

**STANDING COMMITTEE ON LEGISLATION**

**MINING LEGISLATION AMENDMENT BILL 2015**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT KALGOORLIE  
MONDAY, 11 APRIL 2016**

**SESSION SIX**

**Members**

**Hon Robyn McSweeney (Chair)  
Hon Ken Baston  
Hon Dave Grills  
Hon Robin Chapple (substituted member)  
Hon Kate Doust (substituted member)**

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**Hearing commenced at 12.50 pm****Mr BYRON MOLLER****Private Citizen, sworn and examined:****Mr PAUL SIMMONDS****Small-scale Miner, sworn and examined:****Mr PHILIP NOLAN****Owner–Manager, Dulcie Operations, sworn and examined:**

**The CHAIR:** On behalf of the committee, I would like to welcome you to the meeting. Before we begin, I must ask you to take either the oath or affirmation and state the capacity in which you appear before the committee.

[Witnesses took the oath or affirmation.]

**Mr Moller:** I am here as a concerned citizen who has had some involvement in the Mining Legislation Amendment Bill consultation or lack thereof with small miners.

**Mr Simmonds:** I am a small-scale prospector and miner. A prospector, by the way, is someone that looks for minerals, so you can determine what a detector–operator is and a prospector. I currently live out in the bush and I have several small leases two hours north of Coolgardie and another three pending, but that will be pending the outcome of this hearing today.

**Mr Nolan:** I am a leaseholder and mine operator.

**The CHAIR:** You will have all signed a document entitled “Information for Witnesses”. Have you all read and understood that document?

**The Witnesses:** Yes.

**The CHAIR:** These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record, and please be aware of the microphones and try to talk into them and please try to speak in turn. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Would each of you like to make a five-minute statement to the committee?

**The Witnesses:** Yes.

**The CHAIR:** That is fine. We will start with you, Mr Nolan.

**Mr Nolan:** I would just like to explain the background of my project. It will take only a few minutes. In 2012, a business partner and I invested in a project south of Marvel Loch and it took us 12 months to get a mining approval. This was a proper mining proposal; it was not a small-scale operation. Over the 2013–14 period, we developed the project by clearing and building the infrastructure we needed to build, and by January 2015 we declared ourselves ready under the

works approval we had for the purposes of receiving an operating licence because we declared ourselves compliant with our works approval. First of all, it took two months to get a response from DER. Then, to my horror, I discovered that we had to endure a public consultation period. By this time, we had spent \$2 million and we were told that we had to go through a public consultation period for what purpose I have got no idea, but I can only infer that the opportunity was there for somebody to stand up and get in the way of our project proceeding. Fortunately, that did not happen and we got a belated licence to commence operations in late June 2015 and we have been operating successfully since. We expect the mine will be in the order of a four-year mine life, unless we make further approvals.

The subject of my submission is, in a nutshell, the regulatory burden that we suffer getting these projects up and away and then operating them. It is just absolutely unbelievable the hoops we need to jump through in dealing with five or six government departments in order to continue operating our projects. We have got correspondence coming through from DMP on a weekly basis on all sorts of matters. The DMP is going through this process at the moment. Their safety regulation branch is doing the same thing; they are reinventing themselves and changing everything that we have known about for the last 40 years. It is so distracting that it takes us away from the daily work that we do. That is all I want to say. Thank you.

**Mr Simmonds:** First of all, thank you for your audience here today, people. It is a pleasure to have someone to talk to. I was hoping for Mr Marmion, but he is not here anymore, which is unfortunate.

**The CHAIR:** No. He is no longer the minister either.

**Mr Simmonds:** No, because my beef was with him. To call me an alarmist and basically uneducated is a slight that I do not like. I have written several submissions here for you and I do not know if you are familiar with any of my submissions.

**The CHAIR:** Yes, we are.

**Mr Simmonds:** My background started off in mining in Victoria. Whilst I was there and growing up in that area, it was a boom town. I have seen bad governance in action over there, which led to closing off all the bush by extreme environmentalists and the consequences of that had a far-reaching effect that I do not even think the government over there saw, and it is still there in existence today. The bush itself was closed and still remains closed. People are out of work. We rely on a finicky thing called tourism in our general area and we are only 60 miles from Melbourne, and that is what we survive on. The employment that once was sustainable, with the policy of growing trees, was eroded by bad governance. I am hoping here today that you people might take a few things on board. I could read any one of these five submissions here to enlighten some people behind me that do not know me, but I will just ask if I may read one, and it is not the one that others would probably want to read, but it is something for you to go away with. I have got some questions. I only asked Mr Marmion's minions that he sent up two questions, and he said that he would get back to us. That was 14 months ago. That is disgusting coming from a government department as far as I think, but, anyway, I guess everyone is busy. But to put all these men here today that should be out working, myself included, we do not get paid for today. We are here to at least talk to you people and hope that you will take on board the things that we have said and make a decision—the right decision, I am hoping, because otherwise I will probably have to pull my pegs and go. That is how bad it is.

I will read it —

**THE DIRE CONSEQUENCES OF IMPLEMENTING THE MINING  
LEGISLATION AMENDMENT BILL 2015**

Who am I? According to Mr Marmion, I am an ill-advised, misguided and irrational person.

That was printed actually —

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I am a person of 55 years of age, a small scale miner, served with the RAE, travelled the world, worked all my life, had two mines in Victoria now call Western Australia home and owning several leases here.

The proposed changes to the Mining Act and rules and regulations that is about to go through parliament, —

Well, it is there —

I would like to know where has the representation for the small scale miner been invited to attend. This so called consultative committee which Mr Marmion has made his assessment has made a grave error in judgment not only for the like-minded people as myself but for those rural communities that will be affected and consideration should be asked:—

These are your questions, folks —

[1.00 pm]

- \* Was an impact study done on how many small scale miners are out there working and supporting families?
- \* What impact do small scale miners have on communities?
- \* How many shop doors, petrol stations, schools etc would close if we didn't have them?
- \* Do big companies buy fuel at service stations or do they ship fuel up from Perth?
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- \* Do big companies buy their food from small general stores in the communities or do they get bulk shipments from big Cities?
- \* Do big companies have an impact on already established small communities?
- \* Do we really need these rural small communities and are they really beneficial to WA?
- \* Are the rural communities collected taxes beneficial to the Shire?
- \* What adverse effects will the closing of rural communities have on pastoralists already established?
- \* Where will they purchase their supplies and perhaps see a Dr?
- \* If rates are collected twice for the same piece of ground, at twice the price for small scale miners, what problems will arise with the shires from state funding?
- \* Will existing roads be maintained or fall into disrepair?

Who is going to pay for them —

- \* Could we rely on just big companies to maintain the status quo in the event of a gold price crash?
  - \* In the event of other nations and countries being able to guarantee workable conditions, would the existing companies close all Australian operations considering a fact that they are all profit driven?
  - \* What would happen to all these employed personnel?
  - \* How did it effect Vic and SA when the car industry closed its doors?
  - \* What effect did it have on these Governments?
  - \* With big companies' pits that are left open, who close their doors and pull out leaving a changed landscape, what happens then? They leave a visual and negative environmental impact!
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- \* Do we as Australians see our fair share of the wealth derived from these operations, or is it just squirreled away to another Country?
- \* If a small scale miner can exist and run his business on the world gold price, how come companies can exist at a production rate of up to two thirds greater than the world polarity gold price per ounce?
- \* Does the small scale miner leave his ground in the state of disrepair and environmental nightmare?
- \* Does he pay his Taxes?
- \* Does it remain in Australia?
- \* Is he Australian and does he adhere to all current rules and regulations?
- \* If history repeats itself, and 95% of all mines to date were found by small scale miners and prospectors, can you afford to disregard us?
- \* Are 95% of companies working on ground discovered by those prospectors and small scale miners?
- \* Since geomagnetic and technology came about (around 40 years) how many new resources have been found by big companies in WA? (answer is only 3!)
- \* Why is it that small scale prospectors are still there and surviving?

Like me, today —

- \* Should consideration be shown to the small scale prospector, that maps the ground with his own feet at a more precise rate than technology as history tells you?

Have a look at Western Australia, folks. This was traversed in 1898 by all our prospectors and forefathers and they mapped what the companies are still doing today —

- \* If prosperity and wealth is for all Australians, are you putting this proposed bill forward with all considerations taken into account for the betterment of this nation?

Think about your decision today —

- \* Should we really be allowing the sale of our resources into the hands of foreign ownership?
- \* Are we as Australians allowed and shown the same considerations in other countries that they are afforded here by us?

These are only some of my questions and I have a lot more, have these questions been asked, considered and answered?

Is not Mr. Marmion, as an Australian, supposed to represent his constituents in a fair and equitable manner, in the best interest of our Country?

If so this bill is allowed to go through and is not revoked then Parliament hasn't done its job properly and have become out of touch with their constituents.

In all sane matter of mind, have a look at Victoria and NSW and how much mining is going on there?

Have any of you folks sitting there spoken to anyone over in Victoria and got the guts on what is going on over there? It is a joke. I know and I have just come back from over there and I asked a lot of questions to the former Mining Warden. I will tell you now, folks: in his best guess—he sits on the right-hand board of APLA and he was a former mining warden—there is less than 50 small-scale operators working in Victoria, but he did say there were 50 illegal miners working in Victoria. I will furnish his phone number if any of you care to ring him up and ask him. It says —

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Do not use these places as a model for prosperity. Keep WA the status of the mining state of Australia. Rewards will come. Do not pass this amendment to the Mining Act, revoke it now!

I am a small scale miner without any burdens on the government nor department and nor am I an environmental vandal and only one of many small scale prospectors.

As I said, I am only one here today, but 10 of my friends are still working. By changing the Mining Act, taking away the rights of the prospector without consultation and giving it to the department to preside over, did Mr Marmion exclude us from the consultative committee for his own agenda? If so, may I ask what is the real agenda of the government? We would like to know if it is his whim or that of the government of the day to put it through the way it did. It is absolutely disgusting as far as I am concerned. I am here to answer any questions and I have others if you want to listen to them.

**The CHAIR:** Thank you. I just remind you that this is your time and all we can deal with is —

**Mr Simmonds:** Yes, I heard what you said.

**The CHAIR:** — the bill in front of us. I am not dismissing the relevance of the other questions, but I certainly cannot deal with those. We can only deal with what is in the bill. Would you like a five-minute —

**Mr Moller:** Yes, Madam Chair. Thank you, Madam Chair and honourable members and officers. I will be relatively brief today. I do not have a lot to present because most of what I would go over has already been spoken about by people who deal with that firsthand. I have a lot of serious issues with this particular bill but, really, my most serious is the fact that consultation has not been conducted properly. In fact, the minister for mines himself, on 21 June at a meeting with various prospectors, miners and small miners stated very, very clearly that a large section and sector of the mining industry had fallen through the gaps and had not been consulted, that it takes a long time, and that they need to be there the whole way. If it would please the committee, I would actually like to play an excerpt from that public meeting that was recorded of the minister for mines saying that himself, for clarity.

**The CHAIR:** I think we have already seen it in a tabled document and we have read what he has said, so I do not —

**Hon ROBIN CHAPPLE:** And most of us have actually heard it.

**The CHAIR:** We have heard it as well, so there really is no need for you to play it. Is that the committee's decision? Yes.

**Mr Moller:** Fair enough. The fact that such a large sector of the mining industry, and a very important one, especially for regional communities and centres like Kalgoorlie—these people provide a very large economic and social footprint here. It would be an absolutely devastating loss to the communities if those people had to pack up and go, which is the general consensus that I hear from a lot of these people when I meet with them and talk with them. Other issues that we seem to be having are, despite having a very good initial feedback from the mines minister and members of the DMP, they were very, very quick to push us aside and put us into a little box to get us to be quiet while they went full steam ahead with the legislation with no real way to amend it. Frankly, I do not think that is very appropriate. Anybody who has been left out in such a significant way from the consultation process, that should have rung alarm bells and put the brakes on. The legislation should have been put back in a workshop for at least eight months to iron out these problems before it was presented as quickly as possible to be pushed through the lower house. Frankly, that is a very, very big concern. From a lot of the horror stories I have been hearing about the Department of Mines and Petroleum, particularly within the environmental division, frankly, there needs to be an inquiry with a very broad scope—preferably a royal commission into that to get to the bottom of where a lot of these severe issues and deficiencies are coming from.

**The CHAIR:** That is why we have a house of review and that is why you have the committee in front of you today, because we do not rubberstamp. We actually look at the legislation, which is where you come in, so thank you for your input.

**Hon ROBIN CHAPPLE:** This is a question for anybody to answer specifically. I will come back to the fundamentals. In terms of the way you currently do business—not currently, but in terms of the way you did business when you had the old POW, what has changed for you at the moment and what impact has that had to date and what impact do you expect to occur as a result of these changes? We really need to come back to what is before us, but there is some interest in how the guidelines have changed over recent times as well. So, any or all of you, I would like to get some response from that.

[1.10 pm]

**Mr Simmonds:** The POWs themselves, the system was very good. As you probably heard a lot of other people say, if it is not broke, do not fix it. It is the cost and the uncertainty in my job now, which is depending on the outcome of this. As I said, it is whether or not I stay or whether I go. But to have a figure where a department is judge, jury and advocate, you cannot have a department like that, self-governing. There has to be guidelines down and I think most of the people that are here today show concern, and that is why we are here; only a very small parcel of people are represented. But to change things, and the uncertainty—I think that is a worry for me, speaking for myself.

**Hon ROBIN CHAPPLE:** A number of people have talked about the uncertainty. Is that merely because a lot of this is going to be dealt with by regulation, of which we do not know what they are going to be?

**Mr Simmonds:** Let me put it this way: as far as the industry itself goes—people have sort of alluded to it and hedged around it—you cannot make a pancake with no flour. Where the scale of the small prospector comes in, on a scale of one to 10, I would like to be about a five before a big company takes over. What happens is we find the small stuff and, in a lot of cases, a big company will not look at it if the ore body is too small, but it will keep one or two men going. In saying that, the crossover line would be about a five, I would say. That is where I would like to be. I would like to grow my business but if you have uncertainty, I am sure you would not put money on a horse that has three legs.

**Hon ROBIN CHAPPLE:** No. I have done it, and it does not work.

**Mr Simmonds:** Right. In saying that, the rules and the regulations, any changes to it, people do not like change, and we have heard that today, and I am one of those people, too. As far as all the new stuff the DMP is bringing out, when it comes to all-electronic lodgement, I am a worker; I am not someone who can sit on a computer.

**Hon ROBIN CHAPPLE:** So would you prefer to, say, keep up with the POWs but get the department to do all the complex stuff at their end rather than it being put onto you?

**Mr Simmonds:** For sure; keep it simple, stupid—KISS life. That is easy. That is what I would like, and that is why I do not really like all these changes going through. I have said some stuff there to people who are much more learned than myself, trying to interpret the new act, and my goodness. It should not even have got through the first sitting.

**Hon ROBIN CHAPPLE:** Yes, thank you. Anybody else want to comment on that?

**Mr Nolan:** Yes, if I may. We already suffer unannounced and unexpected changes to various things we do. For example, in the requirements of our annual environmental reports, we find new things on an annual basis that they have slipped in there. We do not know about them, they have never been written about, they are not explained in the new AER template. An example I can think of is that I just completed my AER at the end of March, only a few days ago, and I found a requirement

in there to lodge a table or a tabulation of characteristics of each landform on my property. That is not a requirement of my lease conditions, and —

**Hon ROBIN CHAPPLE:** So it was not in the NOI?

**Mr Nolan:** No, and there was not a template provided, either. I lodged an explanation that it all appears in our notice of intent, or our mining proposal application, as they are now called. Those are the sorts of things that are creeping in, and we see other examples. I cannot quite think of one at the moment, but it is not unusual. Tenement conditions is another one. Periodically, we see changed tenement conditions. There is no consultation; it is just a fait accompli, a delivery: “Here are your new lease conditions, Mr Nolan.” Sometimes we can work with them, other times they are an imposition and they take our project scope beyond what we expected. Sorry, just to finish on this: when I see a promise to explain it in the regulations, I get pretty concerned because it is an invitation for open slather on myriad detail that just bogs us down in more regulatory burden. In this framework, we see a mooted requirement for monitoring. How far is this going to extend? It could extend anywhere, and I would much prefer to see—before we could in any way, shape or form support the proposed changes—some more certainty on what is in the minds of the regulator. He knows what he wants, but he is not putting it in there.

**Hon ROBIN CHAPPLE:** He is getting you to do it, and then he is going to check on you.

**Mr Nolan:** Yes.

**Mr Moller:** Something I would like to add briefly from my interactions and my dealings with a lot of the prospectors out there, and there have been quite a few, is that it is not so much that there is a fear of change. What they are reacting badly to is the imposition of barriers to entry that are patently unfair and unnecessary. Change, in and of itself, is not a bad thing, and there needs to be a regulation in place that is fair, reasonably easy to understand, and takes into consideration what actually happens out in the field and the environmental science behind it. Unfortunately, what is being pushed on a lot of the people is not so much environmental science but environmentalism, which is a completely separate thing. It goes more on what feels like the right thing to do for somebody who does not understand the practical realities in the field, and that is where the fear is coming in. It is not so much of change or of having to do things in a new, different way or perhaps incorporating a more modern approach; it is those barriers and those imposts that are being put towards them that are driving them out of business.

**The CHAIR:** Some of the wording used, people are “uncertain of”, I think; I have looked at the back at some of the written words and it is not particularly in plain English, is it? I certainly object to a lot of that.

**Mr Simmonds:** There is only one that changes the whole connotation of the act, and that should be “scrutinised”—relevantly scrutinised.

**The CHAIR:** Yes, I agree.

**Mr Simmonds:** And that is your job.

**The CHAIR:** Yes.

**Hon ROBIN CHAPPLE:** Thank you, we know!

**The CHAIR:** We all do our job very well, you can be sure of that!

**Mr Simmonds:** I hope so!

**Hon KATE DOUST:** Earlier we had people raise issues with us around some of the changed powers to the inspectors in reference to the capacity to remove objects and items and also in terms of the interviewing process and the photography as well. I would just be interested in your view on those changes, given that some of them are fairly commonplace in other inspectorates already.

**Hon ROBIN CHAPPLE:** Occupational health and safety, fisheries—that sort of stuff.

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**Mr Nolan:** If I may, I will just recount a couple of anecdotes. I had a visit last year by three DMP environmental officers. The first thing they wanted to know was how to get to my premises. That is all on the record; it is available, if they take the time to find it, and if they want to check up on road conditions, I am happy to take a phone call, but I do not expect to have to send them mud maps and detailed explanations on how to get there.

**The CHAIR:** Did you send them the long way around?

**Mr Nolan:** Do not give me ideas!

**Hon ROBIN CHAPPLE:** They are still trying to get there!

[1.20 pm]

**Mr Nolan:** The same party, when they finally did turn up on site, spent some time and, amongst other things, wanted to debate with me the merits of our mining approval. I said, “Look, I’m not here to debate with you the merits of my mining approval. The mining approval is granted; I expect to be able to operate under it.” We have people coming out who really do not understand what they are doing in some cases. Towards the end of that meeting, the three of them announced to me that they were going to visit another mine a little bit further south from us and further away from their home, which was a hotel in Southern Cross. I warned them; I said, “Look; it’s late in the day; you’re not going to make it. Which mine are you talking about?” I could help them with some advice. Well, they did not know what the mine’s name was. I said, “Well, if you’ve got a map, let me see the map and I’ll see if I can recognise where it is.” I recognised my northern boundary. They wanted to go south. The property that they wanted to look at was 300 metres from me on my northern boundary. I escorted them through my property and put them on the property they wanted to investigate. I told them what the lease number of it was, because they had an obsolete map, which they obtained from the obsolete dinosaurian database called MINEDEX. They got home that night safely before curfew. In many cases the department is sending people out into the field ill-prepared and without really understanding their brief. I did not expect them to want to do anything more than inspect my property, ask me some questions about the lease, our operations, talk about compliance and observe anything and bring it to my attention if they were disturbed or worried about it and then follow it up with a formal written report. But that is not how it happened. I think the department has got a long way to go.

**Hon KATE DOUST:** Paul, do you have a view on the increased powers of the inspectors?

**Mr Simmonds:** Personally speaking, I have had some in other forms where the powers that be have changed rules and regulations. I myself, given notice, I really do not have a concern with it; however, I have a problem with overzealous people in departments, and I think if anyone sitting up there at the front table has some freckled-faced little kid coming up to you and telling you how you are going to run your business or how you are going to run your day-to-day lives, you would certainly be thinking twice and saying, “Well, do I really need this when I am trying to work?” I have no problems; I have got nothing to hide at all. I am very open and very honest but, as I said, I have some concerns over the powers that be being judge, jury and advocate.

**Mr Moller:** I also have some issues, if I might speak briefly. The coercive powers in the act that I see myself as a lay person are extremely alarming, particularly the ones that allow for a person to be summoned and videotaped against their will and to be forced to answer questions, even if it is against their best interests. It is very, very concerning to me. Another thing that I have spotted within the act in relation to DMP investigators is the new ability to confiscate any sample for part of an investigation without remuneration or any real way to get that back.

**Mr Simmonds:** I have a problem with that also.

**Mr Moller:** That is potentially open for abuse, given the ambiguity of those sections within the mining amendment bill.

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**The CHAIR:** Point taken.

**Hon STEPHEN DAWSON:** I hope, Mr Simmonds, that you were not having a go at everybody who has freckles!

**Mr Simmonds:** No, I was not having a go at anyone. I could have kept going.

**Hon STEPHEN DAWSON:** Mr Moller, can I ask you a question. In your submission, and indeed in your commentary when you talked about regulatory burdens—in your submission, you talk about the Dulcie projects and you list the different items or regulations as you go through. Do you want to explain to us your concerns about those but also then explain to us how many people are employed at the Dulcie project just to give us a sense of how strong or overbearing these regulations are?

**Mr Nolan:** Okay; thank you. There are two employees; I am one and I have one paid employee. I do not take a salary; I share in the profits of the operation, and hopefully there will be a profit in the next year or two because we are recovering our investment. I do all the administrative work. I did have a business partner who was capable of assisting me, but, unfortunately, he passed on in 2014, so I am the chief cook and bottle washer literally. I attend to all the administration of the project, all the compliance, the financing, the planning, and contribute significantly to the labour inputs into the project. So we are a two-person operation; I have got one paid employee.

In my submission, I talked about the various reports that I need to make. I separated them. I listed the reports that I am required to make to the DMP. The first one is a form 5, which is an operations report primarily to do with the department wanting to satisfy itself that you have complied with your minimum expenditure obligations, and it asks for a little bit more detail than that. But, basically, I have got to keep a record for each tenement, which have got anniversary dates that are all over the place. They do not fall due on 30 June or at the end of each quarter, as the federal tax requirements do. The anniversary date of a mining tenement can fall on any day of the year, so I have got these things coming in throughout the year that I need to attend to. I need to make estimates of the expenditure and somehow reconcile them to the accounts that I keep for other purposes—for instance, the ATO's requirements, the quarterly BAS returns. Consequently, my form 5 submissions are, at best, guesstimates; they are not reconcilable. In an overall sense, after a few years, they will be, but I am exposing myself by not keeping a separate subaccount for all my tenements. So that is the form 5. I have got 12 tenements, so I make 12 of those a year. Then I make a combined annual report in respect of those 12 tenements. Now, that is a concession that the department presumably made some time ago allowing us to amalgamate annual reporting on a contiguous group of tenements that are part of the one project. In our case, they are contiguous and they are part of one project. So I have got to make that report, and that deals primarily with a description of what we did—how many tonnes we moved, how much mineral production there was, how much we spent and so forth. A couple of my tenements are not part of the combined reporting process, so I need to make separate annual reports about what we did on them. These are Ps—they are prospecting licences—which are not part of the combined reporting group. They are tenements that we are maintaining with the expectation of proving some resource that we might bring into the project at a later date. It is complicated.

**The CHAIR:** Will that change under the new act?

**Mr Nolan:** No.

**The CHAIR:** That is already there.

**Mr Nolan:** Yes. Then I produce an annual environmental report that addresses primarily environmental issues. That is an online template and it is not easy for me to use. I only use it once a year. It changes through the year. The browser that I use is not supported by the mines department. I use one of the mainstream browsers and the system crashes all the time and I get extremely angry. If I am trying to work after hours or on Saturdays or on Sundays, which

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I frequently do in a quiet moment, you cannot get your work done because there is no support. There is nobody to ring up and say, “How do I get past this bug?”

**Hon ROBIN CHAPPLE:** Tengraph and MINEDEX quite often are down over the weekends anyway.

**Mr Nolan:** Tell me about it!

Then I produce an annual mine rehab fund report, which in large part duplicates the annual environmental report, so, in theory, I should be able to import some of my annual environmental reporting statistics into the MRF, but you need a degree in computing systems to do that.

**Hon ROBIN CHAPPLE:** One is web based and one is DOS based and they will not work together.

[1.30 pm]

**Mr Nolan:** I think the case is still the same today. Some of the categories of disturbance do not match from one system to the other. So you have got two cells in one department in a common enough area. I think the same director is responsible for them both. The software systems are not totally compliant and sympathetic to each other, so we fight that. Then I have got an annual report in relation to two clearing permits which dates back some time. I think this legislation might be addressing that issue and that will mean that I simply have to make that report in another place but it is still a reporting item. And then I make a monthly report in relation to hours worked for the safety regulatory system. Part of that would be any accidents or incidents that we had encountered on the way through. That safety regulatory system is right now the subject of transformation from a paper system into an online system. That will be the most fantastic thing we have ever seen. We will not get a moment's rest when that thing is implemented because every single thing that any inspector comes on site and talks about, he will have a machine to remind him that we have not responded. There will be a notice that comes out from the mines department within 12 hours threatening massive fines or tenement forfeiture, which we are getting pretty accustomed to because those threats accompany every single piece of correspondence that comes out of the mines department.

**Hon ROBIN CHAPPLE:** Obviously, you do not fill your form 5 in properly and somebody knows about it, you can get plained. Do you think this will open up opportunities for plaining?

**Mr Nolan:** I think they are already there. If I am one day late with my form 5 submission, which I can be—when I was new to this business, I am not new to the mining business but I am new to the tenement administration business. The reporting period is within 60 days of the anniversary date. Absentmindedly, I programmed my computer for two months. It so happens that lots of two-month periods have 61 days. I thought I had 61 days, so I made that stupid mistake of submitting one day late and then I found myself in the position of having to beg to the minister in writing to avoid forfeiture—two million bucks invested.

Just to finish off; I will be quick. The other reports that we need to make to government agencies include a financial report to the ATO; that is a quarterly BAS. We need to make annual reports. In our case we are a joint venture which has got separate owners, so, you know, there are a number of reports to be made there. There are three returns. I cannot do them; they are done by an accountant. One I have missed is a mine closure revision, which is not annual, but in our case it is every three years, I think. We have to review that every three years. I cannot actually do that; it is too complicated. It would get knocked back if I try and do it, so I have to engage an environmental consultant.

**Hon KATE DOUST:** What would that cost you, Phil?

**Mr Nolan:** They cost a fortune.

**Hon KATE DOUST:** Ballpark figure?

**Mr Nolan:** I think we probably paid something like \$10 000. The mine closure review that we recently did, which basically was only editorial changes because we had not even started the project by the time we had to review the mine closure plan, cost us about \$10 000.

**The CHAIR:** Is this bill going to make all of what you said more onerous?

**Mr Nolan:** No. It is disappointing that this bill does not address a lot of those things. I mean, they could address many of these things. They could look at all of those reporting requirements and simplify the thing considerably—amalgamate them. In the case of the form 5s, they are based on the anniversary date of each tenement. That is something that comes out of Noah's Ark. I suppose it has got something to do with when they were pegged. That anniversary date carries on, but why they could not be aligned as in other business, as in our residential rates and so forth, which are all aligned to apply from 1 July or something like that. I suppose if people had onerous rate obligations they opt sometimes to pay them quarterly. But having to administer a large number of tenements all with differing anniversary dates is why we have got such an enormous tenement advisory management business. There are probably hundreds of tenement management businesses out there which are completely unnecessary because tenement administration is so difficult. This bill could have addressed that and it could have addressed the annual environmental report and the MRF. It is interesting to contemplate, why on earth have we got a mine regulatory fund act? Why was it not part of the Mining Act? Of course, you have got Dr Phil Gorey explaining that he wanted to tidy up various aspects of environmental regulation and put them in his own section in the act. Well, actually, that is not a bad idea; it just puts them all in one place so you can go and find them. But it still does not relieve us from the burden of having to report to DER, to the Department of Health. The mine regulation fund administration is all separate. This would have been the perfect opportunity to bring all those things together. But that would require significantly more broad thinking than is apparently afoot here. This amendment bill looks to me like it is just one cell of the department of mines looking to address things that it considers very important. Maybe some of the issues are important but they need to recognise that government policy is to reduce regulatory burden.

**Hon KATE DOUST:** Given the list that you have just provided us, which sounds to be extremely onerous, if you were looking at a seven-day week, would that take up, say, a full day of each week to comply and get all of those reports done or would it require more time?

**Mr Nolan:** There might be a few days of concerted work involved in an AER if you have not been systematically collecting the data on the way through. If you are collecting it on the way through, and you are highly organised, it is actually something that can be completed in half a dozen hours, or 10 hours or something like that. That is a long time for me. It is 0.3 per cent of my working time. I do not have an environmental officer to do this. When you add it to all these other reports, I am more interested in—I am happy to report most of the things we are reporting; I am just unhappy about doing it three times.

**Hon ROBIN CHAPPLE:** A classic example of that is if you have a prospecting licence and you have a mining licence, you fill in two forms which are absolutely identical to form 5 on both of them.

**Mr Nolan:** That is right.

**Hon ROBIN CHAPPLE:** What is the sense in that? It is a nonsense.

**Mr Nolan:** It is.

**The CHAIR:** Do you think there should be separate provisions for small-scale miners? Is that something that the smaller scale miners would think about?

**Mr Nolan:** I do not think of it in terms of what some of the small prospecting operators are thinking but it seems to me, reading some of the correspondence and things they are saying, that they have

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a good case for some of these things. They suffer from administrative burden in the same way the bigger operators do, so I am sympathetic to what they are saying.

**Mr Simmonds:** Furthermore, as far as the MRF goes, there was a little ditty that happened to me last year when I handed in my first one. Not being computer smart, I went into Kal here and there was a young lass up from loan with the MRF team. She helped fill it in and of course she said, “I can’t sign for it; you have to push this button here.” So away it went for the three leases. Six weeks later, I got a fine for \$8 000. Ouch! There were two penalties there for the two leases. Trying to sort that out, what a debacle that turned into. Now, this is the department that implemented this. They trained their staff to talk to me, to fill it in, to send it off for me.

[1.40 pm]

**The CHAIR:** So they filled it in wrong.

**Mr Simmonds:** Yes. Where is your course of redress? How much anxiety did I suffer? Never ever before have I not paid a bill or got into trouble.

**The CHAIR:** Did you end up paying that or did you get out of it?

**Mr Simmonds:** No. They could not get EARS hooked up with the system or something or other, yet they have implemented this thing and it was not bombproof.

**The CHAIR:** That is another reason for the online system.

**Mr Simmonds:** We should have a paper trail still.

**Mr Moller:** If I could add, in virtually every other government department that uses written submissions and online systems, they usually run both in tandem. For example, in my profession I have to deal with the Registry of Births, Deaths and Marriages on an almost daily basis. Even though for the past six years we have had an online system that is quite robust and it has had a lot of bugs worked out of and it is indeed a system that I use almost every day, there is still the option there to submit written forms in a timely fashion and they are still dealt with in the old way. There are plenty of people out there who just cannot get their mind around online systems. There is that provision there. If one person or two people, even three—whoever—need to use a written system, the option should be there for them. They entice them to come over to the digital system for speed and efficiency but they should not be getting rid of the written submissions and belting everybody over the head with unreasonable fines and extremely short periods of compliance time.

**The CHAIR:** Yes, online sometimes is not the easiest. I have told my committee members before that I had to fill in a gun licence. I changed the gun licence over and it took me three goes and I am very proficient with computers, and of course I blamed the program. But it is very difficult if these things are not easy, let alone people who do not use computers.

Do we have any more questions? Would you like to say anything more to the committee about the bill that you think we have missed?

**Mr Simmonds:** I have. Just in conclusion today, where will you be going from here so we know?

**The CHAIR:** The process is that we go back to Perth and we look at all the transcripts, look at all the evidence and then we go into deliberations. The committee meets to deliberate and puts a report together. That report, once it is finalised, gets tabled in Parliament and it goes to the minister as well. The minister has two months to report back to us.

**Mr Simmonds:** How long will this process be? If I was to read all the paperwork that I have seen presented today, without the submissions, alone, that will take you a month of Sundays.

**The CHAIR:** No, it will not; I can knock that off in a night.

**Mr Simmonds:** Liar, liar.

**The CHAIR:** Well, I am a fast reader; I am not fibbing!

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**Hon ROBIN CHAPPLE:** This is what we have to do.

**Mr Simmonds:** Is it?

**The CHAIR:** Yes. I can assure you that we do that if we have to.

**Mr Simmonds:** I hope you take a lot of consideration with you from the people that have spoken.

**The CHAIR:** We do that. As I said before, this is an upper house committee. We do not rubber stamp anything; we actually look at legislation. That is why we have the committee. We look at what you have said and we take that into consideration and we make recommendations to the government on what we have heard and what we have read. We are a cross party. Robin is in the Greens party, Kate is Labor, I am the government and Stephen, this is his area and he is a Labor member. I have another Liberal member who is not here today. We look at legislation. We do not look at parties. Nobody here today has mentioned —

**Mr Simmonds:** Nor should you when it is for the good of the country.

**The CHAIR:** What we do is look at good legislation. We can report on what we find and then it is up to the government and the minister of the day to look at what we put forward.

**Hon ROBIN CHAPPLE:** I suppose at the end of the day our report provides advice to the members of the upper house when this bill comes before them as to whether they support it or they do not. So at the end of the day, it will be down to a vote. Reports quite often actually make significant impact on providing the minister with information that he or she may not have been aware of during the process of the drafting of the legislation. We have heard so much about that today.

**The CHAIR:** We do have a National member, Hon Dave Grills, whom I neglected to mention. All the parties are represented on Legislation. Before we finish, did you have something?

**Mr Nolan:** Just one item, thanks very much. This relates to making information public in some of these reports. I do not recall seeing it anywhere in the bill. In the course of submitting my AER recently, I was warned that certain information we provided—for instance, site layout drawings—would be made publicly available. I chose not to provide a drawing. I put an explanation that I did not want this information to go public because all it does is assist people who should not be there to find their way around the place and steal fuel or steal cyanide or steal gold or steal whatever they like. I just wondered if it was possible at all for the committee to recognise that there are very good reasons why mining companies do not want certain information included in reports that are going to be made public. I do not have a problem with providing it to the mines department, providing it remains confidential.

**Hon ROBIN CHAPPLE:** Was that a particular clause or regulation or guideline?

**Mr Nolan:** A requirement of the AER requires us to make a detailed plan of anything that we do, including how to get there.

**Hon ROBIN CHAPPLE:** As we already experienced. Some people did not know.

**The CHAIR:** In recent times it has not been made public, has it? In recent times anything that you submitted like that has not been made public.

**Mr Nolan:** I am not sure, to be honest. In some of my submissions—my applications—I have requested that certain things be not made public. I think I had that option to make that request, which bound the mines department not to make it public but in this AER, there is no such undertaking by the DMP not to make it public.

**The CHAIR:** So you are pointing that out.

**Hon ROBIN CHAPPLE:** Just on that, do you have a copy of or can you point us to the AER? I have just gone through the act and the regulations and it does not come up.

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**Mr Nolan:** In our tenement conditions —

**Hon ROBIN CHAPPLE:** So it is part of your NOI?

**Mr Nolan:** No. NOI is an old term. It was superseded by “mining proposal”.

**Hon ROBIN CHAPPLE:** I am old.

**Mr Nolan:** Yes, I know. You are like me. In our mining approval, it is brought to our attention that we are obliged to submit an AER and it is probably referred to in the regulations. I just cannot remember it.

**Hon ROBIN CHAPPLE:** So it is an existing form.

**Mr Nolan:** Yes, and it is also referred to in the conditions of each tenement. It may not be a requirement of a prospecting licence; I cannot remember.

**The CHAIR:** I would like to thank you for attending today. A transcript of this hearing will be forwarded to you for correction. If you believe that any correction should be made because of typographical or transcription errors, please indicate those corrections on the transcript. Thank you very much for your input.

**Mr Moller:** Thank you, Madam Chair, and thank you honourable members.

**Hearing concluded at 1.50 pm**

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