

N S W
M i n e r a l s
Council

25 November, 1997

Mr W. Scales
Chairman
Industry Commission
LB2 Collins Street East
MELBOURNE VIC 3000

New South Wales Minerals Council Limited
ACN 002 500 316
Z27 Elizabeth Street
Sydney NSW 2000
PO Box A244
Sydney South NSW 1235
Telephone 61 2 9267 6488
Facsimile 61 2 92641121
E-mail access via: www.nswmin.com.au

Dear Mr Scales,
Re: Black Coal Inquiry

Thank you for the opportunity to report to the Inquiry and expand on some of the issues raised in our Submission.

With regard to industrial relations, we took on notice your question about the application of the seniority principle for employment issues at coal mine sites. As you may recall, you sought our opinion on the impact of rendering this employment practice illegal, presumably through the Workplace Relations Act.

It has been the position of the NSW Minerals Council that the application of seniority in employment matters already offends **aspects of both the** Sex Discrimination Legislation and the Workplace Relations Act in that it directly or indirectly directs preference to existing male members of the union who are covered by 'members only' awards. This has been brought before the Australian Industrial Relations Commission (AIRC) in different matters, including the Section 150A award review, however has not been decisively dealt with up to this point in time. The matter will again be raised during the Section 89A award simplification process, seeking to remove the Increase in Hands and Reduction in Hands clauses as non-allowable matters.

Rendering the principle of seniority illegal would provide a powerful impetus to the removal of such practices at minesites. A precedent was established with the establishment of the removal of "preference on the grounds of association" as an

illegal matter from awards, however our concern is that the AIRC has determined that the matter can be still inserted into enterprise agreements (Woodside Heating and Air Conditioning and Ors - v - CEPU (Print P2244)).

Should the Industry Commission recommend that the practice of seniority in employment matters be rendered illegal, it would also benefit from designating that it is also a non-allowable matter, therefore prohibiting the AIRC from arbitrating on the matter and also, to ensure that illegal matters cannot be included in enterprise agreements.

It would be necessary of course to ensure that unintended consequences do not become apparent in other arenas.

Thank you again for the opportunity to express the industry's concerns to the Inquiry and we look forward with great interest to the findings of the Commission.

Yours sincerely

Jane Robertson
Executive Director