

**SUBMISSION**

*to*

**SENATE ENVIRONMENT, COMMUNICATIONS, INFORMATION  
TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE**

*on*

**INQUIRY INTO THE  
ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL  
(No. 2) 2000**

**AUSTRALIAN HERITAGE COUNCIL BILL 2000**

**AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND  
TRANSITIONAL PROVISIONS) BILL 2000**

**JANUARY 2001**

**ASSOCIATION OF MINING AND EXPLORATION COMPANIES (INC.)**

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*APPENDIX 1: Decline in Mineral Exploration Investment*

1) **IDENTIFICATION**

The Association of Mining and Exploration Companies Inc. (AMEC) is a national mining industry group formed in Western Australia in 1981 by a group of mineral explorers to ensure that the exploration sector of the mining industry was given a strong representative voice at all levels of government.

In 1994, AMEC established a permanent presence in Canberra. This move was motivated by the national nature of the issues faced by the industry and considerably expanded the Association's interest and role in federal affairs.

Today, AMEC represents over 200 mining companies, industry service/supply businesses and individual members.

## 2) **PURPOSE AND PHILOSOPHY**

The purpose for which the Association was incorporated is encapsulated in two of the objects stated in its Constitution.

- (a) To promote in general the interests of the mineral exploration and mining industry in all its branches; and
- (b) To assist in any lawful manner the growth, stability and economic well-being of the mineral exploration and mining industry.

## 3) **PERSONS TO CONTACT**

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#### 4) **DECLARATION OF INTEREST**

AMEC members are actively engaged in mineral exploration programs, mine development and mineral production in Western Australia and in other Australian States and Territories as well as overseas locations.

It is critically important to the viability of the minerals exploration and mining industry, and hence to the Australian community as a whole, that unnecessary impediments are not placed in the way of the industry gaining access to areas of land which potentially offer valuable sources of mineral wealth.

The mining industry strongly supports in principle the conservation of the nation's natural, historic and indigenous heritage. AMEC made this expression of support clear in its submission in 1995 to the House of Representatives Standing Committee on Environment, Recreation and the Arts when that Committee inquired into the management of World Heritage areas.

The Association at that time also emphasised, however, that heritage conservation provides the opportunity for minority interest groups, and anti-development groups generally, to misuse the conservation endeavour for vexatious and political purposes. Similarly, the same opportunities to misuse the heritage conservation endeavour are available to these same groups, and to other groups, to frustrate the development of the nation's natural resources in the context of the proposed legislation to conserve and manage heritage places of importance to the Australian nation.

Accordingly, AMEC advocates the achievement of a proper and practical balance between conservation and resource development in the management of heritage listed areas and emphasises that such an approach is in the best interests of the wider Australian community given the demonstrable importance of the mining industry to the socio-economic well being of the nation as a whole. The Association is anxious to see avoid, in the future, the bitter community divisions engendered by the World Heritage listings of, for example, the Shark Bay area, the Daintree Rainforest, the Kakadu National Park, the Tasmanian Wilderness Areas, and other areas.

AMEC also made comprehensive submissions in relation to the review in 1996 of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 and subsequently to the inquiry in 1999 by the Senate Legal and Constitutional Legislation Committee into the Aboriginal and Torres Strait Islander Heritage Protection Bill 1998.

In those submissions AMEC highlighted the importance of the mining industry to the national economy and the imperative of maintaining practical access for the industry to explore effectively for mineral deposits. While accepting and appreciating the importance of protecting and preserving indigenous heritage, the Association emphasised that the introduction of vague and subjective legislation only enhanced the opportunities for those opposed to resource development to legitimise their activities under the guise of 'protecting' indigenous heritage. In this context, it cited as examples the prolonged and bitter disputes surrounding the proposals to explore and mine at Coronation Hill and Marandoo and the protracted difficulties experienced with the Hindmarsh Island Bridge Project.

In a submission to the Australian Heritage Commission in 1997 on a Discussion Paper concerning a national future for Australia's heritage, AMEC emphasised that the preservation of Australian heritage for the enjoyment and benefit of current and future generations should engender a sense a pride and accomplishment in the Australian community. In this regard, any system of nominating, listing and managing Australian heritage places must become less ideologically based and implement more transparent and independent procedures.

Critically, AMEC argued that, in the eyes of the Australian public, the heritage listing of a large area of landscape is akin to the creation of a national park, such that any mention of mineral exploration, let alone production, is met with an angry, yet generally unjustified public outcry. The implementation of a more balanced and openly consultative heritage protection system which advocates, rather than prohibits, carefully prescribed and monitored multiple land-use regimes in heritage places is urgently required. AMEC has repeatedly reiterated the need to review the narrow consultative and listing procedures prescribed by the Australian Heritage Commission Act.

Importantly, AMEC has argued, that the relevant economic and social factors, as highlighted by affected stakeholders, must also receive reasonable consideration during the assessment of nominated places. Furthermore, a liaison committee should be established comprising representatives of the mining, and agricultural industries, conservation, community and other business interests in order to develop mutually acceptable heritage protection policies and standards.

The introduction into the Senate of this proposed heritage legislation late last year comes at a particularly sensitive time for the mining industry, in particular the minerals exploration sector. The ‘life-blood’ of the mining industry is the quantum of exploration investment, particularly ‘greenfields’ investment. There has been a marked decline in mineral exploration investment in recent years due in part to international economic factors, see *Appendix 1*. In no small measure this decline is also due to the increasing incidence of impediments placed on land access, notably the present costly, time-consuming and cumbersome system for processing native title claims and potentially the creation by Ministerial decree of Indigenous Protected Areas as a means of assisting to maintain the nation’s biodiversity.

The mining industry is concerned to ensure that it is not further inhibited in its economic activity by yet another piece of Commonwealth legislation which, no matter how well meaning, places significant limits on its commercial activities and adds unnecessarily to its costs of compliance.

5) **THE ECONOMIC IMPORTANCE OF THE AUSTRALIAN / WESTERN AUSTRALIAN MINING INDUSTRY**

The mining industry contributes significantly to Australian economic growth. In 1998-99, it contributed over \$24 billion (4.1 per cent) to GDP. It makes an even greater contribution to total private capital expenditure. In 1998-99, private new capital expenditure on mining totalled \$8.7 billion, representing 20 per cent of the total.

The Australian community benefits from growth in the mining industry through contributions to government revenue in the form of mineral royalties, direct taxes such as income tax, and indirect taxes such as the GST.

In 1998-99, the industry paid, according to a survey conducted by the Minerals Council of Australia, an amount of \$1.55 billion in total direct taxes and \$513 million in indirect taxes to the Commonwealth and State Governments.

The mineral and energy resources industry also directly employed over 80,000 persons in 1998-99. It is estimated that for every one person employed in the industry, another 3 to 4 jobs are created elsewhere in the Australian economy. The industry thus provides another 280,000 jobs Australia wide.

Western Australia is one of the world's most important mineral producing regions. The value of its mineral and energy products in 1998-99 was \$16.7 billion. This represents 44 per cent of total Australian mineral and energy production. The most significant industries were iron ore, petroleum and gold.

The mineral and petroleum sectors still remain the pillar of the Western Australian economy, accounting for 26 per cent of Gross State Product, around 70 per cent of its export income, half of its private capital investment and around one-sixth of its employment, both direct and indirect. Approximately 38 per cent of Australia's mineral and energy exports are produced in Western Australia. The State's mineral and energy exports were valued at \$14.4 billion in 1997-98.

Direct employment in the Western Australian mining and petroleum industries totalled 45,003 people in 1998-99. Indirect employment is estimated at 158,000.

6) **COMMENT ON PROPOSED LEGISLATION**

***ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (No.2) 2000 (the EHLA Bill)***

AMEC's understanding of the Bill is that essentially it - -

- Establishes a new national heritage conservation regime and gives effect to the outcomes of the 1997 COAG Agreement on Commonwealth/State Roles and Responsibilities for the Environment
- Introduces a mechanism to list on a National Heritage List natural, historic and indigenous places that are of outstanding significance to the nation as a whole.
- Provides for a listing process that will be open and transparent and which invites public nomination.
- Provides for the identification and protection of places on Commonwealth land in a separate Commonwealth Heritage List. A public nomination and listing process will also apply.
- Stipulates that the Minister must publish a notice in accordance with the regulations, in an approved form, on the inclusion of a place in the National/Commonwealth Heritage List.
- Provides for the protection and management of the listed places.



- Defines a ‘place’ as including:
  - (a) a location, area or region; and
  - (b) a building or other structure, or group of buildings or other structures (which may include equipment, furniture, fittings and articles associated or connected with the building or structure, or group of buildings or structures); and
  - (c) in relation to the protection, maintenance, preservation or improvement of a place, the immediate surroundings of a thing in paragraph (a) or (b).

Together with the Australian Heritage Council Bill 2000, the EHLA Bill will replace the Australian Heritage Commission Act 1975. The proposed legislation amends the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). It will also complement the Aboriginal and Torres Strait Islander Heritage Protection Act 2000 (yet to be passed).

AMEC is supportive of the proposed legislation to the extent that it overcomes the duplication in heritage laws and processes between the Commonwealth, States/Territories and local government and secures real protection for nationally important heritage places.

AMEC’s concerns with the proposed legislation are as follows:

### **1. Lack of Support of States and Territories**

According to a public statement issued by Environment Australia at the end of 2000, the proposed legislation follows extensive consultation over a four year period with government, non-government and community bodies, a National Heritage Convention in 1998, and over 60 briefing sessions held nationwide between May and October 2000. Despite this, as evidenced by a paragraph in the Bill’s Explanatory Memorandum, agreement could not be reached on:

- The referral of State powers to the Commonwealth to enable the full protection of nationally listed places;
- The request by States for a veto on the nomination of a place for national listing; and
- The development of common heritage protection standards.

Clearly, the success of the legislation will devolve to a significant extent on the ability of the Commonwealth to negotiate bilateral agreements with the States and Territories. In the absence of jurisdictional co-operation the risk of a return to the divisive conflicts over heritage listings will be heightened.

In this context, it is concerning that efforts by the Commonwealth to secure bilateral agreements with the States within the framework of the EPBC Act have to date been largely unsuccessful. At the time of preparing this submission, to AMEC's knowledge only Tasmania has entered into an agreement with the Commonwealth. Moreover, AMEC has been advised directly of the negative views of some State Governments to entering into bilateral agreements with the Commonwealth whereby the State becomes the Commonwealth's agent.

The failure of the States and Commonwealth to reach agreement over issues of environmental and heritage management is a matter of serious concern to the mining industry. It is imperative that the industry is not caught up in costly jurisdictional duplication, in the event that the issues between the Commonwealth and the States/Territories remain unresolved.

Testimony to the lack of jurisdictional agreement between the Commonwealth and the States/Territories over heritage conservation and management is found in clause 324V of the Bill, headed Plans and Commonwealth responsibilities. This clause relates to national heritage places that are not entirely within one or more Commonwealth areas and are in a State or Territory.

Sub-clause 324V (2) states that:

*The Commonwealth must use its best endeavours to ensure a plan for managing the place, that is not inconsistent with the national heritage management principles, is prepared and implemented in co-operation with the State or Territory.*

Without detracting from the good intention implicit in this sub-clause, it suggests to AMEC that the ‘use of best endeavours’ by the Commonwealth to facilitate agreement with the States is a last resort when a more robust agreement mechanism could not be agreed upon.

AMEC has a stated preference for management regimes over land use to remain with the States. Irrespective of that preference, the over-riding requirement is that the industry is dealing with one set of rules with respect to land access. If that can be achieved via a bilateral agreement whereby the State manages environmental and heritage issues as an agent of the Commonwealth, the industry is comfortable with that, but that agreement needs to be negotiated prior to the legislation coming into force so all stakeholders, government and industry, know in advance exactly where they stand.

## **2. The Proposed Legislation Takes No Account of the Mining Industry**

Clause 324D of the Bill provides that a person may nominate to the Minister a place for inclusion in the National Heritage List. Clause 341D similarly provides for people to make nominations to the Minister for places to be included in the Commonwealth Heritage List. Subclauses 324D (5) and 341D (6) make it clear that members of the proposed Australian Heritage Council may on behalf of the Council make nominations for places to respectively be listed on the National heritage List and the Commonwealth Heritage List.

Additionally, sub-clause 324D (6) provides that the Minister may, by publishing a notice invite nominations of places within a specified theme for inclusion on the National Heritage List.

Clause 324D in clause (2) stipulates that the Minister within 20 business days after receiving a nomination of a place ask the AHC for an assessment of the place’s national heritage values. Sub-clause 324F (1) requires the AHC to give the Minister its written assessment within 12 months or within an extended period determined by the Minister.

In making its assessment, sub-clause 324F (2) requires the AHC to make reasonable efforts to notify the nominated place's owner and occupier and any indigenous persons with rights or interests in the place of the place's nomination. Persons so notified must be given a reasonable opportunity to comment in writing on whether the place should be included on the National Heritage List.

There is no recognition in the legislation that other factors, other than heritage value, should be afforded consideration when assessing a place nominated for inclusion in the National or Commonwealth Heritage List. The proposed Australian Heritage Council is to comprise persons whose expertise resides in areas of heritage conservation.

Moreover, the Bill in clause 324F (3) states that:

*In making an assessment of a place's national heritage values, the Australian Heritage Council must not consider any matter that does not relate to the place's national heritage values.*

There are no provisions in the legislation concerning conflict resolution in the event that the AHC receives conflicting nominations and conflicting advice and commentary on places nominated. This is the classic case of 'Caesar appealing to Caesar', a serious shortcoming which is a unfortunate feature of the present Commission.

Judging by the way the proposed legislation is drafted, the AHC presumably has to determine for itself how it will resolve any conflicting submissions it receives. There is no explicit mandate in the proposed legislation which gives the AHC the ability to seek additional or alternative advice in order to resolve any issues of contention or dispute.

In AMEC's view, the legislation establishing the AHC would be improved if the Council had recourse to an independent arbiter (or access to the Administrative Appeals Tribunal), to resolve any issues of conflict, before providing its assessment of nominated places to the Minister.

Clause 324G of the Bill does require the Minister to publish a notice inviting comments, including a statement setting out the nominated place's national heritage values, but there is no accountability surrounding this provision. The Minister is not required to take any particular account of what comment he or she receives. There are no transparent proceedings or appeal processes established in the Bill concerning the assessment of the comment.

Clause 324J concerns the removal of places or national heritage values from the National Heritage List. Sub-clauses (3) through to (7) provide for Ministerial accountability in the removal process by stipulating that the removal instrument is disallowable for the purposes of section 46A of the Acts Interpretation Act 1901. The Minister must cause a statement to be laid before each House with the instrument explaining why the Minister removed from the National Heritage List the place or the place's national heritage value or values.

There are no such accountability provisions stipulated in the proposed legislation concerning the inclusion of places on the National Heritage List. In the view of AMEC this is a serious omission. Substantive and extensive parliamentary debate would guarantee the openness of the heritage listing process and add to its community credibility.

As currently drafted, the Minister may ask the Australian Heritage Council or a person with appropriate qualifications or expertise to assess the public comment received, but there is no requirement to do so. Nor is there any requirement for the Minister to provide any response to the comment received either publicly or privately to whoever submitted the comment. The Minister is not required to justify publicly his decision to list a nominated place by giving reasons for his decision or providing any details on the advice he received from the AHC or from anyone else.

Significant stakeholders in the heritage decision process, including the mining sector, are afforded no particular status in the proposed Bill.

The Bill's processes are essentially a 'closed shop', closed to all but the Minister, his advisers, his Department and the Australian Heritage Council, a Council which reports exclusively to him and whose members he appoints.

The Bill in Clause 324Q stipulates that the Minister must make a written plan for managing each national heritage place and do so within the period specified in the regulations. The plan must not be inconsistent with the national heritage management principles. With respect to these principles, the Bill in sub-clause 324W (1) states that the Minister must make principles for managing national heritage and publish them in the Gazette. Furthermore, sub-clause 324W (2) states that the regulations may prescribe obligations to implement or give effect to the principles. Similar provisions apply in the Bill to the management of Commonwealth heritage places.

There is no further detail in the Bill concerning the extent or content of these management plans. As noted before in this submission, the regulations are yet to be drafted so it is not known to AMEC what the plans will specify or precisely what principles the plans have to conform to.

AMEC's concern is that these plans and principles may exclude the mining industry from having access to areas worthy of mineral exploration and subsequent extraction.

One further aspect, of a practical nature, that requires recognition in the proposed legislation, either in the Bills or the regulations is in relation to built heritage. There are numerous examples, the Argyle homestead is a case in point, where a building that is heritage listed for preservation is situated in the middle of a proposed transport route or mining site or some other commercial activity, requiring it to be moved from its original location. It is important that this fact of life is recognised in the context of national heritage listings.

Turning to transitional provisions, it is noted by AMEC that in Schedule 3 of the Bill sub-clause (2) states that, within 6 months after this item commences, the Minister may determine that the Commonwealth Heritage List is taken to include a place - if the place, or part of it, was included in the Register of the

National Estate, the place is within a Commonwealth area and the Minister is satisfied that the place has one or more Commonwealth heritage values.

There is no statement in the Bill concerning places currently included in the Register of the National Estate that are eligible for nomination to the National Heritage List. Presumably, it is intended that such places will have to be re-nominated and be the subject to assessment by the proposed Australian Heritage Council. AMEC is unclear as to what is intended in this regard and considers that this should be made clear. In this context it is important to note that in the Second Reading Speech, delivered by Senator Ian Campbell, he acknowledged that some of the places on the Register of the National Estate are of national heritage significance.

Furthermore, there is nothing in the proposed legislation which precisely determines what happens to the places on the current Register which will not eventually feature on either the National Heritage List or the Commonwealth Heritage List.

According to the Second Reading Speech, part of the rationale for introducing these legislative amendments was to remove the Commonwealth from matters that are not appropriately the responsibility of a national government. Senator Campbell went on to note that there were over 13,000 places listed on the Register of the National Estate and he stated that, with the repeal of the Australian Heritage Commission Act 1975, the Register will no longer be a statutory register but will remain publicly available as a heritage information resource.

There are no transferral or referral mechanisms in the Bills which provide for the States and Territories and local government to take responsibility for the 12,000 or more places currently on the Register of the National Estate which they will be expected to do as soon as the Australian Heritage Commission Act is repealed. AMEC recognises that the Commonwealth is keen to 'wash its hands' of being involved with the current Register but it is the view of AMEC that the Commonwealth should endeavour to ensure that the States, Territories and local government assume an appropriate level of responsibility for the places listed on the Register into the future.

#### 4) **Meaning of national heritage values**

Often with legislation, the ‘devil’ is to be found in the Regulations rather than the Act.

Sub-clause 324C (1) of the Bill states:

A place has one or more ***national heritage values*** only if it meets one or more of the criteria for national heritage values prescribed in the regulations for the purposes of this section. The criteria may deal with natural, indigenous, historic, or any other, heritage value.

It is impossible to make any comment on what heritage value criteria are being contemplated by the proposed legislation in the absence of the regulations which prescribe them. An enquiry to Minister Hill’s office at the time of writing this submission received the response that the regulations had yet to be drafted.

It is unclear to AMEC how the ECITA References Committee can fulfil its task of inquiring into the proposed legislation when the regulations which will prescribe such important matters as the criteria for determining whether a nominated place fulfils the requirements to be listed, are not available to those making submissions and presumably not available to Committee members.

#### ***AUSTRALIAN HERITAGE COUNCIL BILL 2000 (the AHC Bill)***

From our reading of the Bill its objects are to establish the Australian Heritage Council, which will provide advice to the Minister, and prescribe the Council’s functions and composition.

Our concerns are with the narrow composition of the Council which will consist exclusively of people whose experience or expertise is limited to various heritage fields.



The Council is constrained by the proposed legislation from providing any advice to the Minister which does not relate to the heritage values of nominated places. Moreover, there is no express mandate given in the Bill which encourage the Council members to obtain the views of the wider community.

The AHC Bill in Clause 7 stipulates that the Council membership comprises a total of seven persons. The Chair, appointed by the Minister, must have experience or expertise concerning heritage. With respect to the other six Council members, the Minister must ensure they have experience or expertise in natural heritage, historic heritage or indigenous heritage. No other experience or expertise is prescribed.

It is AMEC's view that either the Committee's composition be altered to include persons with commercial experience or expertise to provide a broader range of advice to the Minister on nominated places or, failing that, the Minister be required in the Bills to seek advice from people with experience and expertise in business and economics. Such advice may not, of course, always be necessary, but if places for nomination are of economic value, the Minister will require advice other than that concerning the heritage values of a place.

Alternatively, as AMEC has submitted on previous occasions, a liaison committee should be established to broaden the input the Minister receives when making his decisions on whether to list a nominated place. This would add to the breadth and rigour of the assessment and decision-making-process and, importantly, enhance the credibility of the national heritage preservation endeavour generally in the eyes of the community at large,

#### ***AHC (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000***

This Bill's objects are of a machinery and administrative nature, repealing the Australian Heritage Commission Act 1975, amending the Environment and Biodiversity Conservation Act 1999 and providing for matters of a transitional nature between the current and proposed legislation.

AMEC has no comment to make on this Bill.

## **7) COMPENSATION**

There is no mention of compensation in the Bills, that is, what monies are available to those with property or other rights in places which are assessed for inclusion on the National Heritage List.. We note that the EPBC Act in Chapter 7, Miscellaneous, clause 519, refers to compensation for the acquisition of property but no other categories of compensation are mentioned.

In the event that the Commonwealth and the person, the ACT states in sub-clause 519 (3), do not agree on the amount of compensation to be paid, the person may apply to the Federal Court for the recovery from the Commonwealth of a reasonable amount of compensation fixed by the Court. There is no statement as to who pays the costs of this Federal Court application, presumably those seeking to be compensated.

In AMEC's view, this treatment of the compensation issue is totally inadequate and only serves to engender antagonism in the community to heritage preservation endeavours. There are a whole range of other losses people could suffer as a result of heritage listings, ranging from decreases in property values, loss of access to resources, eg water and loss of future income.

The compensation payable by the Commonwealth clearly needs to be extended past the single category of property acquisition and, certainly, should not be left to the Federal Court to determine as a matter of litigation. An independent tribunal of relevant experts needs to be established, funded by the Commonwealth, to determine claims for compensation.

## **8) RECOMMENDATIONS**

- 1. That the passage of the proposed national heritage legislation be deferred until robust bilateral agreements are concluded between the Commonwealth and the respective States / Territories that will ensure the protection and preservation of Australia's national heritage.*

2. *That the composition of the proposed Australian Heritage Council be broadened in order that the Minister may be advised on socio-economic issues concerned with heritage nominations rather than the advice being restricted by virtue of clauses in the Bills precluding broader advice and by the Council's member composition.*
3. *Failing 2) above, a separate Ministerial advisory committee be established, that the Minister is required to consult, representing a broad range of community and commercial interests, including the mining industry, to provide advice to the Minister on the socio-economic effects of including nominated places on the national heritage listings as assessed by the proposed Australian Heritage Council.*
4. *That the proposed legislation be amended to provide for access by the Australian Heritage Commission to an independent arbiter to resolve any issues of conflict arising from the nomination of places, prior to the Council providing its assessment to the Minister.*
5. *The Environment and Heritage Legislation Amendment Bill (No. 2) 2000 be amended to provide for Ministerial accountability concerning the inclusion of places on the national heritage lists by stipulating that the Minister ( as he or she will have to do in order to remove a place from a list), cause a statement, together with the disallowable instrument , to be laid before each House explaining why the nominated place should be included on a heritage list.*
6. *That the passage of the proposed legislation be deferred until at least the regulations are drafted and publicly scrutinised, in particular those regulations pertaining to the criteria for determining national heritage values of a nominated place and those specifying the national heritage management principles.*
7. *That the Bills and/or regulations be amended to provide for the re-location of built heritage from its original (or present) location site in the event that commercial or other developments determine that its re-location is required in order to safeguard its preservation.*

8. *That the Bills and/or regulation be amended to specifically provide that the Commonwealth will take reasonable steps to ensure that places currently on the Register of the National Estate which are not subsequently included on the national heritage listings are appropriately dealt with by the States/Territories/local government that have responsibility for them.*
9. *That the proposed legislation be amended to provide for adequate and comprehensive compensation to those persons who are adversely affected by the listings of places on the national heritage listings and an independent panel be appointed by the Commonwealth to determine compensation claims.*

## 9) CONCLUSION

AMEC is supportive of the Commonwealth's endeavours to establish a national scheme for the conservation of Australia's unique national assets and leave other matters to the States, Territories and local government.

We have serious concerns, however, with the mechanisms being proposed in the Bills, in particular the deliberate restriction of advice that will be provided to the Minister by the proposed Australian Heritage Council, advice limited to heritage values without any recognition being given to socio-economic factors.

We are also concerned with the failure by the Commonwealth and the States/Territories to agree on a future legislative regime that will provide the level of protection that Australia's national heritage deserves.

We are particularly concerned that there is a diminished level of Ministerial responsibility enshrined in the proposed legislation by virtue of the fact the Minister, when deciding to include places on the proposed national registers, is under no obligation to justify his or her decisions in Parliament or indeed to anyone else.

AMEC, as a representative body of the mining industry, is deeply concerned and disappointed that there are no mechanisms established in the Bills to ensure that the mining industry will be consulted in the heritage listing processes proposed or safeguarded in its efforts to commercially develop the nation's mineral wealth for the betterment of all Australians.