

ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE
Inquiry into greenfields mineral exploration and project development in Victoria

Melbourne — 29 August 2011

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Ms M. Davison, Assistant Director, Victorian division, Minerals Council of Australia,
Mr T. Burrowes, Member, Victorian State Councillor, Minerals Council of Australia, and
Mr A. Mattiske, Chair, Environment and Communities Working Group, Minerals Council of
Australia.

The CHAIR — Welcome to the public hearings of the Economic Development and Infrastructure Committee's Inquiry into greenfields mineral exploration and project development in Victoria. The Committee is an all-party parliamentary committee. All evidence taken at this hearing is protected by parliamentary privilege. Comments you make outside the hearing are not afforded such privilege. Please state your full name and business address. Your evidence will be taken down and become public evidence in due course.

Mr FRASER — My name is Chris Fraser, I am the Executive Director of the Victorian division of the Minerals Council of Australia and my address is Level 8, 10–16 Queen Street, Melbourne. I take it you have all received our submission. I now ask Megan to present our case.

Ms DAVISON — Megan Davison, I am Assistant Director of the Minerals Council of Australia, Victorian division, located also at Level 8, 10–16 Queen Street, Melbourne. I am representing the Minerals Council of Australia at this public hearing.

I thank you for the opportunity to come and present to you today. This industry is our passion, clearly. We hope to make it the passion of many more going forward coming out of this inquiry. We recognise that the Inquiry provides us with a unique opportunity to focus Victoria and Victorians on developing the minerals industry and recapturing some of that market share that we have lost to our fellow jurisdictions around the country but also to our international colleagues around the world.

The MCA represents Australia's exploration, mining and minerals processing industry nationally and internationally, and our member companies produce over 85 per cent of Australia's annual mineral output. Our strategic objective is to advocate public policy and operational practice for a world-class industry that is safe, profitable, innovative, environmentally responsible and attuned to community needs and expectations. The Victorian division of the MCA represents the interests of member companies operating in Victoria and providing those services to the industry in Victoria. As a national organisation we operate on a platform of national consistency. The industry is obviously international and borders are just those; the minerals are everywhere. We consider that mineral operations in all jurisdictions should be subject to the same policy and legislative frameworks across the country.

I will touch on a few key areas that are in our submission. The minerals industry in Victoria has the potential to become an important economic contributor to Victoria's growth, particularly in regional and rural areas of Victoria. In fact the industry could become the second driver of economic development in those communities along with agriculture. The prospectivity of Victoria is often debated and the MCA advocates that a well-resourced GeoScience Victoria or geological survey is critical to the industry's future, and that pre-competitive data collection provides a sound platform from which explorers can view the prospectivity and choose to come into the State.

This data is also fundamental to governments in understanding the underlying resources. The Crown owns the resources and needs to actually understand what is there and the best way to develop and promote the industry. In Victoria, like elsewhere, technology is the key. Victoria has been relatively unexplored using modern-day technology.

Outcropping at the surface is gone. Long gone are the days where you would pick an outcrop and follow a gold reef. A lot of the low-hanging fruit has already been plucked compared to some of our other jurisdictions both in Australia and overseas. As a result the State has lost market share in minerals activity and it is no longer seen as an attractive place to invest. However, the substantial contribution of the mining sector to Victoria is indisputable. Historically, in the building we are in today, but also currently, Melbourne continues to be one of the few international mining capitals of the world. The Melbourne central business district is booming with regard to mining. Having the international head offices of mining houses located here, including the world's largest miner, is fundamentally important to Victoria retaining its connection to mining. Wherever those international headquarters of miners are located, all of the support and service sectors flow. Large businesses, insurance, financial services, technical services, engineering, equipment and new materials manufacturing — it flows on. There are many value-adds that are attracted to the industry. Unfortunately governments over the years have failed to recognise this contribution. I also think Victorians themselves have forgotten their connection to the industry. It seems to be an industry of the past, whereas it is still an industry of the present and definitely of the future.

The regulatory and policy environment are obviously key to any business operating in any jurisdiction. With regard to the mining regulatory environments and policy making, it is considered that there are quite a few obstructive laws, regulations and guidelines and a lot of overlap and duplication both within Victorian Government policy and regulation, but also there are laws here that are duplicative of national laws. There are quite a few national laws that certainly impact on businesses and particularly the mining industry in Victoria. I will touch on those a little later.

Regulatory practice has long been a frustrating place for us to operate within. In our words regulatory practice is the application, administration and implementation of the laws. So you have the black-and-white letter of the law passed through the Parliament of Victoria and then, hitting the ground running, there is implementation of that. Too often decisions are made in an ad hoc and unpredictable way. Often relatively junior officers in departments and agencies are given the task of making decisions on very important industries and projects that can be of significant economic and social stature in Victoria. We have also had experiences of departments and agencies operating in silos; they are very much focused on what is within their particular operating environment and do not consider the triple bottom-line approach at which most governments would like decision making to occur.

There is also a very poor regulator understanding of business. I am sure that is across all types of industry in all economies, but particularly mining, which is quite a technical industry and requires a lot of specialist skills. The relationship between the regulators and the industry at that technical level leaves a little to be desired. It would be advantageous if there was a little bit more business understanding and communication.

With all of this there is a perception that Victoria is a pretty tough place to do business. No matter how many times governments state that Victoria is open for business, on the ground the reality is that maybe it is not as open as we would all like it to be. The continuing existence of these barriers to companies that are part of a global industry do result in ongoing and very significant hindrances to investment in Victoria. Simply put, the scarce resources for exploration projects will be applied elsewhere.

I would like to touch on something I was speaking about earlier. We participate in dozens of inquiries and reviews: parliamentary committees, portfolios, Victorian Competition and Efficiency Commission, planning panels — all of those. We have been putting the case for robust, transparent, sustainable and risk-based regulatory and policy regimes for over a decade now. Governments and agencies have agreed with a lot of those recommendations. We do not actually see much delivered on the ground. If I can leave one thing with you it is that we simply ask that a lot of these recommendations are implemented. A lot of these things come at no cost; they are simply changes in practice and a commitment to delivering.

On some of the details, the principal law that regulates the mining industry is the *Mineral Resources (Sustainable Development) Act*; I will shorten that to MRSD Act for convenience. This Act is just over 20 years old now. The former Government determined that there was a need for reform, which we very much supported. There had been amendments throughout the years, but this was pretty much a wholesale reform. It was to be undertaken in two stages — the first around the licensing regime, and the second around a lot of the overlap, approvals and efficiencies to be gained between the various government agencies. The first phase was passed in Parliament at the end of last year, to come into effect in February next year. We supported some of those amendments, such as including the concept of the retention licence, which is a licence between exploration and mining to allow you to prove up your resource to gain access to the markets and finances. However, we remain opposed to one of the significant amendments, which was the relinquishment of exploration licences over a period of time. This places an unwanted burden on many projects, and the relinquishment of land in a time period where you may not have sufficiently been able to apply your exploration techniques and knowledge does remain a disincentive to the industry coming into Victoria.

With the stage 2 reforms, as I mentioned, we were given the commitment that there would be a lot of efficiencies to be gained and there was a lot of overlap to be reduced. We are in discussions at the moment with the Department of Primary Industries on this, but unfortunately they are not leading to the outcomes on which we thought we had an agreement, around reducing those regulatory burdens without reducing the environmental and social commitments and sustainable practices but with a lot of that red-tape reduction and reform. Without those benefits in stage 2 we consider it necessary to revisit those decisions and amendments made in stage 1. However, if stage 2 does lead to the breaking down of silos, streamlining regulatory burden and improving the

capability and resourcing of the regulators, that should lead to some quite good outcomes and possibly put Victoria in a position of leading on mineral resource legislation and tenement licensing.

Exploration, as you would all know and as you heard at the last sitting of this committee last week, is the lifeblood of the industry. You do not have a mining industry without exploration. Exploration by its very nature is that you are actually looking for things and looking to find resource bodies. Explorers are risk-takers and entrepreneurs; they simply have to be, with about only 1 project developing out of every 1000 exploration projects. There are very high-risk stakes, and certainly risk-takers do not need bureaucratic red tape. Exploration and project development capital is all very scarce. In a downturn economy the market is quite risk averse. Also, it is simply impossible to get debt financing in a lot of this environment. That does lead to an uncertain business environment, regardless of where you are at in the country. A favourable jurisdiction is not solely defined by its geology but by a mix of indicators that go into the concept of business certainty, where government permits and operational processes are transparent, equitable, clear, predictable, logical and timely. All of those things can be barriers to entry if the geology is the same. However, having those key platforms right, you push down some of those barriers and it becomes more attractive.

Victoria is unique with regard to its land size. You would have seen in our submission that we did some analysis of the physical footprint of Victoria compared to the population. We have almost three times the population density of any other jurisdiction in Victoria, meaning access to land is pretty tight. Of course there are areas of land where exploration and mining is not permitted with regard to nature conserves and national parks.

With regard to our small land mass and having the second largest population, we are also very well endowed with resources. Historically an enormous amount of gold has come out of Victoria, and data shows that there is still a very large amount to still come out. Of course we have world-quality brown coal resources sitting in the east. The industry has long considered that multiple and sequential land use is fundamental to achieving economic growth. It is consistent with the principles of sustainable development. The industry put into operation a sustainable development policy well over a decade ago now, and members have to sign on to this 'Enduring Value' policy going forward. This has been recognised by governments, by bureaucracies and by our farming colleagues and community colleagues as good practice. It is international good practice as well.

Consultation is a large key area for the industry. We often refer to our social licence to operate. Obviously the industry requires a regulatory licence to operate, but the social licence can certainly set up a company's future as well. Consultation early and often is the key, and we were instrumental in encouraging the former Government in legislation reform to enshrine that concept of community consultation. The industry had been doing it for quite a long time, and bringing laggards up from various industries can only benefit us all. We have developed a number of booklets and guidance material around that and we have a number of documents that we can leave for you. We have also worked very closely with our farming colleagues through the Victorian Farmers Federation to develop some guidance and best practice. I was very encouraged to hear that Mr Ramsay spoke about that document, as reported in *Hansard*, only a couple of weeks ago. We are very proud of that, and the other jurisdictions are looking into emulating what we have done here with that relationship.

Invariably there will be rare cases of dispute over land and access to land. We have been very lucky and have used effectively a dispute resolution procedure that is enshrined in the MRSD Act through the Mining Warden. We are very supportive of that dispute resolution procedure, and we have been working again with the Victorian Farmers Federation on improving that — increasing its transparency and increasing its independence. We make some recommendations on how to make that a very effective statutory body. Again, other jurisdictions look to Victoria to see how that works, and we can lead on this as well.

This expanded concept of the Warden is aligning it more with what the existing Small Business Commissioner does. We treat landowners as businesses and mining industries as businesses. It is about a business negotiation and the consent and compensation around that. It is business to business. Unfortunately over a number of years the Department has been intent on burying the dispute resolution procedures. We do not support that and it is quite unfortunate. We look to the State's northern colleagues and see the incredibly adversarial conflict between the mining community and other land users, and we simply do not think we should reach that end. We have a great procedure in place that we could enhance. The fact that we have industry and farming community co-branding of documents such as this is a simple win-win for all.

There are a number of solutions I would like to leave you with. Do not underestimate the importance of acknowledging the industry — just acknowledging the contribution, acknowledging the future — recognising the importance and its potential. Also I would like to be very clear: the MCA does not advocate a reduction in social and environmental standards by any means. We do, however, seek greater efficiency, effectiveness and consistency, and we seek a well-resourced and capable regulator as a critical area for attention. We also understand and seek that the policy and regulatory framework needs to be balanced between promoting investment in the State, good practice and the expectations of the community.

I reiterate that we are fatigued on making the same recommendations to various committees and inquiries. We understand that things take time, but there has been a lot of good work done, and we do commend the Victorian Competition and Efficiency Commission over its number of inquiries over the last five years. Most recommendations we have overwhelmingly supported. We seek a whole-of-government approach to project approvals. There is a raft of approvals the industry requires, from transportation to infrastructure, land access, safety and health, environmental. Having a whole-of-government approach to that in fostering the industry without reducing the standards and the outcomes could only enhance business development. It exists for some; the *Major Transport Projects Facilitation Act* is one of those that was passed in the last term of government. It needs to be focusing on business decisions rather than a single portfolio being charged with making the decisions and therefore causing conflict with other portfolios. It is a business decision, a whole-of-government decision understanding the value to the community and the economic prosperity of the State.

We also look forward and encourage a comprehensive and risk-based reform agenda going forward. Risk is what we do well. Risk is what business does well. Decisions are made on risk. Regulations need to keep pace with that.

One of the areas where we are looking for very simple improvements is around native vegetation. We have long supported the framework of no net loss. The implementation and regulatory practices I mentioned earlier is where it falls down. Also, the policy is around no net loss. The industry could provide enormous benefit in that if we were given access to providing native vegetation offsets on Crown land. The Crown land manager, we have long suggested, is not adequately resourced, and there is a lot of opportunity for the private sector to get involved in that with the ultimate goal of no net loss. In some cases the industry is better able to provide that preservation of native vegetation on Crown land.

Finally, touching again on the regulatory burden between jurisdictions, the *Environment Protection and Biodiversity Conservation Act* is a significant piece of federal law. It has incredible overlap with a number of pieces of legislation in Victoria. While there are bilateral agreements on the assessment of projects of environmental significance, approvals are yet to actually be made bilateral agreements. This was a decision of COAG around seven years ago that this would proceed, and I acknowledge that the EPBC Act review outcomes were released only last week, and we are still yet to fully analyse those impacts. We urge the Victorian Government also to take leadership on this as well.

As I mentioned, working nationally, both Chris and I know that a lot of people are looking to Victoria for the good practices that we have. We need to continue to foster that and be cutting edge and leading to that risk-based environment.

Mr FRASER — Tom is going to talk about some specific examples from his company which will reinforce what Megan has been talking about.

The CHAIR — Would you like to state your name, your position with your company and address?

Mr BURROWES — My name is Tom Burrowes, and I am a Director of Providence Gold and Minerals Pty Ltd. It is a private company and it is a member of the Minerals Council of Australia, Victorian division. We represent the explorers, so we represent the small end of the sector. I think it is important to realise that too much of this is often the big companies are up there and they have got the resources for that. It is like any industry; there are a few big operators, and there are a lot of little ones.

My own background is I have operated at the corporate level for six or seven companies in all states of Australia, but more recently I have had a vision to find a new goldfield in Victoria. Megan mentioned the fact that in the outcropping areas of central Victoria — Bendigo, Ballarat and Castlemaine — it was relatively easy

150 years ago to discover gold, but the same amount of prospective geology exists north of Bendigo and north-west of Stawell, which has been buried by recent sediments and silts.

The passage of time has allowed modern technology to then look through this cover of silt. We have still got the blindfolds on, but we now have mechanisms to actually look through this cover, form a view about the geology and then drill through. Again, if you take it back to prospecting days, it was all done with a pick and shovel. It was an amazing effort, and it left various legacies too, as we know — good and bad — but these days we can actually apply modern technology, which is geoscience, and the good old drilling rigs, like water bore drilling, to take samples from under the ground, which is very non-intrusive as well.

I have always believed in the prospectivity of Victoria and always felt it is a good place to operate, but over the years I have found that if I am too close to where there are too many people — too many green areas, beaches — it becomes harder and harder. It is very important to be able to get access to the ground in a timely and efficient manner. I have increasingly gone to areas where I feel more welcome.

I did spend some time as Chairman of Bendigo Mining 15 years ago, and did a lot of work with the community groups there, which I really enjoyed. It was a very good thing to do, and I learnt a lot from it, but there is quite often not a lot of community support; whereas operating in the northern country and out in the Mallee regions there is a lot of support for a new industry, and it is nice to feel that support. I echo Megan's words about the fact it is nice to feel loved, particularly if we are going to take the risks.

Megan made the point, too, that of 1000 prospects generated, 1 is generally turned into a mining operation. We see that there can be great advantage in the rural areas of Victoria having a new industry. Certainly in the areas where I have been operating I have had more than one farmer say, 'I hope you find something, Tom; we need a new industry up here'. It does not take much to drive past Bendigo to the north or Horsham to the west and see country towns dying on their feet. It is quite sad. The effects of the drought have been decimating. Then last year was the worst bit, because they had beautiful rainfall and then it trashed the crops at the 12th hour. It is really very much a demoralising thing for the local communities. Clearly I believe there is a win-win here. We do not need to be adversarial. It was awful to see on *Q&A* last week miners versus farmers. It is not about that. We live in a world of multiple usage. There are a lot of us — there are more people every day, every year — and we must all learn to get together, work together and work out a win-win situation for our respective industries. I have happily drilled on over 20 farmers' lands; they have all let me on. I have cups of tea and stay overnight. It has all been really hospitable. For me, country hospitality and country values are wonderful things to rediscover.

To put the risk in context, too, we have actually been lucky and found a bit of gold north of Bendigo. It took 328 drill holes to find and eight years. Things do not always happen quickly. I wish we were smarter and could have got onto it a bit quicker, but that is the way the cookie crumbled; it took that long. I have to say that there were two big steps forward. This is grassroots exploration or greenfields exploration here, which I think is the main subject.

What is the concept? The concept is there is another Bendigo sitting there somewhere in Victoria that has not been found before. Okay, so how do we find it? What is the methodology? We acquire datasets, called gravity data, and GeoScience Victoria, which is part of the Government's DPI, has been instrumental in the last five years in generating that data. That has allowed us to look through the cover and form a view as to where to drill. The second step is then to drill.

What I would have to say is about six years ago the Government initiative Gold Undercover was very instrumental in helping identify the gold prospectivity of northern Victoria, and other parts too, and also generating specific information and pre-competitive data that we could then use to drill our drill holes.

Effectively if you have got a table as flat as this and there is gold sitting somewhere underneath it, the gold might have a footprint the size of this glass. If I put this glass under the table and then say, 'Okay, where is it?', that is the challenge we face. There are two ways to do it. One response is to say, 'Look, this is stupid, just go and lie on the beach. This is just too risky, don't even bother doing it'. That is one response. Another response is, 'Okay, let's rise to the challenge and have a bit of fun and go out and find it; go out and jag it'. The Government work five years ago was pretty instrumental in that, in putting the conceptual framework around Gold Undercover and how the discoveries are made.

The second thing that then happened and made a big difference three years ago was that the Government put up drill subsidies, which was a good way to do it. Most states of Australia now have them. The drill subsidies recognise that the mining industry can generate a benefit for the State. The State owns the minerals, as Megan has pointed out; it is not the Federal Government but the sovereign states that own the minerals. That has always been the case. The drilling subsidies were generated to encourage drilling. As much as we can do our theoretical studies and be very impressed by colourful maps, until the holes are put into the ground and the dirt is pulled up and sent off to the lab we are really guessing. That drill subsidy was applied, and that helped us go out and drill more holes than we would have otherwise drilled. It is only a 50 per cent subsidy; it actually worked out at about a 33 per cent subsidy — and that was instrumental in making a discovery.

I would obviously commend those two initiatives which were in place five years ago as being key success factors in the discovery of gold in the project I am talking about. That discovery has not turned into a development yet. After having drilled 328 drill holes before we saw one speck of gold, we are now up to 472, and I think there are another 500 drill holes required to actually define where this glass is under the table looking through the barren cover.

How do we encourage this mineral discovery in Victoria? Firstly, we as a society, as a government and as a Parliament need to recognise there is a value. Again I support what Megan said: it is nice to know that we are loved; that it is actually valuable. Unfortunately in the public utterances in the last couple of years I have not heard that nearly as much. A number of my mates in the industry have gone off to Africa, and they say, ‘You’re wasting your time in Australia’ — not just Victoria — ‘Go to Africa or South America where the geology is better’. I have always said that we can do it here, but it has gotten a lot harder here.

What do we need? Obviously access to land is critical. We do not wish to diminish in any way our responsibilities to the environment and to communities. Clearly they are not negotiable; we must operate within our communities. Much of the geology is undercover, so we need to be able to find out where to look under the cover. The supportive science that was particularly involved in the Gold Undercover initiative through DPI was fantastic. We have that supportive science. A supportive jurisdiction is nice to have: clear and fair legislation and regulations and an administered, efficient and supportive bureaucracy with minimum red tape.

Everyone says this, and I guess I will say it too: there is no question that we need a rule book and we need a clear requirement for that and for proper project planning. But if we get caught in the tangle of intergovernmental departments with three different departments all arguing the toss, and in particular poorly resourced ones that may not understand and do not want to make a decision and put their necks out, many months can go past. We would lose that opportunity then. Victoria does have a poor reputation in the minerals game.

I guess the other one is recognition of the high risks involved. In the case of the gold discovery I was talking about it took 328 drill holes — and that is a lot — just to find gold in one of them that will actually lead to something. That took eight years. Recognition of the time frame that it takes and the level of risk is important. As a private practitioner I certainly suggest, particularly with Gold Undercover, which is my personal passion, that more gravity data should be collected. I know I have certainly put this point of view to DPI through GeoScience Victoria. I believe that is very important. This should be made available to whoever wants to operate that, whether it be the Government, which generally does not want to operate it, or private operators. Obviously drilling subsidies — and there were three years of drilling subsidies — made a big difference; it certainly made a big difference in my case. It is certainly a competitive thing to do in relation to other states of Australia.

Thirdly, of course, there is the supportive environment at all levels of government, departmental and community levels. Clearly we as practitioners must do our bit to ensure that our communities are friendly, on side, well informed and do not feel threatened at all. Personally I do not want to cause any anxiety on the farms on which I operate; I want to get on well with my fellow citizens who live up there — and so far so good — in a way that we generate win-wins for rural Victoria and the State as a whole.

Mr FRASER — I was going to ask Andrew Mattiske to say something, if I could indulge you, Chair.

Mr MATTISKE — I will be very brief. My name is Andrew Mattiske. I am the manager of health and safety environment at Unity Mining Ltd at 66 Ham Street, Kangaroo Flat. Unity Mining is a member of the

Minerals Council of Australia. Unity Mining, formerly called Bendigo Mining, has been exploring for gold deposits in Victoria since 1985. We have developed the mine and have been operating beneath the city of Bendigo for many years.

I guess our view is that exploration and mining activity in Victoria has been hampered by a complex regulatory framework. Certainly the replication and multiple layers of regulatory instruments required to operate in the State is a disincentive for mining companies. There is a lot of scope to streamline and consolidate regulatory requirements, and we have talked about a number of those. I guess by way of example, at last count our current operation at Bendigo has 234 separate approvals to carry out our activities, which we have applied for individually through 14 different government departments. If you consider that all of those 234 approvals have been applied for individually and have been separately issued and that invariably they all come with separate sets of conditions to comply with, you can appreciate that it makes for an extremely complex and onerous regulatory framework. In fact this morning I brought along a consent from DSE to work in the regional park to do some exploration drilling. I have the consent here with 45 conditions, and that is just one of the types of consents that we are requiring on a regular basis to carry out activities.

It is difficult for organisations carrying out activities to know exactly what all the consents contain and to comply with all the individual requirements, as it is difficult for the regulators trying to track exactly what we are required to comply with. Certainly the multiple and overlapping regulatory requirements of the State are really quite difficult to manage, and it is an impediment for people operating in the State. Unity Mining has a gold mine operating in Tasmania and is doing exploration in West Africa. I think it is fair to say that we find Victoria's regulatory requirements probably more complex than those of the other places in many respects.

I would like to reiterate that the geological infrastructure that GeoScience Victoria provides — and Tom spoke at length about that — is really valued by the industry, and we would certainly support those sorts of initiatives to provide that geological infrastructure so that the industry can develop and expand what it is doing.

The CHAIR — Andrew, we will probably have to leave it there. I think we have gone a fair bit over time. Thank you very much for your submissions. I might start off with a question, if that is all right. I have really appreciated and welcomed the emphasis on how valuable mining is to jurisdictions and particularly how much value we could get out of mining in Victoria. I understand your frustration at the recommendations having been bypassed at various times. Having said that, obviously there is a point of tension between landowners and people who would like to mine on the land, and that is to a greater or lesser extent, depending upon the circumstances. Recommendations and, to a greater extent, legislation have to deal with the difficult circumstances rather than the ones that we have experienced to date. What would you see as being required in circumstances like that, past the point of simple consultation? I mean, consultation is very important, but once you get past the point of consultation, if you have a highly valued commodity that is under the ground and you have proprietary rights, how do you see those being addressed?

Mr FRASER — I am happy to talk to that. Currently the law requires consent; there must be a consent from the landowner. If you cannot gain consent, then there is a process to gain a compensation agreement, and that is currently that you go to VCAT. We have not had any experience of any of our members going to VCAT in the last 10 years; they just do not do it. That is in exploration and in mining. People generally, as Tom said, find ways to gain consent.

In the recent past we had a Mining Warden who took it upon himself to offer a conciliatory service between the landowners and explorers. He would often visit families and talk about their issues in the kitchen. They would sit around in the kitchen with a cup of tea and talk about what the concerns of the farmer might have been and so on. That proved very successful in finding solutions, but it was an initiative of his own, it was not supported by the legislation. The Mining Warden is really set up to investigate cases and then report the findings to the minister.

There was an inquiry done on the Mining Warden a couple of years ago by the State Services Authority, and it came up with the idea of moving the Warden into the Small Business Commissioner's offices and then having that Warden as part of the process to provide a professional, transparent mediation service for these issues with the idea that you would require a mediation to happen and fail before you could go to VCAT. We inquired into this and we have made that recommendation to you.

We have been working with the VFF, and we have come to the view that if we could introduce this very professional, transparent mediation service, we could alleviate a lot, if not all of those sorts of issues. The Small Business Commissioner is set up for small businesses to deal with large corporations — retailers in a big shopping complex or owner-driver truck operators dealing with a multinational or the like. It fits in nicely with the farmer-miner-type environment. A case setting out the complaint from either party is set out by the Warden, clearly identifying the issues; then the parties come together with an independent, professional mediator. They try to find a solution, and if they find a solution, that solution is documented and is enforceable under law. The parties then go away. If they cannot find a solution and they have a certificate of failed mediation, they can then go to VCAT and the law comes in.

We believe that that is a very viable, low-cost change that would make a dramatic improvement in the issues we see confronting our fellows in other states. It is something I think we could do. Given that it is supported by both industries, I would think that it really is a no-brainer.

Ms DAVISON — The conflict very rarely escalates in Victoria. There is the practice of the industry, the consultation with the farming community through our guide books and our compensation agreements. It generally is a conversation. Often a lot of fear is drummed up around potential explorers, thinking that you have an exploration licence one day and you are going to start mining the next day. I see here the Government and the Parliament can very much demystify that, and that is with information. We can speak a lot about what the regulatory requirements are, but of course that is coming from a perception of conflict; whereas if the Government or the Parliament of the day says, ‘There are very robust rules in place. This simply is not a situation of getting a licence and then you are going to mine’. A lot of the fear can be dispelled very easily.

Mr FOLEY — Thank you for your submission; it was very informative and brought together a lot of the background material we had. I want to ask you about the two-stage review of the parent act in Victoria, the MRSD Act. We have had, if you like, the bitter pill bits that the industry signed up to as part of a broader consultation and changed stuff — it was passed last year and comes into place next year.

In regard to the second stage, which you indicate in your submission is perhaps not meeting your expectations, how do you see that being resolved? What specifically do you seek to be involved in the second phase of the MRSD Act reviews that will facilitate, as you say, particularly project development, a multiple layer of regulatory approval stuff? And given it is the issue of the day, following on from what the chair was saying, how do you see that then playing into that same issue — the social licence to operate, the perceived difficulties between the private land-holder, the surface land user and the mineral resource application — particularly given the almost bipolar nature of the debate where there are public comments out there now in Victoria around: if it is a choice between one or the other then prime agriculture and food security gets dealt with? It seems to me that you are almost being wedged into a no-win position — the evil miner versus the humble farmer type of thing. How do you see all of that coming together in a legislative instrument that is going to meet some of the goals you have spoken about, summarised as the efficient, timely and effective regulatory environment you want to work in?

Ms DAVISON — On your first point, our view that the second phase of reform is not proceeding as we had hoped and as was intended, it comes down to will and the ability to understand what good reform looks like and how to achieve it. We continue to encounter patch protection between agencies and departments, silo thinking, and a lot of mistrust between departments as well. That is putting the brakes on a whole lot of decisions. There will be discussions about proceeding down a certain path. In principle, it will be discussed and agreed or it will go back into the various departments and there will be an individual or a group of individuals who have a particular viewpoint and it stops. Even when you have a whole-of-government recommendation coming out of inquiries that this will occur, it simply does not.

Mr FRASER — For example, in 2005 the Government accepted a recommendation of the Competition Commissioner to liberalise the definition of low-impact exploration. He then reviewed it again in 2009, and again the Government said, ‘That is a good idea, it should be done’. Can I tell you that it still has not been done, and at a meeting last week they were still prevaricating about what this definition might be. It is because there is no will within the various silos of the departments to reach an accommodation.

Ms DAVISON — And this is simply a thing that requires a ministerial gazetting. It is not a parliamentary sign-off that is required; we cannot even seem to get these decisions made. I think it takes leadership, and I think unfortunately we do not have that at the moment across various departments.

In respect of your second point about what we are seeking out of stage 2, that is significant streamlining of approvals and our concept of a one-stop shop. There are precedents that exist through the *Major Transport Projects Facilitation Act 2009*. There has been major project facilitation in various jurisdictions, even a federal major project facilitation responsibility. Also there is the Coordinator-General in Queensland. The head of department in South Australia is given a mandate essentially, not enshrined in law. There is commitment and also a single decision-making body, as Andrew touched on, for the hundreds and hundreds of approvals that are required. Even going through an Environment Effects Statement you would get approval for your project and then you go back and re-get the approval. It is just duplication for no gain and no benefit. It does not change the outcome of the project; it is just paperwork. So that is the core of where we see second stage reforms.

There are also a lot of efficiencies to be gained through streamlining the instruments, the work plans. Work plans in the legislation are really quite streamlined and basic. How they are applied means they have become monsters, absolute monsters; there are shelves of what is in there. You will see the work plan variation and get conditions. They will be added onto a document that has conditions that may be in conflict, but the Department does not review those, so you have conflict. You have condition upon condition that are in conflict. Which one are you complying with? How are you proceeding? It should be based on outcomes. You would not tell a factory how to do its process line, but essentially this is telling the industry how to do its business, how to suck eggs.

Mrs PEULICH — Could I just ask a follow-up question. You are simplifying it, but unfortunately, as you no doubt would know, it is a lot more complex. You are talking about a conflict essentially between a perspective that the productive use of land through mining is a very important endeavour for the prosperity of the State and a whole range of other issues that do not uphold that view. It is often a chasm of ideology and perspective about land uses. You are talking about stronger environmental interests, not necessarily just legislation but obviously much of it is reflected in legislation. Whilst I understand your perspective and the importance of industry, the solutions you are putting forward do not acknowledge sufficiently the complexity of those interests and working on a way forward. Perhaps you could just talk us through this. You have 234 approvals that you mentioned across 10 government departments. You felt that that was onerous; it certainly sounds very onerous. There are an enormous amount of conditions with which you need to comply. Can you talk us through, say, the three best examples of the conditions that you think are unreasonable in those approvals?

Mr MATTISKE — I can probably answer this.

Mrs PEULICH — Just give me the most obvious.

The CHAIR — Is it the number of them?

Mr MATTISKE — It is more the number of them. Some of them are very basic — notifying simple activities, retaining stormwater onsite. It may or may not be important but it is something that is fairly onerous. It is really just the volume and they all sort of overlap one after another.

The CHAIR — And all of them from different areas?

Mr MATTISKE — That is right.

Mrs PEULICH — Let me tell you that getting a permit for a three-unit construction in suburbia is not nearing the complexity of what you are talking about — —

Mr FOLEY — You have not tried the City of Port Phillip, Inga, let me tell you.

Mrs PEULICH — But it reflects in a microcosm the sort of tensions that occur in a bigger sphere.

Mr MATTISKE — That is right.

Mrs PEULICH — So the retention of stormwater may not seem like a really important thing, but it is about impact of amenity, loss of amenity and containing it to an approved area. Are there, say, five examples of where conflicts between different laws that are currently unreasonable can be resolved? What you may think is unreasonable may be viewed differently by a vast number of other people. Are there five really crystal-clear examples of where we can focus on those tensions and conflicts that could make the life of the mining industry better?

Mr MATTISKE — I would like to reinforce the fact that most of the conditions under which we were placed are not unreasonable — —

Mrs PEULICH — Just the machinery?

Mr MATTISKE — It is the machinery, the volume. Certainly the Federal Government's EPBC Act is almost exactly duplicated by DSE's requirements for native vegetation offsets. In some instances we are able to satisfy both obligations by implementing one measure, but again it is reporting to both the state regulator and the federal regulator; it should be regulated as one.

Mrs PEULICH — Do different hues of government complicate the situation even further?

Ms DAVISON — I can answer that question. If you have a condition to monitor dust, you will be monitoring dust under three separate pieces of legislation and providing that information to those agencies in different forms at different times. But it is the same piece of information. The same would occur for noise. The same would occur for — —

Mr MATTISKE — Greenhouse gases.

Ms DAVISON — For greenhouse gases. There will probably be four or five different forms and times and methodology for the same piece of information. For water you would be providing that information to three or four different agencies and some catchment authorities as the statutory authorities as well. They overlap. But also there are a number of conditions that are placed on the development of a project that you still have to continue to monitor when you are operating even if those issues no longer exist. So the conditions do not have a fixed period on them either. If you are required to monitor noise to be under a certain level, after five years the noise never reaches the level so why are you still then required to monitor it weekly? It could go back to monthly — —

Mrs PEULICH — To use a pun, has someone done the drill-down work to identify those conflicts? Is there a document?

Mr FRASER — Just to go back a step, I think you were seeking information on what laws need to be changed. What we are saying is we do not seek a reduction of the standards — —

Mrs PEULICH — Just a streamlining?

Mr FRASER — We seek a more efficient way of getting the outcomes. That is the issue. You were looking at whether there are laws in conflict that we would want to change. It is the application that we see. Andrew could give you examples of taking 18 months to release some water from the dam. That is 18 months of complex approvals and arguments between two departments and of one not talking to the other. It is just nonsense stuff.

Mrs PEULICH — That is ridiculous.

Mr FRASER — That is the issue that we are talking about. We are not seeking a reduction or a relaxation. It is more efficiency. We believe there is huge scope for more efficiency.

Mrs PEULICH — Has that work been done?

Mr FRASER — That is what we are saying — —

Ms DAVISON — Stage 2 of the review.

Mr FOLEY — That is what you want the MRSD Act stage 2 process to deliver for you because you believe that is going to change and make the existing framework more efficient. That is basically the deal you believe you signed up to a couple of years ago.

Ms DAVISON — Yes. All of these things are attached to the work plan and the work plan is an instrument of the MRSD Act, so it is the stage 2 review process through which all of these things can actually be delivered. If I can touch on your comment that we are not addressing the perceptions of conflict between various land users, we certainly are communicating at the company and the industry level about what the industry can offer, and the benefits. But as I mentioned earlier in responding to Mr Foley's question, we can say that until we are blue in the face. There will always be a perception that we are the industry, so what would we know? Whereas the Government has the education ability and, as the regulator, as the custodian, the information.

Mr NOONAN — I note from your submission that you compare the petroleum industry in relation to how Victoria ranks in terms of its leadership. I guess what you are saying is there is capacity here for us to do the same in this area. Obviously the mining and minerals industry is very big on charts and ranking. You clearly have a range of ways to look at potential and that is on a global level. I suppose at the heart of this Victoria lags badly in terms of jurisdictions worldwide in relation to our perception on mineral potential. Central to that question is have we got a mineral potential problem or have we got an image problem, and if so can you elaborate on why one outweighs the other?

Ms DAVISON — Sure. Certainly the view is that it is the latter — the image problem. If people are not coming to Victoria, it is assumed there is a geological deficit in Victoria. Also it is more difficult. We mentioned earlier the outcropping and the low-hanging fruit. This requires them to be innovative and technologically advanced. There is still a lot of minerals outcropping either in Australia or overseas. The efficiencies are elsewhere and the return on investment is perceived to be elsewhere. But certainly we think it is chicken and egg. People are not entering Victoria for regulatory issues; others are looking and thinking, 'It must not be prospective'. It is self-fulfilling.

The CHAIR — I think they are all the questions we have.

Ms DAVISON — I have a copy of my opening statement that I am happy to leave with Yuki to help Hansard.

The CHAIR — Thank you. You will receive a copy of your submission and a record of our discussions today within a fortnight. You can make changes to the typographical errors, et cetera, but no changes to the substance of the document. Thank you very much.

Witnesses withdrew.