



REVIEW OF NATIONAL COMPETITION POLICY REFORMS

MCA Comments on the Productivity Commission's Discussion Draft

December 2004

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EXECUTIVE SUMMARY

The Minerals Council of Australia (MCA) has a strong interest in maintaining the competitiveness of the Australian economy and suggests the processes of review and reform embodied in the National Competition Policy (NCP) have provided significant overall benefits to Australian businesses and the wider community. The minerals sector in particular relies on the efficiency of the rest of the economy to maintain its international competitiveness and the profitability of its activities.

While the reforms initiated under the NCP have not been costless, the associated improvements in efficiency, and the changes in the performance of public utilities, have led to improvements in the welfare of most of Australia's population through enhanced economic performance and improved resilience to the inevitable and unrelenting changes in international conditions.

The MCA strongly endorses the proposition that competitive markets will generally serve the interests of Australian consumers and the wider community and accordingly, strongly supports, in principle, the NCP reforms, including in electricity, gas, public transport infrastructure and water.

The MCA is concerned at the Productivity Commission's suggestion there is evidence of Australian "reform fatigue" (Discussion Draft, p. xxiv). It is easier to discuss reform when the need for it is readily apparent. However, Australia must continue the process of institutional reform and economic reform to maintain and improve our international competitiveness. Even while Australian industry is catching up to its offshore competitors they are in turn moving on and the reform imperative never wanes – it is a constant.

The principles underlying the NCP provide the basis for worthwhile ongoing review and reform. The changes started through the Council of Australian Governments (COAG) agreements in 1994 should not be seen as a "once-off" piece of policy housekeeping, but more as the basis for a set of benchmark "rules of thumb" that should continue to guide new policy formation and review of existing legislation and institutional structures.

As noted by the Commission (Discussion Draft, p. xxxvi), the scope of future review and reform and the framework in which these principles are applied are matters for COAG to decide, but the MCA considers that the Commission's Discussion Draft and proposals for a national reform agenda provide an appropriate basis for those decisions.

The Minerals Council's position on key elements of the Discussion Draft is as follows.

Energy

The MCA endorses the Commission's proposal that governments should complete all outstanding NCP electricity and gas reforms.

The MCA considers that an open, competitive and integrated national energy market can be achieved by:

- COAG adhering to clear principles and directions for reform in each of the above noted five areas;
- identifying the key issues to be resolved in finalising the details of the reform program to ensure there is robust energy market governance and a consistent regulatory framework;
- ensuring all energy policy decisions are set to maintain the reliable supply of competitively priced energy for business and individual needs while minimising adverse impacts on the environment; and
- establishing the processes and timelines by which key reforms are to occur.

Water

The MCA accepts the need for further changes to the ownership and management of Australia's water resources, and consequently endorses the Commission's proposal that the NCP reforms previously agreed by COAG should be pursued and completed.

The MCA's principal concern is that the process does not create costly delays and uncertainty by dragging on longer than necessary. So, the MCA also endorses the Commission's call for monitoring (or some other arrangements) to provide a discipline to ensure that governments follow an agreed agenda.

Government business enterprise (GBE) performance

The MCA endorses the Commission's proposal for governments and regulatory agencies to continue to explore opportunities to improve the efficacy of price setting and access arrangements for regulated infrastructure providers and improve incentives for providers to undertake investment to maintain existing facilities and expand networks. Given its ongoing monitoring of GBE performance, the Commission itself may be well placed to extend its research to assess whether governments and regulators have impeded infrastructure investment, through either or both inappropriate price regulation or dividend policies.

Social, regional and environmental impacts

Because the minerals industry relies on the efficiency of the wider economy for its international competitiveness and prosperity, it is likely that NCP reforms have indirectly benefited the regional and remote communities with close ties to the industry more than others. Because of the importance of maintaining widespread community support and understanding of the process, the MCA supports the Commission's ongoing research to assess the distribution of the impact of past and ongoing NCP reform.

Road and rail transport and port access and development

The MCA supports the thrust of the Discussion Draft recommendations on freight, transport and also recommends that:

- to improve the strategic planning of land transport solutions and their interface with ports and airports in Australia earlier consultation with the private sector take place and there be a sharper focus on bulk commodity land transport and ports' needs;
- strategic investment in rail be undertaken as a means of making it a competitive alternative to road. But given the continued growth in the road freight transport task, it is important that there are ongoing efficiency, safety and environmental improvements in the nation's road system;
- while port infrastructure largely rests with state and territory governments and the private sector, the Federal Government should work with the states and territories through COAG:
 - to ensure the provision of adequate port and related facilities to ensure sufficient port capacity is available to meet the expanding needs of Australia's trade;
 - in promoting long-term access planning in relation to transport corridors between ports and other intermodal centres and into ports via shipping channels; and
 - in long-term planning of land use around ports to allow adequate buffer zones, future port expansion and expansion of the related transport corridors;

The MCA also underscores the need for:

- timely implementation of the Australian Rail Track Corporation's (ARTC's) capital expenditure program in the Hunter Valley as announced by the Australian Government;
- development of new rail track access arrangements for the Hunter Valley rail network under the Australian Competition and Consumer Commission; and

- ongoing consultation by the ARTC with all members of the Hunter Valley coal transport and logistics chain so that key expenditures are undertaken on time.

Anti-dumping review recommendation

The MCA supports the Productivity Commission draft recommendation for a review of Australia's anti-dumping arrangements.

Cabotage

The MCA supports a review of Australia's cabotage arrangements for the Australian shipping industry through completion of the Australian Government's Legislation Review Program, as suggested by the Commission's draft proposals.

If cabotage is preserved, it is very important to the Australian minerals sector that the current policy position regarding Single Voyage Permit and Continuous Voyage Permit arrangements remain in place. The requirements for intrastate voyages also need to be reviewed and standardised.

The legislation review process

The MCA supports:

- an ongoing process of reviewing legislation (proposed and existing) to minimise its regulatory impact and reinvigoration of COAG's role in this area;
- a regulatory approach which adopts the concept of "minimum effective regulation" which is least cost, performance based and meets the criteria of both community acceptance thus underpinning the industry's ongoing licence to operate;
- minimisation of all regulatory costs, such as compliance and adverse side-effects; and
- adoption of the best regulatory approach available to address a defined problem (including an assessment being undertaken of whether self-regulation or no regulation may be more appropriate public policy choices).

Gate keeping arrangement for new and amended regulation

In addition to the processes endorsed above for ongoing review of existing regulation and legislation, there is a need for greater gate-keeping arrangements for new and amended regulation, particularly at the State and local government levels.

The MCA therefore endorses the Commission's draft proposals on gate-keeping arrangements for new and amended regulation, vis:

- *to guard against the unwinding of previous reforms and to help ensure that new regulatory initiatives are in the public interest, all Australian governments should ensure that they have in place effective and independent arrangements for monitoring new and amended legislation; and*
- *consideration should also be given to widening the range of regulations encompassed by gate-keeping arrangements and strengthening national monitoring of the gate-keeping arrangements in place in each jurisdiction and the outcomes delivered.*

In addition, sufficient funds need to be provided by all Australian governments to be able to independently and effectively undertake these tasks.

Competition-related reform and the environment - Natural resource management

The MCA supports the Commission's draft recommendation that COAG should "immediately take a greater role in addressing fragmentation and uncertainty in relation to greenhouse gas abatement policies. It should also initiate a review to identify other areas of natural resource

management – beyond the current and foreshadowed responsibilities – where the pay-offs from nationally coordinated reform are likely to be high.”

Such nationally coordinated reform should include inter-jurisdictional agreement on the transparency of objectives and principles, detailed analysis to establish well-founded, specific reform options, independent monitoring of progress and robust mechanisms to avoid any erosion of policy outcomes.

There needs to be a continuing and effective dialogue with industry, that is highly integrated and interactive, rather than sectorally based.

The MCA recommends specifically:

- measures taken to address the implications of climate change (including approaches to abate and report greenhouse gas emissions) need to be consistent with international developments and be nationally consistent across Australia;
- Australia ratify the *International Convention for the Control and Management of Ships' Ballast Water and Sediments* and priority be given to the establishment of a Single National Management System for the prevention and management of marine pest incursions by shipping and other vectors moving between state/territories of the Commonwealth that is consistent with the international Convention.

Tax policy reform

Notwithstanding the importance of ongoing tax reform, the MCA agrees with the Commission finding at page 285 of the Discussion Draft that “the Commission does not see a need to include tax on a new agenda for nationally coordinated reform oversights by COAG”.

However, the MCA urges the Ministerial Council on Commonwealth and State Financial Relations to focus on reducing reliance on state taxes with high efficiency costs, including removal of taxes on business inputs.

In progressing further tax reform, the Minerals Council underlies the importance of a continued emphasis on consultation, as it will assist (in the words of the Ralph Review) the adoption and implementation of “a more certain, equitable and durable taxation system to deliver lasting benefits for all Australians”.

Skills, education and training

The importance of the Vocation Education and Training (VET) sector in ensuring Australia has suitably skilled workers is widely recognised. The MCA supports the Commission's findings that much of the broad framework for addressing skills shortages is in place and that VET reform should not be brought within the purview of COAG at this stage.

1. INTRODUCTION

The Minerals Council of Australia (MCA) is the peak, national organisation representing the exploration, mining and minerals processing industry in Australia. The membership of the Council accounts for some 90 per cent of Australian minerals production and a slightly higher percentage of Australia's mineral exports.

1.1 The economic importance of the Australian minerals sector

The impact of the minerals sector on the overall economy is significant. The Australian minerals industry is an industry of considerable size, economic, regional and social significance, benefiting all Australians both directly and indirectly.

In summary the industry is:

- the pre-eminent Australian industry sector accounting for 37 per cent of our total merchandise exports and over 8.5 per cent of Australia's Gross Domestic Product¹;
- a significant employer directly of some 94,000 people, and indirectly through vitally important supply and demand relationships with Australian manufacturing, construction, utility and service sectors (this involves over 240,000 people in allied industries, such as metal products, non-metallic mineral products, transport and logistics, process engineering and construction). Much of this employment is in remote and regional centres; and
- at the forefront of new investment, the adoption of new technology and Research, and Development (R&D) activity in Australia.

Australia has long enjoyed a "comparative advantage" in geological wealth. Our ability to undertake mining and minerals processing activities and sell product to overseas markets is reflected in the large trade surplus (value of exports minus value of imports) we run in mineral commodities. However, we cannot take that for granted given:

- the long-run decline in real prices for minerals and the cyclical nature of the market for minerals;
- that we are a price taking industry unable to impact global prices for commodities, although rationalisation of the industry has partly been motivated by a desire to extract some benefits via reduced excess supply of commodities; and
- the reality of continual cost pressures from overseas competitors. These unrelenting competitive forces have meant the industry must continually focus on improving productivity and reducing costs while recognising and fulfilling our environmental, social and economic stewardship responsibilities.

Such operational characteristics are synonymous with other commodity sectors, but the minerals sector also has some differentiating characteristics.

Australia's ability to export its minerals wealth has long benefited from the fact that the most dynamic part of the world economy is on our northern doorstep. Our exports to the region have increased over many years as Asian nations have steadily industrialised. In turn, much of the related Australian economic growth and wealth creation has been due to the growth of Australia's minerals sector.

Australia's economic future looks likely to emulate our recent past, with the emergence of **China and India** as "industrialising economies" requiring Australian exports of minerals. Moreover, **Japan, the Republic of Korea and Taiwan** will continue to be important trading partners with Australia. Given this background, if Australian policymakers are able to provide

¹ To put that into perspective, the combined agriculture and food processing industries account for around 5.5 per cent of GDP.

the appropriate economic and regulatory environment, the future for Australia's minerals exporters looks bright.

To fully realise these growth prospects, the minerals industry needs to be safe, globally competitive, socially responsible and trusted, innovative in technology, processes and systems, and environmentally responsible. This in turn requires a stable and integrated mix of supplementary economic, social and environmental policies, the key planks of which are:

1. strong sustainable economic growth with low inflation and unemployment;
2. a sound, fair and stable society; and
3. a sustainable natural environment.

1.2 The concept of “sustainable development” and its import to this Inquiry

To achieve the above three desirable outcomes, the Australian minerals industry is acutely aware of the responsibility it carries in providing long-term economic and social benefits to Australia, and in meeting the challenges and opportunities of integrating its environmental performance and social responsibilities with its business imperatives through the concept of sustainable development. Indeed, **the industry considers its future is inseparable from the global pursuit of sustainable development** and has made considerable progress on a collective framework for continuous improvement through *Enduring Value – the Australian Minerals Industry Framework for Sustainable Development*.

This means that investments in minerals projects should be financially profitable, technically appropriate, environmentally sound and socially responsible. Importantly it is about the *interdependency of these social, environmental and financial considerations* – a three-dimensional prism through which the industry can focus on its contribution to the economy and to Australian society.

In Box 5.1.1 on page 109 of the Discussion Draft, it is stated that “the original concept of ‘sustainable development’ emerged from the 1987 World Commission on Environment and Development (the Brundtland Commission)”. In fact, “sustainable development is not a new concept. Rather it is the latest expression of a long-standing ethic of people’s relationship with the environment and the current generation’s responsibilities to future generations”².

While public awareness of the environmental and social consequences of economic growth and development has only risen to the fore in the last 30 years or so, economists have long advocated the importance of taking into account the impacts of such consequences and the welfare of future generations when assessing the costs and benefits of policies and projects.

Economists have long argued that **social welfare would be increased if private consumption and production decisions took external effects (environmental, social and regulatory for example) into account**. This includes the (direct and indirect) losses and gains in economic welfare which are incurred by society as a whole if a particular project is undertaken or not or if a particular health care initiative is renewed or not, etc. In this sense, **economic theory has always been interested in what constitutes, and how to achieve, sustainable outcomes from a broad societal point of view**.

Perhaps the confusion with the concept of sustainable development arises because it is often defined in terms of the “triple bottom line” of economic, social and environmental performance³ when, in fact, the “economic” bottom line really means “financial and broader *economic* (that is, non-financial) performance”. Therein lies a problem as “economic performance” is a far wider concept, in the sense that the economics discipline provides an

² US Department of Energy, “Overview of Sustainability”, www.sustainable.doe.gov/overview.

³ See The Allen Consulting Group (2002), Triple Bottom Line Measurement and Reporting in Australia, study prepared for the Commonwealth of Australia. The Productivity Commission’s own charter reflects this, as it includes a role: “initiating research on economic, social and environmental issues and reporting annually on economic performance, industry assistance and regulation;”

analytic framework to analyse (from an equity and wealth-creation viewpoint) the financial/environmental/social intersection.

A proper economic appraisal of a policy or project goes beyond an ordinary investment appraisal, and will take into account issues such as:

- public goods and “bads”;
- externalities and their impact on the welfare of others in society; and
- equity implications – horizontal, vertical and inter-generational.

While economics takes a broad view of the analysis of desirable social outcomes, the choice between them ultimately comes down to different perceptions of what constitutes the “right” equity goal for society – a judgment best made by governments through political processes.

Acceptance of sustainable development as a valid goal for government policy has wide political support. The MCA endorses these goals, and believes that they can best be achieved in a business environment involving continued application of NCP principles and reforms. This will help to ensure the strength of the Australia economy, and hence the capacity to meet environmental objectives at least cost to other elements of community welfare, and to establish processes that help reveal the costs and benefits of pursuing specific environmental and social outcomes. For instance, the costs and benefits of alternative approaches to greenhouse gas emission abatement can be better borne and assessed if there is a national energy market that reveals the net costs of diverting energy generation to low emission alternatives.

1.3 The importance of ongoing reform

The MCA strongly endorses the proposition that competitive markets will generally serve the interests of Australian consumers and the wider community and accordingly, strongly supports, in principle, the National Competition Policy (NCP) reforms, including in electricity, gas, public transport infrastructure and water.

The MCA notes the Productivity Commission’s finding that micro-economic reforms – including NCP – “have been a major contributor to Australia’s productivity surge in the 1990’s, and to the economy’s increased resilience in the face of economic disturbances”. NCP has also delivered price benefits especially for businesses (for example, in electricity, rail freight, port charges and telecommunications). These benefits have, in turn, passed to the Australian population as lower consumer prices and better returns to shareholders.

NCP is part of the ongoing micro-economic reform process of the past 20 years and the MCA agrees with the Commission finding that in the face of continued advance by competitor nations there is a pressing need for further reform. In this regard:

- the MCA is concerned at the Commission’s suggestion there is evidence of Australian “reform fatigue” (Discussion Draft, p. xxiv). It is easier to discuss reform when the need for it is readily apparent. However, Australia must continue the process of institutional reform and economic reform to maintain and improve our international competitiveness. Even while Australian industry is catching up to its offshore competitors they are in turn moving on and **the reform imperative never wanes – it is a constant**;
- nationally coordinated reform is essential;
- infrastructure reform and capacity building must continue to have a high priority;
- implementation of the Council of Australian Governments’ (COAG) new energy and water programs will require much further detailed work which should be given priority.

The principles underlying the NCP also provide the basis for worthwhile ongoing review and reform. The changes started through the COAG agreements in 1994 should not be seen as a “once-off” piece of policy housekeeping, but more as the basis for a set of benchmark “rules of thumb” that should continue to guide new policy formation and review of existing legislation and institutional structures. As noted by the Commission (Discussion Draft,

p. xxxvi), the scope of future review and reform and the framework in which these principles are applied are matters for COAG to decide, but the MCA considers that the Commission's Discussion Draft and proposals for a national reform agenda provide an appropriate basis for those decisions.

2. DETAILED COMMENTS ON THE COMMISSION'S PROPOSALS

2.1 Energy

The Minerals Council is a strong advocate for an open, competitive and integrated national energy market, which is critical to the continued competitiveness of the industry and to the economic and social welfare of all Australians. The Council therefore supports a nationally competitive energy market that is:

- governed by nationally consistent regulation of generation, transmission and distribution to promote efficiency and to eliminate unnecessary costs and risks;
- transparent, with no artificial barriers to entry;
- does not discriminate between energy sources, and is therefore non-distortionary;
- devoid of price controls, unless and only in circumstances of demonstrable 'market failure', and with capacity for long-term supply contracts; and
- attractive to further investment in world's best practice generation and transmission capability and in new technologies to meet the burgeoning energy demands of the future.

The MCA therefore endorses the Commission's proposal that governments should complete all outstanding NCP electricity and gas reforms.

The COAG has agreed to a strategy for future energy market reform in Australia to:

- (1) strengthen the quality, timeliness and national character of **governance** of the energy markets, to improve the climate for investment;
- (2) streamline and improve the quality of **economic regulation** across energy markets, to lower the cost and complexity of regulation facing investors, enhance regulatory certainty and lower barriers to competition;
- (3) improve the planning and development of **electricity transmission** networks, to create a stable framework for efficient investment in new (including distributed) generation and transmission capacity;
- (4) enhance the participation of **energy users** in the markets, including through demand side management and the further introduction of retail competition, to increase the value of energy services to households and business; and
- (5) further increase the penetration of **natural gas**, to lower energy costs and improve energy services, particularly in regional Australia, and reduce greenhouse emissions.

COAG has also agreed to the establishment of two new commissions:

- the Australian Energy Market Commission, which will have economic policy responsibility for rule making and market development; and
- the Australian Energy Regulator, which will have responsibility for market regulation (excepting in Western Australia and the Northern Territory).

The Ministerial Council recommended approach appears consistent with the MCA approach.

MCA position:

The MCA considers that an open, competitive and integrated national energy market can be achieved by:

- **COAG adhering to clear principles and directions for reform in each of the above noted five areas;**

- **identifying the key issues to be resolved in finalising the details of the reform program to ensure there is robust energy market governance and a consistent regulatory framework;**
- **ensuring all energy policy decisions are set to maintain the reliable supply of competitively priced energy for business and individual needs while minimising adverse impacts on the environment; and**
- **establishing the processes and timelines by which key reforms are to occur.**

These goals are largely consistent with the areas identified by the Commission as matters that the Ministerial Council on Energy should give priority to, in addition to its current work program, and the MCA endorses the Commission's proposals.

2.2 Water

Water is used in all aspects of minerals operations – from exploration to mine closure and in smelting/refining operations – and is critical to the current and future operations of the industry.

Water resources vary considerably across Australia. The diversity in water quantity and quality, as well as the location and type of mineral operations creates substantial water management challenges and opportunities for the minerals industry. The Minerals Industry strongly supports the development of policy frameworks to deliver adequate ecological flows, guaranteed access, equitable user requirements, and water markets to achieve sustainable management of our water resources.

The minerals industry relies heavily on being able to access foreign capital for mineral development in Australia, and essential to this access is the ability to demonstrate that all elements to the successful establishment and management of an operation are guaranteed. The guaranteed supply of the necessary (quantity and quality) water resources is essential if the minerals industry is to continue to translate its comparative advantage to international competitive strength.

National water reform commenced with the original COAG Water Reform Framework agreed in 1994. Governments extended these commitments by signing the National Water Initiative in June 2004. In December 2004, the Australian Government introduced a Bill to create a National Water Commission, which will be a key driver for national water reform. These institutional developments will provide for greater investment certainty for water users, which is a fundamental requirement for the minerals industry.

Water reform has been hampered by the difficult process of establishing the nature and extent of existing property rights, establishing the legal and market processes for trading those rights and of including in those processes a means of ensuring demands for non-commercial uses (such as ensuring ecological flows) were accounted for. The burden of other reforms and the difficulty of these issues may explain the Commission's assessment that progress on rural water reform "has in most cases been slow and variable".

Given the constraints on existing and future supplies, the Council considers efficient and cost-effective access to limited water supplies for all competing uses (including in the minerals industry) can be achieved by ensuring:

- all water management decisions are based on sound science;
- water allocations are guaranteed, they should not be able to be altered (reduced or removed) by government except in exceptional circumstances such as drought;
- risks associated with changes to water allocations due to exceptional circumstances are shared between government and industry – this is critical as the extremely variable nature of water supply in Australia has the potential to create substantial risks;
- the establishment of a national water market within and between states and territories that is based on the relevant parameters of the region (catchments or basins);

- the effective operation of a national water market should not be limited by the application of any sector based subsidies or rebates, or artificial barriers or impediments to trade; and
- water pricing is based on a user pays system that incorporates all costs.

An important goal of water reform is to clarify what needs to be achieved, and the costs of those decisions. While market reforms will help allocate water to its most highly valued *private* uses, those benefits may be undone if there is no clearly defined and predictable process for allocation to *public* uses, including ecological flows.

The MCA's emphasis on ensuring all water management decisions are based on sound science reflects its concern that some goals, such as the Commission's call for more effective management of environmental externalities, appear not to have a clear path for delivery. Similarly, opportunities for water recycling cannot be properly explored and assessed, as suggested by the Commission, unless the costs of existing supplies are known, and this requires further reform to establish markets in which the value of water in alternative uses is revealed.

Governments also need to participate in water trading markets to "buy" water allocations⁴ for public purposes, rather than permanently or irregularly appropriating allocations for those purposes. By doing so, the costs of environmental and other public uses of water will be revealed in traded water rights' prices and private users (particularly industry) will be able to secure access to water where the value of their use exceeds those revealed prices of public use.

The MCA notes, however, that there is a potential for significant market distortions from governments entering, or being perceived to enter, the water market prepared to pay above market rates for water. Governments should take all reasonable steps to ensure that acquisitions of water for ecological flows do not lead to perverse outcomes.

MCA position:

- **The MCA accepts the need for further changes to the ownership and management of Australia's water resources, and consequently endorses the Commission's proposal that the NCP reforms previously agreed by COAG should be pursued and completed.**
- **The MCA's principal concern is that the process does not create costly delays and uncertainty by dragging on longer than necessary. So the MCA also endorses the Commission's call for monitoring (or some other arrangements) to provide a discipline to ensure that governments follow an agreed agenda.**

2.3 Government Business Enterprise performance

The MCA remains concerned that State governments have increased their reliance on dividend and other revenues from infrastructure-intensive Government Business Enterprises (GBEs), raising the prices of the services they provide and constraining their abilities and incentives to make infrastructure investments. While NCP-related reforms have increased competition and reduced the potential for dividend stripping in many industries, others (particularly ports and electricity) remain dominated by GBEs subject to such pressures.

Concern about the sufficiency of public infrastructure spending is driven, in part, by experience of failures or inadequacies in recent years in water and electricity supply:

- there have been a few occasions in recent years where State governments have suffered political fallout from electricity blackouts. While in some cases (notably Queensland and Western Australian) these have had little to do with a lack of generation capacity, there is

⁴ Or, at least, be willing to trade part of any allocation reserved to public uses.

clearly a heightened political awareness across all States of the need for security of electricity supply; and

- recent drought conditions have raised questions about the adequacy of long-term water supplies, the associated limits on suburban development and population growth and the need for ongoing controls over metropolitan water use. Other incidents have raised questions about metropolitan/suburban water quality.

2.3.1 Water

Even allowing for the drought conditions, the problems with water supply suggest that governments, through their water authorities, have not provided adequate new capacity. This is, in large part, because water pricing has not properly reflected the long-term costs of provision or the value consumers and industry place on that additional capacity. Consequently, the problems are also an indication that water reforms have not progressed far enough to date.

The widespread introduction of metropolitan water use restrictions in recent years (and the prospect of some ongoing restrictions even when reserves are replenished) is an inappropriate long-term response to the problems highlighted by the current drought. Although quantity restrictions are an effective (albeit inefficient) means of limiting demands on water reserves in the short-term, **the long-term solution lies with proper pricing of water and response to price signals indicating demands for additional supply.** If prices better reflected the scarcity of water resources, authorities would be in a better position to choose between available options to provide additional reserves and the extent to which it is efficient to rely on demand reduction strategies.

Further work on a national water strategy will address some of the similar problems faced by agricultural and other non-suburban water users (including the minerals industry). Nevertheless, such reform may not progress far enough unless reform also extends to metropolitan water management, so that **pricing and water infrastructure investment decisions are made on a consistent basis across all jurisdictions.**

2.3.2 Electricity

In electricity, the existence of the National Electricity Market (NEM) and the extent of private participation mean the role for government intervention is less clear. Market processes are well established, although not perfectly so and, as noted above, the relevant COAG Ministerial Council has agreed on reforms to improve governments' contributions to electricity transmission planning and development. Nevertheless, government intervention to build new generation capacity – whether through direct public ownership or through the provision of financial incentives and the fast-tracking of approvals – may be seen by some as an easy way to demonstrate in a tangible way that governments are reacting to community concerns about reliability of supply. However, it risks deterring future private sector investment and may come at a significant economic cost and at a material and ongoing cost to State budgets.

In this case, if there are concerns that the NEM has not produced adequate capacity responses, it would be more appropriate to ask why and address any identified weaknesses (such as those outlined by the Discussion Draft at page 22), rather than intervening in ways that are more likely to further distort the market.

MCA position:

The MCA endorses the Commission's proposal for governments and regulatory agencies to continue to explore opportunities to improve the efficacy of price setting and access arrangements for regulated infrastructure providers and improve incentives for providers to undertake investment to maintain existing facilities and expand networks. Given its ongoing monitoring of GBE performance, the Commission itself may be well placed to extend its research to assess whether governments and regulators have impeded infrastructure investment, through either or both inappropriate price regulation or dividend policies.

2.4 Social, regional and environmental impacts

The Commission previously examined the effects of NCP on regional and remote Australia in 1999⁵, and found that, while the benefits of competition reforms were primarily felt in metropolitan areas, NCP was not the root cause of the long-term decline of some non-metropolitan areas. These findings have been repeated and reinforced in the Discussion Draft, with the Commission citing evidence from anecdotal sources and its own modelling of the uneven effects of the structural changes associated with NCP reforms, and concluding that most of regional and remote Australia has benefited (Discussion Draft, p. xxi).

Although highly capital intensive by nature, the minerals sector is **a major employer in regional Australia**. While employment in other industries is typically concentrated in state capitals, the majority of minerals industry jobs are in regional and remote areas. Mining and minerals processing activities provide the backbone of many local economies, providing a solid industrial and export base. Indeed, the exploration and development of mineral and energy resources has underpinned much of the infrastructure development in Australia.

With employment concentrated in traditional mining towns such as Broken Hill, Mount Isa, Mount Keith, Newman, Emerald, Kalgoorlie, Robe River and Roxby Downs, the presence and impact of mining in smaller communities in surrounding areas is often overlooked. While large mining operations may be concentrated in a small area, the economic benefits can be felt across a wider region. Minerals sector employment does not just mean prosperity around the mine gates and processing facilities, but also where employees live and shop. There is also a significant multiplier benefit with other activities associated with minerals activity. **This helps to attract more people to regional and remote areas and to ensure that basic services remain in local communities.**

Over the past two decades, Australia's regions have had mixed fortunes. While the coastal areas are growing strongly, many of the inland areas are facing significant challenges. The minerals sector's employment is concentrated in these inland regions, providing support to communities that do not have other advantages.

MCA position:

Because the minerals industry relies on the efficiency of the wider economy for its international competitiveness and prosperity, it is likely that NCP reforms have indirectly benefited the regional and remote communities with close ties to the industry more than others. Because of the importance of maintaining widespread community support and understanding of the process, the MCA supports the Commission's ongoing research to assess the distribution of the impact of past and ongoing NCP reform.

2.5 Freight transport

All sectors of the economy rely on transport to move their products and facilitate the provision of services. Thus long-term planning and improvements in the efficiency of transport infrastructure is crucial to Australia's continued economic prosperity.

Continued economic reform of our transport system is even more important to the minerals sector. Transport costs can represent 30 to 60 per cent (depending on the minerals sector) of the total cost of mining, processing and delivery to the end consumer. As mineral deposits tend to be in remote and inhospitable environs, the transport and logistics task represents a major consideration to their economic recovery.

⁵ Productivity Commission 1999, Impact of Competition Policy Reforms on Rural and Regional Australia, Report no. 8, AusInfo, Canberra.

2.5.1 Road and Rail transport and Port Access and Development

Much still remains to be achieved in the area of road and rail efficiency and intermodal strategic planning. Sensible access reforms such as third party rolling stock access have proved to be a good stimulant to rail transport efficiency. But in rail, the bulk commodity efficiency benchmark remains the private railways of the Pilbara iron ore industry, suggesting much could be done to promote efficiency and competitiveness within the other major rail systems.

Adequate and reliable rail access to key minerals exporting ports, such as the world leading coal ports of Dalrymple Bay/Hay Point and Newcastle, is a key factor in companies being able to meet export demand growth. In the past, inadequate access has been a limiting factor in port throughput. Furthermore, in many cases ports suffer from encroachment by the surrounding community. This is occurring at Townsville, Fremantle, Mackay, Gladstone and at many other ports, making long-term port development problematic.

Addressing anticipated port entry bottlenecks and providing for adequate long-term land planning should be a top priority for the Australian Transport Council. Rail improvements (such as track realignment, track strengthening, extra passing lanes and/or rail loops) and investment in new electricity transmission lines and development of solutions to shipping congestion outside ports need to be prioritised and targeted to the growing export requirements of the bulk commodity transport sector, particularly coal and iron ore.

Over the years bulk carrier ships have grown larger. Panamax vessels have moved from 50,000 to 75,000 Deadweight Tonnes (DWT) and Capesize vessels from 120,000 to over 200,000 DWT. In this context, bulk carrier access to the iron ore port facilities at Port Hedland and Dampier and to the coal port of Newcastle may need to be examined.

Unprecedented demand for Australia's coal and iron ore exports is placing pressure on our bulk commodity ports. In addition, Australia's major container port authorities have recognised that container throughput will grow significantly in the medium term testing the ability of land transport infrastructure to service that growth. Addressing these issues will require cooperation from all levels of government.

The Minerals Council welcomed the Australian Government's **AusLink White Paper *Building Our National Transport Future*** released on 7 June 2004. AusLink is significant for the extent of the Government's commitment to investing in critical, national infrastructure and for the comprehensive, strategic basis by which Australia's longer-term land transport needs are to be met, including:

- the need for multi modal transport solutions rather than a focus on improving individual modes;
- taking a long-term strategic approach to national transport planning and funding;
- the development of a comprehensive and integrated National Land Transport Plan;
- a coordinated and more effective response to future national land transport challenges; and
- opportunities for broader stakeholder participation in the national planning and program implementation processes.

Australia's land transport infrastructure demands are forecast to increase substantially over the next 20 years. Further, Australia, which already has the largest minerals shipping task in the world, will also see its minerals exports continue to grow in volume over that period.

MCA position:

The MCA supports the thrust of the Commission Discussion Draft recommendations on freight, transport and also recommends that:

- to improve the strategic planning of land transport solutions and their interface with ports and airports in Australia earlier consultation with the private sector take place and there be a sharper focus on bulk commodity land transport and ports' needs;
- strategic investment in rail be undertaken as a means of making it a competitive alternative to road. But given the continued growth in the road freight transport task, it is important that there are ongoing efficiency, safety and environmental improvements in the nation's road system;
- while port infrastructure largely rests with state and territory governments and the private sector, the Federal Government should work with the states and territories through COAG:
 - to ensure the provision of adequate port and related facilities to ensure sufficient port capacity is available to meet the expanding needs of Australia's trade;
 - in promoting long-term access planning in relation to transport corridors between ports and other intermodal centres and into ports via shipping channels; and
 - in long-term planning of land use around ports to allow adequate buffer zones, future port expansion and expansion of the related transport corridors.

The industry has demonstrated over many years its capacity to invest in essential infrastructure and to gear its production capabilities in partnership with Government to respond to the market. However, there are emerging public sector transport infrastructure requirements, particularly related to coal exports.

In this context, the Minerals Council particularly welcomed the historic rail agreement between the New South Wales and Australian Governments (to lease the NSW interstate track and Hunter Valley rail freight corridors to the Australian Rail Track Corporation (ARTC)) signed on 4 June 2004. This involves a commitment of \$152 million to upgrade the **Hunter Valley Rail Network** including track strengthening, elimination of bottlenecks to provide a reliable, cost effective system for transporting coal which will improve international competitiveness and our capacity to supply growing demand for Australian coal.

MCA position:

The MCA underscores the need for:

- timely implementation of the ARTC's capital expenditure program in the Hunter Valley as announced by the Australian Government;
- development of new rail track access arrangements for the Hunter Valley rail network under the Australian Competition and Consumer Commission; and
- ongoing consultation by the ARTC with all members of the Hunter Valley coal transport and logistics chain so that key expenditures are undertaken on time.

2.5.2 Passenger transport

The Commission notes that some significant challenges remain in delivering a passenger transport system that meets the needs of commuters in a cost-effective and sustainable fashion (Discussion Draft p. 186). The MCA would add to this that in meeting the needs of commuters the impacts on other users of transport infrastructure should be taken into account.

For example, the Hunter rail network is a mixture of passenger and non-passenger traffic sharing the same tracks. Currently non-coal traffic, including container traffic and passenger traffic, takes up many train paths on the Hunter rail network, significantly reducing the coal-carrying capacity of the network.

Due to coal trains sharing the network with non-coal trains, significant constraints are introduced. Issues that constrain the network include:

- non-coal trains have higher priority than export coal trains, by legislation;
- non-coal trains travel at different speeds from coal trains, such that a non-coal train may use more than one coal train trainpath;
- less than 80 per cent of theoretical pathways can be utilised; and
- many non-coal trains are timetabled, so they reduce flexibility in timing of coal trains;
 - 40 per cent of loaded coal trains miss their mainline entry time.

With the transfer of the Hunter Valley rail system to the Australian Rail Track Corporation it is critical that major investment is completed urgently to enable the Hunter Valley coal industry to improve its competitiveness and to expand to benefit both the regional community and the State without compromising safety performance.

2.6 Legislation Reviews

2.6.1 Anti-Dumping Review Recommendation

The Productivity Commission has, *inter alia*, again focused attention on the adequacy of Australia's anti-dumping and countervailing arrangements.

The Commission's Discussion Draft suggests that the Government's foreshadowed review of Australia's anti-dumping laws, scheduled for post the Willett Review (completed 1996), was "a key piece of unfinished business" and recommends the Government should conduct a review at the earliest possible date.

The MCA's policy position is that Australia's anti-dumping arrangements (laws and administration):

- should protect Australian industry against predatory pricing behaviour where it is demonstrated as causing material injury to affected industries; and
- be consistent with the strictures and intent of the WTO Agreement on the Implementation of Article IV of the GATT Code on Anti-dumping and Countervailing.

The MCA has supported the Australian Government's determination to recognise China as a market economy for the purposes of anti-dumping determinations if a decision is taken to negotiate a Free Trade Agreement with China. Australia has also agreed to suspend any resort to certain transitional provisions in the Protocol for China's accession to the WTO.

The MCA recognises that waiving these provisions does not affect Australian Customs' interpretation, application, or administration of Australia's anti-dumping provisions in regard to China, which are founded in the WTO Agreement on Anti-dumping and Countervailing and not China's Protocol of accession to the WTO (Articles XV and XVI which address China's status as an economy in transition for 15 years from date of accession).

MCA position:

The MCA supports the Productivity Commission draft recommendation for a review of Australia's anti-dumping arrangements.

2.6.2 Cabotage

The minerals sector is involved in the largest bulk minerals shipping task of any country in the world and the owner/operator of major ports and facilities throughout Australia.

Significant reform has occurred within Australia's maritime transport sector. Major cost savings have been achieved in domestic shipping through reduced crewing costs, in a

number of port/waterfront related facilities and in improved user charge arrangements for ports and infrastructure such as navigation aids.

Under the *Navigation Act 1912*, an unlicensed international ship may only engage in the coasting trade (that is, the carriage of domestic cargoes and passengers) where it has been issued with a relevant coasting trade permit for interstate trade. **A Single Voyage or Continuing Voyage Permit (SVP or CVP) is only issued where no licensed ship is available, or the service by a licensed ship is considered to be inadequate to the needs of the ports, and it is considered desirable in the public interest that a permit be issued to an unlicensed ship.** In the event that a continuing voyage permit is issued, it is a usual condition of each permit that shippers check on the availability of licensed ships just prior to undertaking each voyage under the permit.

SVPs and CVPs are only required for foreign flagged interstate shipping voyages. The requirements for intrastate voyages vary between individual states and these also need to be reviewed and standardised.

Australia must have access to an efficient transport sector both domestically and internationally to ensure we are able to continue to reach markets in a cost-efficient manner. However, as noted by the Discussion Draft (at p. 201), “by limiting access to potentially more cost effective coastal shipping [that is, international shipping] services, cabotage reduces the competitiveness of Australian firms that rely, or otherwise would rely, on coastal shipping.”

In the absence of any change to cabotage arrangements aimed at improving efficiency and reducing transport costs, the MCA supports the Government’s current position on SVPs and CVPs. This is particularly important given structural changes over the past 3-4 years in the industry. Few bulk shippers now own their own vessels and must rely on charters. To remove SVPs/CVPs or substantially water down arrangements would be of significant concern.

MCA position:

- **The MCA supports a review of Australia’s cabotage arrangements for the Australian shipping industry through completion of the Australian Government’s Legislation Review Program, as suggested by the Commission’s draft proposals.**
- **If cabotage is preserved, it is very important to the Australian minerals sector that the current policy position regarding Single Voyage Permit and Continuous Voyage Permit arrangements remain in place. The requirements for intrastate voyages also need to be reviewed and standardised.**

2.6.3 The legislation review process

Regulation of the mining and minerals processing industry is something that has, in general terms, been embraced and adopted by the industry as an essential element underpinning the industry’s ongoing licence to operate.

However, over the last decade the industry has seen, not only in Australia but globally, a continuous increase in regulatory process which has often resulted in wide-ranging impediments to the optimal and efficient implementation of business. Indeed, **few issues have caused more ongoing discussion and concern in the industry than those of regulation.**

Both Australian and international regulations impact at all stages of the mining cycle from exploration through development and production to closure and also on key infrastructure provisions such as electricity, water and transport.

Some of the key areas encompassed by regulation include environmental regulation, land access issues (such as security of tenure), mine operations (including safety), mining equipment and fuels.

Most regulation in Australia is imposed in the State jurisdiction and while there is generally some broader context in which the regulation is made there is significant risk of jurisdictional variations, beyond that justified.

The paramountcy of the States' legislative capacity in the context of the Australian Federal structure has largely created this outcome. While the system provides the capacity to acknowledge genuine jurisdictional difference, **all too frequently there is a lack of coordination that results in unhelpful differences and barriers to entry.**

To be internationally competitive the minerals industry in Australia needs an operating environment conducive to investment, growth and profitability and founded upon sound policy principles, focussing on:

- open and competitive markets,
- minimum, efficient (least cost) and only necessary Government regulatory intervention (that is, "minimum effective regulation");
- fiscal measures which are incentives for pre-competitive conduct; and
- fiscal incentives which address market failure and are non-discriminatory and non-distortionary.

Regulations can be pro-competitive or in other ways generally advantageous to the community. This can be the case by helping complex societies deal with otherwise intractable economic, social and environmental problems. At their best, regulations can create order and provide a basis for stable progress. However, over a decade ago, the Industry Commission found:

"a largely un-coordinated mish-mash of regulations which impose substantial costs, delays, and uncertainty on resource-related activities, while rarely achieving their apparent objectives, or only doing so at enormous cost".⁶

Unfortunately, and somewhat sadly, the same can be said today. The multiplicity of organisations from which authority for mineral activities must be obtained is very large in some States which greatly adds to the cost and difficulty of undertaking such developments.

Today there are some 60 Commonwealth and many more State, Territory and Local Government bodies making and administering regulations. There are another further 40 national standard setting bodies and Ministerial Councils setting national standards across a wide range of activities. This is despite useful reforms by the COAG over the past decade or so.

In addition, Australia is a party to various international treaties and this impacts on the regulations under which Australian companies operate. For example, international accounting standards influence the development of Australian accounting regulations and practices and International Maritime Organisation treaties influence the regulations governing the transport of minerals by sea.

The adoption by COAG of 'best practice' principles to be followed when developing national standards or regulations, and guidelines for the preparation of regulatory impact statements on regulatory proposals, is supported by the MCA. These "Principles of Good Regulation" involve:

- regular review;
- flexibility of standards and regulations;
- standardisation of the exercise of bureaucratic discretion;
- minimal impact of regulation;

⁶ Industry Commission (1991), *Mining and Minerals Processing in Australia*, Report No. 7, AGPS, Canberra, page 270.

- minimal impact on competition; and
- compatibility with relevant international or industry accepted standards and, where possible, not restrict international trade.

There is evidence that at least some of the resulting reforms have streamlined and simplified regulation in Australia and improved harmonisation between jurisdictions and with international regulations. However, whilst these systems, which promote “good” regulations, appear to be working reasonably well at the Commonwealth level, at the State, Territory and Local Government level, much more needs to be done. While some States are attempting to improve their approaches, overall the State/Territory existing processes suffer from being generally more limited in coverage and from not having an independent status for their regulatory review bodies. An example of the issues the industry is confronted with at the state level can be found in a submission made recently by the MCA Victorian Division to an Inquiry into Regulatory Barriers to Regional Economic Development, being conducted by the Victorian Competition and Efficiency Commission.⁷

Finally, the economics of regulation focuses on an important economic principle: the need to ensure that any proposed/current regulation will/does generate net benefits to Australia. When considering the appropriate regulatory solution, it is therefore useful to consider the options available as falling along a continuum from **no** regulation through industry self-regulation, “grey letter law” and to “black letter law” (where the measure is set out in legislation).

MCA position:

The MCA supports:

- **an ongoing process of reviewing legislation (proposed and existing) to minimise its regulatory impact and reinvigoration of COAG’s role in this area;**
- **a regulatory approach which adopts the concept of “minimum effective regulation” which is least cost, performance based and meets the criteria of both community acceptance thus underpinning the industry’s ongoing licence to operate:**
- **minimisation of all regulatory costs, such as compliance and adverse side-effects; and**
- **adoption of the best regulatory approach available to address a defined problem (including an assessment being undertaken of whether self-regulation or no regulation may be more appropriate public policy choices).**

2.7 Gate-keeping arrangements for new and amended regulation

In addition to the processes endorsed above for ongoing review of existing regulation and legislation, there is a need for greater gate-keeping arrangements for new and amended regulation, particularly at the State and local government levels.

There are already mechanisms in place at the Australian Government level to monitor the overall regulatory burden. Regulation proposals formulated at the Australian Government level must be accompanied by a Regulatory Impact Statement (RIS) that explicitly sets out the potential costs and benefits of the regulation for all parties. Such a process, when functioning properly, helps to focus on cost minimisation when new regulations are being developed. The Office of Regulation Review (ORR) located within the Commission also has an ongoing role in monitoring the impact of regulation on business.

Whilst the ORR plays a watchdog role and some review processes are in place, it has to be questioned whether both the RIS process and the ORR are effective, given the general disquiet within the business community at the mounting cost associated with regulation. There is also the problem that these review processes are not as well entrenched in other levels of government, and almost not at all in local government.

⁷ Available as Submission Number 17 at www.vcec.vic.gov.au

The MCA shares the concerns about the rising burden of new economic regulations. It is also important to consider whether the level of scrutiny of new regulations is being maintained. There certainly appears to be a feeling, both within government and business, that the gatekeeper role of the ORR is less effective now than was intended when it was first established. This decrease in vigour is also evident in state based processes, so much so that in many cases they are given little credibility by business and regulators alike. This is due to the limited funds made available, which limits the reviews to cursory examinations only.

The original intent of developing a RIS with a new piece of legislation was that the RIS would genuinely inform the direction the legislation would take – that is, that policymakers would consider the regulatory burden in their decisions. However, it appears that the development of a RIS is more of an after-thought – a compliance cost itself which is now often completed in a hurry at the end of a policy development process, rather than as a central element of that process with the genuine capacity to influence.

The RIS is also necessarily an *ex ante* assessment of regulatory impact, and may bear no relation to the actual effects and compliance costs once the regulation is implemented. Not only is there a need for better *ex ante* assessment of regulation, but that assessment should outline the benchmarks against which the regulation should later be reassessed, *ex post*.

MCA position:

The MCA therefore endorses the Commission's draft proposals on gate-keeping arrangements for new and amended regulation, vis:

To guard against the unwinding of previous reforms and to help ensure that new regulatory initiatives are in the public interest, all Australian governments should ensure that they have in place effective and independent arrangements for monitoring new and amended legislation.

Consideration should also be given to widening the range of regulations encompassed by gate-keeping arrangements and strengthening national monitoring of the gate-keeping arrangements in place in each jurisdiction and the outcomes delivered.

In addition, sufficient funds need to be provided by all Australian governments to be able to independently and effectively undertake these tasks.

2.8 Competition-related reform and the environment – Natural Resource Management

The MCA supports the Commission finding in its Discussion Draft (at p. xxv) that there will **“be pressure both domestically and internationally to improve environmental outcomes and encourage more sustainable resource use”**. This is in fact already occurring in the minerals sector and the MCA suggests the best way to address these challenges is to adopt a sustainable development approach to their assessment.

A degree of coordination and cooperation in pursuit of better natural resource management outcomes is occurring and, in this context, the Discussion Draft sites the Intergovernmental Agreement on the Environment, the COAG High Level Group on Greenhouse, the National Water Initiative and the Intergovernmental Agreement on Energy among others.

The Commission goes on to recommend at page 279 that:

COAG should immediately take a greater role in addressing fragmentation and uncertainty in relation to greenhouse gas abatement policies. It should also initiate a review to identify other areas of natural resource management – beyond its current and foreshadowed responsibilities – where the pay-offs from nationally coordinated reform are likely to be high.

In supporting this recommendation, the MCA would like to make some observations under the following headings:

- (a) greenhouse gas abatement policies; and
- (b) management of marine pest incursions via shipping and other vectors.

(a) Greenhouse gas abatement policies

Climate change is a global issue requiring a global solution. Australia's approach needs to be nationally consistent and co-ordinated, maintain the competitiveness of Australia's traded goods/services sectors and share the burden of greenhouse abatement equitably across the community.

The MCA is particularly concerned with the continuing trend by state/territory authorities to implement greenhouse policy measures in isolation of the broader national perspective and without due recognition to balancing other policy objectives is such areas as economic growth, employment, trade, investment, technology and energy.

To ensure the development of a nationally consistent and effectively co-ordinated approach to greenhouse policy, including reporting of abatement activities, a set of principles should be adopted to serve as benchmarks for considering the appropriateness of proposed policy responses. The MCA recommends the set provided at **Attachment A**.

(b) Management of marine pest incursions via shipping and other vectors

The National Taskforce on the Prevention and Management of Marine Pest Incursions recommended that the longer-term arrangements for tackling marine pests be addressed in a National System for the Prevention and Management of Introduced Marine Pests. This National System should include the following aspects:

- prevention systems operating at the pre-border, border and post-border levels to reduce the risk of importation and translocation of introduced marine pests covering all vectors and sources;
- coordinated emergency response to new incursions and translocations; and
- ongoing control of introduced marine pests already in Australia.

There has been substantial progress in implementing the recommendations of the National Taskforce. In particular, most of the recommendations relating to interim arrangements have been essentially met or substantial progress has been made. However, two issues remain:

- much has been achieved to address marine pest incursion via "imported" ballast water with the finalisation early this year of the *International Convention for the Control and Management of Ships' Ballast Water and Sediments* by the International Maritime Organisation and the introduction of mandatory reporting of ballast water management by international trading ships visiting Australia from 1 July 2001. Australia is expected to ratify the Convention in the first half of 2005. However, there are other vectors (for example, hull fouling, ropes, anchors and sea chests) that also require consideration; and
- there remains the issue of developing coordinated and consistent state/territory measures to control marine pest movements around the Australian coastline. While it has been agreed by relevant COAG Ministers that there should be a consistent national approach – focusing initially on managing ballast water movements around the coast and eventually addressing other vectors – this has still some way to go. The MCA was disappointed that the delays involved have got to the point where **Victoria decided to introduce its own regulatory approach for the control of shipping carrying ballast water into Victorian ports. This took effect from 1 July 2004.**

The MCA has consistently supported a Single National Management System to address marine pest incursion by any vector and, in implementing this policy approach, the MCA has

supported a principled approach along the lines developed by the National Introduced Marine Pests Coordination Group. (refer **Attachment B**).

MCA position:

- **The MCA supports the Commission’s draft recommendation that the Council of Australian Governments should “immediately take a greater role in addressing fragmentation and uncertainty in relation to greenhouse gas abatement policies. It should also initiate a review to identify other areas of natural resource management – beyond the current and foreshadowed responsibilities – where the pay-offs from nationally coordinated reform are likely to be high.”**
- **Such nationally coordinated reform should include inter-jurisdictional agreement on the transparency of objectives and principles, detailed analysis to establish well-founded, specific reform options, independent monitoring of progress and robust mechanisms to avoid any erosion of policy outcomes.**
- **There needs to be a continuing and effective dialogue with industry, that is highly integrated and interactive, rather than sectorally based.**
- **The MCA recommends specifically:**
 - **measures taken to address the implications of climate change (including approaches to abate and report greenhouse gas emissions) need to be consistent with international developments and be nationally consistent across Australia;**
 - **Australia ratify the *International Convention for the Control and Management of Ships’ Ballast Water and Sediments* and priority be given to the establishment of a Single National Management System for the prevention and management of marine pest incursions by shipping and other vectors moving between state/territories of the Commonwealth that is consistent with the international Convention.**

2.9 Tax policy reform

Taxation is a key Government policy instrument and represents the major source of Government revenue. The way in which it is applied has significant equity and efficiency implications for individuals and organisations. In addition, taxation can and often does have an important impact on marginal investments and their financing, as well as on locational decisions both within a country and across frontiers.

Continuous improvement to our taxation system is, therefore, an important area of microeconomic reform. The Minerals Council welcomed the introduction of the GST and the related indirect tax reforms as well as the Review of Business Taxation. The MCA acknowledges the Australian Government’s preparedness to continue the pursuit of business tax reform.

The Minerals Council supports the application of the objectives and principles for business tax reform adopted by the Business Coalition for Tax Reform to assess any proposed change to the business taxation environment.

It is the combination of all business tax rates and measures, and not just the corporate rate (or any other single tax measure), which is important in assessing investment decisions. The Minerals Council has long supported continued reform of Australia’s business income tax system to make it more equitable, efficient and simplified.

MCA position:

- **Notwithstanding the importance of ongoing tax reform, the MCA agrees with the Commission finding at page 285 of the Discussion Draft that “the Commission does not see a need to include tax on a new agenda for nationally coordinated reform oversights by COAG”.**

- However, the MCA urges the Ministerial Council on Commonwealth and State Financial Relations to focus on reducing reliance on state taxes with high efficiency costs, including removal of taxes on business inputs.
- In progressing further tax reform, the Minerals Council underlines the importance of a continued emphasis on consultation, as it will assist (in the words of the Ralph Review) the adoption and implementation of “a more certain, equitable and durable taxation system to deliver lasting benefits for all Australians”.

2.10 Skills, education and training

For its daily operation, the Australian minerals industry relies on ready access to the best human and intellectual resources, which in turn are reliant on the nation's teaching, education and training institutions that provide the necessary learning. However, there is a severe shortage of skilled people in many areas relevant to the minerals sector.

The Commission has correctly identified human services delivery as an area where harnessing competition may lead to improvements in efficiency and addressing looming increases in demands. It has also noted that the multidimensional nature of many human services (education, health, community services), and that, unlike many areas where NCP reforms have already been applied, human services delivery is an area in which market processes are not always good at signalling levels of quality and other dimensions of desired outcomes.

While the application of NCP principles, including increased use of competitive processes, may lead to benefits, care should be taken not to place too much emphasis on traditional indicators of market performance (prices, costs and quantities) without mechanisms for ensuring, or at least monitoring, the effects on service quality. Of course, establishing quality of service monitoring can create problems and inefficiencies of its own, including the costs of information gathering.

The Minerals Council has developed an integrated approach to education and resources and runs education programs at the primary, secondary and tertiary levels that are national in nature and linked to existing capital city and regional institutions. The Australian minerals industry currently provides funding of around \$10 million per annum to its education initiatives across these three levels – directly \$4.5 million per annum and \$5.5 million in work experience programs.

The MCA's **National Education Program** is focussed on improving scientific literacy and knowledge and understanding of the minerals industry in our schools, while the **Minerals Tertiary Education Council** (MTEC) is working to ensure the supply of well-qualified and motivated professional staff to drive the industry forward.

MTEC is a major industry-led and financially resourced initiative of \$2 million per annum, fostering partnership between industry, government and academia in which all three participate in the delivery of undergraduate and postgraduate learning in the specialist disciplines of earth science, mining engineering and metallurgy.

While the MCA recognises the importance of the **Vocation Education and Training (VET)** sector in ensuring that the minerals industry is able to access a supply of suitably skilled workers, the minerals industry is also focused on addressing the issue of choice of work type, location and lifestyle and its ability to attract and retain employees. The minerals industry welcomes the VET policy reforms and will be an active participant in many of recently announced the VET sector initiatives.

MCA position:

- The importance of the VET sector in ensuring Australia has suitably skilled workers is widely recognised. The MCA supports the Commission's findings that much of the broad framework for addressing skills shortages is in place and that VET reform should not be brought within the purview of COAG at this stage.

PRINCIPLES FOR MANAGING CLIMATE CHANGE

OBJECTIVES

- Australia to contribute to global action, in managing climate change, to reduce greenhouse gas emissions and develop and promote adaptation measures.
- Australia to encourage the international community through global, bilateral and unilateral measures to pursue global action to reduce greenhouse gas emissions and adapt to the impacts of climate change.
- Australia to develop a strategic national framework for greenhouse gas emission abatement and adaptation, founded in high level principles of sustainable development⁸ and sound science, utilising advances in technology, recognising the interdependency of global trade and commerce, and underscoring the critical necessity for the internationalisation of effective abatement measures and commitments.

PRINCIPLES

In accordance with the 1992 Rio Declaration, there is sufficient scientific evidence to be concerned at the impacts of anthropogenic greenhouse gas emissions on the world's climate system although it is recognised that there are uncertainties in the science of climate change. The science of global warming needs to be continuously reviewed and evaluated.

Australia's strategic national framework for greenhouse gas emission abatement and adaptation, in managing climate change in a global context, to be founded in the following high-level principles:

- (a) **Internationalisation:** pursue global action to reduce greenhouse gas emissions which is consistent with the United Nations Framework Convention on Climate Change and its ultimate objective of stabilisation of greenhouse gas concentration in the atmosphere at a level that:
 - would prevent dangerous anthropogenic interference with the climate system;
 - is within a time frame sufficient to allow ecosystems to adapt to climate change;
 - would ensure that food production is not threatened;
 - enables economic development to proceed in a sustainable manner;
 - is in accordance with common, but nationally differentiated responsibilities and respective capacities; and
 - distributes the burden equitably across the international community.
- (b) **Certainty:** take a medium (to 2012) and long-term perspective (say, 2030).
- (c) **Consistency:** be consistent:
 - across state, territory and federal governments to ensure their policies do not distort investment flows and create barriers to trade between States/Territories;
 - with Australia's overall economic policy of achieving high levels of sustainable economic growth; and
 - with other national policy aspirations including: population growth, international trade and investment, energy supply and demand, regional development and environmental and social responsibility.
- (d) **Cost effective:**
 - develop cost effective actions that enhances Australian industry's competitiveness and promotes business opportunities in a way that does not expose Australian industry to costs its competitors do not face;

⁸ Sustainable development – defined in terms of the Bruntland Commission – “meets the needs of the present without compromising the ability of future generations to meet their own needs” – and developed around the three pillars of economic progress, social responsibility and environmental management.

- promote investment in eco-efficiency;⁹
- adopt commercially feasible greenhouse gas abatement options;
- promote continuous improvements by utilising as soon as commercially practicable new best practice greenhouse adaptation and abatement technologies; and
- promote relevant R&D/technology and sustainable industry development.

(e) Non-discriminatory:¹⁰

- not discriminate between particular projects and locations and between existing and new entrants;
- not disadvantage “early movers” in Australian industry that have implemented greenhouse gas abatement measures;
- be trade and investment neutral in a way that does not expose Australian industry to costs its competitors do not face; and
- be size and ownership neutral regarding positions reached.

(f) Comprehensive: address all greenhouse gases, all emission sources and sinks and recognise the need for developing a full suite of strategies including adaptation and abatement strategies.

(g) Equitable: distribute equitably the cost burden of emission abatement and adaptation across the community, including providers of goods and services and consumers.

(h) Market measures:

- be based as far as is practicable on appropriately designed market measures - such measures provide a more economically efficient and least costly means of achieving abatement and adaptation goals; and
- greenhouse business programs should be evaluated in a framework of market failure principles with:
 - interventions justified on market failure grounds (such as to promote R&D) aimed at improving the efficiency of competitive markets; and
 - interventions that constrain industry development - such as taxes (including the equivalent cost under emissions trading) on business inputs - being evaluated against the same market failure principles.

⁹ Eco-efficiency is a strategy for the management of a company's environmental aspects. Eco-efficiency involves using environmental resources more efficiently in production processes. It means reducing, where possible, resource use, waste and pollution per unit of production and, as such, is as much about economic efficiency of operations as it is about environmental performance.

¹⁰ Government intervention to correct market failure is not considered discriminatory.

Extract from
National System for the Prevention and Management of Marine Pest Incursions
Australian Strategic Plan, 2002-2006
Developed by the National Introduced Marine Pests Coordination Group
5 July 2002

The objective

To provide the national framework (the National System) to guide the establishment of appropriate structures, mechanisms and operational procedures to minimize the risk of marine pest incursions and, should they occur, to manage their impacts, including translocation and ongoing control of marine pests already established in Australia.

The vision

A shared National System that provides for a bio-secure marine ecosystem, particularly in coastal waters and ports, relatively free from the risk of introduced marine pests and pathogens, supporting competitive and efficient marine based industries and providing social and recreational amenity for all Australians.

The principles

In implementing this Strategic Work Plan to prevent and manage marine pest incursions, the following principles will guide its development and application.

1. Management of marine pest incursions must balance the need for ecologically sustainable oceans management and the conduct of trade and commerce
2. A long-term commitment from all governments and a partnership approach from all relevant government agencies, industry and recreational and other stakeholder groups are essential in finding "an effective integrated national approach to the prevention and management of introduced marine pests" (National Taskforce Report, page 8).
3. Risk management techniques are adopted to reduce the likelihood of introducing and translocating marine pests rather than relying on an approach of controlling newly established populations.
4. The costs of preventing and managing marine pest incursions should be shared across the public and private sectors. It is recognised that governments have a role to play in meeting public policy obligations and that both private and public stakeholders play a role as contributors to the problem and as beneficiaries of management action. There should be no arbitrary exclusions of any stakeholder group.
5. Prevention and management measures used to combat marine pest problems must be safe, practical, socially acceptable, technically cost effective, and environmentally sound.
6. To the extent practicable, all decisions should be made on the basis of the best available scientific and technical advice, including risk assessment and analysis of potential impacts.
7. An effective legislative and coordination framework is required to ensure the effective participation of all stakeholders – being all levels of government, managers of public and private sector activities, service industries and the community.
8. Managers of public and private sector activities have a duty of care to ensure that their activities do not cause unacceptable damage to the marine environment.
9. Measures implemented to prevent and manage the risk of marine pest incursions shall be periodically reviewed for their practicality and ongoing relevance. Legislation or

regulation that restricts competition and trade should be retained only if the benefits to the community significantly outweigh the costs and if the objectives cannot be achieved through other means.

10. To engage in global fora, particularly the International Maritime Organisation (IMO), in the development of international regulatory frameworks and work towards influencing the work of IMO to help ensure that such frameworks and systems are broadly compatible with Australia's policy, legal and scientific objectives.
11. Dialogue with other countries should be developed to minimise duplicative research and, to the maximum extent practicable, encourage international consistency.
12. Implementation of management measures should be accompanied by educational programs to keep all stakeholders abreast of developments.