

# Policy phase questions

## Mining regulation and recognised practices

### Comparators

1. The commission is minded to use the Western Australia, New South Wales and Queensland regulatory structures (including the National Mine Safety Framework established by a steering group on behalf of the Standing Council on Energy and Resources) to provide a comparison for the regulation of the New Zealand underground coal mining industry ('mining industry'). Nonetheless, are there other countries or states which should also be used as comparators?
2. What are the significant features or principles of these overseas regulatory structures that worthy of consideration?
3. Are there particular features of the New Zealand mining environment and industry that need to be taken into account in making a comparative evaluation against overseas regimes?

### The nature and form of regulatory arrangements

4. Aside from the Health and Safety in Employment Act 1992 (HSEA), what additional regulatory arrangements are needed in relation to the mining industry?
5. With reference to the form of the mining industry regulatory arrangements,
  - (a) At what level, and when, is prescriptive regulation appropriate?
  - (b) What type of regulatory arrangements (regulations, approved codes of practice, codes of practice and industry standards) are most appropriate?
  - (c) Should a 'safety case' requirement or components thereof be included as an aspect of the mining industry regulatory arrangements?
  - (d) If so, what form of requirement is appropriate and should the safety case be subject to review, or approval, by the regulator or an independent third party?
6. Do the employee participation provisions in Part 2A of the HSEA require improvement and, if so, in what respects?

### The establishment of regulatory arrangements

7. Who should have primary responsibility for establishing and updating the mining industry regulatory arrangements for:
  - (a) occupational H&S; and
  - (b) prospecting, exploration and mining permits?
8. Accepting the need for tripartite involvement, which bodies or individuals should participate in the drafting and review of the mining industry regulatory arrangements, and how can this best be achieved?
9. Generally, would there be advantages in greater co-operation, co-ordination and sharing of expertise with Australia and its states in relation to the regulation of the mining industry? If so, how might a closer relationship be achieved? Would there be any disadvantages?

## The interaction between mining regulation and recognised practices and other (including conservation and environmental) legal requirements.

1. How do overseas jurisdictions manage the interface between mining and other legal requirements (including conservation and environmental) with reference to:
  - (a) the permitting of prospecting, exploration and mining activity; and
  - (b) occupational safety and health?
2. Should applicants for prospecting, exploration and mining permits be assessed as to their capacity (financial, managerial and technical) to develop the mine proposal and to do so in a safe manner?
3. If so, how should this assessment be carried out, by whom and should there be a sharing of information between regulators?

## The resourcing and administration of the regulators of mining law and practice

1. Are there overseas jurisdictions, other than those used for the mining regulation and recognised practices comparison, which should be used in the comparative assessment of the New Zealand regulator? What are the significant features of these overseas regulatory agencies?
2. Is the concept of a High Hazards Unit announced in August 2011 to provide H&S regulatory services to the extractives, geothermal and petroleum sectors supported? Are there views concerning:
  - (a) the funding of the unit;
  - (b) the organisational structure (copy annexed); and
  - (c) any other aspects of this development?
3. What are the required features of a modern and effective regulator of the New Zealand mining industry including its:
  - (a) position or situation (unit in a department, standalone etc);
  - (b) organisational structure, personnel, technical expertise and training;
  - (c) financial resourcing and the source of such funding;
  - (d) key relationships with the industry, unions, employees, contractors, industry associations and overseas agencies;
  - (e) operational role (balance between advice, compliance and enforcement) and operational methods;
  - (f) policy role and responsibilities; and
  - (g) involvement in search, rescue and recovery operations?