A RESOURCE INDUSTRY OVERVIEW

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Hobart

September 7, 2012

Thank you Bill for that introduction and good morning everyone.

Today I'm going to take a look at the economic and industrial environment that our great resource industry, including the one here in Tasmania, is operating in. Importantly, in recent weeks we've seen some serious warning signs that Australia can no longer take the resources boom and our country's continued prosperity on the back of it for granted.

Over the past decade, the resource industry has been responsible for the greatest creation and transfer of wealth and skills in Australia's history.

In Tasmania alone, the number of people directly employed in the mining industry has risen by almost 30 per cent in the past two years. More than 4,000 people are now directly employed at Tasmanian resource operations, with further significant investment opportunities available in exploration, extraction and downstream processing.

But with a slew of resource projects across the country having recently been shelved or delayed due to global and domestic economic and industrial conditions, it's more important than ever to ensure that Australia continues to be seen as a great place to invest and work.

We need to stop being complacent and remember that Australia possesses only two per cent of the world's natural resources, and large investors have many options as to where to put their money.

Australia is currently one of the most expensive places in the world to do business. We need to ensure that our national legislation and regulation, including our industrial relations framework, do not continue to make things more difficult for business than they already are and that there do not continue to get in the way of our national interest.

The Tasmanian economy

Turning first to the Tasmanian economy, the state's unemployment rate as of May this year was 7.3 per cent on a trend basis or 6.6 per cent on a seasonally adjusted basis. That's compared to a national unemployment rate of 5.2 per cent on both a trend and seasonally adjusted basis.

Around 2.6 per cent of the state's workforce now works in mining, with the number of Tasmanians employed in mining having risen by around 29 per cent over the past two years, from 3,100 people to 4,000[1].

Processed metals such as zinc and aluminium are the number one economic performer in the state, accounting for $1.3 billion of the state's $24.8 billion in gross domestic product (GDP)[2].

Around 5.2 per cent of Tasmania's GDP comes from mineral processing, while $1 billion comes from zinc and aluminium exports alone.

It's interesting that the number two economic driver in Tasmania is tourism, which throws up some interesting dynamics.

The international scene

Let's now take a look at what's happening internationally in order to show why we can't afford to be complacent.

Despite a mild slowdown in economic growth, China is expected to remain highly significant as both an energy customer and energy competitor for Australia.

In 2010-11, the real value of Australian exports of mineral resources to China was $49.9 billion. That same year, China's share of Australian total exports of iron ore purchases was 69 per cent[3].

But according to the Australian Trade Commission, China's own mining industry has been experiencing strong growth driven by increasing demand from its power, manufacturing and construction industries.

Despite the mild economic slowdown, China is still the world's largest consumer of minerals as well as the largest producer of coal, steel, cement, aluminium, lead, zinc, tin and magnesium. China's mining industry as a whole has around 80,000 state-owned mining companies and around 200,000 collectively-owned mines.

There are also other emerging competitors for Australia in the resources area. *The Guardian* recently said: 'If you were going to develop a commodity supply source anywhere – even today, when global commodity prices have taken a dip – it would be in [Mongolia], this former Soviet satellite right next to China, the most resource-hungry market in the world.'

The recent discovery of vast mineral deposits in the Mongolian hinterlands is also helping to drive the country's progress.

It's also worth noting that the Global Competitiveness Report 2012-13 produced by the World Economic Forum and released just this week ranked Australia 20th in terms of global competitiveness. The survey data revealed, among other things, a heightened awareness by business of Australia's deteriorating workplace relations environment and inefficient government bureaucracies.

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[1] ABS Labour Force (detailed) Quarterly, May 2012 Quarter, Employed Full Time, Tasmania: Mining
[2] Department of Foreign Affairs and Trade
[3] The Resources, Energy and Tourism 'China Review'

The national economy

In terms of what's happening nationally, Australia's GDP is expected to grow by 2.8 per cent in 2011-12, but this is 0.9 percentage points lower than the level predicted in March 2012.

This is due to weaker export growth, a decreasing trend in prices on several economic indicators including mining, growth in the exchange rate, lower than anticipated global economic growth, and lower than anticipated public spending.

Our economy is, however, expected to rebound in 2012-13, supported by mining-related activities and high levels of mining investment. To help support that growth, a significant expansion of iron ore and coal production capacity is already under way[4].

Resource projects, wealth and jobs creation

As of April 2012, there were 98 resource projects at an advanced stage of development (either committed or under construction) representing a record capital expenditure of $260.8 billion[5].

There are another 295 less advanced projects in the pipeline with a capital expenditure of $243.3 billion. Key projects for wealth and jobs creation in Australia's national interest include:

- **The Gorgon LNG project** – This project represents a capital expenditure of $43 billion and, during its life, it is expected to: create 5,500 direct jobs during the construction phase; create 600 direct jobs on Barrow Island during the operational phase; increase Western Australia's gross product by four per cent; boost Australia's GDP by more than $60 billion; and see the purchase of $33 billion in Australian goods and services due to a local content rule covering the project.
- **Ichthys Gasfield** – The Ichthys project has a capital expenditure of $33.3 billion and during its life is expected to create 4,000 direct jobs in the construction phase and 700 direct jobs in the operational phase. It is currently under construction with an expected start-up in 2017.
- **The Wheatstone LNG project** – This project has a capital expenditure of $28.4 billion. During its life, Wheatstone is expected to create 5,000 direct construction jobs plus 400 direct jobs in the operational phase. It is currently under construction with an expected start-up in 2016.
- **The Gladstone LNG Project –** This project represents a capital expenditure of $15.5 billion and is expected to create 5,000 direct jobs during the construction phase and 1,000 direct jobs during the operational phase. It is currently under construction, with an expected start-up date of 2015.

Those four projects alone, which are a tiny fraction of the nearly 400 projects in the pipeline, account for a capital expenditure of $120 billion and the creation of 20,000 jobs in the peak construction phases and 2,000 jobs in the ongoing operational phases of the projects. And that's not even taking into account the three times as many indirect jobs that are said to be

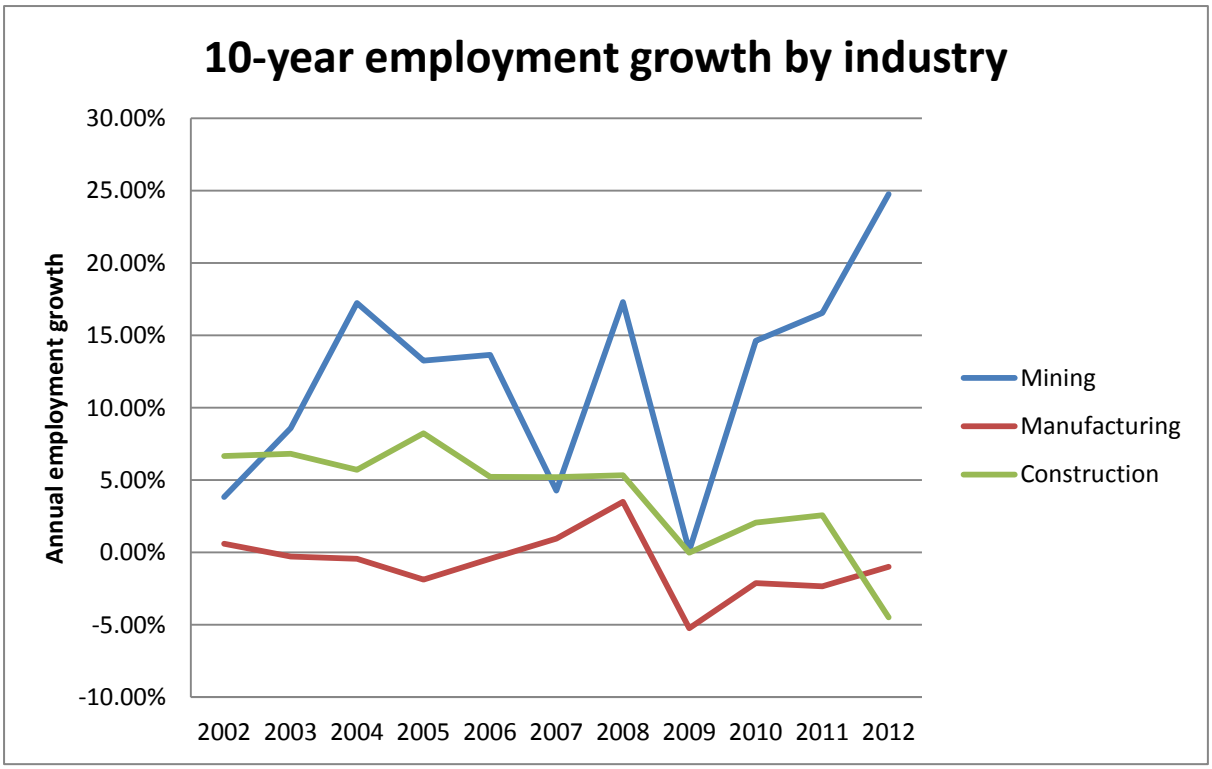
[4] Bureau of Resources and Energy Economics, Resources and Energy Quarterly, Vol 1 No 4, June Quarter 2012
[5] Mining Industry Major Projects, April 2012, Bureau of Resources and Energy Economics

created for every direct job in the resource industry due to a flow-on effect to allied industries.

However, all this wealth and all these jobs could be jeopardised if Australia becomes a less attractive place to invest, and the signs are already there that this is happening.

Jobs growth

The mining industry is currently the fastest growing industry in Australia in terms of employment growth. The graph below shows that employment growth in mining is currently sitting at 25 per cent a year, compared with negative employment growth being seen in the construction and manufacturing industries[6].



The level of employment growth in mining has far outstripped predictions made by the National Resources Sector Employment Taskforce (NRSET) in June 2010. At that time, NRSET predicted employment in mining would grow from 185,000 jobs in 2010 to 250,000 in 2015 - a growth rate of 65,000 jobs over five years, or an average of 13,000 jobs a year. Instead, that level of growth has been reached in two years instead of five, with an average annual growth of 32,500 jobs.

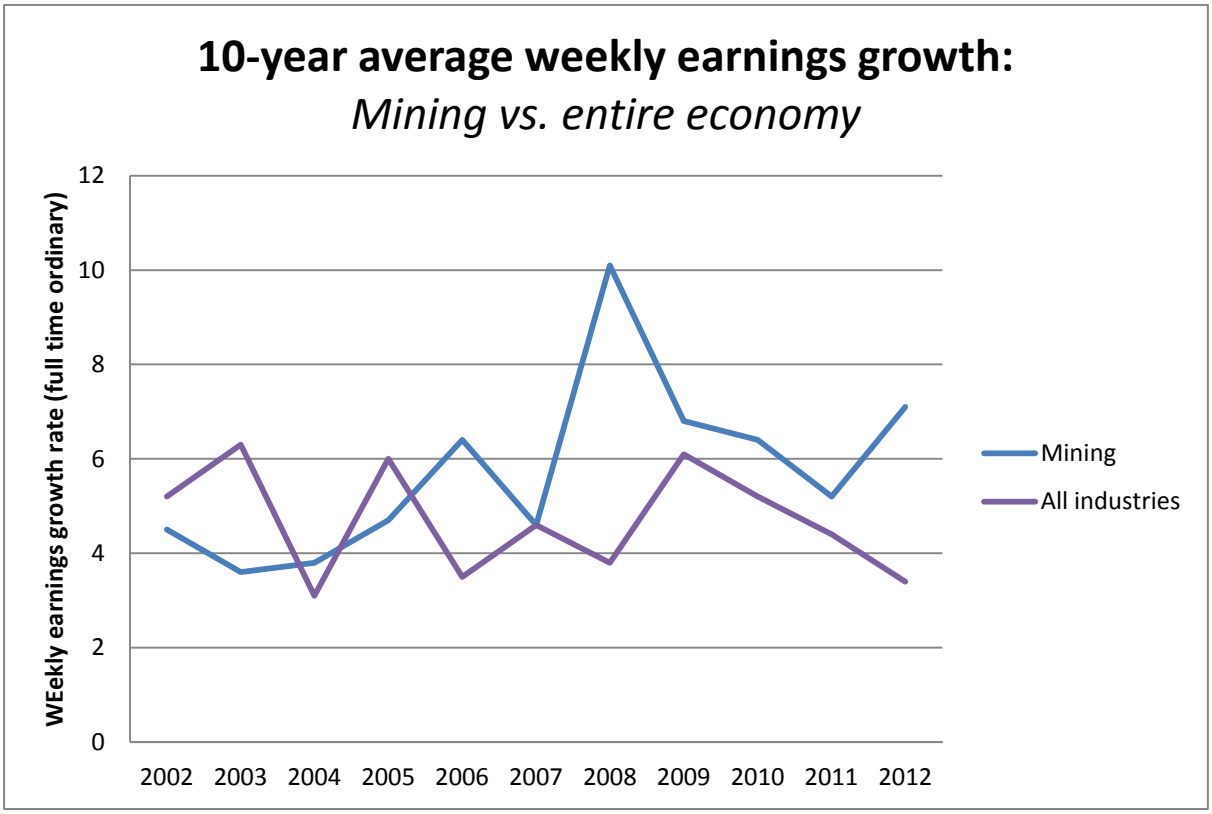
It follows that if employment growth has nearly tripled that predicted by NRSET, the estimation of the extent of the skills shortage could also far exceed estimates. Back in 2010, NRSET predicted there would be a shortfall of 1,700 mining engineers and 35,800 tradespeople by 2015. At the current rate of growth, we could see a shortage of mining engineers as high as 5,000 and of tradespeople as high as 100,000 by that stage.

[6] ABS Labour Force, Australia, Detailed Quarterly, May 2012, catalogue no 6291.0.55.003

Wealth creation

As I said earlier, the resource industry has been responsible for a huge level of wealth creation and transfer over the past decade.

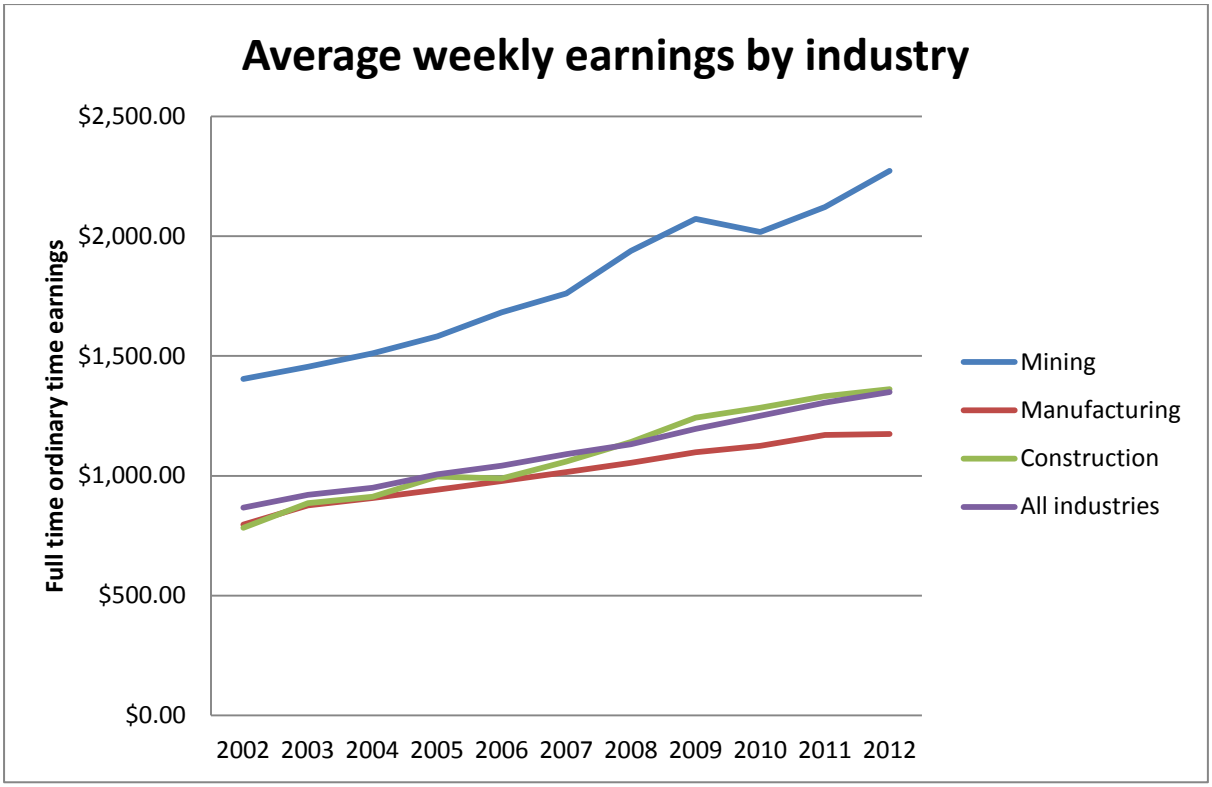
The graph below shows that, as of May 2012, the rate of wages growth in mining was sitting at around seven per cent above the previous year. This is double the 3.5 per cent wages growth seen across all industries on average during the same period[7].



The graph below further demonstrates how average weekly adult full-time ordinary earnings in mining have tracked against other industries over the past decade[8].

As of May 2012, average weekly earnings in mining were $2,272.30 a week – double the $1,174.50 in manufacturing and nearly double the $1,361.90 in construction. Average weekly earnings across all industries are currently sitting at $1,349.20.

[7] ABS catalogue number 6302.0 - Average Weekly Earnings, Australia, 2002-2012 (using May quarterly data)
[8] ABS catalogue number 6302.0 - Average Weekly Earnings, Australia, 2002-2012 (using May quarterly data)

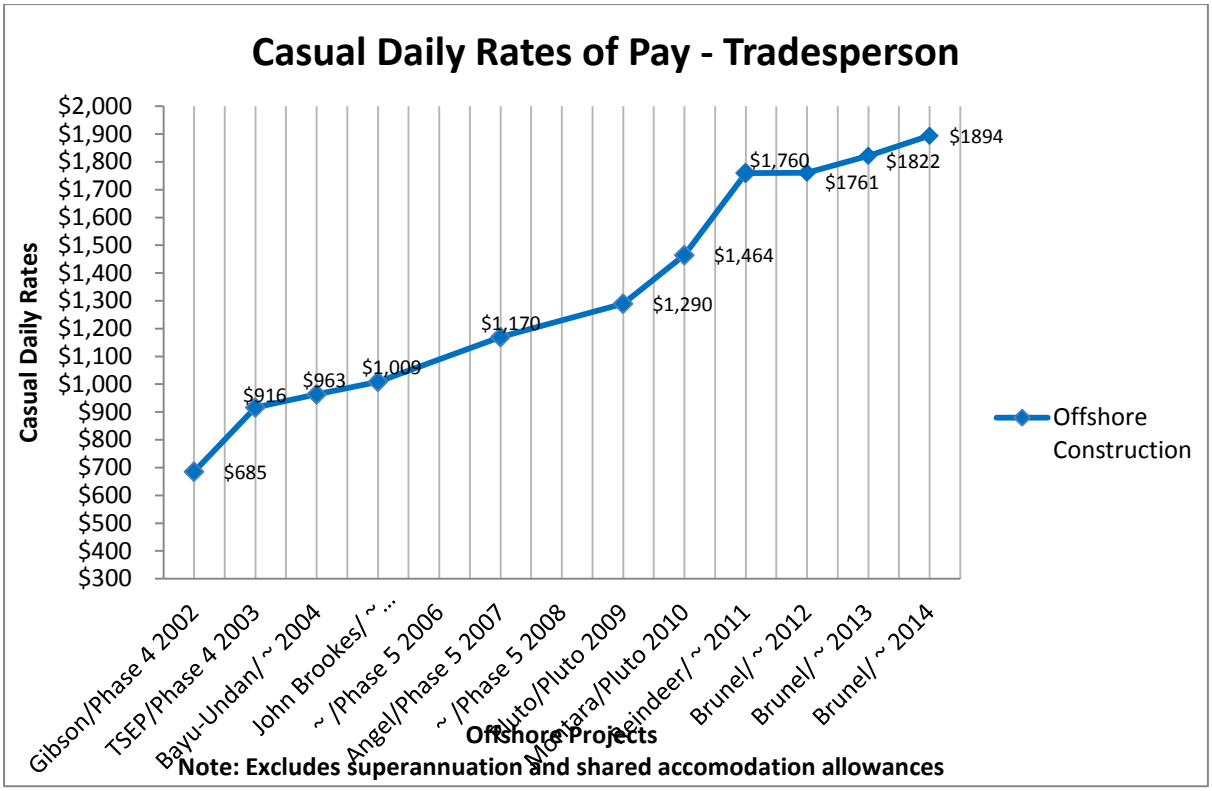


While 'average' earnings in the mining industry are sitting at around $120,000 a year, wages are a great deal higher in some parts of the industry. A typical offshore construction agreement in Western Australia includes the following indicative wage rates for workers on three-week-on, three-week-off rosters:

- laundry hands - $317,734;
- cooks - $334,408;
- tradespeople - $337,484; and
- barge welders - $373,701.

And those wages are for working just half of the year.

Keeping the focus on the offshore industry, the graph below shows what's been happening with casual daily pay rates for offshore construction trades, which have seen phenomenal growth in the past 10 years.



As you can see, back in 2002 the casual daily rate of pay for an offshore construction tradesperson was $685. By 2011 this had nearly tripled to $1,760 a day, excluding superannuation and accommodation expenses.

In fact, wages were growing so exponentially in offshore oil and gas up until about two years ago that the industry was concerned if the rate of escalation continued it would be detrimental for not only the industry but the economy. Companies embarked on industry-wide negotiations, led by AMMA, to push back against unions' exorbitant pay claims. There was a recognition that in order to stay in business, wages growth in offshore construction had to be moderated.

The end result was that wages growth was held down more than it would have been otherwise, with growth over the past two years flattening out.

While these types of wage rates are clearly not sustainable, nor justifiable on productivity grounds, they show the extent of wealth creation for ordinary Australians that the mining industry has delivered over the past 10 years. Where else could an unskilled worker earn more than the prime minister for working six months of the year?

It is worth noting that, almost without exception, wage rises in the resource industry, even phenomenal ones like those above, are achieved with no productivity improvements for the employer. These types of unproductive outcomes are actually encouraged by our current IR system due in part to the ease with which workers and unions can take protected industrial action in support of their inflated demands.

While unions and workers understandably want a piece of the pie while the going is good, the fact is that unless some restraint is shown in wage and condition claims, the pie will shrink if not disappear and everyone will lose. Unfortunately, the only way wage restraint is

likely to occur is if changes are made to Australia's IR system as part of the current review of the Fair Work Act.

We can no longer afford to take our prosperity or the continuation of the mining boom for granted, and in recent weeks we've seen some unsettling developments.

Warning signs

According to a recently published *Australian Financial Review* analysis, up to $100 billion of mining projects are currently under threat due to rising costs and falling commodity prices, with predictions being that more than a dozen developments will be further delayed.

Business concerns remain high about high labour and capital costs.

Xstrata reportedly told a Hunter Valley business lunch last month that the cost of building a new thermal coal mine in Australia was 66 per cent dearer than anywhere else in the world last year, at $US176 a tonne versus $US106 a tonne elsewhere[9].

In recent weeks, we've seen announcements of curtailments from some of the biggest players in our industry, proving the global slowdown is starting to hurt commodities and that we need to stop taking the industry's continued wealth and jobs-building capacity for granted.

- **On 4 September 2012, Fortescue Metals Group Ltd,** Australia's third biggest iron ore miner, announced it would: slash its $9.7 billion expansion plans by more than a third; cut hundreds of jobs; defer development of its Kings deposit in the Solomon mining hub in the Pilbara; defer completion of its fourth berth at Herb Elliott Port until iron ore prices become more sustainable; and reduce its forecast capital expenditure for 2012-13 from $US6.2 billion to $US4.6 billion. Why? Because of volatile commodity markets, rapidly falling iron ore prices, and uncertainty about future iron ore price movements.
- **On 21 September 2012, BHB Billiton,** the world's biggest miner, announced it would delay its copper and uranium development at Olympic Dam, posting a 35 per cent slump in annual net profits. The miner will this year see its first profit drop in three years, from $US23.6 billion last year to $US15.42 billion this year - the largest profit drop ever recorded in Australian corporate history. Why? Due to a 15 per cent plunge in underlying earnings on the back of softer prices, concerns about the stability of the Eurozone, and volatility in commodity markets which is expected to persist.
- **On 23 August 2012, Woodside** announced it would halt the expansion of its Pluto LNG Project, also flagging it would end its five-year quest to discover enough gas to support the expansion of the $14.9 billion flagship project. It announced a 1.9 per cent fall in half-year profit and said its stock would fall by 3.1 per cent to $34.90. Why? Because of a 'disappointing' drilling campaign and delays and cost blowouts from the first Pluto train on which it spent more than $US15 billion.
- **Rio Tinto** has said it might delay and/or downsize its copper and gold mine as well as reduce the size of or delay building a concentrator for the $3.8 billion second stage of its Oyu Tolgoi copper and gold mine in Mongolia. Why? Due to lower

[9] *More big mine projects at risk*, published by the *Australian Financial Review*, 25 August 2012

spending on the back of rising expenses, tightening the belt at its global operations and reining in capital spend as commodity prices slide.

- **In July 2012, Iluka Resources** announced it would reduce production output of mineral sands (zircon) in response to reduced demand and falling prices. In Australia, production of zircon used in ceramic tiles fell by almost 30 per cent in 2011-12.
- **Xstrata Coal** has said its $US6 billion Wandoan thermal coal mine in Queensland's Surat Basin is increasingly unlikely to proceed. The company said high local currency has pushed iron ore prices back to lows only plumbed during the worst of global financial prices in Australian dollar terms. The current rampant cost inflation means lower profit margins today than when prices collapsed in 2008, it said.

The economic impact of our IR laws

So what does all this have to do with Australia's IR laws?

While it's true that many investment decisions depend on global economic factors such as commodity prices and demand for resources, it is all the more reason to ensure our domestic regulatory environment works to support, not hinder, our great and prosperous resource industry. We must not throw any more impediments in the way of doing business than those already occurring globally that are beyond our control.

Over the next 12 to 18 months, thousands of industrial agreements in the resource industry are set to expire. This includes thousands of Australian Workplace Agreements made under the previous IR system that have continued to mitigate against the most unworkable aspects of the current laws and have continued to provide high levels of flexibility.

While industrial disputation in the resources industry is low right now, the scene is set for widespread industrial strife and profound economic damage.

Many AMMA members negotiated five-year industrial arrangements prior to the Fair Work Act taking effect in July 2009 to minimise the disruption to their business of the change in workplace laws and to lock in existing flexibilities.

As a result, a high proportion of industry agreements will expire in 2013-14, which has the potential to bring the industry to a standstill with widespread campaigns of industrial action.

The potential for extensive stoppages is real and, unless our IR laws are changed to make industrial action a last resort rather than a first means of attack, the economic gains of past projects and the jobs and wealth that could be created by new ones, will be lost.

Now is the time, with a clearly changing economic climate and a review of the Fair Work Act currently under way, for the Federal Government to get serious about bringing some rigour back into its IR legislation.

The cost of industrial action

The financial cost of industrial action will always be a factor of the particular project, its size, the stage of development and the length of any stoppage or bans. Below are estimates of the cost to business and the economy of recent industrial disputes, many of which could

have been avoided if the IR laws had been tighter and less encouraging of militant union action:

- **Grocon in 2012** – This is a continuing dispute over the issue of safety stewards and enterprise agreement negotiations between the company and the CFMEU. Unionists started picketing the Melbourne CBD site several weeks ago in an effort to halt work on Grocon's Emporium site. The picket continued in spite of a Supreme Court injunction to end the blockade. Fair Work Australia also recommended a cooling off period, that the union stop its blockade and that Grocon discontinue its legal action against the union. The union agreed to those terms but Grocon rejected the proposal saying it would be giving permission to the union to break the law. Grocon claims the cost of the dispute has run to about $4 million to date. Its CEO Daniel Grollo said the dispute was costing about $500,000 a day but the true extent of the cost would not be known until later. The company said its only option was to sue the union for damages given the costs of the industrial action and blockades were not factored into its service contracts.
- **Esperance Port action in WA in 2011** – There was a prolonged industrial dispute at WA's Esperance Port which the state government estimated cost $50 million in state exports.
- **Fremantle Port action in WA in November 2011** – This involved industrial action on WA's largest general cargo port and its associated transport chain. The WA Government estimated $3 million in trade was lost every hour of every day on the basis that the port handled $26 billion in trade each year.
- **Qantas dispute in 2011** – The Qantas dispute saw extended industrial action taken by licenced aircraft engineers, baggage handlers and pilots. In response, Qantas grounded its domestic and international fleet. The airline said the combined industrial action cost $194 million, including $70 million due to the grounding of the fleet, $56 million due to lost customer loyalty and forward bookings, and $68 million due to union actions leading up to the fleet's grounding. Qantas said if it had allowed the action to continue rather than grounding its fleet, the cost to the airline would have grown to $85 million a month.
- **General disputes in Queensland in 2011** – The Chamber of Commerce and Industry Queensland (CCIQ) estimated that the 75,300 working days lost in the state in 2011 to industrial disputes cost the Queensland economy $3.9 billion.
- **Action on Pluto Project in 2010** – Pluto Project operator Woodside Burrup Pty Ltd applied to Fair Work Australia to stop protected industrial action by the employees of one of its sub-contractors. Woodside applied as a third party experiencing 'significant harm' as a result of the strike. Woodside said it cost $3.5 million a day to keep the Pluto project running, which meant the potential economic loss of each day's industrial action was $3.5 million given the flow-on effects and delays caused to other work on the project. Its application was unsuccessful[10].
- **Vessel operators dispute in 2009-10** – Farstad Shipping estimated that losses arising from the dispute over an enterprise agreement ran into millions of dollars for a 48-hour strike. It said the $750,000 a day it lost due to the industrial action was only a fraction of the flow-on costs to its clients.

[10] CFMEU v Woodside Burrup Pty Ltd and Kentz E & C Pty Ltd [2010] FWAFB 6021, 6 August 2010

Three urgent IR fixes needed

With a review of the Fair Work Act currently under way, which purports to be focusing on the key economic drivers of productivity, it is imperative that the most productivity-destroying and economically damaging aspects of the legislation be overturned as part of the process.

In particular, employers should not be threatened with industrial action as a mandatory part of bargaining when parties are negotiating to renew industrial agreements. As part of AMMA's Workplace Relations Research Project conducted in conjunction with Dr Steven Kates from RMIT University, agreement renewal has been revealed as the number one concern across AMMA's membership at this point in time.

In the current economic climate, resource and construction projects can last for up to six years, which means industrial arrangements have to be renegotiated in the middle of the project. Given that under the Fair Work Act industrial agreements can only run for a maximum of four years, this exposes important national interest projects to damaging and costly industrial action. As mentioned earlier, we are talking about highly paid workers, often extremely highly paid, and AMMA sees no need for them to resort to costly industrial action during bargaining when they already have significant leverage in terms of in-demand skills and market forces.

Significantly, employees and unions should not be able to take protected industrial action over matters that do not pertain to the direct employment relationship between the employer and its employees. There is an urgent need for the matters that are currently being endorsed for inclusion in enterprise agreements to be wound back in the national interest.

Greenfield agreements

Unions' behaviour during negotiations for greenfield or 'new project' agreements threatens the viability of projects before they get off the ground. What's more, there's not even a workforce in place that the employer can appeal to in order to be reasonable.

The Fair Work Act review panel has acknowledged problems with making greenfield agreements under the current framework, thanks in part to submissions by employer groups including AMMA. But the arbitration power the panel proposes goes much further than the determination power AMMA proposed and could risk giving employers even less control over start-up projects. Unions and Fair Work Australia should not be able to trigger the determination power when negotiations break down. Only employers should have that option as they are the ones that understand the commercial imperatives they face.

The review panel's proposed requirement for employers to notify all relevant unions of their intention to make a greenfield agreement should not even be entertained by the Federal Government. Not having to notify all relevant unions was a key concession the Labor Government gave to resource industry employers in lieu of giving us the option of an employer greenfield agreement, a type of agreement for which there is still a strong argument by the way. Any requirement for employers to notify all relevant unions would not only represent reneging on a key commitment, but would lead to other undesirable economic consequences for projects due to increased demarcation disputes, protracted negotiations and potential delays to project timelines.

While AMMA supports some form of good faith bargaining principles being introduced to apply to greenfield negotiations, it is important that employers are not further disadvantaged by any provisions in this area but are instead protected.

If good faith bargaining principles are to apply to greenfield agreements, employers should only have to negotiate in good faith with the union or unions of their choice. Only one relevant union is required to sign a greenfield agreement so it should be entirely up to the employer which unions they negotiate with and when.

The good faith bargaining principles should only apply after the employer has initiated bargaining with the unions of their choice. This should not become yet another way for unions to compel employers to the bargaining table and should under no circumstances be used to put further pressure on employers in this context. If one particular union is refusing to bargain in good faith, the employer should then have the option of negotiating with another union.

Alternatively, if a union is found not to be bargaining in good faith, the employer should be able to apply to Fair Work Australia for a determination or approval of an agreement based on the employer's best offer as long as it meets the Better Off Overall Test. This would be preferred to any proposed arbitration to determine the content of an agreement.

Agreement content

The concept of 'prohibited content' which existed under the previous workplace relations system should be reintroduced as part of the current review of the Fair Work Act. At present, unions can take protected industrial action over any matters that are deemed permissible to include in enterprise agreements.

Clauses approved by the federal industrial tribunal in the *ADJ Contracting* agreement include those that have nothing to do with the employment relationship and which will actually damage the productivity of enterprises.

These include clauses: requiring contractors to pay the same rates to their employees as site employees receive (employers have argued this is a form of discrimination on the basis of a contractor's industrial arrangements); allowing more extensive rights of entry than those allowed by the legislation itself; and requiring employers to actively promote union membership and activity not only to their current employees but to prospective ones.

Clauses like these, as well as those requiring unions to have an office onsite, union picnic days and trade union training leave have no place in an economy that is already showing signs of stress.

Agreement renewals and protected industrial action

Key provisions in the Fair Work Act's bargaining framework must be changed as part of the current review for the sake of Australia's productivity.

The government looks set to close the *JJ Richards* loophole, thanks to the efforts of the employer and AMMA in challenging the decision to the Federal Court. This means that protected industrial action will not be able to be applied for unless an employer has agreed

to bargain or the union has obtained a majority support determination to prove that majority support exists for bargaining.

AMMA welcomes the review panel's acknowledgement that the legislation needs to change to clarify this, but AMMA maintains that was always the way the legislation was intended to work.

But putting the *JJ Richards* case to one side, it is otherwise far too easy for employees and unions to take protected industrial action and far too difficult for employers to stop it, even when they are bleeding dollars for every day of action.

Therefore, the bar for employers being able to apply to stop protected industrial action on the basis of serious economic harm must be lowered so that those provisions and the protections they provide might actually be used by employers.

On the subject of industrial action, the review panel has proposed that employers be required to continue to provide accommodation to striking workers, despite the courts having found this is actually prohibited under the current wording of the Fair Work Act.

AMMA cannot stress enough how important it is that when workers on remote or regional sites engage in strike action, employers have the choice as to whether to continue to provide accommodation or not given that employers are the ones facing the financial costs due to the action.

In some cases, employers may prefer to continue to provide accommodation rather than having to pay to fly workers offsite then fly them back in when the strike ends. In other cases, employers may want to withhold the provision of accommodation and instead fly workers offsite for the duration of the strike. The employer should have the discretion to choose either option based on its business needs in order to minimise the cost to the enterprise.

Conclusion

The warning signs are well and truly here that Australia's resource industry needs to be treated with greater respect and not be taken for granted as a cash cow.

Unimpeded, the industry is set to create hundreds of thousands of jobs and hundreds of billions of dollars of economic growth, but only if the government removes the unwarranted barriers to doing business that currently exist.

Australia's IR laws have their part to play, particularly in closing off the potential for economic damage at the very earliest stages of industrial negotiations by already extremely highly-paid workers. The path of resource projects would be made a great deal clearer by ensuring any changes the government makes to the greenfield or 'new project' agreement framework rectifies the current power imbalance and does not make things worse.

For the sake of Australia's national interest and prosperity, the government needs to stop allowing unions to hold resource projects to ransom based on the erroneous assumption the boom will last forever. What happens to the laundry hand who earns $300,000 for working six months of the year when the mining boom is over?

AMMA calls on the Federal Government to work with businesses to help them withstand the current economic challenges by making our domestic environment as supportive and efficient as possible for what is a great national industry.

Thankyou.