Mrs Copley referred to the labour market testing requirement, which is an onerous requirement where the employer must provide written details of their advertising efforts, the results of those, the fees associated with them. That had been a part of the 457 program until 2001 when the department itself reviewed the operation of that and they found it to be costly and ineffective, with some estimates suggesting that it would lead to a delay of up to six weeks in the processing of 457 visas.

I note that in chapter 8 you pull out some of the relevant NRSET recommendations, which we welcome and we're glad to see that in the material and are very much looking forward to discussing that further with you this morning, but I notice recommendation 4.1 is missing, which is to ensure that the processing of 457 visas in critical skills occupations in the resources sector should be streamlined, with a guide of one to two weeks, as best practice guidelines.

So when we hear the department themselves saying that provisions in this bill have previously led to blow-outs of up to six weeks, which is triple what Gary Gray, the current Minister for Resources and the author of the NRSET report, said was required, that language of "crippling" - yes, granted, there's always a rhetorical effect implied and intended, but it is supported in that case with respect to that piece of legislation.

**MR WOODS:** Which recommendation are you referring to?

**MR ACHTERSTRAAT (AMMA):** I'm referring to recommendation 4.1 of the NRSET report, which isn't actually picked up in your chapter there.

**MR WOODS:** 4.1. Sorry, yes. Thank you for that. Well, my invite is that you provide the evidence that supports - - -

**MR ACHTERSTRAAT (AMMA):** And we look forward to doing that in the next report.

**MS COPLEY (AMMA):** Yes, we do look forward to doing that. I might just provide a little bit more context to your draft report, if I might, for a moment.

**MR WOODS:** Yes, please.

**MS COPLEY (AMMA):** On pages 39 to 40 there's a diagram of the multiple potential burdens of regulation and then there are lists of the sources of unnecessary regulatory burdens. I would suggest, and we'll demonstrate in our submission, that each of these is a problem that is associated with the amending legislation we've been talking about, but in addition to that, one that you haven't mentioned is the lack of certainty for industry that's created or that can be created by undue or inappropriate or unclear regulatory burden.

For example, in relation to each of the two amending acts that we've talked about, there's scope for ministerial discretion, and although the Offshore Resources Activity Amendment Act, for example, is drafted in very broad terms, it's also made even more uncertain because there's scope for a ministerial determination which isn't subject to parliamentary disallowance to be made, ruling a project in or a project out, and an example of the problems that that causes, for example, is that we've had our members asking about whether that legislation will apply in the Joint Petroleum Development Area.

It's not actually clear on a reading of the amending act as to whether or not the legislation does apply, and when the department was asked for clarification about that, the department said that they weren't sure either as an initial response and that it was for circumstances like that that the ministerial determination power had been included in the legislation.

So if you can imagine the projects that are under way in the JPDA, the various different parts or components of the operation and the complete uncertainty that this would be causing for them, that's an example of, I guess, the crippling effect of these types of changes that are being brought to bear upon the resource industry, and we look forward to providing further detail in our written submission.

**MR COPPEL:** In your submission you make the comment that a 457 visa has a \$65,000 non-salary cost which predated these changes. The costs that you mentioned, are they the sorts of costs that enter into that sort of calculation, and if it's possible to give some form of estimate of how they have changed because of these changes, that would be helpful to us.

**MR ACHTERSTRAAT (AMMA):** You are right. Those costs are additional costs which the employer will incur above and beyond the local Australian market rate which the current system dictates must be paid. We've found it's typically between \$15,000 and \$20,000 per visa holder, but it can get up to \$65,000.

In terms of breaking that down, the employer is responsible for the English language testing, demonstrating competencies and skills, return flights, et cetera, health insurance, one month's accommodation in many cases, and we're talking about people moving their families as well, so if you have a wife and two kids or a husband

and one child, those costs are incurred as well; they're known as the secondary visa holders.

To answer your question more directly in terms of what additional costs will this bill, or now act, impose on employers, I won't be able to give you a financial number today. That number of \$65,000 was provided to us by Edith Cowan University. We take the issue of skilled migration very seriously and so therefore we conducted research to look at the benefits but also the costs of the 457 visa program, and that number of \$65,000 was arrived at by Dr Sue Bahn, but I think the costs in this context of what this bill will impose is this idea of time limits, which I tried to hit on before.

When we have the department saying this might lead to six-week delays in some instances, that's the true cost, and really for us why this is bad policy is that it contravenes or it goes directly against the policy rationale of the scheme, which is the safety valve. You know, you've picked up that employers go down this route as a last resort in most cases. It's a supplement, not a substitute for the local workforce. Why wouldn't we hire locally when it's cheaper, faster, the skills are there and so forth? So in terms of the costs, I think we can probably sit down and look at what it would mean financially, but our biggest concern as a first-blush response is that timely access which we fear might be jeopardised.

Just one last point on that: in many instances we're talking about highly skilled migrants who might have six tickets of competency which are only available in the UK and France. Many of these courses - helicopter specialists, maintenance workers and things of the like - simply don't exist locally, and therefore requiring every employer to document extensive evidence of their local recruitment efforts, to us it's a step too far.

**MR COPPEL:** Are businesses responding by alternative migration pathways like business-sponsored migration, which is not a temporary migration? Is there a degree of flexibility there that exists, and how are businesses responding?

**MR ACHTERSTRAAT (AMMA):** I think, at least with respect to the members I have spoken to - I can't speak on behalf of all, but those who I have dealt with - the 457 offers that flexibility, that temporary nature, and we're talking about projects going through their construction phase, we're talking about a real spike in demand for construction labour. So in that sense that's really the policy beauty of the 457 programs, that they can come and work for anywhere between I think, technically, one day and four years, and that's the real beauty.

With respect to other skill streams such as the permanent migration streams and so forth, obviously there are highly skilled migrants who enter Australia looking for work in those areas and they are adjudicated by the SOL, the Skilled Occupation

List, which is different to the Consolidated Skilled Occupation List, so you're looking at a narrower range of people coming in under that stream, and for me that also reaffirms the importance of the 457 scheme: that flexibility is underpinned by a substantial choice or range of highly skilled occupations. So there are alternatives. The extent to which people will change their behaviour I couldn't say at this stage.

**MS COPLEY (AMMA):** If I might, commissioner, I might add something too. In terms of workforce planning and filling skills shortages, the 457 process or skilled migration is only one component of that. As I mentioned, industry is developing a range of initiatives, including training and skill-matching, for example, and the initiatives that I have mentioned such as the AMMA-Pit Crew Labour Market Index, the AMMA Skills Connect that we've mentioned in our submission, and the Australian Women in Resources Alliance. All of those initiatives are designed to work together to respond to the skills shortages and the gaps that were identified.

**MR WOODS:** And government is contributing in those cases.

**MS COPLEY (AMMA):** Yes.

**MR WOODS:** So you're working in partnership with them.

**MS COPLEY (AMMA):** Yes, we are.

**MR ACHTERSTRAAT (AMMA):** And employees as well. Commissioner, you asked about evidence before with respect to the 457 program. A very welcome aspect of that debate, or lack of debate in many respects, was the Migration Council report, which actually found that three out of four employers were using the scheme for the purposes of skills transfer and knowledge development within their workforces. For example, here today in an exploration context we're talking about the latest geoscience, the latest geophysics, software developments, things like that; tapping in globally to the best and the brightest around the globe.

There is a really convincing case there to access skilled migration to train up our locals as well and, as you probably would be aware also, the program itself requires an employer, before they become eligible to sponsor under the scheme, to meet training benchmarks of, I think, about 2 per cent of their payroll on training.

A report I've read suggests that in mining, employers spend about five and a half per cent of their payroll on training anyway, which is well above that benchmark, but the beauty of that again is that training has to be directed at those areas in shortage, so again, trying to put on an economist's hat, it's almost a self-correcting mechanism, or an automatic stabiliser if you like, because every time you bring in a skilled migrant in this occupation, you're obliged to train in that occupation as well.

**MR WOODS:** The training issue: there's a bit of a conundrum there in a sense. You were just quoting figures about training - as a percentage of payroll, no doubt.

**MR ACHTERSTRAAT (AMMA):** Yes.

**MR WOODS:** Five and a half per cent. Yet other statistics suggest that the industry has an under-representation of apprenticeships. Is there sort of a mismatch in the evidence or are there different strategies relating to different parts of the industry?

**MR ACHTERSTRAAT (AMMA):** Commissioner, I'd say it's about getting the latest evidence out there and making that well known. For me the latest evidence, which is also independent evidence, was published by the NCVET, the National Centre for Vocational Education Research. That report actually came out recently and I look forward to perhaps pulling out some key aspects of that in our final report.

It does point to, for example, with apprentices and trainees about 11,000 in the pipeline, so you're looking at, I think, close to 5 per cent of the workforce in direct mining being an apprentice or a trainee, which is well above the skilled migration 2 or 3 per cent on 457s, and you're looking at a quadrupling of apprentices between 2003 and 2011; you know, \$1.1 billion is the expenditure.

I can go on with these numbers, but I think it's about getting those numbers out there and also benchmarking them. As you say, "Percentage of payroll, what does that mean?" Let's look at a baseline and a benchmark and see how we go from there, but certainly for me I think the latest report makes it clear that mining is in one of the top handfuls of industries in terms of spending per capita or spending per payroll when we actually take into account size and all those various factors as well.

**MR WOODS:** Good. That would be helpful. Anything before we go on to skills shortages?

**MR COPPEL:** I just wanted to come back to this Pit Crew Labour Market Index. In your submission you identify a number of the areas where there are particular skill shortages and in recent times we've heard that the peak of the mining boom is coming off. I was wondering whether that index was actually influencing the types of skills that are now in shortage and where previous shortages are less evident.

That was one question. The other is, is it able to say anything about shortages of skills that are required in the regulatory agencies that are actually administering the granting of tenure and issues in relation to environmental assessments? Often we've heard that the skills are similar and because of the demand in the resource sector, the regulatory agencies are unable to compete in terms of salary, their staff have been enticed elsewhere and this has been one of the contributing factors to

extended delays in terms of granting of licences. I was wondering whether this was something that picks up those sorts of skill shortages in terms of being specific to the skill rather than to the sector in which they're employed.

**MS COPLEY (AMMA):** Thank you. I'll start with the response to that. In terms of the actual data that's gathered as part of the AMMA-Pit Crew Labour Market Index, what has been done by Pit Crew is that they've modelled 422 resources, energy and infrastructure projects within the Australian market.

The projects have a total capital value of \$728.8 billion and the reason that that exceeds the BRI analysis of major resources and energy projects is because, as I mentioned earlier, the Pit Crew model uses a range of infrastructure projects which are within the construction labour pool and are going to be competing for the labour and will therefore impact the labour supply to the resource industry. So they're construction: things like roads, power stations, support facilities, hospitals and public rail infrastructure. Of those projects - this is for the initial index release - approximately 259 are approved, with a value of \$446.4 billion, and in the pipeline are over 163 projects, with a value of \$282.4 billion.

What the Labour Market Index does is identify what the labour availability and demand is in various regions across Australia, as well as skill sets. So it looks at those questions of domestic labour, mobility and the skill sets and what skills are required where.

In terms of key skills shortages with the first index release, in construction they're specialists welders, boilermakers, pipe fitters, mechanical fitters, electrical trades, crane operators, riggers and scaffolders, and in operations they're production managers, experienced production operators and engineering technicians. I guess that answers that first part of your question to an extent and we'd be happy to answer it more directly in the written submission that we provide.

What it is hoped the Labour Market Index will be able to do is to essentially do exactly what you did ask about: to be able to identify what skills shortages will exist, where they will exist within Australia and, importantly, on a national basis so it will allow that national labour mobility. Over time then, I guess, it will be possible to track those changes that exist.

**MR COPPEL:** It would be also useful to have an idea of how cyclical they are, because this is an area where the resource industry is tapping into skilled migration due to the cyclicity of the industry.

**MS COPLEY (AMMA):** Yes.

**MR COPPEL:** Any points on that would be useful as well.

**MS COPLEY (AMMA):** In terms of discussions about the resources boom, the boom has actually been because the construction phase, which is so labour intensive and skills intensive, is the phase that we're in at the moment. We will transition to a more operational phase in many cases after the end of the 2015-16 period. I might let Luke - - -

**MR WOODS:** Just before you do, in your submission, which was written a couple of months ago, you're talking about:

Demand during the construction and operational phases, projected to the end of 2016, will continue to rise sharply.

Has more recent evidence tapered and tempered some of that? That is one question. The other is, what are the impacts that this has on the exploration industry specifically, which I guess is more heavily weighted to geologists, geophysicists, engineers, et cetera? So two bits: (1) what's happening - has there been a readjustment of expectations and (2) how do you translate that back to the exploration industry?

**MR ACHTERSTRAAT (AMMA):** In terms of readjustment, you do hear of this so-called cooling of the labour market and a pull-back in the labour market, but the Pit Crew results show that when you've got projects being built concurrently, particularly in remote areas, you will still see acute shortages. In terms of a cyclical nature, commissioner, the Pit Crew data shows 2014-15 is the expected peak of the construction phase, so as Mrs Copley pointed out, sort of the price phase, the investment phase and the construction phase is where we're seeing those shortages; also in engineering, so not just construction labour but engineering too, to make it again more relevant to the exploration context of today.

Just one other point I wanted to pick up on the Pit Crew index in terms of public policy is around this mobility issue. If you actually look at the results of the Pit Crew index, it tells you very obviously from a public policy point of view that mobility is very important to get people moving from south to north. So often the debate is about getting people from the east coast to the west coast, but research suggests if you were to draw a line through the middle of Australia, basically everyone lives under it, but all the resources are above it, and there's only one city above that line with more than a million people; we happen to be in it today.

So in terms of what public policy outcomes arise from that industry-driven research, I think there's plenty to look at there, but in terms of that readjustment, in spite of projects being delayed and so forth, the research makes it clear - and it's been ongoing research - that many of those shortages will be acute over the coming years.

**MR WOODS:** Yes, and whatever updates you can put in are just helpful to us to

make sure that we've still got the latest picture. You mentioned engineers in the exploration sense. Are there any other skill areas where you continue to expect significant shortages or is that now no longer the case?

**MS COPLEY (AMMA):** I might respond to that. I guess in terms of an industry-wide response - and I appreciate that that's not directly responsive to your terms of reference, but in terms of the industry-wide response, a lot of the skill sets are required at each stage, and so we might think of geoscientists or engineers but in many cases it's drillers and all of those people who are required at all stages as well, so when we asked Pit Crew about this, they said it's very difficult to separate out the various stages. We're happy to do that to the extent we're able to - - -

**MR WOODS:** No, I understand.

**MS COPLEY (AMMA):** - - - but I can't recall whether we did that in the additional submission.

**MR ACHTERSTRAAT (AMMA):** Certainly in terms of exploration there's a shortage of geologists, geophysicists, machinists, mining engineering, petroleum engineering, all of which you pick up very well in chapter 8 of the draft report.

One other point I'd like to make in this respect which I really found useful in chapter 8 of the draft report was actually fleshing out this idea of a skill shortage and what it means and quoting DEEWR, because a lot of people will say, "There's no skills shortage because I know an unemployed person in Melbourne who used to be a carpenter," or, "There's no skills shortage because there's a lot of people in Australia," or whatever. I think that definition you pick up in chapter 8 where you say a skills shortage is when "employers are unable to fill or have considerable difficulty" - so those words, "considerable difficulty" - "filling vacancies for an occupation at current levels of remuneration".

For me, that makes it clear how persistent these shortages have been, that the employers have to really experience difficulty and invest and really persevere to fill these roles. That to me explains the persistence of shortages, so I commend that in the report to pick up that more sort of fleshed-out understanding of what a skill shortage means from an employer's point of view.

**MS COPLEY (AMMA):** Could I just mention that we didn't go back to that issue about the skills competition with regulatory agencies as well. Essentially the issue is the same: that we haven't separated out the various demands for those skills/occupations, but the principles are essentially the same, and just as the resources industry, as is identified in the draft report, encapsulates exploration, for example - a whole range of different sized businesses who all have to compete in the labour market - the regulatory agencies unfortunately are part of that market as well.



**MR WOODS:** They're quite often looked to as a source of ready skills that get attracted when the salary levels go up.

**MS COPLEY (AMMA):** Yes.

**MR WOODS:** Can I just turn briefly to your Skills Connect and Australian Women in Resources programs and your portal. I think they demonstrate a degree of cooperation between the various parties to try and do something positive and practical. Are there analyses of those programs to understand how well they are working and are there suggestions as to whether any improvements could be made to their effectiveness?

**MS COPLEY (AMMA):** Skills Connect and AWRA are, as you mentioned, federally government funded projects that are conducted by AMMA under contract. There is a contractual arrangement which relates to the funding, and part of that contractual arrangement requires ongoing assessment, so there is benchmarking and evaluation at various stages built into the life of the project. We would be happy to provide what we're able to or to indicate where you might be able to source that information.

**MR WOODS:** Who else we can tap for that information.

**MS COPLEY (AMMA):** Yes.

**MR ACHTERSTRAAT (AMMA):** One off-the-cuff example for that, commissioner, would be with the AWRA project, the Women in Resources Alliance. The first task that they did was to undertake a baseline study of women's participation in the resources industry, where they found 16 per cent of the industry were women, and their goal is to bring that up to 25 per cent. That whole project, the whole headline of it, is in fact that benchmark, so the analysis would be reporting to that KPI, so in that sense that's just one sort of back-of-the-envelope example of how, yes, reporting does matter and analysis does matter because that's how we can show how well these things have worked, and if they've worked really well then we want to keep doing them and roll them out throughout industry.

**MS COPLEY (AMMA):** And in relation to [miningoilandgasjobs.com](http://miningoilandgasjobs.com), there isn't federal government funding provided to facilitate that. However, there is again ongoing evaluation of the effectiveness of that. There are figures kept as to the number of available jobs and the number of applications made, for example, and so to the extent possible we would be happy to provide that as well.

**MR ACHTERSTRAAT (AMMA):** As of last night there were 1500 job ads listed on that web site across a whole raft of trade, technical, skilled, managerial roles, so that company indicates the supply.

**MR WOODS:** Well, the demand.

**MR ACHTERSTRAAT (AMMA):** Yes. The supply - - -

**MR WOODS:** Hopefully there's a supply that will - - -

**MR ACHTERSTRAAT (AMMA):** Yes.

**MR WOODS:** Yes, okay. The supply of job opportunities, yes.

**MR ACHTERSTRAAT (AMMA):** I was looking forward to coming here today and learning supply and demand from a productivity commissioner, and I've had it. That's fantastic.

**MR WOODS:** Anything else on your side, Jonathan? Certainly the submission was very helpful and you did refer to the NCVET study briefly there and so we can tease out some more of that as relevant. We would encourage you, in putting forward your rejoinder submission, that you just wherever possible refer to other documentation rather than go to any particular length in creating new replicative material. If it already exists in a form - and it may not be quite aligned; it doesn't matter - just attach it or refer to it or link it or something.

**MS COPLEY (AMMA):** We'd be happy to do that.

**MR WOODS:** Let's keep it as efficient and effective as we are able to. You haven't offered a view on some of our other areas, but it would affect the workforce that you represent, in terms of interaction with environmental and heritage and land access issues. Is there anything in particular that you'd like to draw our attention to?

**MS COPLEY (AMMA):** We might just address briefly chapter 2.3 of the draft report in terms of the performance of resource explorers. Essentially it encapsulates many of the principles that underlie our submission in terms of the points that I mentioned before, quoting from the Policy Transition Group's report in terms of the sustained and sustainable growth of Australia's resource industry and national economic growth.

In terms of exploration becoming increasingly costly, we will be happy to expand upon that in our written submission. We've touched upon many of these issues today, but essentially the examples that we've provided are current examples of the way in which exploration is becoming increasingly costly. Australia is becoming a less competitive environment for resource industry exploration and operations.

**MR WOODS:** We track the Fraser Institute data, which helps provide some

guidance on that.

**MS COPLEY (AMMA):** Yes, and I guess in that context, with our initial submission we provided a draft of a productivity discussion and analysis paper that AMMA has been developing in-house and we have a final version of that that we will be happy to provide the commission with as well.

**MR WOODS:** Excellent.

**MS COPLEY (AMMA):** And just - - -

**MR WOODS:** Just before you move off that one, we note the sharp rise in the cost, using dollars per metre drilled as one indicator of it, and there's substantiated data. A question is, though, to what extent is that a cyclical process so that if there is a high labour component in there and there is high demand for labour and wages rise during that period, et cetera, you expect wage growth, but then the resource industry is well known for its cycles, so on the other side of the cycle, if wages come back down will some of that drop again, or to what extent do you have any evidence that it is structural; ie, there are now greater impediments - and you refer to the legislative changes, et cetera - so they would sort of permanently raise the cost? So we're interested in what's structural to permanently raise cost, and what's cyclical that might represent a peaking at the moment but will go through its inevitable cycle?

**MS COPLEY (AMMA):** Again we'd be happy to provide more detail about that in our written submission. To provide one example of the structural change that we've been talking about, the amendments to the Fair Work Act are structural to the extent that they have, in a range of different ways, increased the labour costs and the compliance costs of the Fair Work regime for employers.

For example, productivity is no longer on the table in terms of bargaining, despite employers trying very hard to ensure that they talk the language not just of productivity but the components of productivity and what that means in terms of proposed projects. We will provide further examples like that of ways in which employers are trying to redress the balance, but the concern of the industry is that the balance has tipped so far and has been enshrined in legislation which is there for the foreseeable future and will be no doubt examined by the Productivity Commission in a forthcoming review if the government changes. I think Mr Achterstraat will complete the response to that question.

**MR ACHTERSTRAAT (AMMA):** I just had one point to make with respect to that, commissioner. You asked about this dichotomy or contrast between cyclical influences on wages and costs, and structural. That sort of interaction or that theme was raised, funnily enough, during the Fair Work Amendment Bill 2012, during its inquiry, when a senator asked the exact same question.

AMMA's response then was and still is that obviously both are at play, but when we're talking about structural components and we see, for example, in greenfield agreements or new project enterprise bargaining arrangements where a union has a monopoly position, that's a significant structural problem that we are seeing lead to exorbitant wage claims and outcomes being done, because you don't have a safety valve where the employer can go to the commission and register an agreement subject to a better off overall test and so forth. So when you start creating those monopolies in the labour market, of course that is going to exacerbate or make worse a lot of those already high wages and the already high base that we have.

As Mrs Copley said, we can expand upon that in our further submissions, but there certainly are those structural components which are enshrined in the legislation which make it more difficult to see a tempering of wages to fit that cycle.

**MR WOODS:** Thank you. Do you have one more point?

**MS COPLEY (AMMA):** No, thank you.

**MR WOODS:** That picked it up? Excellent. You don't have any concluding comments? You've covered the areas you want to cover?

**MS COPLEY (AMMA):** Yes, we have, and anything further we're happy to address in our written submission.

**MR WOODS:** Okay. Thank you, and I do urge you to find the least-cost way of providing that further submission, but we do look forward to the supporting detail for the high-level views that were expressed in your opening statement.

**MS COPLEY (AMMA):** Yes.

**MR WOODS:** And for your cooperation all the way through this inquiry, for which we are very grateful, thank you very much.

**MS COPLEY (AMMA):** Thank you.

**MR ACHTERSTRAAT (AMMA):** Thank you.

**MR WOODS:** If I can call our next participants, the Australasian Institute of Mining and Metallurgy. Can you please for the record, each of you, give your name, the organisation you represent and the position you hold.

**MS CLARK (AusIMM):** Thank you, commissioner. My name is Alice Clark. I'm the immediate past president of the Australasian Institute of Mining and Metallurgy.

**MR ROBINS (AusIMM):** Wayne Robins, senior manager, policy and research, with the institute.

**MR WOODS:** Excellent. Thank you very much. Do you have an opening statement you wish to make?

**MS CLARK (AusIMM):** I do, commissioner. First of all I wanted to start by saying, having read the report from cover to cover I found it surprisingly balanced and positive in many aspects.

**MR WOODS:** Surely not surprisingly.

**MS CLARK (AusIMM):** Let me say it's not the first one I've been involved in and, yes, surprisingly balanced. It reflected for me that you've had access to people on all sides of the argument who, in my opinion, have given you good advice and you've synthesised that quite well. There are some areas where I think the recommendations could stretch further, and we'll touch on those, and we'll work through the parts of the report that speak to the representation that we reflect, and if I could just give some context as to what that is.

The Australasian Institute of Mining and Metallurgy represents geologists, mining engineers and metallurgists and other paraprofessionals that work in the minerals industry. We're not in oil and gas - we don't have representation from that sector - and when I've read this report, a lot of the comments that we've got back and the discussions that we've had have largely come from the exploration side of the industry. So it's professionals. It's not companies, it's not other corporations, it is just the everyday mining engineer and geologist and metallurgist that we represent.

**MR ROBINS (AusIMM):** And increasingly environmental scientists and social scientists engaged in the community engagement side.

**MS CLARK (AusIMM):** In fact, the growing part of our membership - we represent 1300 - is very much in environmental and community engagement.

**MR WOODS:** And I should add, as you mentioned in your earlier submission, that you're also a strong supporter of the student population.

**MS CLARK (AusIMM):** Yes, we are.

**MR WOODS:** And I have to declare a matter. I have a daughter who is the president of the Geology Students Association at the ANU and is very grateful for AusIMM's contributions to their activities. I want to put that on the public record.

**MS CLARK (AusIMM):** Thank you. So with that context and perspective and background of who we represent, and our focus is on minerals and the professionals, I wanted to start by saying that this business is a very rapidly changing business. The environment for explorationists at the moment is perhaps reflected by one of a deep concern for their job security going forward. This is in individual comments that are made to us, but also we have other organisations that we talk to - the Australian Institute of Geoscientists - very concerned about the way forward for the industry through what we are seeing is a very cruel time, and how we're going to retain those professionals and those skills is of great concern not only to the individuals but also to our corporate members. I'd like to note: if the commission could reflect that it is a rapidly changing environment in its final report. I'm not sure that that reflection comes through as yet in the wording.

We're a little bit disappointed at the government's decision to exclude the analysis of taxation, financial incentives, fees, charges and royalties from the inquiry. We understand that that's the case, but couldn't let it go without making that statement and we'll enlarge on that a little later.

I also wanted to make an overarching statement that we feel that the governments - and that's state, federal and territory governments - also have a role to play in maintaining a healthy mining industry and that they should play a stronger role in ensuring that the public is informed about the mining industry, how it's regulated, and it's important to Australia's economic and social development. I think up till now that information that goes across and into community debates has been left far too much up to individual companies to do. The government also is a stakeholder in this and they need to step up a bit more and they need to be out there saying how important this industry is.

**MR WOODS:** Is that a sufficient action? That seems entirely achievable, but I'm just wondering about what impact it might have. Is there other activity that you would look to?

**MS CLARK (AusIMM):** We spoke a little bit in the last hearing about the rhetoric, and you're hearing rhetoric, and we see that so much with the media, we see it so much with the way that the debate is controlled in the community, and we see opportunities for local, federal and state governments to step up and say, "Hang on, here's the economic realities of where this industry is important. Here's why it's important to the social fabric," and try and calm down some of the stuff that's going

on. It's very hard to fight that with the government silent, yet being a major stakeholder in terms of receipt of royalties and in the economic benefits that this industry provides. I don't like to tell people how to do their job, but that's a job that needs to happen.

I think the experience of most of the minerals industry professionals that I've spoken to, and certainly who have made submissions to us, is aptly summarised in the commission's comment on page 64:

The sheer volume of legislation governing mineral and energy resource exploration makes the system difficult to describe and synthesise.

When that sentence was read out to me a number of times as I walked around talking to colleagues in the industry, one of them said, "If the commission can see this, well, it's all about time" - the blanket of time that it takes us to go through the overlapping, the parallel, legislation. It's like an anvil around our necks.

AusIMM would like to see a stronger focus - and this in particular is in relation to the minerals industry and exploration - on simplifying and streamlining legal requirements with states and territories. We'd like to see them adopt consistent regulatory requirements where it's appropriate to do so, and I stress "where it's appropriate to do so".

It's really important that the states are able to promote themselves as an exploration destination of choice as individual states. It provides a bit of competition out there. But there is so much parallel legislation, and geologists and engineers and metallurgists and OH and S people, and environmental people, they're not constrained by state boundaries. Ore bodies go through other regions. They've got to learn four or five different states' legislations and regulations and it's just impossible for them to work through. Reducing administrative costs and delay costs via states and territories and improving the regulatory culture, systems, transparency and timeliness is something that we would like to see stronger focus on within the commission's report.

We believe that the commission should examine how states and territories can collaborate on consistent and simplified legal requirements and improved regulatory administration without undermining the positive competition for exploration investment attraction between Australian jurisdictions. I've got very strong feedback and very strong support for draft recommendations for a lead coordinating agency and performance recording and improved guidance on approvals processes - unanimous support for that.

There are many unrealised opportunities for states and territories to learn from each other and share best practice approaches and I would strongly encourage some

sort of benchmarking initiative going forward.

As I mentioned in my introduction, minerals professionals are currently experiencing significant disruption in their careers as falling confidence in the future of Australia's minerals sector impacts on business investment decisions and exploration activity is cut back. Urgent government initiatives are required to restore confidence and build investment in minerals exploration, to retain skilled professionals in the Australian exploration industry and to underpin future new mine developments.

Government should commission an assessment of options to support the minerals exploration through reformed taxation, financial assistance and initiatives and other financial arrangements. The institute continues to advocate that Australia should establish a flowthrough share scheme or an alternative investment that assists capital-raising for minerals and exploration.

**MR WOODS:** I assume you take the opportunity to reinforce that point.

**MS CLARK (AusIMM):** Thank you, commissioner.

**MR WOODS:** Thank you for that, and thank you for your earlier contributions, your submission and the visit we made, and Wayne was at that meeting and very helpful. So we're very grateful for AusIMM's contribution to this inquiry. Can I just take you through some of the points in your opening statement and then we may pick up others as well.

You refer to the rapidly changing business environment and, picking off from that, the disruption to professional careers and the like. Have you got recent data in terms of the current vacancies and applications - you know, the supply and demand - of the professional labour force and, looking out over the next two to five years, is there a basis for projections that give some support to your views here?

**MS CLARK (AusIMM):** I'll throw to Wayne initially and then I'll come in with some others.

**MR WOODS:** Yes, sure.

**MR ROBINS (AusIMM):** Thanks, commissioner. We've also, by the way, got some notes that we'd like to run you through in terms of our thoughts on specific recommendations, so we'll run through those in a minute.

In terms of your question, no, the short answer is we don't have any comprehensive data. What we've certainly got is a lot of stories from members who have been recently made redundant, who have been involved with projects that they



thought were going ahead that have either been put on ice or been cancelled, and Alice in her recent consultations with some exploration geoscientist colleagues has heard stories of things like, "Well, now we've received an authority to go ahead and do some exploration but the funding that we thought we had to finance that project has dried up because of the change in confidence in the sector."

What we're looking at doing - and we're currently thinking about how we could scope and fund this piece of work - is a project to get a handle on what that means economy-wide and also to try to get a sense of "Here's what's happening in Australia," unique here, and how the international experience is comparing, because we're conscious that there's a number of things going on in the economy.

Our AMMA colleagues referred to the fact that part of what we're seeing is a shift from a construction boom ending, into a production phase. That's certainly true of the discussion of the overall minerals boom as people are discussing it in the media, but it's a very different dynamic going on in terms of an ongoing focus on exploration, and we're getting very strong anecdotal and individual stories indicating that the investment in the long-term future of the industry through exploration is being cut back quite substantially at the moment, but we couldn't give you global data to back that up at this stage.

**MR COPPEL:** So your sense is that this is a trend rather than something which is reflecting the cyclical nature of the resource industry?

**MS CLARK (AusIMM):** I think it's very much reflecting the cyclical nature of the resource industry and I think we have an opportunity to look at the past and work out how better to place ourselves for the next up-cycle.

What we always seem to do is say, "Oh well, that's just the industry," and the graduates coming out this year, many of them don't have jobs. Many of the ones that did have jobs, their contracts are not going to be considered. I could name BlueScope Steel. There have been retrenchments in Rio Tinto. There have been retrenchments across the coalfields. There have been freezing holds on employment in BHP, in Xstrata Glencore. These are newspaper reports. I haven't sat there and tallied it all up and I haven't got numbers to give you, but I'm certain that that's something that can happen.

What we don't do is say, "We're going into a downturn now. How do we preserve that corporate knowledge or that group of people that know how to do these things, how to go and find these mines and run these operations? How do we preserve that so in the next 18 months or two years or however long it takes to come back, we're right to go?" What happens is they go, they leave, they go off overseas, they work in areas where it's easier to work right now, when the prices are a little bit down or the confidence is a bit low, and then you don't get them back, or they leave

the industry.

Every time this happens - and this is easily my third or fourth cycle - I dye my hair. I've been doing this a while though. It's easily my third or fourth cycle of this, and I know Brian is in the audience there and he's seen a few as well. We come out of this and we go, "Where have they all gone?" Some of them go and retrain as teachers, some of them drive taxis, but we lose them every time, and there's an opportunity here from a productivity perspective to say, "Is that the most productive way to retain this?" and "Is there some other way that we can look at doing this?" I don't have the answer to that.

**MR WOODS:** But what are the practical options there - - -

**MS CLARK (AusIMM):** Exactly.

**MR WOODS:** - - - that don't require the taxpayers of the western suburbs funding jobs that are not productively utilising these people's skills? How do you retain the capacity but in an efficient and effective way?

**MS CLARK (AusIMM):** I'm not an economist; I'm a geologist.

**MR WOODS:** They're still nice people.

**MS CLARK (AusIMM):** So are we. I think the answer for me isn't to try and solve that big wicked problem. The answer for me is to say, "Well, what are we doing here in terms of regulation, administration, government processes, that can just make it a little easier to survive these types of cycles?" Yes, there are big projects that are still being built and there are boilermakers that we need and there are still deep-sea drillers and things that we need, but there's another part of this industry that's really going to struggle going forward right now. There's a cold wind blowing and they feel it first. They always feel it first. Is there anything that we can do from a regulation and government perspective that speaks directly to productivity, that can make it easier for them to survive through this?

**MR COPPEL:** I just come back to this changing industry. Are there particular minerals that are more affected than others?

**MS CLARK (AusIMM):** Absolutely.

**MR COPPEL:** And are there particular jurisdictions?

**MS CLARK (AusIMM):** There are. Different minerals are affected by different waves. Generally you get aware of the gold price spikes; a lot of other things don't. There's not an answer that's simple.

**MR COPPEL:** It's not across the board.

**MS CLARK (AusIMM):** And the whole field of mineral economics is just way too complex to answer that simply, but yes, there are different minerals that are affected at different times in different ways. But there are some lead indicators as well. Usually oil and gas hits it first and we're not quite seeing that this time. This time we're seeing the base metals and we're seeing a lot of pressure in iron ore and we're seeing pressure in other areas. It's a bit different. We've come out of a massive cycle, so it being different doesn't surprise me.

**MR COPPEL:** And across jurisdictions as well?

**MS CLARK (AusIMM):** Yes.

**MR WOODS:** Because of the different cost bases of some of the jurisdictions? So there are some Queensland mines that have shut up because they've been operating at the margin while prices have been high?

**MS CLARK (AusIMM):** Yes.

**MR WOODS:** And so they would be the first to go into care and maintenance mode or be scaled back, whereas others - - -

**MS CLARK (AusIMM):** There are projects that, through the boom, made it because it was a boom. No doubt about that. That's always the case. There's cost focus on areas now that is healthy. It's like "the recession we had to have". It's an appropriate thing to do. It's making them leaner and meaner.

I want to come back to working through the submission, but the thing that I smell at the moment is, as soon as you see the juniors head overseas, as soon as you see them go to Africa, go to places that are typically not where we would send people to explore - they're the ones that find the mines. They're the ones that think differently and they're the ones that discover things, and they're going. They're going in droves. They can't handle this amount of regulation, this amount of paperwork that they have to go through, and a lot of junior listed companies, when you look at where they're exploring on their ASX web sites, it's in Africa, it's in Mongolia, it's in Kazakhstan, it's in places where it's easier, and they're your pipeline for your next lot of projects in the 10 and 15-year area.

**MR WOODS:** Perhaps if you do take us through your comments on our recommendations and then we can fill in and around that space. That might be the most efficient way of doing it.

**MS CLARK (AusIMM):** Okay. At a base level, our members are reporting that they're experiencing significant delays and poor communication from many of the responsible agencies - and these are predominantly at the state and in tenure application type positions - when applying for an exploration licence, with the notable exception of a couple of states. I don't want to mention individual states, but I'm fairly confident that a benchmarking exercise would show that - can I name the states?

**MR WOODS:** It certainly would be helpful to us. If you've got the evidence to substantiate it, then the more clear the evidence and your views on it, the better.

**MS CLARK (AusIMM):** Okay. I'll qualify the word "evidence" with: strong anecdotal responses from our membership - - -

**MR WOODS:** However you wish to describe it.

**MS CLARK (AusIMM):** - - - that South Australia is a really easy system to work with. It's fast, it's responsive. The people that work there seem to know what they're doing. They answer the phone and they answer that day. Western Australia is a close second. They have a good online tracking system so you can see where your tenements are. Just about every other state that I haven't mentioned could learn a great deal from those two areas.

**MR WOODS:** You pick up two issues in that that we raise in our recommendations. One is on the lead agency.

**MS CLARK (AusIMM):** Yes.

**MR WOODS:** I assume there you're referring to particularly the South Australian, but also WA.

**MS CLARK (AusIMM):** Those models are excellent, yes.

**MR WOODS:** And the electronic tracking, which would be the WA position you're presumably referring to?

**MS CLARK (AusIMM):** I haven't worked in WA, but the respondents that spoke to me about that had exploration licences in all states and mentioned that those two were far superior.

**MR WOODS:** Okay. And Queensland is introducing electronic tracking. Are you aware of any details?

**MS CLARK (AusIMM):** I had heard rumours, but I wasn't aware of any details.

However, Queensland's QDEX system got very good mention as quite a usable system.

**MR WOODS:** So in terms of our draft recommendations on those two points, are you suggesting ways in which we can sharpen those in terms of making them a more actionable set of recommendations, or do you want to reflect on that and then come back in a rejoinder submission?

**MS CLARK (AusIMM):** I will do that, yes. I think benchmarking was probably the best way to do it.

**MR ROBINS (AusIMM):** Commissioner, obviously there's a complex array of things that line up to have one of our members have a positive experience with a regulator, and that's a combination of "What does the law itself say? How complex is it? How well is it communicated?" It's "How well does the person I'm dealing with in the regulating agency communicate with me? How responsive are they, and how do they understand my needs?" and it's "What IT do they have to back them up to make it easy to work with them and to lodge documents and track my progress?" and members tell us that they see very different pictures in different jurisdictions.

In some cases you have the responsiveness and the positive attitude from the regulator but not necessarily the IT investment. In other cases you have legislation that's not very well explained and it's hard to work out what are the various stages. So it's a combination of "What does the law say? What sort of resources do the regulators have behind them?" and the very tricky issue of the culture of the regulator and their engagement with the industry, and it's really difficult to pull those things apart, as you well know.

**MR WOODS:** But we certainly would encourage any reasonably solid anecdotal evidence, however one would describe that, but also to look at the wording that we have in the draft recommendations, and if there are some suggestions you have as to how we could operationalise those more fully, that would be helpful.

**MS CLARK (AusIMM):** Okay. Another point I wanted to make on licensing and approvals is: talking to members just the day before yesterday - and it was about the 50th time I'd heard the same story - applications are being lost, for many years in some cases, two or three years, and applications are taking up to five years for a decision to be made, and there are experiences of multiple applications suddenly being approved.

The way it was described to me by this Central Queensland exploration geologist of many years' experience was that he'd had a team of explorationists working very effectively and over that time had quite a bank of approvals that were going through the process, and a couple of weeks ago he got all six of one particular

set approved, some of which had been in the pile for five years and - the nearest time in the pile - for two years.

By the time these exploration tenements were approved, the geologists who had thought of what they were going to do to explore - and you'd probably be aware by now in your work that it's a bit of an art and a science - had moved on and had gone on to other jobs, and suddenly he had half of his geological team because he'd had to retrench three of them and, with the three that were left, now had this massive opportunity that he couldn't capitalise on after having gone through all of the regulatory steps, and approvals and pushing and constantly asking. And they weren't all in Queensland; some of them were in other states.

**MR COPPEL:** Are those delays just for the exploration licence or are they also relating to getting access to land arrangements?

**MS CLARK (AusIMM):** Just the exploration licences. They still had to go through some of the land access and cultural heritage stuff. Very frustrating.

**MR COPPEL:** And why is it so long? Is it just because it's at the bottom of the pile and making its way through?

**MS CLARK (AusIMM):** I'm not in a position to answer that question, but I would say that in one case he had tracked it down and actually went and talked to the guy and he said it fell behind the desk and when they moved the desk they found it. I'm certain that that's just the one story that stuck in his mind. I have a feeling that you'll find that there is a lot of turnover within the government agencies and you'll find that people move quite quickly through, and the more difficult ones don't perhaps get up.

We heard before about the level of training and ability. I don't want to say "competence" because all the ones I've talked to are quite competent people in the agencies. I think there's some work that could be done there. And again there are the difficulties of dealing with all of these different state environments.

I think as an overarching statement we'd say that we support draft recommendations 3.1, 3.4 and 3.5 and, again, stronger focus on streamlining and reducing administrative costs. We support draft recommendation 3.3, that being that the minister publish the reasons for the decision, but we think we need to go further there and suggest a stronger approach requiring that all regulatory decisions are accompanied by a statement of the reason for the decision taken, not just the ones by the minister.

We support draft recommendation 3.5. That's target time frames, and we suggest a stronger approach of mandatory time frames and that if it breached, you consider it lead to an automatic approval of the tenement application. There needs to

be a greater focus on this area and either consider incentives or penalties where these sorts of applications take forever.

Draft recommendation 3.2 talks about small sub-blocks and I just wanted to make a comment on that. I think you need to be careful with that one. If you're working in the Charters Towers gold area or you're working in areas where what might look to you to be small sub-blocks can actually host a mine, that recommendation could be quite detrimental. If you're working in a broad exploration zone of, say, the Carpentaria Minerals Belt and you're looking for an elephant copper deposit, that's a really important recommendation. It's horses for courses and you have to be very careful about that recommendation's wording because it can stop one and really help another, and I'd rather not see it there at all.

Moving on to land access, I spent some time on the Land Access Panel for Queensland under David Watson, and during that experience had the opportunity to talk to about 150, I think, farmers and small graziers and then probably about 60 or 70 coal seam gas explorers as part of that review. I learnt some things as I sat on that panel and some of those things are reflected in this, but they're also reflections of people that have, I guess, made comment to us as we've sought to gather facts before coming to you.

So, with that background, our members report that they're experiencing significant delays and poor communication from responsible agencies when they're seeking land access approvals, and that's across the country. They also face challenges in understanding the different processes and approval stages required for each state and territory. There doesn't seem to be the justification for the differences between each state and territory that the members are facing and we ask the commission to recommend that state and territory governments should work together to improve the consistency of regulatory steps and requirements for land access approvals.

**MR WOODS:** You have to be careful what you ask for in that one in terms of what is the agreed common framework.

**MS CLARK (AusIMM):** Yes.

**MR WOODS:** Different states have different frameworks and you have to be very careful in terms of specifying which common framework you want to align with.

**MS CLARK (AusIMM):** Yes, I have to say our members said exactly the same thing. Can I make an overall statement there?

**MR WOODS:** Please go ahead. You're on the public record; as long as you realise that.

**MS CLARK (AusIMM):** Thanks. I think if I look at all of them, all of the land access, and if we talk in particular about land access that isn't in the cultural heritage area but more in the farming and mining and exploration area, once you put in place a system that drives either side of that towards lawyers and towards monetary compensation agreements, you've gone down a very difficult path that's hard to come back from, and when you talk to those people and you work with people on both sides - I've been an explorationist for a long time and I'm also a farmer - you find that what most people want is for the other side of the argument to understand their business and their life and their way of living or what they're about when they're making money.

They don't necessarily want to be paid a lot of money. They just want you to work with them, and if you take a principles based approach when you're writing your legislation as opposed to a prescriptive approach and warning about legal things, you will find, I think, a lot of things will disappear. There's been a huge learning curve as the coal seam gas thing has hit - no doubt about that - and people had to learn that, but as you're drafting this, going forward from a productivity perspective it's more about consultation, it's more about engagement, it's more about understanding each other's business and each other's place in either the society or the economy that is the path through it, as an overarching statement.

**MR WOODS:** That's certainly consistent with evidence that we have received, say, in the Indigenous heritage side. Various organisations there are making exactly that same plea for the consultation and the cooperation between parties and that way they see the opportunity to actually come up with solutions rather than be forced into a litigious sort of end-of-the-queue and last-minute approach that they're involved in.

**MS CLARK (AusIMM):** What prompted me to say that was your comment, "Be careful what you ask for," because when you ask for it, they're going to go for the one that looks the most wordy and the best and, interestingly enough, that's the one that pushes you down a lawyer/compensation/legalistic path, and I'm saying no, that's not the way to go.

**MR WOODS:** Thank you.

**MS CLARK (AusIMM):** Where compensation is on the table, the AusIMM asks the commission to expand recommendation 4.2 to recognise the needs of explorers and land-holders for transparency regarding compensation. The AusIMM recommends that the commission examines the work of the Queensland Land Access Panel and the potential foundation for land access policy harmonisation by state and territory governments.

Just before we move off land access, I'd like to talk briefly about national parks



and crown land. The AusIMM asks the commission to recommend that a survey of minerals potential should be part of the process in considering future decisions to declare crown land as reserves and parks.

**MR WOODS:** To what extent is that not captured in our current recommendation 4.1, which talks about:

When deciding to declare a new national park or conservation reserve, use evidence based analyses of the economic and social costs and benefits of alternative or shared land use.

Is that not sufficient?

**MS CLARK (AusIMM):** "Economic and social". I'd like to see "minerals potential" in there.

**MR ROBINS (AusIMM):** We certainly support the intent. What we're suggesting is that that go a step further and governments consciously invest in understanding what is the potential in that piece of property before potentially locking it up.

**MR WOODS:** Whether that's done in the recommendation or the text explaining what is meant by "economic" - but anyway, we note your view.

**MR ROBINS (AusIMM):** Your discussion certainly goes well towards that in the draft report.

**MS CLARK (AusIMM):** Yes, you're almost there.

**MR ROBINS (AusIMM):** Moving on to chapter 5, your heritage protection recommendations, the institute strongly supports the draft recommendations that have been put forward and particularly acknowledges the importance of that strong record-keeping in terms of investment in heritage assessments that have been done in the past, putting them on the public record, and we see that being beneficial beyond minerals exploration. That's important knowledge for the community and for land-holders in many ways, so making that increasingly available is something that the institute has long advocated for.

The environmental management recommendations put forward in the draft report in chapter 6: again, we strongly support the direction that you're suggesting. We believe that, like the recommendations for reform about access to tenure, there's considerable room for consistency between the states and territories in having simple standard regulatory steps that you go through to get these approvals, and there is a lot of complexity in this space and divergence between the states and territories that makes it hard for professionals who work across borders and, increasingly,

internationally, to keep on top of and be confident that they're meeting their statutory obligations.

We'd also ask that the concept of at least target time frames and reporting against meeting those target time frames in making regulatory decisions be extended into the environment and the community engagement regulation space.

Moving on to community engagement, we do see a gap in your draft recommendations around that area. As we mentioned at the start, the institute increasingly has environmental and social scientist members. It's a crucial part of social licence to operate for the minerals professions, and in the exploration phases you're really at the front end of that.

The community engagement during exploration really sets the foundation for relationships with the community if a deposit is found and that is ultimately developed into a mine. We think that there really needs to be a strong focus from governments on how to effectively support community engagement, and it's very much like the conversation that we've just had about land access. There's a danger and a temptation for regulators to say, "You out there doing the exploration, this is how you must do your community engagement," because that gives them a framework that they can work to in terms of "Have the boxes been ticked? Do we have a problem?" but there's an obvious danger there in that engaging with a land-holder and engaging with the local communities is necessarily a bespoke process. Everyone's needs are different. Everyone's interests are different.

We don't have any magic bullets. It's one of the ones we would describe as a wicked problem, but a focus in the final report on how governments might assist communities and explorers to get together, share information and be open with each other about what is going on and what's the potential for future development of that area we see as very important and we'd certainly be happy to work with you on that as we move forward.

**MR WOODS:** We do have some discussion of those issues in chapter 4. What we didn't have was an actionable item that we thought could be cost-effectively pursued, but we're happy for you to bend your mind in that direction for our consideration.

**MR ROBINS (AusIMM):** Yes. We certainly absolutely see it as a very challenging space and members of ours who are engaged in that space day to day see quite clearly that there's a temptation for regulators, when they have seen a horror story of a community engagement going very poorly or a community not being engaged, to react by putting in place black-and-white rules. We understood that, but we see that that's potentially very problematic moving forward.

Moving on to your analysis of the importance of geoscience and

pre-competitive data, we're very pleased of course to see the strong understanding of the foundational importance of that pre-competitive data and government's role in essentially enabling explorers to really target their effort much more effectively, which obviously we see and I think the report recognises is an important investment by the owner of the minerals in the government to enable that development to happen.

Commissioner, you asked a question of us earlier: do we have any specific recommendations about roles that government could play in moderating the cycle in the employment market for geoscientists? We do have one recommendation, which we understand would be a small consideration, and that is that now would be a very good time for governments to boost their investment in pre-competitive data generation as a way of moderating that skills loss in the industry and setting a foundation for future growth in exploration outcomes and future mine development; but we're certainly very positive about the analysis that you've put forward there.

A brief comment on health and safety regulation: we note that you discuss that briefly but haven't made any recommendations. We just ask that there's a continuing focus on that. As for the other elements of regulating the exploration industry: a continuing focus on as-appropriate standardisation of approach between the states and territories so that there's a simpler framework for minerals professionals to work with and understand as they're out there in the field doing their jobs and focusing on the absolutely crucial issue of keeping themselves and their colleagues safe.

**MR WOODS:** Yes.

**MR ROBINS (AusIMM):** And you've heard it from us before, but we have to finish off by saying we really hope that governments in the future commission a study that will augment the good work that you're doing here with this inquiry by looking more closely at the government taxation and spending options to really build a clearer, more productive framework for minerals exploration in the future.

**MR WOODS:** Can I pick up on the pre-competitive geological data, because in your submission you talk about the high quality of the data that is produced in Australia and how that's been a sound base for exploration, et cetera, but you also talk about governments under-investing in that work. There seems to be a slight tension between "Australia is very good at it" - and in fact we're always rated as at least second, if not the best - and yet you then talk about under-investment. Can you explain that apparent dichotomy?

**MR ROBINS (AusIMM):** I can have a go. Certainly there's a view that Australian governments have made good investments in pre-competitive data, and that investment has indeed led to some very positive discoveries and development of minerals projects, and we absolutely acknowledge that, through Geoscience Australia

and the state and territory bodies, the Australian agencies are very good at communicating that data and making it available, but there is a strong view that there are areas of the country that aren't very well explored from a pre-competitive sense, that there's a lot more work to do, and that - again, you describe this well in your analysis - as future finds are probably moving deeper to smaller, lower-grade deposits, then perhaps newer technologies in terms of generating that pre-competitive data needs increasing investment.

The summary story is, we see Australia's investment in this as good work to date, but there's plenty more work to do and plenty more opportunity for governments to invest in their future revenue streams - as a very coarse way of saying it - through identifying their assets that can be developed in future mines.

**MR WOODS:** By the sound of it, you're going to be proposing a recommendation that there be a sort of countercyclical investment so that during a downturn in the demand for the skill base in exploration and production, you use that to build up your investment in - - -

**MR ROBINS (AusIMM):** We certainly see that as an important way for government to moderate the potential risk of losing those skills and potentially reducing demand for government and industry to invest in skills recovery in a few years hence when the cycle turns.

**MS CLARK (AusIMM):** Commissioner, could I put a slightly different slant on that. I think there's an opportunity here to do exactly that because of the cyclical downturn. Not "Oh, we haven't got much to do. Let's go tidy up the backyard." There's an opportunity here now to look at technologies, to look at the places that are, I guess, under-examined and to take the chance now to do that, and I think that that would be a great thing for the pipeline of the future mines of this country.

**MR COPPEL:** Can I just go back to recommendation 5.2, which is essentially suggesting "Build up a database of heritage survey." I notice in your submission that you talked about this and that there was an initiative that was undertaken by the MCMPR, but that no longer exists as of - well, it doesn't give the date. I'm wondering whether that was because the actual body no longer exists, or were there actual problems with the implementation of that sort of recommendation?

**MR ROBINS (AusIMM):** The Ministerial Council on Minerals and Petroleum Resources was one of the ones that disappeared a couple of years ago when the government examined COAG arrangements and collaboration between states and territories. It's been replaced with a lower-level, I believe officials-level - - -

**MR WOODS:** SCER.

**MR COPPEL:** That's the SCER, is it? Okay.

**MR ROBINS (AusIMM):** - - - energy and resources group. I haven't chased this down in detail, but what we believe is that in the many things that MCMPR had on its work program, that is one that doesn't seem to have been picked up and actively run with by the replacement group. That might be just a matter of prioritisation and a need to catch up with that and get onto it, but we wanted to highlight the importance of that recommendation and that it wasn't a brand-new idea, and it's something that there has certainly been intergovernmental support for in the past.

**MS CLARK (AusIMM):** But it's low-hanging fruit, that one. That's one that could be of immediate benefit across the board in all the states.

**MR WOODS:** I think as you've gone through the individual bits, you've ticked off my various issues as well. Do you have any concluding statements you wish to make?

**MS CLARK (AusIMM):** Thank you for the opportunity.

**MR WOODS:** A pleasure.

**MS CLARK (AusIMM):** I mean it. I think industry when they contribute to things like this, and institutes such as ours that represent the professionals in the industry, look very much forward to seeing real change come as a result of it. I can understand the challenges that that may present in different situations and different political scenarios, but we've put a lot of effort into coming to commissions and to giving you our thoughts and ideas and preparing these sorts of things and we really look forward to seeing real change come out of this one.

This one is very important; not because the exploration industry employs so many people - we all know it doesn't - but it is the pipeline to future mines and it is the pipeline to these big infrastructure projects that we reap the benefits of now, and for this commission, I see it as one of the most important ones that we've had the opportunity to come to and to present to.

**MR WOODS:** Thank you for that. Can I suggest that the more operational the nature of our recommendations and the extent to which the various stakeholders may not get everything that they want but can collectively come to a common position, the more likely you are to be able to persuade governments as to the merits of various matters. You need both of those elements.

**MS CLARK (AusIMM):** Of course. Thanks.

**MR WOODS:** Thank you for your ongoing contributions to this inquiry. We've

been very grateful. We'll adjourn now until 1.30.

(Luncheon adjournment)

**MR WOODS:** I'm happy to call forward our next participants, Queensland Resources Council and no doubt also covering off on Queensland Exploration Council.

**MS MULDER (QRC):** Yes.

**MR WOODS:** Excellent. Could you please, for the record, each of you separately state your name, the organisation you represent and the position you hold.

**MS MULDER (QRC):** Katie-Anne Mulder, Queensland Resources Council, resources policy adviser.

**DR DICKIE (QEC):** Geoff Dickie. I'm the chair of the Queensland Exploration Council.

**MR WOODS:** Excellent. Do you have an opening statement you wish to make?

**MS MULDER (QRC):** Yes, I do. Thank you for the opportunity for us to present to you both here today, and to the public as well, into the inquiry into the non-financial barriers to exploration. As our submission states, QRC represents a diverse range of the resources industry, including coal, minerals, petroleum, gas, underground coal gasification and other such technologies. With me today I have Geoff Dickie representing the Queensland Exploration Council. The QEC's role is to promote Queensland's prospectivity to investors and businesses that support the exploration sector.

In our opening statement we just wanted to outline a number of issues that we raised in our submission to the Productivity Commission on this inquiry. Firstly, we just wanted to mention - which was also outlined in our submission - that the availability of finance is a central theme to ensure the growth of the industry in Queensland and no doubt Australia, but we also recognise that we need well-known policies and reliable access to land to influence the attitude of investors and explorers.

The second issue I wanted to raise was in relation to the policy of cash bidding which was introduced by the Queensland government in 2012. I note that that's also in your draft report as well, so thank you for outlining and differentiating between the different policies there. I suppose it's QRC's view that the policy goes to the issue that governments fail to recognise the different financial capabilities between exploration and production, and also that in New South Wales the cash bidding policy was changed so that up-front investment was actually made later on in the process. So I suppose the extraction of resources, both minerals and energy, ultimately depends on the success of exploration programs and that it is important to outline the difference between cash bidding and the effects on royalty as well.

Relating to that is what you also outlined in your draft report in regards to the COAG principles and best practice regulation, which QRC fully supports, and especially the statement that all governments should adhere to those principles, including the consultation of key stakeholders. QRC found through the introduction of the cash bidding policy that this principle could have been adhered to a bit more, mainly because there was a restricted area put across the state. For some time, over a year now, no coal tenements have been able to be applied for in Queensland. That's provided some level of uncertainty.

Now I'd like to move on to approval processes and I suppose post-grant approval processes as well. In your report you also mentioned - actually page 71 was a cross-jurisdictional comparison of relinquishment requirements on exploration and how important that is to manage land uses. While that's true, I suppose, I'd like to make one correction to that table, in that Queensland does have a relinquishment policy in the Mineral Resources Act whereby - actually it was recently amended in the streamlining legislation because Queensland's mineral and coal exploration tenure is for a term initially of five years, and relinquishment in the legislation outlined every two, three and four years they would need to relinquish.

In acknowledgment of recent land access regimes and difficulties with overlapping tenures, they recently changed that for relinquishment to every three and five years, so five years being on renewal. I suppose that's a very welcome acknowledgment to those complex issues up-front that take time, and also we found with our members in the 2011 floods there were issues around accessing the land due to weather events, so it's important to have a level of flexibility within the processes.

I suppose a key theme throughout the report that we support also is the risk based process and also having regulation that is proportionate to the level of risk. This is something which QRC is working with across government to implement. I suppose specifically a recent example of this government initiative which we've supported was to develop a small-scale mining framework for small-scale miners operating on mining claims to be able to go through an expedited environmental authority process. It's our view that for exploration there should be a similar assessment of whether a process like that could be adapted to exploration tenure.

There are also delays in approval time frames, which have been outlined in your report as well. I suppose it's the direct cost implications of land access agreements and things like that, but the indirect associated costs around delays is what kills exploration programs.

**DR DICKIE (QEC):** I'll just add to that that the delays that were reported in the QEC scorecard of over two years, when you consider that the grant is made for five years and the first relinquishments are even now considered to be three years, it



means two years when the explorer doesn't get onto the ground. So there's a problem with raising capital and coming up with results, and also just the whole management of the tenure, so it's important that governments recognise the up-front administrative - and agreements that the explorers have to come to before you can actually get on the ground.

**MR WOODS:** We'll come back to that.

**DR DICKIE (QEC):** Good.

**MS MULDER (QRC):** In regards to the approval time frames, we think it's important to set time frames both for industry but also government departments as well. I suppose one key report that is central to that for Queensland is part of the streamlining mining and tenure approvals process, where - I think it's on page 4 or 5 - they actually list the time frame goals for next year, 2014. So we're very much looking forward to meeting those targets.

One of the other issues which I suppose has been in the media last week, released actually on Friday, was statutory regional planning in Queensland. The government has committed to three regional planning processes in Queensland: central Queensland, Darling Downs and also Cape York. We had two of those draft plans released on Friday. Even though we're still going through that detail, we just wanted to acknowledge that we think that there's great opportunity for coexistence and that the challenge of coexistence is in the interests of the state. That's all I have to add. Geoff, did you want to add anything?

**DR DICKIE (QEC):** I think we will get on to land access, I'm sure, but it's one of the key issues in exploration in the state, both from the point of view of the time that it has taken, the costs and the uncertainty that it creates.

**MR WOODS:** Yes, we'll deal with that as we go.

**DR DICKIE (QEC):** We'll talk some more about that.

**MR WOODS:** Can I start off, first of all, to thank both organisations for your contributions to the inquiry so far. It's been very helpful. You've provided a very detailed submission. We've had discussions and now you're coming forth not only to give evidence today but, in anticipation, we thank you for your rejoinder submission which I'm sure you're currently crafting at a great rate, and it will be an excellent product. So thank you for that.

**MS MULDER (QRC):** Thank you.

**MR WOODS:** So it has been very helpful. We would like your views on the state

of the exploration industry to the extent that's discernible as different from the mining or production side of the broader resources sector. There are examples of various companies drawing back on exploration. There are many construction works still in the pipeline, moving forward to production. What's your take on the state of the exploration industry as such, and does it differ between the different forms of exploration, whether it's coal or whether it's the mineralogy, whether it's the juniors versus brownfields, progressive development of the majors, et cetera?

**DR DICKIE (QEC):** One of the markers that we have is every month we have a couple of the generally smaller explorers come and talk to an investor forum. It's been successful in getting well over 100 people each month to these forums but the companies who are presenting are often characterised by share prices that are just about on the floor, and a rapidly diminishing treasury. There's a real difficulty for smaller companies to raise money in this climate. That's not a new thing. It's cyclical, you have to acknowledge that, but it does affect the industry very substantially when you go through these bleaker periods. I was in Canada earlier this year and went to one of the exploration forums there where they had 8000 people turn up but they were all pretty sombre about the ability to raise capital, even on those very active venture capital markets.

At the top end the bigger companies are cutting back. Exploration is one of the first areas where companies try to conserve their expenditure, so there's certainly been a drop-off in the number of people involved in the exploration industry and the ability of the industry to get out there and to discover new deposits.

**MR WOODS:** Is that across the various parts of the exploration industry or is it hitting hardest in any one sector, whether it's coal or - - -

**DR DICKIE (QEC):** Prices are always the driver as far as minerals and coal. Coal has declined, gold has declined, so those sectors are particularly weak right now. On the other hand, coal seam gas is strongly driven by the need to supply gas into those highly-consuming LNG plants. We probably won't see a significant reduction in the amount of exploration that the gas companies are doing this year. In coal seam gas, exploration and production sort of merge, so the expected - - -

**MR WOODS:** There's a high certainty of a strike rate.

**DR DICKIE (QEC):** Yes, yes, and one of the companies will spend 250 million in the next eight to 12 months on essentially drilling and the upstream side of the business, and there are three main proponents out there now, so that's going to underpin the mark of the exploration expenditure. But in the other fields of gold, copper and coal, and the other minerals as well, they're really going to suffer.

**MR WOODS:** Okay, so anything more on that one?

**MR COPPEL:** On that one, no. I wanted to pick up on time delays for getting an exploration permit and the permits that are needed to actually then get onto the land and explore. We have a recommendation that tries to not necessarily fix the delays but address some of the implications for the exploration sector in terms of extending the duration of the tenement to take account of those delays. We've suggested fairly ad hoc approaches. One is just extending it by a period of a year. Another is to start the tenement from the point that all approvals are received. Another is not to do anything. I'm wondering if you have any views on those particular options, whether they would be practical.

**DR DICKIE (QEC):** I think there's been sufficient new requirements put onto exploration permits over the last few years to justify adding at least one year onto the base term, because we haven't changed, in the 30 years since the Mineral Resources Act came in, the five-year term. Realistically, when you run through what you had in your report, native title is not too bad but the land access now, they potentially add six months - each of those activities. I think an acknowledgment of that in extending the base term of the permit would be helpful.

**MR WOODS:** While still trying to balance then the relinquishment objective of if you're not using it, make it available to others. I mean, that's the essential balance, isn't it?

**DR DICKIE (QEC):** Yes.

**MR WOODS:** So you're not land banking and the land is progressively available but it's got to be available to each person, or each entity, for sufficient time to make best use of it.

**DR DICKIE (QEC):** Yes, yes. Katie mentioned the weather implications. Over the last few years a lot of Queensland has been covered with water and it's the time that it takes for that to dry out that can cut out up to six months of access onto some of the western tenements. That's something that's always been there, of course, but I think because we're now using a lot more drilling rigs for access, they're the things that get stuck and people don't like to have to pay to have them sitting out there in the field for six months.

**MR WOODS:** That's expensive.

**DR DICKIE (QEC):** Yes. That's also added, in the recent times anyway, to the time that it's taken for people to actually assess a lot of these tenures.

**MR WOODS:** Can you, for the benefit of the record, just draw together the issue of the availability of finance, which you put up as number one and you talked about

your investor gatherings and the like, and the approvals time lines? I mean, just what are the practical implications then with the explorers not being able to venture forth unless they've got some capital behind them but then having uncertainty as to when they're going to be on ground. How do they deal with that interaction and what can be done through this report?

**DR DICKIE (QEC):** The uncertainty is created if you are going to raise capital and you say that you've applied for ground in a prospective area and it may be near where someone else has made a discovery, so there's some public interest. That wears thin after a couple of years when you haven't been able to get onto the ground and actually test it, and investors are wary. They're likely to try to get out of the stock if there's not any news coming out of it, and they're going to be wary about investing further in the stock. There's a lot of alternatives out there.

So I think from the investor confidence point of view it's important that there's a fairly clear path to approval and actually getting on the ground, and it really needs to be a lot less than two years.

**MR WOODS:** It's just useful to have that sort of perspective on the record. You talked about the draft regional plans and in your submission you identified three that were being developed, and you've updated us that two of the three, the central Queensland and Darling Downs, have now been issued or released, presumably in a draft form of comment.

**MS MULDER (QRC):** That's right.

**MR WOODS:** So is Cape York just following behind and that is still in progress?

**MS MULDER (QRC):** From my knowledge it's still in progress. It's taking into account the Wild Rivers legislation.

**MR WOODS:** Yes, there's that interaction between the two or to the extent it replaces it.

**MS MULDER (QRC):** That's right.

**MR WOODS:** So it's more complex in that sense.

**MS MULDER (QRC):** Yes.

**MR WOODS:** But you're supportive of the strategic assessment regional plan approach as giving some measure of certainty of what are your opportunities for exploration in areas?

**MS MULDER (QRC):** I suppose that large-blanket strategic approach we are supportive of, and if it does genuinely support coexistence of more than one land use, such as resources and agriculture where it can be proven to be done. However, we're not supportive of a process which does exclude a certain activity without any sort of basis for it. For instance, if there was an area that was blocked for any future exploration, that would be of concern to our industry.

**MR WOODS:** The Multiple Land Use Framework that SCER have endorsed, is that again something that in intent you're supportive of, but wait to see how it translates on the ground?

**MS MULDER (QRC):** Apologies; I'll have to take that one on notice.

**MR WOODS:** That's all right.

**DR DICKIE (QEC):** Just following up on that, I printed off two of the maps that are in the regional plan. I don't know if you've seen them yet. I could pass them up.

**MR WOODS:** Yes, please. I'll take those as evidence.

**DR DICKIE (QEC):** Just as an indication of the impact that - the concept is sound. This is working through a draft, but the implication of those big splotches of land that are there identified as priority agricultural areas in very prospective resource areas - now, that creates an impression that it's going to be real difficult to do exploration and certainly production in any of those areas. I think it raises the expectations of the agricultural sector that those areas are likely to be protected from resource development.

Now, there's another layer in there of priority agricultural land use that's linked into the ABARE land classification. Essentially anything that is cropping or horticulture and anything that's irrigated forms that higher level of protection. But it means that if you're going to be looking in these shaded areas, there's going to be another level of assessment that you have to do on an exploration permit. And if you are actually in the priority agricultural land use areas then you have to enter into a cooperation agreement. That's understandable in some of the higher-value land areas.

I think what tends to happen is that these bigger areas, when they come out and are published and promulgated, then people take the view that explorers are going to be excluded in some way from that area. So if you do front up and say, "Well, yes, we are in this area but we are able to explore," it probably heightens the level of potential for confrontation.

**MR WOODS:** It would be interesting to hear your views on what approaches could

be taken and whether through this report we can do anything constructive in having a dialogue between parties on shared land use. Looking at this map - and I know some of those areas very well - you've got some very broadacre cropping. Now, I'm thinking Goondiwindi towards Inglewood and then you've got all that Millmerran-type areas. They're vast tracts of very large-scale cropping. Where a corner of a very large paddock is problematic is something that you and the landowners could probably negotiate.

**DR DICKIE (QEC):** Yes.

**MR WOODS:** If it's in the middle of an olive grove around Inglewood is a different issue. West of Warwick is very hilly, and I'm sure there are very good reasons why it's there, whereas the horticulture in Stanthorpe you can understand. It's a very varied pattern and then of course you've got irrigation out west, which is a different thing. If you've got a laser-level field and irrigation, it creates a different situation.

**DR DICKIE (QEC):** Sure.

**MR WOODS:** But the diversity of areas doesn't warrant just a single title in terms of approach, so I'd be interested in your views as to what then you would be recommending in terms of the next level down of engagement with the different types of users of the land that this shaded area represents.

**DR DICKIE (QEC):** I think the ideal would be to be able to identify those areas, that the state really did want to preserve for agriculture, in a map. As you pointed out, this isn't the area that the state wants to preserve but it does give that impression when you look, with the title of Priority Agricultural Area. I think if we were able to emphasise the next level down of the very high-value land, that would really require substantial modification or negotiation between the resource explorer and the landowner and the state in general. That would focus more on what I think is the objective of the policy, which is to preserve that really high-value land.

**MR WOODS:** By "preserve" you mean no exploration at all? How are you using the word "preserve"? You could preserve large tracts of that land for agricultural purpose and yet still have exploration that was minimally intrusive, presumably.

**DR DICKIE (QEC):** Yes. I think certainly from a point of view of exploration, to be able to know what the resources are underneath even the high-value land, but the requirements for certain types of development that are going to be disruptive of that land would have to be very high level. You would have to really come up with a very innovative and convincing scheme that you could restore, in fact, the value of that land or produce something equivalent to it. So I think that in that sense it's preservation but until you are able to put a couple of drill holes down, you don't

know what the value, say, of the coal is, or the gas. It's hard to do that cost-benefit analysis of which should be preserved.

The other aspect is when you have big tracts like that, we're still discovering minerals that are either newly in demand or new uses have come up, and there are those big tracts, I think around Warwick. It's not a coal area but quite a bit of mineral has been found there in the past. You want to be able to preserve the ability to find something unusual like a rare earth or some of the strategic minerals that previously geologists haven't thought were there.

**MS MULDER (QRC):** That's something we can further detail in our submission to you.

**MR WOODS:** Well, to the extent that you'll be preparing a response to the government, if you're able to put some of that thinking into a submission to us, that would be very helpful because it needs to be operationalised in some way.

**DR DICKIE (QEC):** Yes. Just another point on the regional plans, the other sort of exclusive area is around towns and while there are some sensible exclusions around growth towns, there are some fairly difficult to understand exclusion areas around very small towns that don't appear to have any growth prospects. Again, while there may not be any need right now, or no drive to explore around those towns right now, putting these fairly substantial exclusion zones where the explorer is then going to have to deal with the local government, the local governments in these town zones will have a say on whether exploration and development can occur, in addition to the decision-making power of the state government.

**MR WOODS:** You referred to expedited exploration approvals processes. How do you ensure, as part of that, that the process retains the confidence of other stakeholders? There is always the danger that if they don't feel that the process has been transparent, that they have knowledge of it, that they can assess it on its merits, that their response might be more hostile than would have been the case if there had been due process and they felt that they were properly informed and had confidence in the system. So how do you marry those competing objectives?

**MS MULDER (QRC):** What they've already done with the small-scale mining framework is more of a standardised process whereby there are also levels of high-risk activities that wouldn't go through that standardised pathway, so there would always be the opportunity to place some conditions. But I suppose one thing in Queensland is our tenements can be searched for through public registers. We have a notification period to native title holders as well.

**MR WOODS:** But searching through doesn't sound like a - you know, if you're an interested party, to have to then constantly scan all of the registers to see if

something is happening doesn't sound like a system that you would have much confidence in, because how do you know if you've missed it? One would have thought you would need a more proactive approach. Now, you do in Indigenous heritage issues - native title and related - but I would have thought the more you extend that so that all potentially interested parties have the opportunity to know, then you may be able to satisfy their concerns at the front end rather than deal with them at the back end.

**DR DICKIE (QEC):** Yes. It would be nice to be able to tell every land-holder in every exploration permit that was issued even - certainly not even applied for, but issued - that a permit had been taken over their place; this exploration permit had been granted over their land. We may get to there with electronic processes.

**MR WOODS:** Yes, I would have thought technology must soon be available to be able to do that.

**DR DICKIE (QEC):** In certain places you'll have a lot of spam, as far as you'll be notified about - because exploration permits are often not nice blocks. There's a block here and a block there, so there may be a sub-block that's on someone's property and they will get notified too. When I was in government myself, local government always wanted to know what permits had been issued in their areas and my reaction was, "Be careful what you ask for," because in some of the local government areas there was just a rash of exploration permits coming and going, like in the Mount Isa-Cloncurry area. They would have had to employ an extra person to scan what was - all the information that came in.

It would be good to be able to do it but I think there's probably got to be some mechanism in there where the people, the landowners - the concerned people - actually activate a search. With MyMinesOnline that the department is doing now, that should be a lot easier and I think that's one way we can work to make it fairly straightforward, for a person who's interested, to say what exploration permits exist in this block of land, and just outline a block on the screen.

**MS MULDER (QRC):** And on your local government example the government has provided the opportunity for those registers to develop, on demand, local government area reports. So it comes out with a list and a map of what tenements are in those areas, to give to local governments when they need it.

**MR WOODS:** In your submission you talked about overlapping tenures and that there was some work being done to try and resolve those issues. I guess it's particularly coal and coal seam gas that's the main issue there.

**MS MULDER (QRC):** Yes.



**MR WOODS:** Where is that at?

**MS MULDER (QRC):** I suppose this is one initiative which shows the leadership of industry to try and come up with a solution which largely was about coexistence between the two industries, putting aside the natural commercial benefit and all that sort of thing to look at where they can genuinely coexist and expand on the extraction amount and benefit to the state. I guess the process began with a government bill and both parts of industry, both coal and coal seam gas, never seemed to like it, so QRC actually led the charge on trying to facilitate a negotiation between those two industries.

It's been a pretty long and hard slog over two years but we've finally submitted a proposal to government actually in the last month which pretty much sets out what we think is a balance between the two industries but also does promote the best interests of the state. You'll find that there's a right of way for one type of resource over the other, but there's a balancing act of compensation and notice periods and all that sort of thing. And even though it only does apply to coal or coal seam gas, we hope that as other industries progress, and if there are future overlapping issues, that there will be a similar process that is undertaken.

At the moment we have - so I understand anyway - a number of ministerial decisions. Basically the current process is that any tenement holder can veto the right for someone to produce or explore if it's an overlap tenure, so it's pretty much first in gets the exclusive right to that land. I suppose it's a very exciting reform that we hope will come in very soon.

**MR WOODS:** When you were talking about the approvals process and time lines, you started to refer to native title then withdrew that, saying "Well, no, that one's reasonably okay." To what extent does the Queensland system, which is about negotiated agreements and about identification of who has right to speak for country - what are the characteristics of the Queensland arrangements that, in your view, work well?

We've heard others say that the system is good and better than ministerial determinations, but we ourselves are going to a number of Indigenous bodies to test with them whether, from their perspective, that's actually the case or not, so we'll get independent verification from their perspective. I picked up on where you were heading and when you withdrew, so what are your views on the Queensland arrangements in this space?

**DR DICKIE (QEC):** My views are a bit jaundiced because I was in the government when we set it up, so I'm not going to say anything bad about it, am I?

**MR WOODS:** But in practice has it worked as you thought it would work?

**DR DICKIE (QEC):** To a large extent, yes, and perhaps surprisingly, but it was based on the expedited procedure and we built the native title protection conditions, which were the safeguard for the native title parties, into a series of steps that the groups had to go through, and working with the National Native Title Tribunal to move those through and to deal with any inter-group disputes that might have held up the issue of the permits. I think it has gone through reasonably well but, I don't know, Katie, do you have - - -

**MS MULDER (QRC):** No, I think we'd agree with that.

**DR DICKIE (QEC):** But it does add time. There's time involved but it is staged so that there are time periods that will get you onto the ground in about six weeks, I think.

**MR COPPEL:** Can I just come back to time frames for approval to post granting of the tenement or including granting of a tenement. We make two recommendations to try and improve time lines. One is the publishing of target time frames and the other is in relation to the administration through this electronic lodging and tracking. The time frame recommendation, however, doesn't have any sort of consequence that would come from failing to meet the target time frame and I was wondering whether you thought a recommendation without a consequence would be enough to act as a catalyst to make a substantive change, or do you have views on whether such a process would work?

**DR DICKIE (QEC):** I think there's a bit of a naming and shaming capacity there if the time frames are published, and we would pick that up in our scorecard, going through there, and the commitment to a nine-month time frame, so I think that would be sufficient for the industry to keep pressure on the government to keep to those time frames or to minimise any blowout. It will be a big pullback from two years to nine months, but I would hope that in using electronics - because to me the system is designed for an electronic process, and one of the problems has been there have not been sufficient staff.

There hasn't been sufficient staff in the department to handle just the processing of the applications, especially when there's a big rush of applications, and also the competing applications, getting a panel together to decide which of the proponents, which of the applicants, will actually get the right to the tenure. That's caused some delay in the process. There would need to be sufficient staffing of those to deal with the competing applications, as well as overseeing the electronic processing of them.

**MS MULDER (QRC):** I also think in some cases it might be appropriate to attach "deemed as approved" provisions. Obviously that's not for everything but certainly

post-grant approvals. That could possibly work.

**DR DICKIE (QEC):** I was in the Yukon over the last year and they still stake claims with metal posts. We have moved on. Can I talk about land access a bit?

**MR WOODS:** Indeed, yes.

**DR DICKIE (QEC):** Because I thought your draft recommendations were fairly light-on with respect to land access.

**MR WOODS:** Yes.

**DR DICKIE (QEC):** Sure, the one about legal costs is important, as long as you underline "reasonable". I'm sure you've been told about some of the extortionate legal costs.

**MR WOODS:** We've heard various stories.

**DR DICKIE (QEC):** Yes, I'm sure. I think it's also necessary, if we're talking about timing, to ensure that there's a readily accessible decision-making body to rule on contested access, and a lot of that is over compensation. Some of it would be over conduct but largely it boils down to compensation and the difficulty of the Land Court being there as a court and somewhere where people don't want to go; and also, from the industry side, the time that it takes to move a dispute through the process, the negotiation process, is a very effective negotiating position for the landowner.

So either having a fast route through to a Land Court member or some - and I would say this is a broader recommendation, that there be a relatively fast-track decision-making, and also associate with that that there are clear guidelines for what effects are compensable so there is not a dispute over what constitutes the compensation.

**MR WOODS:** Are there good examples anywhere that you'd draw on?

**DR DICKIE (QEC):** New South Wales has an arbitration panel.

**MR WOODS:** Because we've also heard views about the activities of Wardens' Courts but that they turn themselves into judicial processes.

**DR DICKIE (QEC):** I think the earlier concept of a Warden's Court would have been that sort of decision-making body, but I think that's almost been overrun by the complexity of coexistence between landowners and the resource industry.

**MR WOODS:** It would be helpful in your submission if you sort of drew out what

are some of the important principles. Are you looking for arbitration, are you looking for less legal intervention or necessity to refer to legal process? You're looking for clarity of what are the guidelines on compensation - whatever they may be. I don't want to put words in your mouth, but if you went through what are the principles, then the actual formulation of a process is a secondary issue as long as it meets the principles.

**DR DICKIE (QEC):** Sure. I think one of the things that we have found here is that one size doesn't fit all, so if you're looking Australia-wide you wouldn't, I don't think, be trying to establish one system. You might have the same principles involved but each industry here really, and each area, different part of the state, has different criteria that you would want to apply.

**MR WOODS:** But if you're able to refer to parts of other processes that more closely resemble the sorts of outcomes that you're looking for, that would be helpful to us.

**DR DICKIE (QEC):** Okay.

**MR WOODS:** Are there other issues?

**DR DICKIE (QEC):** There's one other.

**MR WOODS:** Yes.

**DR DICKIE (QEC):** The one on geoscience.

**MR WOODS:** Don't tell me you don't like that one!

**DR DICKIE (QEC):** We don't want to pay for it. It's public good. But I think more broadly there's a very ad hoc approach from most of the state governments about additional funds for the pre-competitive exploration. It would be better if there was an acceptance that that was a part of the government function, that acquiring that information was more of a public service than something that was just when the government was moved to fund it. There would be a way of linking it to royalties perhaps; the royalties from the industry or the income from the industry. These initiatives that the various states have had over the last few years have been very useful in providing good and innovative data but it really does need a continuity to it because there is always new material and new ideas, new interpretations that can be done.

**MR WOODS:** Excellent. When you are preparing your submission we would urge you to closely examine each of the recommendations, and if you can identify ways in which they can be firmed up in terms of their operational capacity, that would be

very helpful to us for our considerations, to go through and see if they can be tightened up in any areas. Whether we agree with your proposals or not is a separate question, as always.

**DR DICKIE (QEC):** We can suggest.

**MS MULDER (QRC):** That's right.

**MR WOODS:** And we encourage you to do so. Any other matters that you want to raise?

**DR DICKIE (QEC):** Not for me.

**MS MULDER (QRC):** No, I'm good.

**MR WOODS:** Can I thank you again for the level of cooperation you've extended and the courtesy that you've extended to the commission and this inquiry. We're very grateful for the time and the effort, not only of yourselves but of all those behind you who are feeding in that information. So thank you very much, and if you could thank them on our behalf.

**DR DICKIE (QEC):** Thank you.

**MS MULDER (QRC):** Thank you.

**MR WOODS:** We will be undertaking the next part of the hearing by way of a teleconference.

**MR WOODS:** Greetings, and thank you. I'm Mike Woods. I'm the presiding commissioner on this inquiry.

**MR COPPEL:** I'm Jonathan Coppel, the other commissioner on this inquiry.

**MR WOODS:** Thank you very much for taking part and I regret that we weren't able to get together face to face but I'm sure this will achieve most of those aims. Could you, for the record, and if there are more than one of you, each of you state your name, the organisation you represent and the position that you hold.

**MS RIVERS (ANEDO):** Yes, sure. I'm Nicola Rivers and I'm law reform director at the Environment Defenders Office in Victoria, and representing the Australian Network of Environment Defender's Offices today. Now I'll pass you over.

**MS McKINNON (ANEDO):** I'm Elizabeth McKinnon, also a lawyer in law reform at the Environment Defenders Office, Victoria.

**MR WOODS:** Excellent. Thank you very much and you're coming through loud and clear. We thank you for your submission of 19 March and you certainly provided us with a wealth of well-directed material and some various supporting case studies. Do you have an opening statement that you wish to make in regard to our draft report?

**MS RIVERS (ANEDO):** Yes, I do, thank you. I just wanted to make opening comments in relation to three of the issues discussed in the draft report, which is environmental approvals, the duplication of federal and state approvals and exploration in national parks.

**MR WOODS:** Thank you.

**MS RIVERS (ANEDO):** Firstly, in relation to environmental approvals, we believe that the statement about excessive environmental regulatory burden for all developments in Australia is over-exaggerated, but this is particularly the case in relation to exploration projects. Very few exploration projects in Australia are required to undergo formal environmental assessment at either the state or federal level. For example, in Victoria and Queensland, EAA is not required for exploration projects. In Tasmania EAO is only required if the exploration activity is likely to have a significant impact on the environment but, as far as we are aware, none have ever been done. In New South Wales there's a very low level of environmental assessment that is required for exploration projects unless the exploration will cause significant environment impacts.

Under the EPBC Act at the federal level, of the 76 exploration projects referred under the EPBC Act in the last two years, only four exploration projects have

required assessment. So we believe that the environment approval requirements are much less onerous than the commission's draft report indicates. Only projects that are likely to have a significant impact on the environment are required to undergo federal EIA, and if they are likely to have a significant impact it's entirely appropriate that they be properly assessed.

We need to be up-front about the reality of exploration projects. The full intention at the onset of mineral exploration is that if a viable resource is found it will be exploited. This is the expectation given to explorers when they receive an exploration permit. Exploration should not be treated as an isolated activity. Rather, it should be seen for what it is, which is the first step on the path to production. Where full production is unlikely to be acceptable because, for example, it's in a sensitive environmental area or high-value agricultural land, the regulator should have power to say from the outset that exploration will not be allowed. This will provide certainty to exploration companies and will save them from huge expenditure. It is unlikely to ever be realised.

In relation to the issue of duplication of federal and state environmental assessments, we believe that much of the discussion about duplication reflects a misunderstanding of the state and federal situation. State and federal environmental regulation is not duplicative. It's part of a shared responsibility for the environment set up by the 1992 IGA on the Environment. Federal and state governments have responsibility for different aspects of environmental protection; namely, federal regulation considers the impacts on nationally significant environmental matters set out in the EPBC Act.

A number of these matters do not come within state considerations. Federal assessments consider those matters from the perspective of the national interest and Australia's international obligations. These considerations are not part of state assessments at all. Federal environmental regulation acts will provide a critical role in Australian national environmental protection regime and achieving our international obligation. As noted previously, a number of states don't require EAA for exploration activities, so the argument for that duplication in relation to exploration projects is greatly over-exaggerated.

We note that in a limited number of cases where EAA is required at the state and federal level for exploration projects, some procedural duplication can occur. However, this can be dealt with by improving the existing assessment, bilateral agreements and administrative procedures. We are surprised that the commission is considering a change to its earlier position on the retention of Commonwealth approval powers. There is no evidence to support recommendation 6.1 of the commission's draft report to confer environmental approval powers to states by approval of bilateral agreements.

In a recent inquiry into the EPBC Act, the Senate Standing Committee on Environment and Communications stated that there was no evidence that existing arrangements were hampering investment or imposing unreasonable costs on industry, or that bilateral agreements would improve business efficiency. The committee also found that state governments were not able to comply with federal standards and strongly concluded that federal approval powers be retained by the Commonwealth.

The COAG proposal to adopt bilateral approval of agreements was ill-conceived and not based on a proper understanding of what this would entail as the department SEWPaC itself subsequently noted, once it had investigated this properly it would not result in any simplification of the regime and in fact would add to the complexity as each state overlaid their own approval processes onto the federal system. No state processes are currently commensurate with federal requirements. It would take significant legislative and procedural changes in every state for this to occur.

Just some brief final comments in relation to national parks. Conservation reserves are essential for the ongoing health of ecosystems and the provision of ecosystem services to the community. In relation to the exploration in national parks, we do not think that mining and national parks can coexist. The commission's draft report adopts the principle in the Standing Council on Energy and Resources Multiple Land Use Framework that economic and social benefits can be maximised while respecting and protecting environmental values. This may be a desirable goal but there is no evidence that this is possible in relation to mining in sensitive environmental areas.

There should be recognition that there are some areas where two different land uses cannot coexist because one land use erodes the values of the other land use. National parks and other declared conservation areas have been protected based on a recognition of their extremely high environmental value. These declarations should be respected and should be no-go zones for exploration. Allowing exploration in national parks only raises a legitimate expectation that production will be allowed. It would greatly increase its certainty if it were made clear that mining is environmentally unacceptable in national parks and conservation reserves, and therefore exploration will not be allowed. Valuable time and resources would therefore not be wasted on unfruitful exploration projects. Thank you.

**MR WOODS:** I appreciate that and appreciate the thought that you have given to your responses and the targeted nature of the issues you've raised. I'd like to pursue one and then I'll hand over to my colleague, Commissioner Coppel. That's the issue of the nexus between exploration and production. You draw attention that in areas of high environmental value that production would be incompatible, and I think the Multiple Land Use Framework sort of makes provision for that in its principles as



well.

Therefore, you come to the view that exploration is inappropriate in those situations, but there's the separate question of whether you should encumber exploration approvals with the full weight of approvals that would be required for production, recognising that in many forms of exploration, particularly for base metals and the like, the chance of any one exploration process turning into production is low, but not nil, and that that's a little different in cases maybe in brownfield exploration around a coalfield or coal seam gas. But are you proposing that the full weight of approvals that would be required for production be brought forward onto exploration in all cases? And how would that actually work?

**MS RIVERS (ANEDO):** No, we're not advocating for that. We don't think a full environmental impact assessment is required for every exploration project. What we're saying is that exploration projects that are in areas which are clearly either high conservation areas or high-value agricultural land where production will not be allowed, those projects should be looked at more closely and that there is a recognition, even from the exploration stage, that the ultimate aim will be to end up with production, if possible, and that that be considered and in some cases some further environmental exploration might be needed.

We're not saying you need a full assessment of every possible outcome from full production but, similarly, you can't go to the other end of the scale and pretend that this activity is just limited to the environmental impacts of the exploration project.

**MR WOODS:** Okay, that's helpful clarification of your position on that point.

**MR COPPEL:** I'd like to pick up the topic of bilateral assessment and approval agreements. You made a number of comments there and one that I picked up on was that you think the existing framework for bilateral assessment agreements is one that could be improved and strengthened. I was wondering if you could elaborate a bit on that in describing some of the areas where you think that is possible.

**MS McKINNON (ANEDO):** Thanks for that, Commissioner Coppel. It's Elizabeth here. We're of the view, certainly, of the function in the EPBC Act to enter bilateral assessment agreements between the federal government and the state government. It has been utilised up until now, so there are bilateral assessment agreements between those parties, with the federal government and most of the states and territories - I think all of the states and territories - but they're not functioning as well as they could. We believe that if the state governments, for example, were better resourced to do those assessments better and more thoroughly, that more processes would be accredited via those agreements, and we think that there would be a really good outcome in terms of efficiency and productivity in that regard if that

occurred.

**MS RIVERS (ANEDO):** The Commonwealth department, SEWPaC, has stated that in many cases the state assessments under the bilateral agreements are not up to the federal standard and that they have to then be remitted back to the state to do it again or to improve certain areas. In part this is because state systems are not at the same level as the federal system, and in part it's because a lot of those state departments are under-resourced, and particularly now the environment departments which generally conduct those assessments have been stripped back even further, so it's very difficult for them to do those assessments.

So there are a lot of those kinds of procedural things that could be improved, which would help any assessments under the bilateral agreements and mean that you could meet that federal assessment standard, which is very different, in our view, to the federal approval standard. It's a completely different situation.

**MS McKINNON (ANEDO):** But the point, commissioners, is that the time and the effort by the proponent in providing documentation and other efforts in these processes are at the assessment stage, not the approval stage. So the efficiencies - the wins, I suppose, in terms of efficiencies we see could be made at the assessment stage and function. The ability for that to occur is already in place. We don't need bilateral approval agreements for that to occur.

**MR COPPEL:** I think it's in the order of about 20 per cent of approvals - and this is not just in relation to exploration - are actually through a bilateral assessment agreement. That, for New South Wales, has lapsed and it hasn't been renewed. So it is a fairly small fraction of cases that are going through bilateral assessment agreements. You mentioned there are reasons for that. One of them is in terms of the accreditation standards.

I just wanted to draw on that in relation to bilateral approval agreements because such an agreement would need accreditation standards, and I'm wondering if your concerns are the same there, in that if those accreditation standards could be agreed and set at a sufficient level, would that be something that would change your view on the use of a bilateral approval agreement or is it going beyond that?

**MS RIVERS (ANEDO):** No, we don't support bilateral approval agreements for a number of reasons. As we've stated, state government issues are from a very different perspective. They have very different mandates and legal mandate, so they won't take into account the national interests. It's not possible for a state to take into account the full national interest when it's approving its own projects. They don't take into account Australia's international obligations and they won't do that to the same extent that the federal government will.

The other big issue really is that none of the state governments have the same legal standard or procedural standard as the federal government currently does, and so when people talk about, "If we had strong enough accreditation standards would that be okay?" it would require a huge amount of legislative procedure reform in every state to even do that, and we have no confidence that that will actually occur.

For example, in Victoria the bilateral assessment agreement that we have in place, the federal government did accredit the state government's standards and processes but in fact they are not up to scratch to the federal standard, and the federal government in off-the-record moments will acknowledge that fact. It's quite clear for anyone who has knowledge of this issue to see that the Victorian processes that have been accredited are not equivalent to federal processes. So it would be a very difficult process and we don't believe that the state government would do what was required to actually get themselves to that same standard.

**MR WOODS:** You treat that area in part in your early submission, but it would be very helpful to us if you spelt out, in a similar manner to your evidence today in any rejoinder submission to our draft report, those sorts of issues.

**MS RIVERS (ANEDO):** Yes, we will. Yes, we're happy to. We're working on the submission at the moment.

**MR COPPEL:** Coming to the topic of strategic planning and strategic assessments, and also the issue of cumulative impacts, this is a tool that I think there's a broad consensus that conceptually it has a lot of appeal, and it also has a lot of appeal to us here at the commission, but there are issues in how to make it operational. I was wondering if you also believed that there is a gap between the concept and making it operational and, if you have, if you agree with that statement; and if you do, if you have any views on how those operational issues could be addressed.

**MS McKINNON (ANEDO):** Yes, certainly we agree that strategic assessment in theory is an excellent idea. This has been something that our officers at EDOs across Australia have really tussled with over the years because we understand, certainly from kind of an academic point of view, that strategic assessment and its ability to assess cumulative impacts has the potential to have a really good environmental outcome.

Our problem is that in Australia we believe that the idea of strategic assessment has been fundamentally misunderstood from a cultural level, I suppose. When you look at international jurisdictions and how strategic assessment is done, it's not done as a replacement for project-by-project assessment, so our concern with how strategic assessment is understood in Australia is that a strategic assessment is done up-front and that essentially acts as a blanket approval mechanism, I suppose, for certain activities or a certain geographic area. We don't believe that that is the

intention of strategic assessment and we don't believe that that's the way that it's supposed to be applied, I suppose.

**MS RIVERS (ANEDO):** At an operational level there are a lot of problems with the way that we do choose to conduct assessment here. It's also done already, or has been done for a number of years, at the WA level. So there's some experience there, I guess, with some of the problems. One of the issues, for example, is that you may have a strategic assessment of a large area and the approval that flows from that may last for, say, 30 years, so you can have 30 years of development.

Then in 30 years' time when projects are individually coming up and there are new issues or there are different environmental impacts that were originally envisaged but not quite captured in the original project, or that there's a new environmental pressure that didn't exist before because of climate change or different changes to species lost, there's no ability to go back and revisit that original approval. That is the situation in WA, where strategic approvals given for up to 30 years, and 30 years ago, now are completely irrelevant to the current environment but it's not possible to get around them because they are legally binding approvals.

The other thing is that at a strategic level you're doing a much, much higher-level broad assessment of what you think may be the impacts. You don't ever get down to the more detailed levels because you don't know the specific project details, the project area. You don't know the specific environmental impacts. So you're saying yes based on a best guess at the time when it comes to the actual details of the project and the specific impacts. You can never assess those. You've given away, basically, your right to assess those because of the way our system works; that to get a strategic impact assessment you don't need to go back to the federal level for a project assessment. So yes, there are definite issues.

The one huge benefit is the ability to look at cumulative impacts but, in our view, the negatives outweigh the benefit at the moment. We would much prefer that project-by-project assessment could include cumulative impacts, or that you have strategic assessment but it doesn't negate the need for specific project assessment at a later date.

**MR COPPEL:** Okay, thank you.

**MR WOODS:** Any others, Jonathan?

**MR COPPEL:** If I can sort of come back to the point about strategic assessment and the ability to look at that as a tool to move beyond one project, one approval, if you have an effective strategic assessment that seems to be one of the goals. If you were in a position to be able to address new impacts that are learnt with the passage of time or that weren't known when the strategic assessment was actually crafted, an

ability to adjust that strategic assessment in time - would that be something that would address the concern of things that couldn't be anticipated at the time of a strategic assessment being developed, and allow a move towards an approval at a strategic area rather than a project-by-project approach?

**MS RIVERS (ANEDO):** It would alleviate, I guess, half the problem. It would alleviate that problem of unforeseen impacts if you could then look at those impacts in the future if they did come up, but it still wouldn't address the issue of doing a very broad versus a more-detailed project assessment. So if there were things that you could have known at the time, and you just hadn't done the assessment in enough detail because it was a strategic assessment, it wouldn't address that issue.

For example, in Victoria the strategic assessment we had done in Victoria around the urban growth boundary was an incredibly large and incredibly complicated assessment process that created thousands of documents and incredible confusion. It was very hard for people to negotiate their way through that process. As a result, things get missed and full assessment of full impacts just doesn't happen. So having that ability to reassess unforeseen impacts is useful but it doesn't sort of solve the whole problem.

**MS McKINNON (ANEDO):** What would solve the problem is just to do a project assessment of each project and, because the strategic assessment had been done, the project-by-project assessment would be smaller and quicker. I mean, that's what you would aim for.

**MS RIVERS (ANEDO):** And the other benefit of that then is that the strategic assessment could identify that this kind of project, for example mining projects in this kind of area, are not going to be acceptable; let's not even bother progressing to the project stage. That's the value of strategic assessment, if you then also can have a project assessment that's more specific and quicker to make the assessment as well.

**MR WOODS:** In your submission based on our draft are you proposing to go through each of the recommendations that we have - well, all the ones that you wish to make comment on - and, if so, we would certainly welcome your views on how they could be refined to more clearly identify actions that governments could take that recognise the objectives of trying to have some form of proportionate environmental regulation, and that it be risk based.

So are there any particular recommendations that you wish to draw our attention to? You've mentioned 6.2. You have sort of tangentially referred to 4.1, which is on the national parks issues. Are there others that you want to draw our attention to today or will you be leaving those to your submission?

**MS RIVERS (ANEDO):** Yes, 4.1 and then quite probably quite a few

recommendations in chapter 6. A lot of the recommendations there we'll refer to, so I think 6.1 to 6.4. Yes, we're happy to go through and specifically address the recommendations in our submission and make a specific comment on those recommendations.

**MR WOODS:** All right. Are there other matters today that you want to put on the public record before you proceed to that submission?

**MS RIVERS (ANEDO):** No, that's fine.

**MR COPPEL:** I just want to ask, in relation to a point you make in your submission, you stress the importance of public engagement and meaningful public engagement, which is a point that's been raised repeatedly throughout the process for this inquiry. I was wondering if you could share your views on how that actually could be established. Where are the gaps at the moment? Where are things falling short and what sort of mechanisms would constitute such meaningful engagement?

**MS RIVERS (ANEDO):** In relation to exploration projects - I mean, obviously it's different in each state, so we can't sort of comment for each state. We can particularly comment for Victoria and we're happy to put more detail in the submission, but there's a lot of issues in Victoria around notification of exploration projects. We have done a huge amount of work within the Victorian community on mining projects, and the main response we hear back is that people had no idea that there was an exploration or even a mining licence coming up in their area. The notification requirements are minimal and also it's very difficult to find the information, even if you know about it, through the department.

Then of course there's incredible community angst about the complete lack of ability for the community to have any real say in mining projects and exploration licences in their area. So in Victoria the community, once they know about a project, can make comment to the minister and that can be taken into account, but there's no other requirement. So even people directly affected, there's very little they can do to stop it. Obviously in many cases governments don't want the community to have appeal rights over exploration licences or mining licences, but the community firmly believes they should have a legal say in whether mining happens in their backyard, next to their house, in their local national park, and that's just not addressed at all, I don't think, really in any stage at the moment.

**MS McKINNON (ANEDO):** Certainly mining and mining exploration is given a privileged treatment in that regard. The reason the community has the expectation to be consulted and at least to be told that the information is to be made available to them is because that is what is required of proponents for other types of development. Mining is given special treatment in that regard.

**MR WOODS:** And certainly we're exploring what are the ways in which IT can be used to more efficiently and effectively ensure that it doesn't require individuals to have to trawl through applications and approval processes to be able to find out that something is intended to happen in their backyard. In this day and age it must be possible to more efficiently provide advice at the front end, rather than require discovery at the back end.

**MS RIVERS (ANEDO):** Yes, and that is obviously a useful first step and not a particularly difficult first step, so that's definitely beneficial. I think you'll find most communities would say the critical thing is to be able to have a say in whether the project actually goes ahead or not, which is completely legitimate. If you've lived for 30 years in an area that's quite pristine and one day a mine appears next door, you're not going to be very happy about that and its impacts on your life and the amenity in your community, and property values, and no benefit at all to yourself, and having to put up with this development, and suffer negative financial and other consequences.

So that really what communities want is to have an actual legal right to have a say in whether the project can go ahead in their area. That's a strong recommendation that we always make.

**MR WOODS:** Sure, and it would be helpful to us if you were able to draw on examples of practice that you thought were better and also, should you so wish to, draw on examples - and you have to an extent in some of the case studies that you've put forward in your first submission on what you constitute to be inappropriate practice. The more you can tie it down to specific examples and opportunities for us to examine those examples, it's helpful to us.

**MS RIVERS (ANEDO):** Yes, that's fine. We'll try and do that.

**MR WOODS:** All right. I'd also like, where possible, for you to clarify when you use - which you frequently do - the words "the community" as if it's sort of one entity with one mind. There are many individuals with many aspirations and many values and many views in any one location, but you have tended in your submission and in evidence today to sort of collectivise them as one body with one mind, and it would be helpful if you could try and draw out who, in particular, you're referring to and how they can be brought into the engagement process rather than this sort of collective noun.

**MS RIVERS (ANEDO):** Yes, that's fine. Obviously the section of the community that we come into contact with are the people that are concerned about these issues. Of course we acknowledge that we don't speak to the entire community or speak for the entire community, but we do have a very broad coverage across Victoria, and the other EDOs across their states, of the general feeling in regional communities in particular about these projects.

**MS McKINNON (ANEDO):** And certainly you did list just there that there are different people with different interests, and we know about them because they all call us, basically, especially on the issue of mining. We get a really, really diverse cross-section of the community calling us and not the typical people, I guess, that you would think would access an environmental legal service, so not necessarily environmentalists at all with regard to mining. Most of the community education services and things that we run in rural communities are attended by farmers and landowners.

**MR WOODS:** And we note your reference to the number of workshops you do hold, and I think that sort of public education process is excellent. It was good to see the number of workshops. I think you illustrate it with one particular state example, and so the experience that you draw from that is quite helpful. We have done our own visits as part of this process and been to a wide range of areas, and also understand the diversity of views that exist within towns and villages and on properties that are affected by exploration and sometimes, although not as frequently, affected by mining itself.

I don't have any other issues and my colleague commissioner doesn't at this stage, but are there any concluding comments that you wish to draw to our attention while you have the floor?

**MS RIVERS (ANEDO):** No, that's fine. We'll add anything else into our written submission.

**MR WOODS:** Okay, and if there are other issues that you want to raise, our staff are always available for consultation. So thank you very much and we do appreciate your first submission and today's attendance and look forward to your second submission.

**MS RIVERS (ANEDO):** Good. Thanks very much for your time.

**MR COPPEL:** Thank you.

**MR WOODS:** That concludes the formal presentation scheduled for today. Is there anyone present who wishes to make a brief statement to the commission? If so, could you please come forward? If you could state your name, any organisation that you may be representing and the position you hold in that organisation?



**MR VALE:** My name is Mark Vale. I'm a lawyer with Peabody Energy, a coalmining company. It's an informal statement. I've noticed from some of the - - -

**MR WOODS:** Let me remind you it's on the public record.

**MR VALE:** Yes, it's on the record.

**MR WOODS:** And it will be available for all parties. Are you speaking on behalf of Peabody or are you speaking as an individual?

**MR VALE:** As an individual. I've noticed from some of the content it's drifting away from the subject of exploration, which I understand is the subject that you're inquiring about, into things like development. The logical conclusion that people draw is that if it's explored it will be developed. I guess what we want to do is encourage the knowledge of the nation in terms of its resources through the exploration process to understand what we've got, separate from whether or not we develop it or when we develop it or how we develop it.

Just because somebody finds something doesn't mean it's economic to develop today, but it's important for the nation to know that it's there for the future. I guess that's what we try to encourage, as is the case across the resources industry. There's lots of coal and there's lots of gold and there's lots of other resources in the nation, much of which can't be extracted economically today but, if we know it's there, then at least there's the incentive to encourage research into how that's to be done more efficiently in the future, whether it's through techniques that we haven't perfected or even devised today, automated forms of mining or other forms of extraction.

I guess the essence of the exploration industry is to find what's there and then, subsequent to that, whether or not it can be developed and when it can be developed. I'd like to see that being the focus instead of the content polluted by the development of projects as some kind of barrier to the exploration task being conducted.

**MR WOODS:** Have you had the opportunity to look at our draft report?

**MR VALE:** No, I haven't.

**MR WOODS:** Okay. I would be interested, should you so wish to look at our draft report, because I feel satisfied that our draft very much focuses on separating out exploration from possible potential production processes, and that's been an issue that we then raise with those who try and conflate the two. But were you able to have a look - - -

**MR VALE:** Certainly the parts that I have read do give me that impression, so I'd like to hope that that would be the case and remain the case for the final report.

**MR WOODS:** It is the terms of reference and that's our focus, but if there are any areas of the report that you may wish to comment on, there is not a lot of time but we would certainly encourage you to do so.

**MR VALE:** I will.

**MR WOODS:** Thank you for your statement.

**MR VALE:** Thank you very much.

**MR COPPEL:** Thank you.

**MR WOODS:** Anyone else wish to make a brief statement to the commission? That being the case, I will adjourn the hearings until Canberra tomorrow morning. Thank you all.

AT 3.08 PM THE INQUIRY WAS ADJOURNED UNTIL  
THURSDAY, 4 JULY 2013