

NEWCREST

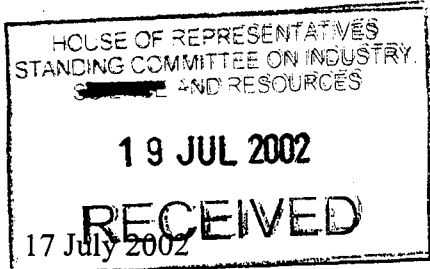
MINING

LIMITED

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TONY PALMER

MANAGING DIRECTOR AND
CHIEF EXECUTIVE OFFICER



House of Representatives Standing Committee on Industry and Resources	
Submission No:	26
Date Received:	19 JULY 2002
Secretary:	<i>J Forbes</i>

The Committee Secretary
House of Representatives
Standing Committee on Industry and Resources
Parliament House
Canberra ACT 2600

Dear Ms Forbes

Re: Inquiry into Resources Exploration Impediments

Please find attached a submission by Newcrest Mining Limited ("Newcrest") into the above inquiry, which was advertised in newspapers on 5, 7 and 8 June 2002. We would also like to thank the Committee Chairman for his invitation to make a submission in his letter dated 20 June 2002, which was sent to myself as Managing Director and Chief Executive Officer.


COMPANY BACKGROUND

To assist the committee members, the following is a brief synopsis of Newcrest.

Newcrest is a publicly listed company and originates from the merger of Newmont Australia Limited and BHP Gold Limited, in 1990. Newcrest currently employs over 830 staff and over 750 contractors, with our major activities being the exploration for, and mining of, gold. Our corporate office is located in Melbourne with offices in Perth, Brisbane and Kalgoorlie. Mining operations (100% owned) are based in Orange, New South Wales (Cadia and Ridgeway), and joint venture operations at Halmahera Island, Indonesia (Gosowong) and Boddington, Western Australia (Boddington). At Telfer in Western Australia, the Company is nearing completion of a feasibility study which it is confident will result in Telfer becoming one of the largest gold mines in Australia. We are also confident that advanced exploration results from Cracow in Queensland indicates that a new joint venture mining operation may be established. In pursuit of its goals the Company places a great deal of emphasis on health and safety and on environmental and community relationship issues.

Successful exploration remains a key activity for the Company, with a strong desire for this initiative to continue.

Newcrest's annual budget for discovery exploration in Australia over the past few years has been:



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1996-97	\$21.1M
1997-98	\$18.5M
1998-99	\$16.9M
1999-00	\$20.5M
2000-01	\$20.6M
2001-02	\$19.5M

The approximate distribution breakdown of this expenditure by State has been:

NSW	28%
Qld	26%
SA	2%
WA	42%
Vic	2%

Additional monies have been spent on resource definition investigations and feasibility studies.

Now twelve years old, the Company at the end of June 2002 was capitalised at \$2.1 billion.

TERMS OF REFERENCE

While Newcrest's submission does not address all the issues outlined in the Terms of Reference for the Committee it provides the following observations:

Australia's resource endowment and its draw down rate

This issue is addressed by the Mining Council of Australia and their various State affiliates and needs no comment from Newcrest.

Structure of the Industry and the role of small companies

This issue is also addressed by industry bodies and small explorers.

Impediments to accessing capital, particularly by small companies

This issue is addressed by small companies.

Public provision of geoscientific data

Public provision of geoscientific data, provided by various State and Federal Governments, is generally perceived to have fallen away in recent years, in some jurisdictions. The provision of this information is a key

driver to successful exploration and therefore must be maintained. Given the maturity of Australia as an exploration site (ie all easy discoveries have probably been made), it is argued, with considerable justification, that the Federal and State Governments need to allocate more money to acquire increasingly more detailed and sophisticated geological, geophysical and geochemical data. This is essential if companies are to be encouraged to undertake the deeper and higher risk exploration that is necessary to make the future discoveries which will be desperately needed to replenish Australia's diminishing ore reserves.

SUBMISSION

Newcrest, as a result of its practical experience over many years makes the following submissions to your committee, based on the issues outlined in your Terms of Reference.

ACCESS TO LAND

Non Native Title Land

Gaining access to land which is not subject to Native Title claim is relatively straight forward with only an occasional difficult landowner to deal with. Such issues are usually resolved by negotiation and, more occasionally, by the respective Mining Wardens or their equivalents in each State.

Cultural Heritage and Native Title Land

By far the greater impediments in gaining access to land are the Cultural Heritage and Native Title issues that exist in every State and Territory.

Newcrest agrees and accepts that Aboriginal cultural heritage must be preserved and that the mining industry has an important part to play in both the identification and protection of that cultural heritage. There are, however, a number of comments that need to be made about the process that applies in Australia regarding Aboriginal Cultural Heritage Law and its implementation. They are:

- (i) the law and its regulations regarding protection of cultural heritage sites are applied strictly to exploration and mining companies, which involves considerable time and cost to the explorers. The same law and regulations do not appear to be applied to rural producers and other land users to the extent they are applied to the exploration and mining industry. In addition, heritage surveys are required in some cases for low impact exploration activity. It is our submission that such surveys should only be carried out in cases of high impact

exploration where this will involve significant ground disturbance. In some cases Aboriginal claimants are requiring full and comprehensive surveys before they will agree to exploration licences being approved.

- (ii) in the event that there are two or more claimant groups (overlapping claims) there can be disagreement on who can carry out the survey work. In one case with which we were involved, two different archeological surveys were done in the same area because the two claimant groups would not agree on who should do the work. The result was an increase in time and cost (around \$70,000) and two different survey reports from the archeologists, with some conflicting conclusions.
- (iii) most claimants require that cultural heritage clearance work be carried out for each separately defined work program rather than be carried out on an area clearance basis. This requirement involves significantly increased cost due to having to bring back claimants and/or archeologists for each individual phase of a work program, rather than carry out a clearance for the whole area in one campaign. Newcrest's strong view is that cultural heritage surveys must be conducted on the basis of surveying an area.

Newcrest believes that by far the single biggest impediment to mineral exploration in Australia is the difficulty and uncertainty caused by Native Title issues. Newcrest, along with most others in the mining industry, are attempting to develop working relationships with Native Title Claimant groups and with the Land Councils that represent them. However there are a number of key issues that give rise to difficulty in accessing land for exploration. These include:

(i) Overlapping claims

In many instances exploration licences are covered by overlapping native title claims which require the explorer or mining company to conduct negotiations with two or more claimant groups. This usually results in the company having to conduct two or more sets of negotiations, with the resultant increase in negotiation, time and cost. In most cases the claimant groups do not agree on a range of issues which results in delays (and cost blow outs) to land access or permit approvals.

It is Newcrest's submission that this inquiry should make this issue one of its priorities as, in addition to impacting exploration activity, it is also preventing Aboriginal groups from being able to resolve their claims for land rights through the Federal Courts. Additional assistance needs to be provided to Land Councils to help them resolve overlapping claims more quickly. The simplest remedy for

this situation would be for the Government to fund the preparation of connection reports, as this would then provide a certain basis for going forward, rather than the essentially ad hoc method presently being used. Additionally, the Government should consider a time specific framework for claimants to establish their connection to land which is being claimed.

(ii)

CONFIDENTIAL SECTION



(iii) Legislation and Legal Decisions

A considerable amount of uncertainty and delay is due to various pieces of legislation being difficult to follow or inconsistent between State and/or Federal legislation. An example is the Queensland Native Title provisions, part of which was recently ruled to be invalid by a Federal Court. While this issue is now being appealed, this will take months, if not years, to resolve and many explorers who chose to proceed under this legislation are now "forced" to start again. If they choose to proceed under the Commonwealth Native Title Act, Right to Negotiate process, they still need the Queensland Government to agree to that process. At the time of writing this submission there is a reluctance on the part of the Government of Queensland to agree to this process. There is a view that because of the Queensland legislation being declared invalid, a similar situation may also be the case with South Australia legislation.

In Western Australia there were two taskforces set up to inquire into mineral tenements and Native Title issues. The outcomes of these taskforce recommendations have not yet been finalised and are having an affect on land access for Western Australian explorers and miners.

It is recommended that as part of this inquiry, recommendations emerge which would encourage States to adopt identical (or at worst similar) legislation in dealing with Native Title issues affecting land access.

Since the introduction of the Native Title Act 1993 there have been a number of legal cases arising out of the legislation. Many decisions emanating from lower Courts are ultimately appealed to the High Court which in many cases may take months or years before decisions are handed down. If the subject of appeal involves land access matters this can have an effect on explorers making decisions or getting agreements regarding exploration tenements. A current example of this is the highly publicised Miriuwung Gajerrong (Ward) case in Western Australia which involves, amongst other things, questions regarding extinguishment of Native Title rights on leasehold pastoral land, which is fenced and improved, and the question of who holds mineral rights. Decisions in these crucial matters have been on hold for some fifteen months and while perhaps beyond the terms of reference of your Parliamentary Committee inquiry, such delays nonetheless have an impact on explorers making positive decisions about carrying out exploration.

RELATIONSHIPS WITH INDIGENOUS COMMUNITIES

Relationships with Indigenous People and Communities are very much influenced by the approach taken by the exploration staff who first make contact with the respective people. Increasingly, mining companies are employing specialist staff whose role it is to make contact with the relevant claimants, land councils, or landowners.

Some of the factors that can result in a positive relationship include:

- identifying the correct people to talk to. This can often assist in clarifying the rightful claimants for Native Title claims;
- ensuring they are empowered to represent their community or people;
- explaining the exploration activity fully and in a manner which all the participants can understand. This can sometimes mean explaining the difference between exploration and mining;
- making sure that the Aboriginal People have a (mining/exploration company) contact person to whom they can talk regarding issues that may arise;
- managing the community expectations from what will probably be a short term exploration programme and then no further activity in the area by the company (probably less than 1 in every 1000 exploration campaigns results in a mine being developed). In other words, the relationship most likely will be short term, but it is important to explain this to communities and/or claimants at the outset of any discussions.

CONTRIBUTIONS TO REGIONAL DEVELOPMENT

Contributions to regional development during an exploration campaign are not seen as an impediment issue. Most communities, both Aboriginal and non aboriginal, realise that exploration may only occur in their region for short periods of time and therefore requests for support for infrastructure projects for example, usually do not eventuate. However, exploration discovery leads to mine development, which results in significant contribution to regional development.

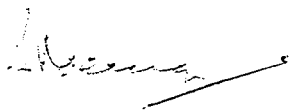
Exploration does contribute to regional development in a number of ways. Examples include:

- purchase of goods and services such as fuel, food, accommodation, hire of buildings, hire of vehicles, purchase of vehicles, including servicing;
- payment to Aboriginal Elders and cultural heritage monitors to carry out cultural heritage clearances;
- payment to archeologists and anthropologists for heritage work;
- in some cases, use of regionally located drilling rigs;
- use of local earthmoving equipment;
- payment to local providers of potable water;
- employment of local and regional people to carry out some of the work associated with exploration;
- donations to various regional initiatives, including school programs.

As a general rule, about 10% of the budget for an exploration campaign is spent in the region in which the work is being carried out.

Newcrest would like to again thank the Committee and its chairman for the opportunity to make this submission. We believe that exploration remains a critical factor in the development and sustainability of the resource industry in Australia. Unless some of the impediments to exploration are reduced and effectively dealt with, then we believe that the decline in exploration in this country will continue and result in the inevitable decline of the resource sector.

Yours faithfully



Tony Palmer