LOCK THE GATE ALLIANCE
AUSTRALIANS WORKING TOGETHER TO PROTECT OUR LAND, WATER, AND FUTURE

Reply to: [redacted]

14 November 2019

NSW Productivity Commissioner
By email: ProductivityFeedback@treasury.nsw.gov.au

Submission: IPC review

Thank you for the opportunity to submit to this review into the role and operation of the Independent Planning Commission.

Lock the Gate Alliance is a network of hundreds of groups and tens of thousands of individual farmers, conservationists, townspeople and Traditional Custodians concerned about the impacts of coal and unconventional gas mining. In New South Wales, we work with rural and regional communities in the Hunter region, the North West and the Illawarra and south-west Sydney who feel the impacts of coal mining and coal seam gas. We have extensive experience with the processes and decisions of the Independent Planning Commission and its predecessor, the Planning Assessment Commission. We would be happy to meet the Productivity Commissioner to further elaborate our experiences with the Planning Commission, its role, functions and practices.

Our submission is structured around the review's terms of reference, but we provide some introductory remarks for context.

In New South Wales, the experience of members of the public that are affected by mining projects is that there is unfair and unbalanced access and consideration for mining companies in the assessment of major resource projects under the *Environmental Planning and Assessment Act 1979.* People and organisations raising matters of public interest struggle to be heard or be treated with the weight they deserve.

In several disturbing instances, changes to legislation and regulation that concern the environmental and social impacts of mining have been made apparently in response to mining industry pressure or interests. This review, indeed, was established in response to a mining industry advertising campaign following the IPC's decision not to approve a damaging new coal mine in the secluded and productive Bylong Valley. The ICAC is currently conducting an investigation called Operation Eclipse, looking at lobbying and influence in New South Wales and as part of this investigation, has received evidence from the NSW Mineral Council, the IPC and Lock the Gate about the mining industry's lobbying activity and influence on public policy. We believe this investigation is important context for this review and urge the Productivity Commissioner to seek input from the ICAC for the purposes of this review.

It is in the public interest to maintain an Independent Planning Commission

The ICAC has described the IPC as a crucial anti-corruption safeguard in the planning system. It makes decisions at arm's length from Government and does not engage in related planning functions, like policy development. It is absolutely crucial that the Independent Planning Commission

be maintained and that its independence from other Government bodies and representatives be maintained and enhanced. The rest of this submission details why this is the case, but in summary:

- Communities in mining affected regions have little trust in the Department of Planning or political representatives to take a balanced approach to managing land use conflict, and rely on the IPC for an independent and objective consideration of highly damaging and controversial mining projects.
- In several key instances, decisions or reviews by the Independent Planning Commission or its predecessor have demonstrably mitigated environmental or social impacts of mining.
- The *Environmental Planning and Assessment Act 1979* provides few checks and balances that ensure the public interest is served in the consideration of mining and resources projects which are dealt with as "state significant development." There are no concurrence powers and limited appeal rights.
- The political influence of the mining industry, its history of corruption, the large amount of capital involved, the high environmental and social stakes and involvement of foreign multi-nationals all weigh in favour of these projects being considered and determined by a body at arm's length from the Department and the Minister.

For all of the above reasons, several of which are elaborated further below, it is crucial that the Independent Planning Commission be maintained.

It is also very important to note that when a public hearing is held by the IPC on a mining project, the community then loses merit appeal rights to the NSW Land and Environment Court (LEC). This means that the IPC effectively stands in the place of the LEC. Therefore, it is absolutely essential that the IPC has the highest level of independence from the NSW Government, the department and the Minister.

We note that the mining lobby in its public statements frequently refers to problematic 'delays' in assessment processes and has demanded action from the NSW Government to have decisions on major projects made more quickly. Local communities have no interest in long, drawn out assessment processes either. However, our experience is that resource companies demand speed in processes when they are trying to rush decision-makers to make a decision advantageous to them, but create extensive delays in assessment process when it suits their business interests.

For example, in February 2014, Santos signed a Memorandum of Understanding with the NSW Government which committed the Government to making a regulatory decision on the Narrabri CSG project by January 2015. However, Santos stopped investing in the Narrabri project soon after the MOU was signed, due to financial reasons, and failed to produce an EIS for the project until April 2017. The community had to live with uncertainty all that time. The EIS failed to include the necessary data and information to conduct an adequate assessment, so Santos was asked to fill these gaps. This year, Santos has begun demanding again that the NSW Government fast-track consideration of its project, and implying the assessment of the project has been delayed despite the fact that the company in May refused to undertake additional assessment identified by agencies. This campaigning exerts considerable pressure on statutory agencies to accept incomplete assessment material and proceed to decision-making based on patchy understanding of the environmental and social impacts of a development.

Another example of one rule for companies and another for communities when it comes to timeframes is the Queensland Hunter Gas Pipeline. The pipeline was approved by the NSW Minister for Planning in February 2009 and is classified as Critical State Infrastructure, but despite previously

signing a memorandum of understanding with Jemena to further the project, development had not begun within the government's allotted 10-year time frame. In October 2018, four months before its approval was due to expire, Hunter Gas submitted a request for five more years to begin developing the pipeline. On 28 February, 17 days after the consent legally lapsed, the NSW Government created a savings and transitional regulation providing that a consent lapse date for state significant infrastructure has no effect if an application has been made to modify the consent to extend the lapse date, including modifications applied for before the clause was created.[1] In late October 2019, the Department of Planning approved the five year extension. New evidence indicates that not only has development not begun on the project, but there has been no engagement whatsoever with local landholders along the pipeline route since 2011.

The Hume Coal project is another example. The IPC called for more information on the project in its first report on it earlier this year and then Minister Anthony Roberts set a two month timeframe on a final decision on the IPC. However, as we understand it the proponent has still not provided the additional information sought, and the delay is now approximately 6 months in length.

In summary, the timing of planning and assessment process is heavily weighted towards the convenience of resource companies. The mining lobby implies there is a public interest in having projects approved quickly, but if resource proponents are going to demand speed from decision-makers, then they must be held to strict timelines themselves that cannot be revisited. Otherwise, and as occurs currently, all the uncertainty falls on communities who can have proposed projects hanging over their heads for a decade and then have a proponent demanding approval within a year when they finally decide to pursue a project. There should be time limits applied to resource companies in the planning process, and if they do not meet them, their project applications should automatically lapse.

The Independent Planning Commission's operations and the mechanisms by which State significant development is assessed and determined

The IPC determines state significant development where there are reportable political donations, an objection by local council, or more than 25 objections from the public. This is appropriate given that such projects are frequently the cause of conflict and controversy and the public needs to see such decisions being made at arm's length from politics and treated with utmost objectivity and impartiality.

There are very few checks and balances in the process by which State Significant Development is assessed and determined. Sections 4.41 and 4.42 of the *Environmental Planning and Assessment Act 1979* remove concurrence powers for the agencies with statutory responsibility for water resources, health, biodiversity, Aboriginal cultural heritage, pollution control and fire prevention. Section 8.6 (3) (a) removes the right to appeal to the Land and Environment Court if a public hearing has been held for such a project. These hearings are routinely held for controversial resources projects.

These provisions leave the state significant development assessment and determination process without checks and balances to ensure that assessments are adequate, competing considerations are weighed appropriately and determinations are made in the public interest.

It has been our experience that matters raised by the public and community organisations about inaccuracies and biases in the assessment conducted by the Department of Planning, Industry and

[1] The *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Amendment (State Significant Infrastructure) Regulation 2019* can be viewed here: https://legislation.nsw.gov.au/regulations/2019-121.pdf

Environment (DoPIE) have been ignored and been left unaddressed by the Department and rectified by the IPC. A recent instance of this occurred in the assessment and determination of the Bylong Coal Project. The Department was misapplying the Aquifer Interference Policy by restricting its consideration of that policy's minimal impact thresholds to "private bores" on properties not owned by the mine proponent. This was done despite the terms of the policy clearly requiring assessment of the impact on "all water supply works," regardless of ownership. Lock the Gate raised this anomaly with the Department in our submissions, and, indeed, had raised it previously in regard to other coal mine assessments. Our attempts to raise and correct this error were ignored by the Department of Planning. Fortunately, the IPC was the consent authority and corrected this mistake in its determination of the project, considering the groundwater drawdown the mine was going to cause at water supply works throughout the proponent's extensive farm holdings in the district.

Similarly, the Planning Commission's review of the Bylong Coal Project in 2017 sought more information about the impact the project would have on Aboriginal cultural heritage, given early concerns had been raised by the Office of Environment and Heritage that cumulative impacts on Aboriginal cultural heritage in the area may lead to permanent inter-generational harm. No effort was made by the Department of Planning to address this gap and this failure was noted by the IPC in its statement of reasons about the project when it refused consent in September 2019. We note that in the 2017 Corbyn Review of Assessment Reports prepared by the Department of Planning, Industry and Environment, the treatment of Aboriginal cultural heritage in assessments conducted by the Department of Planning was singled out for mention as "one of the weakest point of Assessment Reports, with a focus on objects, justifying or permitting their destruction, reliance on the use of Management Plans and omitting consideration of cultural landscapes."[2]

The IPC's independence is, however, compromised by elements of the *Environmental Planning and Assessment Act 1979* that make it dependent on directions from the Minister for Planning. For example, following the judgement *Gloucester Resources v Minister for Planning* in February 2019 and prior to the determination of the United Wambo project in August 2019, Lock the Gate proposed to both the Minister and the IPC that a public hearing be held specifically investigating the treatment of downstream greenhouse gas emissions in mining determinations. This is an issue of profound public interest and considerable legal and strategic complexity and we felt that it would benefit from a transparent public process that allowed the various constraints, needs and contexts to be explored so that a consistent approach could be arrived at. The Commission was working without guidance from the Government, relying on inadequate assessment material provided by the Department, self-serving material provided by mining proponents and varied interpretations of the issue by the Land and Environment Court. Under section 2.9 of the *Environmental Planning and Assessment Act 1979*, however, the Commission is not able to hold such a hearing at its own discretion. It must hold hearings at the Minister's direction, thereby extinguishing merits appeal rights for development applications, but is not able to hold hearings on its own initiative.

We note that the IPC provides a far higher level of public transparency than any other decision-maker in the NSW planning system, and noticeably more than the Minister for Planning and DoPIE. The lobbyist register and Ministerial diary disclosures leave a lot to be desired. Ministerial diaries are uploaded quarterly - a considerable and unpredictable amount of time after the quarter in question. Each is uploaded as a separate PDF file for each minister for each quarter, so the ability of an interested member of the public to get a sense of lobbying over time and across different portfolios

[2] The review of Assessment Reports conducted by Lisa Corbyn for the Department in 2017 is useful background for this review and can be found here: https://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Assessment-reports-independent-review

is impeded. *Guardian Australia* took the time to digitise the data from the diary disclosures from the last term of parliament and discovered that mining and resources companies were given an extraordinary level of access to the highest rungs of the New South Wales government in four years, securing roughly 188 meetings with ministers in 235 weeks.

The Minerals Council of NSW had regular access to resources, planning and finance ministers, and the offices of premiers and deputy premiers. Individual mining companies also had access, including Shenhua Australia, Whitehaven, Glencore, Yancoal, Santos and Centennial Coal. These companies are responsible for mines that are highly controversial and affect individuals, communities and the environment in lasting ways. Lock the Gate was highlighted by *Guardian Australia* as the environment group that secured the most Ministerial access over that four year period with just 19 meetings with Ministers, and no meetings with the Premier despite numerous requests to meet.

The Ministerial diary entries are not very enlightening about the substance of the meetings held, any commitments that were made or information presented. There are no transcripts provided. Therefore, the community has very limited opportunity to reach Ministers compared to mining companies and no real way of discovering the details of what is discussed between their representatives and the mining industry.

In contrast, in the last twelve months the Independent Planning Commission has begun routinely publishing on its website all correspondence received in relation to projects it has been asked to determine, as well as transcripts of its public hearings and meetings and its meetings with mining proponents and Government agencies. This is a very welcome development, especially given that ICAC indicates that such transparency tends to provide a considerable check on the possibility of corrupt conduct. The transparency now provided by the IPC serves to highlight even further the opacity of the rest of the public service when it comes to its dealings with the mining industry. What takes place at meetings between the Department of Planning and Environment and mining proponents? How often do they meet? We have no way of knowing and yet it is apparent to us from our own meetings with these government representatives that they are very familiar with the positions and arguments in favour of mining projects, even projects that are expected to have severe impacts on matters of public interest.

Thresholds for the referral of matters to the Independent Planning Commission

We support the automatic referral of state significant development with political donations, local government objections or more than 25 public objections to the IPC for determination. This referral was only recently inscribed in statute but has been in place under administrative orders for eight years. In September 2011 the Minister's discretionary power for referring projects to the Commission became an automatic delegation for politically-charged projects in order to keep controversial planning decisions at arm's length from politics. Determination of state significant development was delegated to the Planning Assessment Commission (PAC) for any project where there has been a political donation, objection by the local council, or more than 25 objections from the public.[3]

Previously, the Minister could refer Part 3A projects to the PAC for determination on a case-by-case basis. Then-Planning Minister Kristina Keneally introduced a general delegation to the Commission in 2008 where there had been a political donation or for developments in which the Minister had a

[3] First introduced by a planning circular, 30 September 2011. https://www.planning.nsw.gov.au/-/media/Files/DPE/Circulars/planning-circular-determination-of-state-significant-applications-2011-09-30.pdf?la=en

political or pecuniary interest. In 2010, the ICAC recommended this delegation be enhanced to protect against corruption risks, that it be expanded, and written into statute, because "expanding the decision-making role of the PAC would provide an important safeguard against potential corrupt conduct."[4] The ICAC found that, "Referral to the PAC is seen as a safeguard because of its independence. In addition, the opportunity for a person to approach PAC members corruptly is comparatively limited as it is generally not known far in advance which PAC members will be allocated to a given matter."

The clarity and certainty of policies and guidelines that inform determinations

For state significant developments, there is no clear policy in New South Wales that stipulates impacts on water, air quality, biodiversity or other public interest matters that are deemed unacceptable. There are no red lines, for example, that would prevent the last stand of a critically-endangered ecosystem being cleared, or a nationally-significant heritage place being destroyed by a coal mine. There is no requirement for mines to operate in a way that ensures ambient air quality meets national standards. The Aquifer Interference Policy implies without clearly stipulating what degree of drawdown of productive groundwater might be deemed "unacceptable." The Government has mapped areas of "strategic agricultural land" which is the most fertile 3.5% of soil in the state and "critical industry clusters" which are deemed crucial to the viability of the wine-tourism and thoroughbred breeding industry in the Hunter region, but there is no policy that provides certainty that such lands will not be available for open cut coal mining.[5]

Decisions about these matters comes at the end of lengthy assessment and consideration and are essentially discretionary. As a result, a mining company like KEPCO can spend years seeking approval for a coal mining operation that would remove hundreds of hectares of fertile strategic farmland, and the decision that this impact is unacceptable only comes at the end of the process. Conversely, a farming community in the Liverpool Plains can spend many years and large amounts of money sourcing expert hydrological advice about a mine like Watermark, only to have drawdown of its essential groundwater resources deemed acceptable by the Planning Commission at the end of the process. Clearer guidelines, particularly relating to the protection of Biophysical Strategic Agricultural Land and water resources, are needed to protect these crucial attributes.

The Commissioners' skills, expertise and qualifications

In keeping with the ICAC's recommendation that the Commission be granted quasi-judicial status, it would be appropriate for Commissioners to have expertise and qualifications as jurists. The determination role involves a weighing up of evidence and impacts and as such, we do not believe the Commission should be peopled with experts, though it should certainly have sufficient resources for it obtain independent expert advice. We note that the ICAC also recommended that appointment of members be open to public scrutiny and that members be appointed on a full-time basis.[6] We support these recommendations.

Currently, many of the Commissioners are former planners or experts in planning and natural resources management. In March 2019, the Mining and Petroleum Gateway Panel was rolled into the Independent Planning Commission and became a sub-committee of it. Unlike the Planning Commission, the Gateway Panel's role is in the provision of expert advice and unlike the Planning

[4] ICAC, 2010. *The exercise of discretion under Part3A of the Environmental Planning and Assessment Act 1979 and the State Environmental Planning Policy (Major Projects) 2005*.
[5] See the 2012 Strategic Regional Land Use Plans for the Hunter and New England North West.
[6] ibid.

Commission, the Gateway Panel considers mining applications at the early stage of their assessment. We don't know why the two bodies were amalgamated in this way.

The adequacy of mechanisms to identify and resolve any conflicts of interest by commissioners

This is a complex issue of intense interest for the communities in our network and the Commission has had difficulty navigating it. The list of Commissioners includes several people with current or former directorships of mining companies. One is a founding and current Managing Director of a company that undertakes projects for clients in the NSW mining industry. Another has held CEO, Director and senior management positions with coal companies in NSW and is currently involved in other mining industry management bodies. Another is a former "Queensland Resource Industry Ambassador." We do not accuse any of these people of specific bias, but their involvement in the Commission has been the subject of disquiet in the community and has undermined the public's trust in the impartiality of its decisions.

Because panels of Commissioners are appointed on a case by case basis once a project is referred to the Commission by the Minister, the time available to review potential and perceived conflicts of interest is very limited. This is compounded by tight deadlines the Minister usually imposes on the Commission to conduct its work. In recent cases, this has led to unnecessarily disruptive experience of the planning system for communities affected by mining projects. In December 2018, a public meeting for the United Wambo project was cancelled with two hours' notice because a Commissioner appointed late to the panel had stood down due to a conflict of interest (the Commissioner who stood down was himself replacing another Commissioner who had stood down a week earlier, also due to a conflict of interest issue). A week later, the public hearing for the Vickery coal mine was postponed for the same reason. In our view, pressure on the Commission to perform its duties too quickly leads to disruption and confusion of this kind for the community.

The extent to which the Independent Planning Commission should rely upon the assessment report prepared by the Department of Planning, Industry and Environment

In August 2017 Lisa Corbyn completed an independent review for the Department of Planning and Environment into the Assessment Reports the Department prepares as part of its processes under the *Environmental Planning and Assessment Act 1979*. Corbyn found that change was needed in the way the Department approached these reports, and that "*One of the most important is for the Department to demonstrate that it is impartial and open minded in its analysis and does not start with a pre-determined outcome.*" Numerous communities affected by major mining proposals in the Hunter region and North West have complained of bias in favour of mining projects by the Department of Planning. It is crucial to the public's faith in the planning system that the Commission be able to form its view independently.

The assessment reports produced for state significant development do not have a clear statutory basis and yet they have considerable influence on the determination of mining projects. Conclusions and summaries produced by the Department of Planning, Industry and Environment are frequently repeated by the Commission, which relies heavily on the Department's information. We have found these Assessment Reports to be biased and inaccurate on numerous occasions and provide some examples below.

The Assessment Report for the Wilpinjong Expansion Project glossed over strenuous objections to the project from the remaining community at Wollar, which had already been decimated by the mine and who argued that its expansion would finish the community off altogether. The Assessment Report stated, "the Department considers that the most significant social impacts have already

occurred as a result of the approval of the original mine in 2006," and proposed no specific conditions to ameliorate the social impacts of the mine's expansion on the village. The then-Planning Assessment Commission's review heard representations from the community and recommended more work be done to address this issue and at the determination stage, approved the project but required the company to prepare a Social Impact Management Plan in consultation with the community.

The Russell Vale coal mine below the Metropolitan Special Area of Sydney's drinking water catchment proposed an unprecedented third seam excavation via the intensive longwall mining method with its Underground Expansion Project (UEP). The Department's Assessment Report concluded that "the project is in the public interest and should be approved" despite objection to it by the Sydney Catchment Authority in part because mining would encroach into the dam safety notification area for Cataract Reservoir. The Department also said that it was satisfied that the proponent Wollongong Coal "has done everything reasonable and feasible to avoid and/or minimise the impacts of the project" on the upland swamps that cleanse and release water into the catchment and that "It could not do morw (sic) without seriously compromising the viability of the UEP." The Sydney Catchment Authority was subsequently replaced by WaterNSW which maintained its view that the project would inflict unacceptable impacts on the drinking water catchment, including a potential connection from Cataract Reservoir and the mine workings. The then-Planning Assessment Commission reviewed the project and concluded that "the social and economic benefits of the project as currently proposed are most likely outweighed by the magnitude of impacts to the environment".[7] The Commission concluded that there was insufficient information to make a determination and recommended an independent risk assessment panel be convened to advise on the project. The proponent has since heavily revised the proposal. It no longer intends to undertake longwall operations and is instead proposing the much lower impact bord and pillar method in order to "significantly" reduce the potential for "subsidence-related mining impacts on groundwater, surface water and biodiversity within the Cataract Reservoir catchment."[8] The revised project is yet to be assessed by the Department.

For the Drayton South project, the Department of Planning brushed aside very clear warnings from the Hunter's thoroughbred industry that the project would lead to the demise of the industry in the region because of its impact on two of the largest thoroughbred studs. One of several Assessment Reports on the project prepared by the Department for the project remarked that "if the stud owners and operators then choose to relocate [as a result of the mine], this is entirely a matter for them." The Commission took a more balanced approach, remarking that "The risk of putting an industry of considerable international standing which has a sustainable long term future into decline and value reduction needs to be weighed against a project with the potential immediate and tangible employment and community benefits, but arguable overall economic public benefit and a relatively short 15 year lifespan." The project was refused by the Commission twice.

There are more minor examples of inaccuracies in Assessment Reports, such as the mis-characterisation of the Regent honeyeater as "Endangered" under Federal environment law rather than "Critically endangered" in the Assessment Report for United Wambo. When this mistake was pointed out, the Department claimed the different listing status of the bird, of which there are an

[7] Planning Assessment Commission, Fact Sheet, 31 March 2016,
'Second Review of the Russell Vale Colliery Underground Expansion Project finds water and subsidence issues remain unresolved'

[8] Wollongong Coal, Russell Vale revised Underground Expansion Project, Revised Preferred Project Report and Response to Second PAC Review, July 2019, pg i

estimated 400 left in existence, made no difference to its assessment of the mine, which proposed to clear 200 hectares of Regent honeyeater habitat.

The Commission does not often substantially disagree with the Department of Planning. Drayton South and Bylong are the only two cases we are aware of where the Commission has refused a project for which the Department advocated approval. The United Wambo "Export Management Plan" condition was imposed against the urging of the Department, but we would argue that this problem arose from the Government's failure for eight months to provide reasonable policy response and guidance on an issue that was of clearly very great public interest and importance. The fact that the Government is now moving to constrain the IPC from imposing conditions in future to address the downstream emissions from coal mined in New South Wales is indicative of ongoing policy failure in this area.

Resourcing of the Independent Planning Commission and the mechanism for determining budgetary support

It appears to us that the Commission does not have sufficient resources to independently and thoroughly perform its duties and that its resourcing should be increased commensurate with its role. It would be unacceptable to our network and the community groups and individuals we work with in the Hunter Valley and the North West for the Department of Planning to assume responsibility for the IPC's operations or for the Commission to be subsumed by the Department.

Whether the Independent Planning Commission's Secretariat should be employed directly by the Independent Planning Commission or provided by another Government agency, and if so, which agency.

Please see our remarks elsewhere in this submission about the deep mistrust felt by mining affected communities towards the Department of Planning, Industry and Environment. It would be unacceptable for the Commission to have to operate under the Department's aegis.

Conclusion

We urge the Productivity Commissioner to take a broad perspective on the activities of the Commission and its role in determining controversial mining projects. This review came about because of the IPC's refusal of the Bylong Coal Project, its imposition of the United Wambo "Export management plan" condition and its bungled approval of the Rix's Creek extension. These instances speak to the IPC's importance (in the Bylong case) and its inadequate resources (in the case of Rix's Creek) as well as the impact on its work of Government policy failures (in the United Wambo case).

The IPC and its predecessor the Planning Assessment Commission has made dozens of decisions that have enabled the expansion of the coal mining industry in the Hunter and Namoi regions. These include mining projects that have gone on to inflict significant air pollution on local communities, damaged the social fabric of small rural communities, led to the clearing of thousands of hectares of critically endangered bushland and the drawdown of productive groundwater aquifers. Communities affected by mining projects have engaged in good faith in the consultation processes offered by Government: public hearings and meetings, submission processes and site visits. The approval of the Watermark, Maules Creek and Warkworth Continuation projects led to widespread anger in the affected communities but did not trigger a review of the Commission's existence. The last-minute postponement of public meetings and hearings for United Wambo and the Vickery Extension Project led to anger and upset in the community but likewise did not trigger a review of the Commission and its role in NSW planning law. Though the decisions and processes of the Independent Planning

Commission have left many people dissatisfied and even angry, we recognise the crucial role that it plays and urge the Productivity Commissioner to defend it against attack by the vested interests of the mining industry.