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6 March 2003.

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

Email: ir.reps@aph.gov.au

Dear Sir / Madam,

Inquiry into Resource Exploration Impediments
Supplementary Submission
R J Morrison

Further to my submission of 18 July 2002 I have now read a number of other submissions and the minutes of the Inquiry held at other centres. It appears that the Inquiry is seeking ideas to help resolve the problems. I would thus like to make some supplementary recommendations and observations.

ACCESS TO LAND

Background:

For mineral exploration to proceed on Native Title claimable land the first pre-requisite is for a cultural heritage clearance. "Grass-roots" mineral exploration is modern day prospecting. It normally has a minimal impact on the land. It requires repeated access to very large areas of land. Being high risk, it is usually conducted on minimal budgets, funding is normally very limited. Budgets do not have the "fat" in them to be able to afford the high costs of thorough cultural heritage clearances.

As an example, I was recently involved in consideration of some exploration land applications in Queensland. Estimates were obtained of the likely costs (and delays) involved in Native Title "clearances". The costs were a minimum of several thousand dollars per 1' x 1' sub-block (3.2 sq.km.), potentially over an area of 100 sub-blocks. The "clearance" costs would have exceeded the potential budget, and would have left nothing for exploration. As a result the Exploration Permit application was restricted to only those areas not potentially subject to Native Title claim. The result was that neither the Native Title claimants, the wider community, nor the explorer will obtain any benefit from a potentially worthwhile but "long-shot" exploration program.

Recommendation:

That a systematic, properly funded Nationwide survey of Indigenous sacred and cultural heritage sites be commenced forthwith, with priority given to areas with greatest mineral exploration potential. This should be undertaken in a manner similar to the geological, geophysical, cadastral, topographic and other surveys of the Commonwealth.

The benefits would include:

- providing a permanent record of cultural heritage and sacred sites in case traditions are not passed down to future generations,
- provide a nationwide database to ensure that resource exploration and infrastructure does not inadvertently impact on sacred and cultural heitage sites (avoiding Hindmarsh Island scenarios),
- "clearance" of potential exploration ground, thus expediting exploration in non-sensitive areas,
- providing culturally appropriate and meaningful employment for traditional Indigenous people living in remote areas,
- providing training and skills likely to enhance future employment possibilities to large numbers of unemployed Indigenous people,
- potential to reduce the reported cycle of dispair, substance abuse and related community-destructive activities.

Other considerations

The argument against this will of course be that from the Indigenous side, there has long been a strong reluctance to the recording the locations of significant sites. There seems to be a perception among Indigenous people that identification is the surest way for the sites to be destroyed or vandalised. Equally, non-Indigenous landholders are also reluctant to permit access to their land for fear that some significant site may be located and their land tenure lost.

With strong legislative backing however, and an effective education program to the wider community on the merits of the proposal, there is no reason why these fears cannot be overcome. Surely both Indigenous and non-Indigenous Australians need certainty in their relationship and rights to the land.

There is no reason that the details of the precise location or significance of sites need be made public. For exploration purposes people only need to know what areas to avoid, and which areas require contact with traditional custodians who have a continuing link to the land. Other details could obviously remain confidential. The public location of the areas need only be to within say one kilometre square, or even one 1' x 1' sub-block areas.

For the large areas of the country where there is no continuing traditional link with the land, explorers (and others) need to know where there are cultural heritage sites which should be avoided. These areas should also be surveyed.

Access to pastoral holdings, National Parks, etc. for the Indigenous people surveying the areas for cultural heritage sites could be made in a similar manner to that for resource explorers on pastoral holdings and freehold land.

Indigenous people have also commented that the current procedures under the Native Title and other Acts are "white-man's law". These laws cause divisions between Aboriginal groups, and are not the way traditional law resolves disputes, etc. One way to help rectify this is through the systematic, properly funded cultural heritage survey of the land as proposed above.

The submission to this Inquiry by the Aboriginal Torres Strait Islander Social Justice Commissioner points out "planners need to change their mind-set ..... Land is no longer vacant".

In the case of Pastoral Holdings and freehold land in Queensland there has for a long time been multiple land use. Landholders have the grazing and related rights to the surface of the land; holders of Exploration Permits have the right to enter the land under strict conditions to explore for mineral resources beneath the surface. Employees and agents of the explorer must provide the landholder with details of the planned exploration activities, and all employees, etc. must carry a Form of Authorisation by which they may be identified. Compensation or rectification for any damage during the activities must be undertaken. If a viable mineral deposit is found compensation agreements must be in place before any extraction of the resource can take place.

The relatively recent array of Environmental legislation has placed other layers into the multiple land use equation. Landholders are no longer given unrestrained permission to clear land because of the necessity to preserve downstream water quality, and to protect biodiversity, etc.

Since the passing of the more recent Native Title legislation, exploration tenure has not been granted on Pastoral Holdings in Queensland because of the existence of Native Title rights. This is clearly another aspect of the "multiple" land use which have been hidden, but in exsitence since European settlement.

Surely the answer to the current problem is to identify and "licence" all Native Title interests and Cultural Heritage sites. This could be undertaken in a similar manner to that required of mineral explorers (as outlined above).

Instead of the seemingly chaotic and divisive procedures currently in place, it is surely time for the Government to play a more active role in seeking out,

identifying, and somehow "licencing" Native Title claimants. Such a process would also have the added benefit of establishing those who could potentially be given custodian rights over National Parks and similar reserves.

In my view, this proposal would help resolve many of the current problems and the doubts and disbelief in sections of the wider community. It could provide a major step forwardes towards reconciliation, address past "sins of ignorance and neglect", and help share with justice the resources of this Nation.

The rightful recognition of the traditional owners of our great land could at last become a reality.

ENVIRONMENTAL, HEALTH AND SAFETY, AND OTHER LEGISLATION

The huge ongoing compliance costs involved in the seemingly exponential growth of environmental, health and safety, and other legislated requirements cause a serious impediment to exploration. This is because funds which in past decades would have been spent on "in-ground" expenditure now have to be diverted into a never-ending paper war to ensure compliance, and to maintain records as protection against the possibility of future litigation.

There needs to be a national approach to evaluate, cost, and risk assess all environmental (and other!) legislation to ensure that the time and money spent on compliance justifies the perceived benefit that the legislation is trying to achieve. Many aspects of current legislation and regulation of the exploration and mining industry are totally out of kilter with what the rest of the community has to comply with. There are few benefits for anyone but the builders of bureaucratic empires.

Yours faithfully,

R J Morrison, FAusIMM(CP)