



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON ABORIGINAL AND TORRES
STRAIT ISLANDER AFFAIRS

Reference: Indigenous employment

MONDAY, 27 FEBRUARY 2006

CANBERRA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

INTERNET

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: **<http://www.aph.gov.au/hansard>**

To search the parliamentary database, go to:
<http://parlinfoweb.aph.gov.au>

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS
Monday, 27 February 2006

Members: Mr Wakelin (*Chair*), Dr Lawrence (*Deputy Chair*), Ms Annette Ellis, Mr Garrett, Mr Robb, Mr Slipper, Mr Snowden, Dr Southcott, Mr Tuckey and Mrs Vale

Members in attendance: Ms Annette Ellis, Mr Garrett, Mr Snowden, Mrs Vale and Mr Wakelin

Terms of reference for the inquiry:

To inquire into and report on:

Positive factors and examples amongst Indigenous communities and individuals, which have improved employment outcomes in both the public and private sectors; and

1. recommend to the government ways this can inform future policy development; and
2. assess what significant factors have contributed to those positive outcomes identified, including what contribution practical reconciliation* has made.

*The Committee has defined 'practical reconciliation' in this context to include all government services.

WITNESSES

HOOKE, Mr Mitchell, Chief Executive Officer, Minerals Council of Australia	1
STUTSEL, Ms Melanie, Director, Environmental and Social Policy, Minerals Council of Australia.....	1

Committee met at 11.25 am**HOOKE, Mr Mitchell, Chief Executive Officer, Minerals Council of Australia****STUTSEL, Ms Melanie, Director, Environmental and Social Policy, Minerals Council of Australia**

CHAIR (Mr Wakelin)—I declare open this public hearing of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs inquiry into an Indigenous employment. I welcome committee members and guests. I would particularly like to welcome representatives from the Minerals Council of Australia. You may be aware that we do not require you to give evidence under oath, but these are formal proceedings of the parliament. Would you like to add to your submission with a brief opening statement? We have some questions that we would like to work through with you. Can you give us a summary and brief statement and then we will go to an informal discussion.

Mr Hooke—Thank you. We very much welcome the opportunity to appear before this inquiry. We consider the minerals industry to be in a unique position to provide real employment opportunities for Indigenous Australians and to contribute to the building of sustainable Indigenous communities. We operate predominantly in remote Australia and 60 per cent of our operations have neighbouring Indigenous communities. We provide a diverse range of employment opportunities across the professions, skills and services. We are currently the largest employer of Indigenous Australians in Australia, with around five per cent of our workforce being Indigenous Australians. As the provider of the only significant mainstream economic activity in most of the rural and regional Indigenous communities, we recognise that not only are we in a good position but that we can actually do more to increase the positive benefits to Indigenous communities from our activities.

This committee and this parliament are well across the skills shortages in Australia which are predicted to deepen over the next decade, due not only to low population growth but also to continuing burgeoning in our industry as we move through a supercycle. On the demand side, the extent of that in prices will be reflected by the extent to which we can supply. If skills are one of the capacity constraints than that, of course, will moderate our capacity to take advantage of the opportunities on the back of the supercycle driven by the industrialisation and urbanisation of developing economies, particularly in Asia. We see a significant opportunity which exists in developing a skilled Indigenous workforce that can capitalise on the employment and business opportunities in those regions I was talking about earlier.

In recognising our position we appreciate our responsibilities. We identify the government's responsibilities and we understand the necessity for a comprehensive, 'whole of' approach. By 'whole of', I mean whole-of-community, whole-of-government and whole-of-industry, founded in mutual respect and the recognition of Indigenous Australians' rights in law, interests and special connections to lands and waters in Australia.

It is not a 'one shot in the locker'—to pinch a famous saying out of this place—employment program, either government or corporate or a combination of the two. We consider Indigenous employment to be part and parcel of building sustainable Indigenous communities, in turn a function of addressing key structural and cultural impediments. I will try and summarise those as

a basis for our discussions. We see the key structural impediments as firstly the native title system. By 'system', we mean the legislation and the administrative support processes—the legislation, of course, is the Native Title Act and the Aboriginal land rights act; the role, function and resourcing of the native title representative bodies and prescribed bodies corporate; the intersection between the Federal Court and the National Native Title Tribunal; and, of course, the state and federal government role in establishing and administering key Indigenous programs. We have identified 13, but I am told there are actually more.

The system is not as efficient and as effective as it should be. There is not a mutually beneficial platform that provides secure access to land. We have proposed to government a platform of reforms to native title legislation and administrative processes that does not diminish the rights of Indigenous Australians. Importantly, it is a platform we have worked through and agreed on with Indigenous leaders.

These reforms address things such as: issues with the intersection between the Native Title Act and state heritage regimes; problems with the registration and deregistration of the native title agreements; the lack of clarity regarding mediation review processes for the resolution of claims—which is being examined by the Harley review; insufficient resourcing of the native title representative bodies and the PBCs, the prescribed bodies corporate, to enable their effective engagement in future act processes—and we consider this to have primacy over technical amendments to the act; and lack of coordination between state and federal agencies, leading to duplication and a potential mismatch of services in relevant communities.

Regarding the soft infrastructure impediments, obviously governments have a clear responsibility to build social capital and infrastructure, including health, education and welfare services, including things such as the provision of work readiness skills, life skills, financial management skills, family support services, numeracy and literacy programs and fitness for work programs.

We are also seeing a requirement for people with employability skills. These have reached a plateau, and there is a limited pool of candidates who are job ready. This can create a free rider effect, where companies are enticing Indigenous employees away from other companies who have invested heavily in their training and development. We are seen to be stripping capacity out of communities, threatening their sustainability, or cherry-picking good employees. There are plenty of diesel mechanics moving out of local garages and across to the mining community. There are people coming out of the fish and chips shops and the local newsagencies and getting a job. The local accountant is getting a job with us. That is why we concentrate on building sustainable communities, not just on corporate employment programs.

There are far too many agencies and far too many programs, with little coordination and cooperation, making it difficult for miners to recruit and retain Indigenous employees and making it difficult for the communities to understand just what is on offer from government.

The key cultural impediments include a lack of appreciation of cultural diversity within and across Indigenous communities. We need to recognise that different systems and support structures may be necessary to effectively engage Indigenous Australians in the workforce. To address these impediments, we see a critical role for industry and a critical role for government. Also critical is the partnership between government, industry and Indigenous Australians.

From our perspective, in addition to pursuing a number of initiatives at company level we are pursuing two key initiatives at the industry level. The first is a memorandum of understanding in Indigenous employment and enterprise facilitation signed between the Minerals Council of Australia and the federal government 2005. This is to establish a platform for government and industry to work with Indigenous people to build these sustainable communities that I was talking about.

To summarise it, we want to move from company employment programs to building sustainable communities. We want to do that through a bottom up approach, not a top down approach. We want to do that so that communities are sufficiently empowered so as to be able to make determinations about what their needs are and what they expect from the government. There is a clear delineation between the responsibilities of government in providing the social fabric and infrastructure and what industry can do as the commercial entity involved in those agreements and commercial opportunities. It is about sustaining communities beyond the life of the mine and it involves providing employment opportunities, enterprise facilitation and building enterprises.

The second initiative is through the MCA sponsorship of and involvement in the Indigenous Australians Engineering Summer School, which provides mentoring and capacity-building opportunities for Indigenous Australians considering a career in engineering.

Perhaps the most compelling development in the decade-plus since Mabo has been the paradigm shift in the mineral industry's attitude to Indigenous Australians. This is captured well in our Indigenous relations and engagement strategy, which profoundly declares the industry's vision and values in engaging with Aboriginal and Torres Strait Islander Australians. The proof is in the eating of the pudding: we now have over 350 mutually beneficial agreements—and not all of them are registered ILUAs—across some 200 operations, none of which contest native title.

From the government's perspective, not only in engaging with us particularly on the MOU, we are looking for the provision of adequate and appropriate community infrastructure and social services—which I have somewhat belaboured—and a robust legislative framework that respects Indigenous rights and cultures. These are the criteria for future legislation and indeed could be the criteria that we adopted ourselves in working through technical amendments. Firstly, does it diminish the rights of Indigenous Australians? Secondly, is it truly a national issue? Thirdly, what is the intersection with other legislation which may be causing some issues? Heritage legislation is a classic example. Fourthly, what evidence is there that impediments are actually real impediments on the ground and not just a bit of shadow boxing?

We are looking for access to mainstream support services to provide work readiness in a culturally appropriate manner. That will require a fair amount of sensitivity and specific tailoring as the cultural needs and expectations are quite different across communities. We are looking for flexible working arrangements, a la the recent industrial reforms. These are very important in terms of the work-life balance, which is quite different for non-Indigenous people. As important as it is for non-Indigenous, it is very important for Indigenous people.

We are looking for a market-driven TAFE system—we are looking for market pull, not production push. We want a system that is reflective of the needs of industries not government or

union sponsored programs, that services the skills needs and operational requirements of industries. We want a system that can accommodate flexible hours, school based apprenticeships, the requirement for on-the-job training and many of the life skills and, in the case of skilled immigration, English proficiency beyond just the technical aspects of the job. We want the building blocks of competencies to be skill based, not time based. We are looking for a mutual recognition of competencies across Australia. Those are my opening remarks and I am very happy to take any questions.

CHAIR—Thank you. That was very comprehensive. There has been paradigm shift since Mabo, and your remarks were a great walk through that period of our history because you highlighted a lot of issues. Could I start on the issue of the impediments, particularly government services, and literacy and numeracy. That was in your original submission and you have mentioned it again. The accountability of these government services has been a significant bugbear of mine—many of them were state government services. Your industry has been stepping in at the interface where I believe government should be more accountable. I understand all the reasons why this is happening. After a fairly long introduction, can I talk a little bit about the impediments in these literacy and numeracy areas and your push for sustainable communities, not just sustainable industry, and the accountability of government agencies in education, health et cetera. Can you comment on that from your own experience. Some of your people have done some good work.

Mr Hooke—They have. The first point I would make is that where the services are not meeting the needs and requirements of what our companies' perceptions are, then our companies are stepping in. So there has been a substitution racket going on. TAFE and skills based training is a good example. We are spending—I will stand corrected on this—something like three times per head what anybody else is spending. Ninety per cent of that is coming out of our industry, because we find the TAFE system is too inflexible and rigid to cater for what we need.

Similarly, we have built towns, hospitals, schools, airfields and railway lines because we just could not wait around for government to pick it up and get on the bandwagon. The third point I would make in a general sense, before I ask Melanie to make a few points, is that the government was so attracted to this MOU because there were 13 to 14 programs—Commonwealth development employment projects, Indigenous community councils, structured training employment projects, Indigenous capital assistance scheme, Indigenous employment centres and the list goes on. What was happening was that there were agencies that were all well-intentioned—there is no doubt about that—but they were all tripping over each other.

Coming from the top, the truism, 'We're from the government, we're here to help you,' was quite right, but there was very little understanding about what the communities wanted. There was very little understanding about the hierarchical nature and culture of Indigenous Australians—for instance, understanding simple things like walking into a meeting, stepping back and allowing them to put the name tags where they should be, allowing them to work out where the hierarchy is, and not trying to get an answer from the person across from you who will not answer it until their elder has. Little things like that became a fundamental platform for understanding how to deal with Indigenous communities, like getting them to know and understand our business and us finding out what we could do to assist them in their enterprise facilitation, whether it was bush ventures or seeds for reclamation and rehabilitation.

Up at Alcan Gove at Nhulunbuy, the company established a cement-mixing operation and a transport business for the Indigenous community, and it assisted them work through that. That was all done by the company. So you have a bit of a substitution racket going on where the companies are saying, 'We haven't got time; there are opportunity costs of waiting for the government to step up to the plate.' That is why the cherry picking, the community stripping and all those aspects become even more potent and to the fore when you are dealing in a highly competitive environment. Melanie, would you like to add to that?

Ms Stutsel—The memorandum of understanding that the Minerals Council of Australia signed with the federal government has been absolutely instrumental in identifying that the existing programs need to be tailored at the regional level. The one size fits all approach that we have tried to use in the past is not really delivering satisfactory outcomes for either industry or Indigenous Australians. Much of our engagement on the MOU has been around ensuring that the process not only is sound and engages the right stakeholders in the timely manner that suits industry but also respects the cultural decision-making processes of Indigenous Australians.

Through that, we have developed regional project agreements which are around the kinds of services those communities think are relevant to their achieving the kinds of sustainable outcomes they want in the longer term and then we look at what the intersection for industry and government is in that. Whilst it was originally designed to be a minerals industry specific initiative, we are now finding that a number of other industries operating in the same regional areas—and there are six pilot regions across the country—are actively seeking to participate in those kinds of frameworks as well. So it has been a fantastic initiative from our perspective.

CHAIR—This is the pioneering work that your industry needs to engage in, and in many cases it does so very well. One of your leading advocates in the mining industry described how she learnt great patience with government. She had to be exceedingly patient. The train had well and truly gone, and the government was still sitting back on the bench wondering what had happened. My question is about positive examples. There are two parts to this question. Have you noticed some best practice issues of government? It may be optimistic, but have you noticed something that is really working? Why the blazes cannot the government get some platform for its program? I could give you a whole lot of reasons, but I would like you to tell me what you think are the main impediments to the government itself not doing a lot better. I think I know, but if I know—and this is a rhetorical question—why haven't I fixed it? What is the government's best practice and what is the intersection between government and industry? Would you like to have a go at answering those two points.

Mr Hooke—I am going to do the helicopter stuff and then throw to Mel for some specifics that we picked up as we worked through the six pilot project areas. The answer probably lies in actually not knowing what questions to ask. I did not really have my own mind wrapped around it until I sat down and experienced the Garma Festival, which you might recall. We sponsor the Garma Festival—it is quite an amount of money—which is an Indigenous cultural festival up in Arnhem Land.

Mr SNOWDON—It is the first week of August.

Mr Hooke—That is right. Warren has been there too, of course. I beg your pardon; I should have recognised that. This is Galarwuy Yunupingu's mob—his words, not mine. It is a great

experience for people who have never taken the time to down load, hang out, watch, listen and learn. It was not until I started going to that that I really started to get the drift. The drift is that it is not a bad idea to shut up and listen, to understand the enormous cultural diversity and to understand that they operate and act in a manner that is quite different from our traditions of the Westminster system of government. As I said before, it is a case not so much of giving government a kick in the backside but of urging them to start to look at this from a different perspective than has been the traditional platform of the way governments deliver programs.

It is very easy to stand at the top of the mountain and pontificate. That is the 'they oughta' syndrome—they oughta do this and they oughta do that. It is actually about stopping and stepping back. That is why this MOU has been such a fundamental reform platform. It was eagerly embraced because industry was saying, 'Not only will we go hand in hand with you but we'll also take you along and show you what questions you need to ask, the processes you need to go through and the pitfalls and traps you need to avoid in coming with what are traditional programs.' There is no lack of intent. There are 13-plus programs, all designed to assist. So why aren't we hitting the bullseye? Why isn't the rubber hitting the road?

CHAIR—They are getting lost in each other's dust as they drive from the airport to the community.

Mr Hooke—There is a lot of overlap and tripping over. We need to go back and coordinate and reorient it with a bottom-up approach. That will take time. This has not been easy running. A couple of times in a couple of spots it nearly fell over for frustration from some of our companies, local agencies and community people about trying to get the message across to well-intentioned bureaucrats who still could not understand that the first thing you do is shut up and listen—not say, 'Hey, we're here.'

Ms Stutsel—To go back to your first question about best practice, from an industry perspective, all of our examples of best practice are based on situations where there are longstanding relationships with Indigenous communities and demonstrable mutual benefit, mutual trust and mutual respect. That is a fundamental precursor to success. I would say best practice in government is extremely patchy. At the national level, clearly this memorandum of understanding represents leading practice. But we are yet to see enough deliverables. The KPIs for us to be able to tell whether in the longer term it will have the success we all aspire to are only being developed and refined at the moment. At the state level, no single state really stands out as being a leader in this area. Success tends to occur at the community level and it is quite dependent on the individuals who are involved. That makes it quite patchy and hard to replicate consistently across Australia.

CHAIR—That is excellent. I have one quick question to ask.

Mr Hooke—Before you do, the key take-home message out of that was that best practice resides in the way companies have been doing it and not the way government has been doing it.

CHAIR—That is a good comment. This intersection of heritage and native title and the legislative impediments is an area that is as old as Federation, I suspect. Are there a couple of pointers that you could help us with there? Is it an impediment to Indigenous employment, in the

context that we are looking at? It is in your submission, but I wonder whether we should flesh that out a bit.

Mr Hooke—I think the intersection between native title and cultural heritage in federal and state legislation, in terms of Indigenous employment, goes to the heart of efficient and appropriate access to land. There has to be a mutually beneficial outcome. There is no point getting on the land if you are going to continually have a battle. Our whole approach to reforms in the native title system was for technical amendments to the act that would improve the efficiency and operability of the system, secure access to land and not diminish the rights of Indigenous Australians but improve their capacity to be in a management platform for themselves. I guess one of the good examples would be consideration of low-impact exploration and whether the act should be amended to provide a more expedited procedure for exploration which was of low impact. In that regard, the question would be: how do you define low-impact exploration? When you started drilling down into the Native Title Act as to what you may or may not do, it almost became superfluous when you looked at the state legislation on cultural heritage. Do you want to add anything, Melanie?

Ms Stutsel—No.

CHAIR—It is very fresh in my mind how good some of your people are getting. There is a company in my electorate that is ready to move with this particular community—and they have not even got a mine yet—and the biggest impediment is getting the Indigenous council to meet, agree and accept the principle. That is the biggest impediment. They are ready to do some really positive and significant things for that community. No doubt you would know about this.

Mr Hooke—Sure do.

CHAIR—These people have not even got a mine yet, but they are there proactively doing it. However, with the best will in the world, they cannot get the three people from the council to meet and give approval for this action to happen.

Mr GARRETT—I am wondering whether the Argyle model has provided a precedent that has seen continuing uptake of the longer term negotiating and cultural preparation processes that I think are particularly important.

Mr Hooke—Good question. I think Argyle is a manifestation of the cultural shift I was talking about earlier on. It is a manifestation of a company that really has some first-class and leading edge practice in terms of building relationships with their Indigenous communities. It is also a manifestation of some of the personalities involved from both parties. And I think it is a manifestation, essentially, in regard to the chair's earlier question—that is, where government goes missing, companies do not have time to hang around waiting for them to catch up so they just move in. I think you will find that most companies looking at the Argyle deal will say that it certainly picks up on the characteristic changes—that is, pretty well all of these mutually beneficial agreements are not about contesting native title. That does not mean we do not want to resolve disputes. It does not mean we do not want to sort out claims resolutions when they are on the table and will assist in those processes.

The Native Title Act has two functions to it: one is the claims process and the other one is future acts. We want to move beyond all of that to the point where we have these kinds of agreements. If you talk to the parties involved in the Argyle agreement, they will tell you that, really, they would like to put the Native Title Act over there and move down here—and that is essentially what they have done. Many companies will be looking at that as leading practice. Many companies will be looking at that in terms of the opportunity cost of not reaching those agreements.

While I have the floor, there is a myth about only big companies being able to reach those agreements. Firstly, the big companies are seen to have deep pockets. Secondly, the smaller companies—

Mr GARRETT—That is because they are making big profits.

Mr Hooke—At the moment. May I remind everybody that a few years ago we were barely recovering the cost of our investment capital.

Mr SNOWDON—Come on!

Mr Hooke—So it is nice to have a super cycle, but isn't it fantastic that we are actually sharing that welfare with not only the taxpayers of Australia but also the communities in which we operate and state governments through royalties. The point I was trying to make was that smaller companies, particularly if it is a conjunctive agreement with exploration and mining, can actually enter into agreements up-front and promise the world, because it is going to be palmed off anyway, particularly for an exploration company.

I think we need to dispel very quickly that being small is a barrier to entering into these agreements. That is not the case. So, yes, it is leading practice. It is a manifestation of all of those things I was talking about earlier on. And there is no differentiation between size, in our view, in being able to move down that path.

Ms Stutsel—Certainly Argyle is one of the pilot sites in our MOU so that we can distil what those learnings are and look at their application across other regional areas.

Mr Hooke—Does the committee know the nature of the agreement?

Mrs VALE—That was going to be my question: how does it work? I hear what you are saying. I am sorry, Peter had the floor.

Mr GARRETT—No, that is all right.

Mr SNOWDON—We were just commenting that some of us have got an idea.

Mrs VALE—Yes, I have an idea of the nature of it.

Mr Hooke—There is employment and training. There is enterprise facilitation. Once the leases are done they revert to the Aboriginal land-holders.

Ms Stutsel—You are talking specifically about Argyle.

Mr Hooke—Yes. So royalties, if you like, are shared. I will just recap—

Ms Stutsel—Related industries; sustainable beyond life of mine.

Mr Hooke—So it is: enterprise facilitation; training and employment; education; giving back the land beyond life of mine, so relinquishment of the leases. Did I miss anything? That is probably the drift of it.

Mr GARRETT—I have a couple of quick questions because I have to go shortly. One of the things I noticed in the submission when you spoke to the question of recommending increased resourcing, and you have delineated some of those areas, is that it does not specifically refer to health although there are some health components in it. You will know that the Productivity Commission and the AMA, amongst others, identified this primary need for additional government resourcing for health. I am just wondering whether you have looked at that and considered where it might fit in either in what government ought to do or in the MOU process that is under way.

Ms Stutsel—Certainly in terms of the MOU at the state level we have the state health departments involved and the state education departments involved in terms of health education and awareness. They are absolutely critical to creating the kind of fundamental work readiness platform that we are talking about, as well as in making sure that people are capable in the longer term of participating in things like education and training because their health is at a standard that enables them to have a decent life span and a decent quality of life. As Mitch mentioned earlier, we have built in health components around dealing with stress and dislocation from communities while you are at work and with the health impacts of working in the industry itself. So we are looking at health not only as a fundamental precursor for participating in these programs but in terms of how we can continue to maintain quality of health over the life of a person's engagement with the industry and in the communities in which they operate. It will continue to be something that will grow in focus as the pilots continue to evolve, and I would imagine that one of the KPIs that we are focusing on at the state level will look specifically at that health component.

Mr GARRETT—Thank you very much for that. Do I take it that you are saying that the additional resourcing that has been identified as necessary to build in much better health outcomes generally, fits into what you are seeking here within these delineated areas?

Ms Stutsel—Yes.

Mr Hooke—Generally; but specifically in regionally applied—we are doing this on a communities basis.

Mr GARRETT—Can you give us a sense of the sort of progress you are making in terms of the interaction with ICCs and how they are assisting in the work that you are trying to do there?

Mr Hooke—Early days. We floated a concept with our Indigenous leaders, and a few others around, that we see a need for a temporary and appropriate aggregation of native title interests or Indigenous interests in the communities in which we operate—

Mr GARRETT—You mean an aggregation in one place.

Mr Hooke—Well, in that area—which may cross native title claimants, which may cross native title holders, which may cross non native title holders but Indigenous Australians. When we were looking at this we had a propensity to the NTRBs, the native title rep bodies, even though their statutory function is—

Ms Stutsel—Time limited.

Mr Hooke—And also specific to the native title claimants and holders—well, no, the holders go to the prescribed bodies corporate, so it is just the native title claimants. Who would you go to to help you put all this together if it was not the NTRBs? You would not go to the ICCs, because they are seen as just another function of government. That is the platform for which we looked at them, if you like, from our perspective of a helicopter policy view. As to how they are operating on the ground it is probably too early for us to draw any real conclusions. But we looked at them in terms of their suitability for that kind of a platform and ruled it out pretty smartly. We are not sure the NTRBs are well positioned to do that either. It is an area we are still exploring with the Indigenous leaders.

I keep talking about Indigenous leaders. We established an Indigenous leaders dialogue with the board of directors. Again, it goes to this concept. If you had said 10 or even five years ago that that was going to happen, people would have thought you were on a different planet, mainly because it was perceived to more of a pitch and offer set-up, whereas now it is completely atypical of that. This is now a platform of understanding, as I said. Our comments to the Prime Minister were: ‘We’re going to come to you with a deal you cannot refuse. We’re going to come to you with some amendments to the native title system that will be put together as a partnership with Indigenous leaders.’ We are in the process of doing that. We are going through the bureaucratic process at the moment.

Mrs VALE—Thanks for coming, Mitch and Melanie. How long has that dialogue been established?

Mr Hooke—Two-and-a-bit years.

Mrs VALE—And already you have seen a huge positive impact from that dialogue?

Mr Hooke—The dialogue was on the back of the cultural shift—that is, this paradigm shift I was referring to. What we have done is essentially build it and reinforce it.

Mrs VALE—It is almost a consequence of that process?

Mr Hooke—Yes. I would like to think it was a consequence of the shift, but I would like to think the dialogue has established a far more productive outcome than there would have been in

the absence of it. In working through the reforms of the native title system against the six platforms announced by the Attorney-General, I think we are doing pretty well.

Mrs VALE—From this dialogue, you have had the community, if you like, educate the mineral resources council and mining companies about the differences and the differences in attitude of Indigenous peoples. You said this Garma—what was it?

Mr Hooke—The Garma Festival.

Mrs VALE—You said it was more of a formal dialogue and a more formal interface between mining companies and Indigenous communities.

Mr Hooke—Yes. As you would expect, it is a pretty heterogenous situation. You have the leading companies that we are actually learning from, and—going back to the chairman's earlier question—we are trying to translate what they are doing in best practice into a policy framework that not only encompasses the whole industry but brings government to the table. Then, of course, we have a situation where—and you are quite right—we do have a role in providing an extension function to the broader industry. Like every industry we have a normal distribution. I would like to think it was better than the 80-20 rule, but there is no question that the major companies are at the leading edge. We are keeping up with them and working with them. They are key participants in our work with the Indigenous leaders. We have our own Indigenous relations working group, which comprises three of the leading companies—in terms of their operations. We are certainly about putting that into a legislative framework and a systems framework. That is the broad policy. Then that becomes a platform for bringing along the rest of the industry. There is a fairly big tail, and the big tail is a lot of small companies exploring and mining.

Mrs VALE—Mitch, is this dialogue Australia wide? It is not just independent little communities? It is something that you do—

Mr Hooke—The Indigenous leaders dialogue is with the MCA board of directors. The memorandum of understanding, the Indigenous communities partnership program, is community wide. That is currently working on six pilots, in western Cape York, Tanami, east Kimberley, Pilbara, south-west Perth and—

Ms Stutsel—Pilbara has now been split into east and west Pilbara, recognising it is such a large area to cover.

Mr Hooke—They are starting as pilot projects. As Mel said, once we have got that up and running and the KPIs sorted out, and provided we have the capacity, we will extend that more broadly to your point about this being an extension and a leverage.

Mrs VALE—You have concern regarding literacy and numeracy. You were saying that governments really do not listen and that how Indigenous communities learn would be different to mainstream Australia. Is there any dialogue that is coming from Indigenous communities as to how best, as a government, we can teach literacy and numeracy in having it understood so that they can embrace it in a way that we would like to see?

Ms Stutsel—A number of companies have trialled a range of different models around literacy and numeracy. There are key learnings that are coming out of the successful programs. It should be culturally appropriate, so when they are learning it should be set in a context that is relevant to their daily lives. It should be applied, so not just learning about mathematic theory. A good example is the numeracy test that some of our companies apply. Rather than getting someone to do addition and subtraction in their purest sense, they say: ‘You’re going to the football. You’ve got five friends and \$150. Tickets cost this much and a pie costs this much. What can you do?’ You will find that people who have tested as innumerate on standard testing systems will test as numerate on those tests about 80 per cent of the time.

The other key learning is that they should have an understanding that the learning they are undertaking is leading them to a greater opportunity. For example, if you look at the Argyle agreement, they have a situation where, if a student stays in school and continues until year 10, they are guaranteed a trial on the mine in three different roles. If they prove to be successful in one of those careers then they are picked up and employed by the industry. If they go to year 12 then they are guaranteed a job, whatever form that job might take. It will be as senior a job as that person is interested in and capable of doing. They will continue to mentor them and build them through that process.

Mrs VALE—That is so important.

Ms Stutsel—Yes.

Mr Hooke—It is also the reason why the life skills issue is so important, even if they get the numeracy and literacy right. I do not wish to be misinterpreted, as *Lateline* did quite mischievously. They tried to suggest that the government and the MCA were in accord to force young Indigenous Australians to put their money in the bank, which was probably one of the worst bits of muckraking I have seen in a long time on this stuff. When we talk about life skills, we talk about financial management, family understanding, managing uniforms and materials, and getting a mix between their own cultural responsibilities and obligations and their responsibilities in the mine—there is no point leaving a bulldozer idling while you go off to a cultural festival. That is why flexibility in the workplace arrangements is so important. Those things can be managed if there is a shared knowledge and understanding. But the life skills are a very important part of the process. As Mel said, some of our companies are guaranteeing these kids a job or a look at a job, depending on how far they go. But, if they are tripping over themselves in terms of their inadequacies in other areas, it makes it very difficult. The key point to underscore is this experiential learning.

Mrs VALE—Experiential learning?

Mr Hooke—Yes, applied learning, learning by experience.

Mrs VALE—And the importance of a mentor.

Mr Hooke—Yes.

Mrs VALE—Is that mentoring built into the MOU?

Ms Stutsel—At the company level, there is certainly a high degree of mentoring, both with Indigenous employees who are currently working in those companies as well as with non-Indigenous employees.

Mr Hooke—It is built into the capacity within the MOU in that it involves the needs and expectations from the bottom up; it is not built in as if to say, ‘Thou shalt.’ The final point I want to make is that, if you get a chance—and Warren knows this—to go up to Garma, go into Nhulunbuy and Alcan Gove and have a look at the Indigenous education program there which is run by Indigenous teachers for Indigenous kids. You walk in and you cannot help getting the impression about experiential learning, engagement, culture, dignity and respect. It is very impressive.

Mr SNOWDON—Do you have a copy of the MOU?

Mr Hooke—Yes.

Mr SNOWDON—In terms of the six pilots, will the KPIs be different from one another?

Ms Stutsel—Yes.

Mr SNOWDON—Will the benchmarking and evaluation be different in each case?

Ms Stutsel—In terms of the KPIs, they are being developed at the regional level. So the combination of government, industry and Indigenous stakeholders will be determining the KPIs at each pilot site and what they think appropriate targets or performance measures for each of those KPIs will look like. They will be monitoring their own performance against those KPIs.

Mr SNOWDON—When are you expecting those to be finalised?

Ms Stutsel—The KPIs are one of two major programs of work we are going through at the moment. I would envisage that by the second half of this year they will be finalised and in place.

Mr SNOWDON—Chair, we might invite these witnesses to come back at a later time so that we can talk about those.

CHAIR—Yes.

Mr SNOWDON—Do the MOUs involve state and territory governments?

Ms Stutsel—The state and territory governments are not a signatory to the MOU. However, because it is a whole-of-government approach, state and territory governments are engaged in each of the pilot regions and in fact are providing both resourcing and capacity building facilities in those regions.

Mr SNOWDON—In terms of the structural impediments, once you have completed it, can we get a copy of whatever document you have on the Native Title Act?

Mr Hooke—Yes.

Mr SNOWDON—That is so that we can inform ourselves in terms of this discussion about the structural impediments in the legislation.

Mr Hooke—Absolutely. We have provided advice to the bureaucracy. The next step is to make representations directly to the Prime Minister and the Attorney-General on account of the discussions we have had on this.

Mr SNOWDON—Can I congratulate you on the paradigm shift. I was in the trenches on the other side of the fence for a number of years, and I certainly appreciate the paradigm shift.

Mr Hooke—You would!

Mr SNOWDON—The attitudes are just so different; it is fantastic.

CHAIR—I enjoyed the bit of body language—you would not have enjoyed the experience—relating to our wonderful bureaucracy. You talked about reality versus shadow boxing. Can we hear a bit more about that? We all understand, to our frustration, what you are talking about. It was to do with the current discussion with government on the MOU.

Mr Hooke—It was about the criteria. We were working through a whole stack of things that had been raised with us in terms of the efficiency and operability of the future act regime. The Native Title Act contains general rules about how certain classes of future acts are to be treated, yet in many instances the regime is unclear as to how it is to be applied. You can give an instance of how many of the key provisions interact with state laws. We have had a number of things raised with us—low impact exploration, procedural rights, the infrastructure provisions, definition of ‘mine’, and Indigenous land use agreements in terms of points of clarification and authorisation.

As this sort of stuff started coming in to us—the Native Title Act and other legislation—we had to try to filter it. We put down those four criteria I mentioned earlier: does it diminish rights? We had a fundamental objection to that. Is it truly a national issue? Where does it intersect with state laws? What other legislation is involved? What was the evidence that there was a problem? This is the shadow boxing. In some instances we found that when we drilled down we could not find that it was the impediment it was claimed to be and that in actual fact it was symptomatic of other issues. I would prefer not to get into specifics but I think the concept and the principle are important.

Too much has been made of the act itself as an impediment to land access in some specific areas, and when you drill down you find that it was not the Native Title Act; it was actually the cultural heritage regime or some environmental legislation or maybe even the EPBC Act, the Environmental Protection and Biodiversity Conservation Act, and the naming of matters of national environmental significance.

Mr SNOWDON—If you had the same time lines in the EPBC Act as you have in the Native Title Act, things would be a lot bloody simpler.

Ms Stutsel—We are not necessarily fans of expediency for expediency’s sake.

Mr Hooke—We might take that on notice.

Mr SNOWDON—I have just had a recent experience of this with a mine, not on the mainland. It has gone on and on.

CHAIR—But no doubt this will be an ongoing discussion, and therefore the evidentiary kind of approach is still a very useful thing to be going through. I think this paradigm shift picks up on that. I suspect the industry and Indigenous people have moved past the act a fair way, and that is what you are saying, as far as I can tell.

Mr Hooke—I think the point you are making to me is about whether the industry has learnt an awful lot in its engagement with Indigenous leaders and Indigenous communities on what might have been perceived to be roadblocks but actually are not and whether there are other areas of focus and attention which we ought to be concentrating on. The answer to that is yes. Has the industry significantly sidestepped much of the legislation towards getting to a mutually beneficial outcome and a solid platform for future relations? Yes.

CHAIR—The challenge for government is to stay apace with what is happening, not just with the council but with the whole community.

Mr Hooke—Apace with what is happening and integrated with it, because the industry is really getting a bit jack of stumping up the moneys to do the job. That includes the operations of the native title system itself.

CHAIR—And, to the purpose of the inquiry: so that we might prevent or challenge the impediments to Indigenous employment.

Mr Hooke—Of course.

CHAIR—One of the things I regard as a key role model in this whole business of Indigenous employment within your industry is that wonderful phrase ‘We are not benefactors; we are facilitators.’ I want to touch on the welfare issue here, because your industry seems to be starting to tap into this issue about not being benefactors, yet in some ways your arm may be twisted so you may sometimes end up like that. But you are endeavouring to become facilitators, and that comes back to community sustainability. Do you want to make a comment?

Mr Hooke—If we were benefactors, we would just keep paying out royalties until we hit a threshold where we had appeased people and won whatever game was being played. That would be disrespectful to the Indigenous communities because that would presume that they could be bought off, and that is certainly not the way our companies are going about their actions and their responsibilities. When we said we see our future as inseparable from the global pursuit of sustainable development, we were not paying lip-service to that. It means that not only do we have to earn our social licence to operate; we must maintain it. That means going beyond regulatory compliance to a conformance with our own set of standards and principles of operational behaviour for sustainable development.

Ms Stutsel—From our prospective, a form of safety net is absolutely critical and should be provided by government. But, in terms of the compensation payments that we are paying to

Indigenous communities, most of that is done in the same way that we pay royalties as a form of taxation to government in recognition of rent for minerals. It is a recognition of their land entitlement.

CHAIR—I accept all of that. In no way would I suggest that there should not be a safety net. What I was trying to get to is the point that companies may in their own way unwittingly contribute to a welfare issue which may not be there and then create greater dependency and not contribute to the long-term nature of all the issues around employment.

Mr Hooke—That is a good point. If you had to find a development that is indicative of that shift, it is the MOU, because it has shifted from being a corporate employment program where we are just going to employ Indigenous Australians and we are going to have the moneys to back it to being about building sustainable communities, which is about growing the pool of employees and the pool of the community and ensuring that the community is on a sustainable development platform. That is where we become a facilitator in that process and come to your point about that being quite different from a benefactor.

CHAIR—I have two quick questions. You mentioned engineering earlier. I understand there are Indigenous students studying at the Indigenous Australians Engineering Summer School. Can we have a quick comment on that?

Ms Stutsel—The Indigenous Australians Engineering Summer School is something we have supported for a number of years. It was previously supported directly by a number of our companies but we decided to elevate that to the whole-of-industry level. About 20 Indigenous students from around the country participate in the summer school each year. It provides an opportunity to showcase the engineering disciplines and create mentoring opportunities, build established linkages with other Indigenous students around the country who are either involved in high school education at higher levels than the students or involved in tertiary education. Eighteen people who have participated in that program to date are studying full-time engineering at university level. We had our first graduate of electrical engineering complete the program last year.

Mr Hooke—This program has some grunt behind it. The Governor-General takes a very keen interest and the patron is none other than Bob Hawke.

CHAIR—Very good. This is my last question. It is about the leadership role of the Minerals Council in the mining industry. These are good times now, your leadership is welcome et cetera. It is an example to the country. Given the majority of Indigenous people live in urban areas—and this is related to mining and that type of thing—could you make a comment about the minerals industry and the environment in Western Sydney? It might only be as general as saying, ‘There are principles here that we are learning which can apply across Australia.’ Your leadership is as important in regional Australia, where I think you were saying that 60 per cent of your mine goes to Indigenous communities. But this goes to the point about your leadership role and how it is a light to the rest of the community. Urban Australia needs this sort of stuff as well, we think. It is probably not one you want to get into, but I make the point.

Mr Hooke—I know nothing about the circumstances of Western Sydney. I am a born and bred Victorian who worked in Queensland and is back in Canberra. Furthermore, I have no real

experience, training or understanding. But let me say one thing. When you have good people of good intent and a capacity to respect—there is mutual respect—then you can go a long way. I think the minerals industry can be used as an example for others. It can be seen as an industry that has embarked on a very socially and economically progressive approach to its engagement with those communities in which it operates. It has a specific attention to and focus on Indigenous Australians, not only because it is the right thing to do but because it makes very good business sense when you have a skills shortage and there is a pool of people in your own backyard who are clearly not being engaged or involved in the economic progressiveness of the mining or minerals processing operation and are not being involved in the social progressiveness of the community. That just seems incongruous to us. It seems incongruous to our companies. If that is a beacon for other social programs and for mitigating the kind of social deprivation and the utterly miserable circumstances of Indigenous communities across Australia then so be it and well done.

CHAIR—All strength to you.

Ms Stutsel—I want to add two points about urban Indigenous people if I may. The first is that urban Indigenous Australians are very well placed to take advantage of the existing well-developed infrastructure in terms of education and training opportunities that exist. We know that the tertiary and VET sector is much more urban co-located than it is developed in rural and regional Australia. In terms of our industry, our corporate head offices are located in urban areas, which provide an employment opportunity.

The other point is that people are often drawn to urban areas because they see no employment opportunities in the communities in which they live. That can lead to social problems—dislocation, detachment from families and the like. As an employer in rural and regional Australia, we see direct benefit to being able to attract some of those people who have moved to urban Australia from those regions back into the communities, where they can be more attached to their families and society.

CHAIR—Good point. That is very valuable.

Ms ANNETTE ELLIS—I have been doing what Mitch has been decreeing for the whole of the country, and that is listening. It has been a really good morning. The only comment I want to make at the very end of all of this is a comment based on what was just said—that is that no matter where these people live there are other industry blocks that I believe could learn enormously from the council's experience. What Mel just said about accessibility to infrastructure for education and so on is very true, but there is still something missing in some areas—the flint between the community and those opportunities. I would like to think that other major industry blocks could be encouraged to look at what you have done to create that connection, even though it is a different circumstance. I am very strongly of the view that some of those not just urban but urban fringe dwellers—those on the edge of urban Australia—need to have the advantage of an industry or two, other than the Minerals Council, giving an example similar to what you have done to create that connection and give them that initiative, because I think that might be the thing that is missing in many of the cases. I make that as a passing observation.

Mr Hooke—There is one other thing I should say while I am sitting here basking in the compliments to us, which are pretty rare in this place, as you would know.

Ms ANNETTE ELLIS—We could arrange another meeting!

Mr Hooke—I want to pay acknowledgment and heed to the Indigenous communities and Indigenous leaders. In any partnership, you have to have—

Ms ANNETTE ELLIS—Two sides.

CHAIR—You have to have a partner.

Mr Hooke—When I said ‘people of good intent’, I meant in both parties. I do not like to use the word ‘sides’.

Ms ANNETTE ELLIS—We take that.

CHAIR—It is good to remind us.

Mr Hooke—Boy, have we had some cooperation from the Indigenous leaders. For the first time ever, we were invited to go and talk to all of the native title representative body chairmen and councils in Sydney. We have never had that happen before. We fronted and it was great. It was pretty full-on, but it was great. Also, when we call a meeting of our Indigenous leaders dialogue subgroup, which works with us on the native title stuff, we have them coming from Alice Springs, from up near Darwin and across from the west. They all fly across. Sure, we assist in resourcing a lot of that, but it is still time and it is still commitment. So, while I am sitting here basking in the glory of your compliments—and I am delighted to do so—in all honesty I have to pay attention to the other part of the football team.

Ms ANNETTE ELLIS—We take that as writ.

CHAIR—That is very timely. I thank representatives of the Minerals Council for being with us today.

Resolved (on motion by **Ms Ellis**):

That this committee authorises publication of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 12.28 pm