

STANDING COMMITTEE ON LEGISLATION

MINING LEGISLATION AMENDMENT BILL 2015

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

SESSION SEVEN

Members

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

Hearing commenced at 1.58 pm**Mr GERARD BREWER****Prospector, sworn and examined:****Mr DAVID WOODIWISS****Private Citizen, sworn and examined:****Mr CHRISTOPHER POTTS****Prospector/Gold Producer, 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.

Mr Brewer: I am appearing for myself and, as I indicated in an email, I have also got a submission from a lawyer, who cannot be here today. And I may request at a later date that I ask leave to —

The CHAIR: Would you like that tabled later?

Mr Brewer: All right. I have got a lot of documents here which I request to be put on public record, subject to you going through them.

The CHAIR: Okay; you would like those documents tabled. Give them to David and we will document what you have tabled.

Mr Brewer: That is on public record; right?

The CHAIR: Yes. When you say “on public record”, when you table it, we go through it and we work out if it is public or not.

Mr Brewer: That is fine. I would say all of it is public, in one form or another.

[Witnesses took the oath.]

The CHAIR: You will have 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 the hearing for the record, and please be aware of the microphones and try to talk into them. Ensure that you do not cover them with papers nor make noise near them and please try and 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 your 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 you each like to make a five-minute opening statement to the committee?

Mr Potts: You are welcome to ask any questions during my little speech I have prepared here.

Dear committee: I have been prospecting and producing gold in Kalgoorlie virtually all my life. I am the son of a prospector/gold producer who is also the son of a prospector/gold producer. I have got approximately 11 leases or 12 leases in Kalgoorlie. It is my full-time occupation. I have exploration drill rigs; I have an operating treatment plant. I make my living solely out of the production of gold. I have all the equipment required to do all the mining, in all views, of sinking shafts, declines, and digging open pits. I am a mine manager, with the appropriate tickets. The size of my operations, believe it or not, even though they are quite small, they are still much larger than a lot of public listed ASX companies. I produce small volumes of gold, which is still a lot more than what most larger, modern companies produce. I employ a number of contractors. When I speak to my ASX friends who have got companies and I ask them how they feel about this mining bill that is being presented, they do not like it. They do not want to talk about it and I say, "Why don't you come along and stick up and say something with us prospectors?" They comment some things like, "We don't want to make any waves. We don't want to be causing trouble." I say, "You have got to come and say something." Anyway, that is the answer to it. This means that there is only a small amount of projects that go forward, done by prospectors like ourselves. Most of these projects that they talk about, they say, "This is too small for us; it is too hard. We have to have a big project, otherwise it is not worth touching, not worth doing." This brings us in to what a lot of us in this room here are here for. On the DMP's site, they think that—I have heard someone say that 11 per cent of the leaseholders in this area of Australia are prospectors and small gold producers, but I do not think that is quite true. A lot of us were under proprietary limited companies. It would not be recognised on the computer screens that we are prospectors. A lot of our mines are under the name of bigger mines. I have mines which have the resources of 50 000 houses, but most public companies would say, "Oh, it's too small for us; we couldn't do it."

The department seemed to me to be anti-mining. They seem to be obsessed with and hell-bent on rehabilitation to the nth degree and have no regard for leaving in drillhole samples. We cannot put our drillhole samples next to our drills; they have to be totally rehabilitated. It is a great source of information that should be left there for the next explorers. What I am trying to get to is saying that they make us also do things like pull down an expensive plant when we finish our operations. They are hell-bent on knocking down head frames, removing mills, ploughing up roads and pipelines or water lines and even houses. A lot of these operations in the goldfields are recycled over and over again. What the department seems to always want to do is to totally rehabilitate and remove all infrastructure as if mankind had never even been there. This comes from, in my opinion, inexperienced greenies working in the department, which we have to fight all the time. When I get a visit from the mines inspectors, the department of environment, they seem to hate it when I say that I plan to dig a big mine here, increase the size of my treatment plant; they get all snaky. They say things like, "Can't you take the dirt away somewhere else and treat it down the road there with KCGM or someone else?" They do not understand that small producers cannot go along and take their small parcels of dirt to large mills around the place because if you blink, you miss it. It gets swallowed up in a day's work, and often the producer of that gold does not get a fair run of their gold production. I am probably talking here more from a gold producer rather than a pushing and scraping exercise. But there are a lot of people in our industry who are on that level of producing gold, and probably a lot more than 80 per cent of most of the ASX-listed companies that are here and own ground around here.

Electronic submission—this is a problem that I have. I believe it can be a trap. It makes you put figures and texts into boxes, you are compelled to give exact figures, and then you are warned on the same email or same program that if you do not do it right, you are liable for prosecution and criminality. So it does not lend you to try to, first, engulf and enjoy the system of putting in an electronic submission; and then when they do things like give you mining approvals, they seem to think that people who are prospectors and small producers are people like BHP and Rio Tinto. They try to make me put plastic sheeting under my drill rig when I go drilling. Every time you

move a hole, you have to move this great big plastic sheeting around. No-one does that. But BHP started it; therefore, it is the new way. They will not let me drill holes less than 20 metres apart. Again, it is just the department trying to say things like, “We are looking after the environment here”, and I am saying, “Hang on; no. This is mining. This is a great big open land we have here. I don’t want you to come along and dictate to me how to do my drilling program. I will tell you how I’m doing my drilling program, and I want you to approve it.” But we have trouble there.

[2.10 pm]

The department, in my opinion, seems to be overrun with young people with an environmental science degree, who seem to be handpicked by their senior management, the very ones who I reckon have constructed this bill. This bill is a bad thing. I think this department is sneaky. They put this bill forward. The very first presenter here, Andrew Pumphrey, mentioned about the bill being presented and it was put to us for consultation. I was in that same room and that same meeting, and we were gobsmacked when we heard that it was already put in place—no-one had ever heard of it before—and then they came back and said, “Oh, no, AMEC has approved it.” It was nothing. APLA had never heard of it. So what I have done is in my submission I have put in just a few examples of how electronic management of our tenements is not really the only way to go. It could be done in some ways electronically. But it is a way that the department can manipulate and use their power and shut us down and give us no way of sort of talking to them and communicating with them, and they are putting their own words into our submissions for their new way.

Also, I am very wary about giving these young, inexperienced people—I think we need to have some young and inexperienced people, but there is no-one there who is older and has any commonsense. You ask them for help and advice about trying to manage your environmental applications and, “No, we can’t do that, sorry; you have to go and get a consultant.” They are very keen for us to use consultants. Consultants are expensive. Consultants like to rot the system. They like to drag out their work and make as much money, because that is the only way that the consultants make their money. Most of our prospectors cannot afford consultants.

So, I believe that this bill has nothing to help us. It is only a detriment. It is something that is going to make their work easier and make us people do the department’s work for them. I think that all this will do is give them more powerful and militant powers, and they should not have that. I think this bill should be rejected or, if not, changed drastically. I even suggest that we should have a royal commission into it to try and ascertain if some vindictiveness is going on in this department and if they are anti-mining, which I believe they are.

That is all I can think of at this stage, but you are most welcome to ask me any questions about how my operations are and what you think I would like to see happen.

The CHAIR: What we will do is go to the second and third person and then come back to you.

Mr Woodiwiss: My name is David Woodiwiss. Thank you for the chance to be able to discuss this with you today; it is most welcome. I have detailed most of the points that I need to bring up in the eight submissions I have made to you, so I will just talk generally at this stage if I can. The main problem is it is very hard within a few minutes to detail all the problems we find with the legislation, because it runs to many pages—65 pages—and marked-up additions of what is being changed. So, it is difficult; you cannot say in five minutes exactly what you find wrong with it. To cover the aspect of what I believe are the detailed problems in the bill, I am on the committee from APLA that had the two day discussions with the DMP back in May and June last year. We talked to them in detail and went through the bill clause by clause. In my submission 2, I have attached the full minutes of those two day meetings. If the committee could read through all of those minutes, basically they will find and get the gist of where prospectors and small miners are coming from, and the detailed problems that they have clause by clause with these changes to the Mining Act.

The biggest disappointment to us is that having gone out of our way and spent a huge amount of time researching and investigating the changes, and then presenting those changes to the DMP, we have heard sweet nothing from them since then. In fact on the second day of the hearings with them, Phil Gorey actually said to us, “I don’t propose to answer you; you’ve got to put all your problems in writing”, and we said, “We’ve done that to you. What else is the purpose of discussing these things in detail for you and recording them in the minutes, and recording the transcript verbally, and then you want us to go through the whole thing again and put it in writing for you? You’ve had all the evidence. What more can you possibly need?” So it is very upsetting that the guy who has spent the last four or five years of his life, according to him, drafting these new amendments to the bill, basically, did not want to discuss them. He heard our points and he then said, “I’ve heard you. I’ve done my job. I don’t propose to change anything, and it’s not up to me.”

The CHAIR: Department heads are not ministers. But keep going.

Mr Woodiwiss: No. He said, “I’ll have to put it to the minister.” But the minister has not responded either.

The CHAIR: Did you write to the minister?

Mr Woodiwiss: The minister would have had a copy of the minutes. APLA did write to the minister on numerous occasions.

The CHAIR: There is a new minister.

Mr Woodiwiss: The old minister, sorry. He actually wrote a letter to APLA back in September to say, “I hear what you’re saying but I don’t propose to change anything.” He actually wrote that in his letter. So what I think should happen now is that the bill should be rejected until a mutual way forward is agreed. The present act is working okay. It will not cause any harm if the bill is put into abeyance for six months or a year. The other parties have had four years to discuss it and formulate it. We tried to engage with the department and the minister to change things that we need to have changed, and they refused to do so, basically.

I am very perturbed about the way the DMP is acting more and more currently. When I first joined the industry in 1984, whatever you wanted to do in mining, you went to see the local mining engineer or district inspector; you would sit beside a desk and discuss with him what you wanted to do. You would usually give him a one-page letter, and he would discuss it with you, and he could not be more helpful. Nowadays it has grossly slipped, worse and worse and worse, so we are spending a lot of our time just filling in paperwork, justifying ourselves. Now, if we had had a bad track record and we had always been doing things wrong and misdemeanours and stuffing things up, then I can accept that might be required, but I think the track record of prospectors in general is very, very good. We have a very high compliance rating. We take pride in our work. So, do not take us off the land where we are trying to earn an income and do your regulatory work and forms for you. Give us a go. If we stuff up, then pull us up, but until such time as we are showing we are not complying with the general gist of the Mining Act, leave us alone, please.

The other thing is more and more, and it is happening even more in these amendments to the Mining Act, the DMP are trying to push more and more stuff into the regulations and they are saying, “Trust us, the mining regulations will be”—I think someone said—“tinkered with to make things work.” A DMP person said that. It is very dangerous because the regulations can be changed at the minister’s whim, basically. I know there is a modicum of control within the Parliament to peruse changes to regulations, but we find it very dangerous if the detail behind the act is really in the regulations. Basically, is the tail wagging the dog or is the dog wagging the tail? Really, before we can go forward and agree on these changes to the Mining Act, we need to see the regulations.

[2.20 pm]

We have asked the DMP for these regulations and they have said, “We haven’t got them.” I do not believe that can be true. They might not have them in detail, but they would know where they are

going to go. Surely they would know which direction they are going to be heading. Just the other day I was reading the ATO website on one part of the taxation act. They are proposing to change things and there is a bill going through federal Parliament now, and the ATO have already put in what they regard as—if the act goes forward in its proposed things and it has had its first reading and its second reading, that these will be the parameters within which this new act as part of the taxation act will be interpreted. If the ATO can do it, they are being transparent, they are telling people where they are coming from, what their modus operandi is going to be when these changes come through, how it is going to be interpreted, why can the DMP not do that? The ATO are saying, “You can rely on this draft we are pushing forward on how we’ll be doing it”, but the DMP has said, “We don’t know what the regulations are going to be”, and I find that very hard to understand.

So, basically, the way the DMP are operating, at least as far as prospectors and small miners are concerned, they think they are a law unto themselves, they can dictate to us and we have got to lump it. I think that is a very dangerous way to go and I think we should have a royal commission into their modus operandi and get to the bottom of what is driving this change in their attitude towards us all. Is it necessary? Can we have a fair go, please? Thank you.

The CHAIR: Thank you. Gerard?

Mr Brewer: Thank you very much. I would just like to thank the committee for the opportunity to express some of my concerns in respect of the Mining Legislation Amendment Bill. I would just like to say that I fully expect that there will be some vindictive retribution from some public servants at the DMP towards me and others who appear here.

The CHAIR: I hope not.

Mr Brewer: Well, anyway, before I go any further, I would like to state that there are many good people working as public servants in the DMP that I have had the pleasure of being assisted by over the years. Prospectors have a very fluctuating income and sometimes they can hardly afford to eat, so to speak, with their mining tenements being extremely important to them and their livelihoods, their very existence. They do not need further repressive additional paperwork, costs and DMP’s collective powers that this bill will create. I think the previous minister said that he was going to make it less paperwork. I think he has misled everyone. Remember, absolute power breeds corruption.

Part of my history is I have been involved in the mining industry for some 30-plus years. I have pegged or been involved in some 1 500 to 2 000 mining tenements, pegging for large international mining companies, medium and small mining companies, individual prospectors, and I have done a fair bit of pro bono work for different individuals, including Aboriginals.

I have numerous prospecting equipment. One of the things I have got is a geochemical rig that I have had just on 20 years that I bought new at great cost. I saw sandalwood blocks. If a mining company had it, whether they are big or small, that is the first thing they would do; they would geochem their ground. I had the privilege of being advised on this by some members of CRA many years ago and being given confidential soil sampling techniques et cetera by one Louise Lawrence, who I believe invented or was cofounder of this system with another person from CSIRO.

Recently I bought state-of-the-art GEM magnetometers from Canada, which are used for measuring the earth’s magnetic field. The data is processed by a geophysical company in Perth to create 3D images of structural and drill targets, and I also get them to write me a report at a fair cost to select targets for myself. I will refer further to that later on one of my projects. I also just recently bought a 24-man mobile camp that is probably \$1 million-plus—I did not pay that amount for it—off a company. That camp is environmentally friendly, with having black and grey water retention et cetera, et cetera, and I have various earthmoving equipment. In all, I have got a fair bit of money invested.

For quite a number of years, I think it was since 1990, I had a Mt Fisher project, which I still have part of. I have had that since approximately 1990 and up to some 1 200 square kilometres, which I think at the time was about 46 kays north and south and about 32 kays east and west. It was not rectangular. I had explorers in the CRA spend about \$4 million; Delta Gold spent \$2 million; what I spent I would not have a clue in some 26 years there. Rox Resources, which I had in there, a very small, frugal company, and it is very difficult to raise money on the stock exchange, but they spent probably \$15 million maybe \$20 million, and they have actually discovered a new nickel province up on my ground bore. Part of it is their ground now. They diligently and frugally explored, and I think they used one of the minister's drilling grants on the discovery hole up there. Rox continues to explore my 15-kilometre down strike geology with encouraging results.

I have got some documents to tender. I have tendered them and I hope you will bear some latitude with me. The first document is CCC—crime and corruption definition. Have you got these in front of you?

[2.30 pm]

The CHAIR: I know you are going to give us all of this, but this is your time for you to tell us what is wrong with the particular bill. I am not going to stop you from saying what you want to say, but can you be choosy and link it back to the bill? Can you do that or not?

Mr Brewer: What I want to say is the mines department is out of control already with this act. There is a lot of corruption going on and favouritism, and it all relates back to the new bill. They should not have more powers, particularly the environmental section. The two are intertwined.

The CHAIR: So what you are against is the new environmental part in the bill that they have put in?

Mr Brewer: I am against the mines department giving —

The CHAIR: Powers.

Mr Brewer: — great new powers when they are out of control with the existing act. There are the two definitions of corruption. One is from what is called the Accountability, Transparency and Corruption Legalwise Seminar on 27 November 2012. It was chaired by John Hyde, MLA, et cetera. Have you got any highlighted copies in that thing?

Hon ROBIN CHAPPLE: Yes, we have got highlighted copies.

The CHAIR: Does that link back to the bill?

Mr Brewer: It will. Unfortunately, when I got the copy this morning, some of the highlighted sections were black. Have you got a spare copy there with highlights that I might be able to use? I apologise.

Hon ROBIN CHAPPLE: When it comes to the *Hansard* and all that sort of stuff, we have already reviewed all that anyway.

Mr Brewer: I apologise for holding you up.

The CHAIR: No, you are not holding us up. This is your time, but it is also the other two blokes' time as well.

Hon KATE DOUST: Mr Brewer, perhaps you might just talk to the document rather than take us through it. That might be a bit easier for you.

Mr Brewer: I am providing these two documents: one is the accountability and transparency seminar, which I just explained, and the other one is from the Corruption and Crime Commission and the front page is headed "2.6.3 Meaning of Corruption". Basically, corruption does not mean to say that money passes hands; it is favouritism and all sorts of other things, as is explained in there. I will move on if I may.

The CHAIR: I did counsel somebody else that spoke about corruption that it has huge connotations. So, for your benefit, perhaps it would be best if you moved on.

Mr Brewer: As a general example, with the mines department changing its ground, even with its new act, there is a letter there from a lawyer, Garry Lawton, to the legislation committee's new inquiry into the Mining Legislation Amendment Bill. The submission says —

1. It is submitted that corporate tenement holders are abusing the exemption system by applying for an exemption —

This is under the current act —

notwithstanding the fact that they have previously claimed full expenditure on the same tenement.

So they are double dipping —

2. Further, it is submitted that a change of policy of the Department of Mines and Petroleum resulting in it no longer notifying Applicants for Forfeiture of the filing of a subsequent Exemption Application, is resulting in procedural unfairness to the Applicant for Forfeiture as it would be unlikely to become aware of the existence of the Exemption Application in circumstances outlined ...

Background

1. The holder of a Prospecting Licence, Exploration Licence or a Mining Lease is required to expend a minimum amount on its tenement. This amount depends upon the nature and size of the tenement.
2. An Operations Report (Form 5) is required to be filed within 60 days of the anniversary date for each tenement detailing the claimed expenditure in respect to that tenement.
3. If a tenement holder has not fully complied with its expenditure obligation it can apply for a Certificate of Exemption from that obligation.

That certificate brings the tenement back into good stead, so the minimum expenditure has been satisfied —

4. If the tenement holder's circumstances fall within one of the fact situations set out in section 102(2) or (3) of the *Mining Act 1978* it is entitled to the issue of a Certificate exempting it from the need to comply with its expenditure obligation.
5. If the tenement holder's circumstances do not fall within the prescribed fact situation then it is not entitled to an exemption of its expenditure obligation.

That is meaning to say that the tenement is in default —

6. Any person can object to the grant of such a Certificate and that Exemption Application and Objection are heard by the Warden in the Warden's Court.
7. A practice has recently developed of a tenement holder:
 - (i) lodging a Form 5 claiming full expenditure whilst at the same time; and
 - (ii) lodging an Application for Exemption for the full amount of the required expenditure.

So they are double dipping —

8. As well as being logically inconsistent it is submitted that this practice constitutes an abuse of process and should not be permitted.
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9. An example of this practice which resulted in the grant of exemption certificates notwithstanding the existence of Form 5s claiming the full amount of the required expenditure can be found in the case of Mining Leases ...

It should be 24/846 and 24/848 —

held by Siberia Mining Corporation Pty Ltd.

10. The Applications for Exemption in the above instances did not come to the Applicant for Forfeitures attention until after the Exemptions were granted. The Applicant for Forfeiture accordingly had no opportunity to object to the Exemption Applications and seemingly lost his opportunity of succeeding with an Application for Forfeiture.

Furthermore to that, here is a spreadsheet. I bear in mind that corporations have many names—it used to be Swan Gold, then there was a subsidiary Siberia Mining Corporation and Carnegie Gold but now I think they might be Eastern Goldfields resources or something. They keep changing names. But here is a spreadsheet on Swan Gold expenditure history. This is abuse of power; right? Something smells about this at the mines department. There is something like 400-plus notices of forfeitures here. There are less than 450, but most are written out to Swan Gold and giving them notice of forfeitures. You have heard people here say that if they got one or two, they might lose their tenements' forfeiture notices. Here is 400-plus notices of forfeitures. The mines department has not forwarded one tenement. If that is not corruption or something, it is incompetence at the very least.

[2.40 pm]

The CHAIR: Now you have highlighted it, it shall be looked into.

Mr Brewer: Please do.

The CHAIR: We will not be looking into it, but it will go —

Mr Brewer: And probably the close association with ex-mines department tenement consultants who seem to have the key to the house. I have got another example.

The CHAIR: We have 20 minutes left.

Mr Brewer: Right; sorry—E 53/1380.

The CHAIR: We have 20 minutes left and you have made two very valid points.

Mr Brewer: Okay; I will hurry up. Back to the —

The CHAIR: The others do have to have a go and we have to ask some questions.

Mr Brewer: Here is an email—“POW concerns” of high importance—from one of the directors, Dr Chris Ringrose, of Cullen Resources to me on about 23 September 2013. It basically states —

During recent conversations with the Department in relation to processing our POW requests a couple of issues have been of concern:

- (1) The recommended size of a drill pad is 20 x 20m. Cullen had requested 40 x 30m. It is generally known that for an RC programme the length of the machines involved is at least 20m—drill rig, auxiliary vehicle/rod truck and booster truck. If these are end to end that's at least 20m not allowing for spaces. The area required around the drill rig has to be determined by the lie of the land and the presence of trees and vegetation etc. Clearance is necessary to allow vehicles to turn safely and for work to occur around the vehicles. This does not take into account the need for sumps which can only be placed by due consideration of the topography, obviously, and access. To specify such a small footprint as 20 x 20m is impractical and a safety issue.

I am aware that there has been an issue with the inspectorate at the mines department as opposed to the environmental section. The inspectorate wants a bigger area for safety. It states —

- (2) Positioning of drill holes is often guided by the location of geological, geochemical and geophysical features, often gathered after much expensive surveying. The drilling of holes to target these features will take into account the position of trees, but we have been requested to use any areas free from vegetation if possible for drilling. This is often impractical with respect to the target being tested. The drillhole needs to be sited to best test the target.

That is something like Chris was saying, they wanted him to dictate the drill spacing. It goes on —

- (3) We have been asked to maintain “ vehicle hygiene “ to prevent the spread of weeds. No exploration vehicle travels to the bush covered in weeds—it’s a fire hazard for the vehicle—and in the field vehicle hygiene is normal practice. Access roads to many of the exploration field areas in WA are used by the general public and they are not required to maintain “vehicle hygiene.”

There is that one there.

The CHAIR: I am going to say that you have tabled those documents and we have them. To be fair to the other guys and to be fair to us, we need to ask you questions about the bill that is in front of us, and we have about 15 minutes left to do that. We certainly will be reading the information that you gave us; you can be assured of that. Are you happy if I start asking questions?

Mr Brewer: Yes.

Hon KATE DOUST: I was just interested to go back and have a discussion around the fees. There has been some talk from earlier groups about the increase in the fees that the department would be applying as a result of this new legislation. I am just wondering what your opinion on that is.

Mr Potts: I think you are talking about the increased fees which have been waived recently, have they not?

Hon KATE DOUST: Yes.

Mr Potts: Or they have been suppressed for the time being.

Hon ROBIN CHAPPLE: This was mining regulation 2.

Mr Potts: Yes.

Hon KATE DOUST: Just given the conversation when you talked about how tough it is for prospectors financially, it would be good to have it on the record from somebody about how it is going to impact with an increase in fees.

Mr Potts: I will certainly tell you. Sometimes we have several mining projects on the go at one time. There is not necessarily just one. Mining proposals cost \$7 500, I think the figure was—I have forgotten. It is \$950. That means that every time you go along and do anything a little bit more than just a pushing and scraping exercise or digging a hole in the ground of some sort, it is going to cost you an immediate application fee of that figure. It is just too much. The same with the low-impact one—what is it? I think it is \$595. They are the same. It is something that, years ago, the department would help prospectors and small producers. They would subsidise your living costs of batteries; they would hire you a hoist or a compressor. They would do things to help you to try to get going in the ground, but all that seems to be forgotten now. It is all about, “Hey, Western Australia is struggling. Where can we get some money from? Let’s try and make our department self funding through the department and let’s just put these figures on everybody.” We feel that this is important and all they are is taking advantage of us.

Hon KATE DOUST: Can you just tell me, for a lot of small businesses—because that is what a lot of small or medium-sized prospectors are—starting out, you can usually go and put your business plan to the bank and put an expression in to try to seek some sort of loan to help get you started. I imagine that is not the case for a prospector. I imagine that you are not going to visit your bank manager on a regular basis to help you pay your way. If you do not have that as an avenue for financing your project, can you perhaps explain to the committee how it is that prospectors currently would fund their projects?

Mr Potts: What we do is we fund our projects out of our own cash flow from the previous income that we have earned. We have to try to use our machinery smartly and keep the costs down. If we go to a bank and say, “Look, I know there’s gold there; I can feel it in me waters”, they would laugh you out of the bank!

Hon KATE DOUST: I am sure they have heard that line a few times!

Mr Potts: It is an immediate thing. Where the gold is, is where you find it, and you really have to go along and spend that money and you have to fight your way through the department’s methods of getting access to the land and then often, when you do the LIN program or you do your small mining operation or you are pushing a scrape exercise, still you get no gold; it is just a complete waste.

In answer to funding our work, it is purely from our own abilities. We have to find money from beforehand and no-one will help you. I remember Bill Marmion saying, “If you’re going to go and get a good mine, raise a public company”, and that was his words to me at one of the meetings he came to in Kalgoorlie, and it is sort of wrong. He has it way out of context here. It is not easy to go along and raise money, so it is all out of our own cash flow. Often we have to go and get part-time jobs.

[2.50 pm]

Hon KATE DOUST: David, do you have anything to add?

Mr Woodiwiss: Along with all the form filling and administration work for them, the DMP has said one of the things they are going to do is to reduce the administrative burden. All they are doing is reducing the administrative burden of their part and throwing it on to us. The other thing is we heard as a justification for putting fees on from before was that they wanted to employ 14 more environmental people. Every other government department, if they need more money, they have to go to the public purse and justify themselves, and most government departments—it is my understanding—nowadays are having to reduce their costs and have staff freezes and that sort of thing. My understanding is that if they introduce these fees, the money will go directly into the environmental department of the mines department so they do not have to go through the public purse process. Basically, it is a way of grabbing money for themselves, thank you very much, to increase their empire, which is a very dangerous thing because they already cannot administer the power they have.

They stuck this into the act two years ago, given the head powers in the Mining Act, and nobody kicked up much at the time. Every time you talk about fees, any fee attached to the Mining Act, it is some sort of fee, \$15, \$30, \$40, \$50, sometimes as much as \$100, to do something under the act. No-one was too concerned. This year, when they came out, it was \$590 for a POW, \$6 950 for a mining thing, everyone said, “Christ! You know, that’s just way out of proportion and ridiculous.” If anyone had any inkling it was going to be like that, they would have arced up back then. The minister heard the noise, it got too uncomfortable for him, and just one week before they were going to put the fees in place, he had a moratorium on them, but he has not had the guts to say, “I’m going to take them out of the act. I’m going to take the head powers out of the act. It’s not going to be revisited again.” He has been very coy about what he is going to do with them; he has not made a public statement to say they will never be introduced, and he has not amended the

Mining Act amendments to take the head powers out of the Mining Act as he should. It is just another imposition on getting work done and trying to encourage people to do some mining in this state.

The CHAIR: It is a different minister now, so we will have to wait and see.

Hon KATE DOUST: Gerard, have you got a view on the fees?

Mr Brewer: On the fees? What David just said. My understanding is that those fees will be collected by the environmental section and I may be wrong but I was of the understanding that there is an agreement between the previous minister that they keep the fees. There is no separation of power in that instance, whereas fees from the mines department used to go into internal revenue and then the government would write a cheque for the mines department, so that is a very dangerous situation if what I have just said is right. Those fees, as far as a small prospector goes, could be better ploughed back into his operation. Granny Smith was founded by Ray Smith; Paddington was probably founded by an operation by prospectors nearby. I do not think there was a mine founded by a geologist until Bottle Creek, which is north east of Menzies, and that might have been in 1983 or 1984. Prospectors have carried this country and contributed a lot to the Western Australian economy, and they can still do it, so please do not starve them of cash.

The CHAIR: We cannot change this bill —

Hon KATE DOUST: Well, some of us might try!

The CHAIR: That is not what I was going to say. We cannot stop this bill, but what we can do is we can change some things in the bill. We can recommend those changes. By you and people in here just saying we need to throw it out, that is not going to happen, but is there something in this bill that will make it better for each of you?

Mr Brewer: I will just say something about some points you have asked other people about. I have a doctor as a partner and he tells me that there used to be one public servant to govern four doctors and now it is four public servants for one doctor. You get this —

Hon KATE DOUST: Not at the current rate the government's making health workers redundant in this state.

Mr Brewer: Well, maybe I am wrong. Probably last year or something.

Hon KATE DOUST: I would be pleasantly shocked to find that many public servants covering for one doctor!

Mr Brewer: The other thing is a very good example of consultation was when the mines department introduced TENGRAPH. They spoke to everyone and they listened and that is why we have one of the best planning management systems in the world.

Hon ROBIN CHAPPLE: I was part of that trial, and they trialled that with test people for over a year and a half, I think it was, before it was agreed to.

Mr Brewer: But they asked questions.

Hon ROBIN CHAPPLE: Absolutely.

Mr Brewer: And they listened. People are not listening now. Just on one thing I think you asked about, you might have been asking about a sort of subsection, a form 40, where someone can go on to your land and apply for something ridiculous. There is nothing a tenement holder can do about that, maybe to say that those particulars are acts of exploration, but they are a law unto themselves and might say they have to abide by this and that. They never do. The tenement holder picks up the burden of wheel tracks, degradation to the environment. That is something that has to be looked at. On the subject of digital applications, like everyone else said here, you have to have a dual system. It is still the manual system and the digital system. I have got a mobile camp, placed on the basis of a two-bar Telstra signal. I got a certified Cel-Fi Telstra booster for about \$1 800. It is woeful.

This is near a big mining centre, where it is at the moment. I have had to ring the police because I could not get in touch with my caretaker to see if he is all right and see if the police could go out. They said, “Telstra has been down just up near Leonora; Telstra has been down” et cetera. I have had to communicate with them by satellite phone. So, how are all these other people, prospectors out in the bush, going to comply with their lodgement things? I believe there is one person at the mines department—they got rid of him by not giving him a job. His wife went to Perth. They would not give him a job in Perth so he had to resign from the mines department. He was a very helpful person. He did not know everything, but if you went to see him, he was there to help you. That still has to happen. Just one other thing, talking about all this, one tenement consultant had a direct microwave link to the mines department mainframe.

Hon ROBIN CHAPPLE: Can I just, if I may, jump in and ask a couple of questions because I know we are just about getting very close to out of time here. In Queensland they have a two-tier system. It is small miners or low-impact miners—that is what the classification is—and then mid-tier and senior miners. They operate under different—do any of you at the table here operate in Queensland?

[3.00 pm]

Mr Woodiwiss: I do not know, but one of my submissions touched on that point. I think we should have a line in the sand, as I have explained more fully in my submission 1, to say we have got to look at what scale of operations—what areas are covered by the large companies and what scale of operations are covered by the small companies. If you bring it down to land area, it is the easiest way. My proposal there was to draw a 25 hectare line in the sand. Most large companies have hundreds or thousands of hectares under their control in their mining. If we had a two-tier system, where the smaller operator under 25 hectares could be treated more reasonably in regard to his resources and his requirements, and also bearing in mind the by and large excellent track record, they do not need all these controls that the high end of town needs and we certainly cannot afford them. So, yes, that was my suggestion to have a two-tier on that area.

Hon ROBIN CHAPPLE: Just a second question, if I may. Obviously, one of your problems is getting on to ground. As you know, a lot of major mines will allow tributes, so that gets you on ground. What is your opinion in terms of the whole use-it-or-lose-it policy, where some of the big end of town seems to be holding up an awful lot of land? Is that precluding you guys getting on to ground?

Mr Woodiwiss: In a lot of cases, where they can use expenditure on a small part to cover a large area, yes. I appreciate a company needs areas to expand and do, but it has got to be a fair balance between—if they have got a large mining operation—say, a processing operation and mine in one place—that might only cover a small area, but it allows them to, as I understand it, use that expenditure to cover a lot of leases and not necessarily be actively exploring those leases.

Mr Brewer: Excuse me, can I just put a thing in there? There is a lot of misconception, including lawyers. Mining lawyers and companies think they can use that mining—if that is their mining lease, and they spend millions of dollars there, they can defray the cost. They cannot do it. There are case histories —

Hon ROBIN CHAPPLE: Hancock lost all his leases because of that.

Mr Brewer: Could possibly be, but some lawyers, until a judgement was handed down, they did not believe it. There are a lot of companies defraying those mining costs when they should not be.

The CHAIR: Just before we finish up, I asked a question before which you two did not answer, about—the bill in front of us is the bill in front of us, and we can have an input as to recommending change. What do you think we should be recommending for change in this bill?

Mr Potts: The mine closure plan. They want us to review it every three years. I think that should not be on. Lose that part out of the mine closure plan. Give us the options about paper submissions

for our work as well as totally online. They are two things that I can think of straightaway. How about you, Dave?

Mr Woodiwiss: As I said before, most of the detailed changes we would like to see are in those minutes of the two-day meetings in my submission 2. That really gives you the whole detail just of where we are coming from. The other thing we are worried about is the EMS, the environmental management system. The big companies can afford consultants to do that sort of thing for them. Prospectors cannot. The other thing I think we need to do, because the environmental sections are overbearing and their own judges, you have got no-one to appeal to. We need an external arbiter, who can sit in and make binding decisions on the DMP and the prospector or whoever—someone you can go to. Currently, all you can go to is another DMP inspector. They are not going to welsh on each other, change on each other, so you need an external person who has got the powers to adjudicate.

Mr Potts: An ombudsman or someone.

Mr Woodiwiss: Yes.

Mr Brewer: Just one thing: a lot of these—there is a thing there about Rox Resources' email. Rox Resources want to put in a 40-metre by 30-metre temporary exploration camp. That was when they hit the discovery hole on this new nickel thing. Have a close look at that. They asked, "Have you done a flora and fauna study et cetera?" and the *pièce de résistance*, I think, is "et cetera". The lady who responded is Eugene Bouwhuis's wife. Anyway, I spoke to her about that—I spoke to the minister, I spoke to Bob Stevens on that, but he referred me to her. I said, "How much field experience does this person have?" None. I said, "They need training." They said, "Oh, we're going to do that." I bet they have not done any training. That is the unfortunate part about all this. They need to get people out there. I was referred to an environmental geologist here. She was very good. I cannot think of her name. She would make you comply with the Mining Act, the environment side, but she would assist you with how to do it. She left because of the goings on at the environmental section here in Kalgoorlie. She went to KCGM. We told the minister about her, but she did not want to come back. She was a big asset to the department. They need more of those people. Thank you.

The CHAIR: I thank you all 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 these corrections on the transcript. We will now break for 10 minutes. Thank you.

Mr Brewer: Can I seek leave to tender my documents?

The CHAIR: We have done that.

Mr Brewer: Thank you very much. I appreciate your help.

Hearing concluded at 3.06 pm
