

Unnecessary impediment to retrieving earth's riches

[Energy](#) | [Alan Moran](#)

The Australian 29th April, 2014



Major coal-seam gas developers Santos and AGL have agreed with the NSW government to obtain permission from landowners before engaging in any exploration for gas. Federal Industry Minister Ian Macfarlane has referred to this de facto landowner veto over mining development as "an inelegant solution to an intractable problem".

Others have much greater concerns. They see it as erecting yet another barrier to gas development in the state and spreading to other states and other minerals, undermining Australia's century-old "finders-keepers" mining regime. That regime involves vesting minerals separately from the land under which they sit with mining rights being transferred from the crown to whoever finds the minerals.

Although some Canadian provinces such as Alberta have similar arrangements, most common law systems vest mineral ownership with the surface landowner. This automatically resolves farmer-miner tensions, but it means giving a share of exploration success to a passive rent-collector. The Australian system avoids this dilution of the rewards from success, giving greater incentive to active explorers.

The Australian approach to land ownership has created a very successful mining industry. Until a few years ago, Australia accounted for 20 per cent of global exploration spending, a share that dwarfs our 5 per cent of the world's land mass. Australia's performance has deteriorated in recent years (to 12 per cent). This is largely because Australian mining has been battered by tax and regulatory decisions that have increased risks and added costs. Among these was the Mabo decision in the 1990s, making many areas vulnerable to Aboriginal land claims. More recently we have seen intensified environmental restraints, industrial relations laws that allow greater scope for union disruption and resource rent and carbon taxes.

The Abbott government is trying to undo these recent imposts but the new landowner veto rights put in place by the NSW government are a backward step.

While mining cannot take place in the 0.3 per cent of Australia that is urban development, mining and farming readily coexist. Mining, being a highly concentrated activity, has a trivial effect on agriculture. Naturally, landowners would prefer to be granted ownership of the sub-surface resources - who would look such a gift-horse in the mouth? And mining interests fully compensate the landowner for damage and inconvenience.

Allegations that mining might bring more widespread damage by, for example, disturbing or polluting the water table are, however, unfounded. Even a recent highly publicised leak of "uranium contaminated" water near Narrabri was simply water containing naturally occurring and highly diluted uranium that posed no health risk to humans, animals or plants.

Activists' opposition to unconventional gas extraction has brought barriers to the resource's development in Australia. Although Australia shares a prospectivity potential comparable to the US, government restraints have led to gas exploration running at less than one-20th of the rate in America, where a gas bonanza has reduced the gas price to a quarter of its previous level. The Victorian government has placed an indefinite moratorium on the search for coal-seam gas, while the NSW government sees the veto provided to farmers as a means of allowing it to unblock the severe

impediments on exploration in the state.

Behind the different considerations over property rights and vetoes by landowners is a crucial industry policy issue. In spite of regulatory incursions into the industry, mining has been the crucible of Australia's relatively good economic performance over the past decade. Exploration has been strong - worth \$4.4 billion in 2012-13, despite having dropped 30 per cent this year.

Direct employment in the industry of about 200,000 is vastly augmented by indirect employment. According to Reserve Bank estimates, once these are taken into account the mining industry's share of the economy is about 18 per cent, with mining-related jobs totalling more than one million. In addition, at least until recently, cheap energy has added further benefits.

Mining and agriculture are both sectors of great potential for Australia. They are natural fits with the markets in the growing Asian economies in addition to offering cheap energy for domestic businesses and households. The contributions of these industries can be strangled by ill-designed property rights as well as discriminatory taxes and regulations.

NSW faces an additional early risk of being marooned with a shortage of gas and high household prices. Resolute government action to restore exploration incentives for gas is an important first step.

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