Examining the IR challenges for 2008 from an Employer Group Perspective

When I considered the sort of content that could be covered when given this topic to discuss a few of the more obvious issues come to mind –a significant one being the prospect of another major round of industrial relations reforms within the space of a few years.

I sure employer organizations with an IR consulting business such as AMMA, employment lawyers and so forth are planning a busy 2008 developing IR strategies for clients impacted by such significant changes.

On the AWA front, an employment instrument widely used in the resources sector, AMMA has been fielding enquiries about their long term future, would the Senate save AWA's and so forth.

I turned to Monty Python (Parrot sketch) for inspiration and advised that post Saturday 24th November 2008:

'AWA's are not pining, they are passing on. The AWA environment will be no more!

They will cease to be. They are expiring and going to meet their maker. (Out of a job)

There will soon be a late AWA regime, they will be stiff, bereft of life, and will rest in peace.

If it wasn't for the transition provisions they would now be pushing up the daisies. AWA's are fast running down the curtain and joining the choir invisible. This will quickly become an ex-AWA environment.'

In this context, many AMMA members have/will commence the transition from AWA's to 'employee collectives' to support their direct employment culture/arrangements. AMMA won't/are not lobbying Coalition senators to hold up the ALP's announced IR plans……our members are practical and simply getting on with the job of IR strategy planning for the long term.

Our industry has never relied on governments of either persuasion for their IR salvation. When we think of industrial relations in the 21st century, businesses generally think more holistically about the environment in which business operates and the environment in which employees work. The industrial relations challenges for 2008 go beyond any change to the industrial relations legislation.

So as we head towards 2008 and under the wing of a new government, it seems an excellent time to undertake a SWOT analysis of the current business environment. Let's consider what the Strengths, Weaknesses, Opportunities and Threats are for the resources sector.

Strengths

The mining industry is the world's leading producer of bauxite, alumina and zircon; the second largest producer of gold, iron ore, uranium, diamonds and zinc and the fourth largest producer of coal and nickel. Australia is the largest exporter of alumina, black coal, iron ore, lead and zinc.
This is where one of our strengths lies. The minerals and energy sector is forecast to contribute $112.2 billion in export earnings in 2007/08. The benefits to the State economies are not insignificant. For Western Australia, the resources sector is the key driver of the state economy with mineral and petroleum industries contributing approximately 21% of that State's employment and 80% of its total exports.

The minerals industry in New South Wales is that state's largest export, representing approximately 32% of its total merchandise exports. Queensland benefits from an approximate $20.3 billion contribution by the resources sector to its economy and Tasmania's resources sector is worth $2.1 billion to its economy.

South Australia now ranks 4th in the world in terms of mineral potential, up from 18th place in 2005 and has experienced a 111% increase in its exports in the past five years. Mining exports alone account for 3.1% of total goods exports in South Australia, contributing $1.8 billion to the State's economy, with 1.5% of its workforce directly employed in mining expected to double by 2013.

Cumulatively, the resources sector accounts for 38% of Australia's total goods and services exports and energy and minerals make up 9 of the top 12 export commodities. The resources sector offers strong employment prospects, with 140,300 directly employed and thousands more in the pipeline when the future projects come to fruition. Although much of the industry is located in remote sections of Australia, our flexibility and ability to pay excellent remuneration, with the average annual salaries fast approaching $ 100,000, assists make the resources sector an attractive place to work.

The flexibility that we have been able to achieve through individual employment arrangements is a character of the industry imbedded since 1993 for Western Australia and 1996 nationally. The resources sector has benefited from being able to determine its rostering arrangements, such as fly-in-fly-out rosters, without incurring exorbitant cost and fulfilling the wishes of many employees who want to go home to spend quality time with their families. It has enabled business to cut red tape by paying annualised salaries that compensate for penalties and allowances.

Nationally more than one in two mining employees is on an AWA. Western Australia leads the way here with approximately 80% of all mining employees on AWAs.

We have also experienced a significant decline in disputation levels, enabling business to just get on with, well, business. The mining industry, excluding coal, had no industrial action at all in the June quarter. The stunning success of the ABCC is evident in the decline of industrial disputation in the construction industry from a high of 534.5 working days per thousand employees in the June 1996 quarter to just 1.7 working days per thousand employees in the same quarter this year.

Weaknesses

As a result of there being approximately 300 major minerals and energy projects at either advanced or less advanced stage, more than 85,000 people will be required to fill jobs in the resources sector. Over the next 10 years, Western Australia alone will need 400,000 workers.

Our problem?

Finding the people required to fill these positions while continuing to meet demand for our products and meet our contractual requirements. In its recent release of major resource projects ABARE commented that “the scarcity of skilled labour, and increased materials and construction costs continue to have an impact on the timing and overall costs for some projects.”

The mining boom and record low unemployment levels are contributing to a labour shortage in the resources sector. We need to continue to attract people to the resources sector, focus on the development of training systems within industry and generally and we need to continue to target other labour resources such as women and indigenous persons.

The section 457/456 visa program also remains an important solution, albeit a short term solution designed only to supplement the workforce. But the visa program remains problematic for the resources sector:

- The inflexibility of ASCO and ANZSCO in defining new and emerging occupations and specialisations is slow in keeping pace with changes in the resources sector;
- The new fast tracking system for visa applications, while welcomed by AMMA, is yet to be implemented;
- The $41,850 indexed minimum salary threshold does not recognise guaranteed payments that are common in the resources sector, such as regular penalty payments, cost of living, allowances and field bonuses;
- The current 456 short stay visas, which do not actually allow hands on work, do not meet the short term temporary employment needs of business, such as short term projects.

Opportunities

At a national level, there are opportunities abound to increase Australia's export earnings and continue to contribute to the economies of each State and Territory. The mining boom has been described by Access Economics as "a boom that has become an even bigger boom" in light of the $178 billion in definite projects and additional $357 billion in planned projects identified.

214 resources projects are at the feasibility stage – a record number. Not all will proceed to development, but certainly it is within Australia's economic interests if most do. ABARE's most notable projects undergoing feasibility are seven proposed LNG developments and the proposed and very large BHP Billiton $6 billion Olympic Dam extension, which aims to double its current output. Six other projects at the less advanced stage have an estimated capital expenditure of $1 billion or more.

Yet many will need to secure financial investment to proceed. The good news is that in the last six months to November, mining industry investment has risen by 33%. Exploration expenditure is at its highest level at around $4 billion. Exploration expenditure is imperative to the continuation of the resources sector in Australia. Without mineral exploration there is no mining and without mineral production the economy will falter, unemployment will increase and our regional centres so heavily reliant on mining will suffer. We need to continue and maintain innovative programs that encourage mineral exploration and not miss the opportunities offered by the strong growth in China and its demand for our resources. China takes a huge amount of our iron ore – we need to be in a position to satisfy its demand.

Confidence in the ability of Australia to deliver, which includes confidence in our working environment, is clearly required to attract continued global investment in the Australian resources sector.

At the individual business level, employers have the opportunity to improve business competitiveness by increasing employee engagement. In times of labour shortages and the mining boom, the resources sector is acknowledging that one way to remain competitive both in terms of business profitability and retaining talented employees is to keep their employees engaged.

Research clearly shows that direct working relationships may provide a more conducive and stable environment for high levels of employee engagement to be achieved.[1]

Where a union is a party to the determination of workplace arrangements, increases in productivity and business outcomes afforded by increased employee engagement will depend on whether the union's demands are aligned to the needs of the business.

This is a tenuous situation. Third parties are often caught up in external agendas, trying to achieve different goals that may not be aligned to the business and it's employees. Direct employment arrangements often assist employers and employees have better alignment with personal and organizational goals.

When employees are engaged, research shows that business benefits from greater customer satisfaction, increased workplace safety, increased profitability and reduced staff turnover.[2] A survey of human resource managers from approximately 80 mining companies identified that individual workplace agreements were used by these companies because they offered

- greater efficiency and simplification of payroll
- An opportunity to break down divisions with the organisation
- an easier to understand and consistent approach to remuneration and job requirements; and
- a greater emphasis on a unified approach to company operation and performance.

The benefits of employee engagement were evident in the 1999 merger negotiations between BHP and Hamersley Iron in Western Australia, where BHP union involved operation was approximately 25% less efficient than Hamersley Iron's individual focused operation. This represented a minimum $51 million gap between the two companies at that time. BHP realized it could increase its productivity by 10-15% if began to work directly with its employees to increase engagement, so they went down this path.

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[1] As detailed in the AMMA Employee Engagement: A Lifetime of Opportunity paper.
[2] This research has been undertaken by the Gallup Organisation – a global consultancy firm and Ulrich and Smallwood, two prominent consultants specialising in employee engagement.

Threats

This is where one of major threats lies. Regulation by AWA's will be phased out, cease to exist, be no more under the newly elected ALP government. The challenge for the Industry will be to ensure the advantages experienced by the AWA regime are not lost by the resources sector. Our greatest challenge in 2008 will be to continue to work directly with our employees to achieve and maintain high levels of employee engagement, but to do so without the legislative facility of individual AWA's.

The period during which we acclimatise to a new set of industrial relations laws, when not if the ALP is successful in passing its Transition Bill, will test the leadership, structures and systems of business that are important for the achievement of high levels of employee engagement.

The flexibility that we are used to – the flexibility that the ALP promises to deliver – must continue. It is essential to the continued success of the resources sector that employers are able to adjust labour input and work rosters to accommodate changes in demand, to link wages to productivity improvements, to have a workforce capable of moving between tasks to meet demand for different types of labour and to introduce change.

The proposed $ 100K plus common law agreement regime proposed by the ALP, which on its face looks and operates like an AWA and has the potential to offer the flexibility desired by the resources sector, is limited its ability to offer the continuity business requires at the workplace. The proposed threshold (which does not recognise Superannuation contributions) will result in 70% of the non-managerial employees in the highly paid mining sector being denied access. When you look at Australian Industry overall only 4.2% earn more than the required amount to qualify.

Also of significance is the restriction on an employer to offer employment condition upon entering into one of these common law agreements. It appears that the employee rejecting this agreement will have the option of a common law contract based on an inflexible award, any pre-existing collective agreement or to simply rely on the minimum conditions. This provides no capacity for an employer to have the certainty it previously had to customise the conditions of new employees to suit their operational requirements.

With AWA's gone, a lot of companies will now look to enter into employee collective arrangements to maintain the flexibility they are used to, to keep the direct employment relationship going and to maintain and improve levels of employee engagement. Some have already done so.

Increased and the potential for almost mandatory union involvement in agreement making, the ability of unions to enter workplaces that have traditionally been union free and so forth may be testing on employers. For those who have a truly and highly engaged workplace, who focus on their employees as individuals, have sound people management systems, etc may find their employees are less easily swayed by the advances of unions.

Poor investment in infrastructure will present an ongoing challenge to the resources sector as it attempts to increase production to meet demand. Increased investment by the resources sector must be met with increased investment in infrastructure. Sure, we are in a boom but this is not the time to become complacent.

There are some good signs. Flinders Ports, the private owner of the Outer Harbor container terminal in Adelaide is investing more than $50 million on a bulk handling facility to cater for the projected mining boom in South Australia.

This is an example that should be followed to deal with infrastructure problems that are being experienced in Queensland and New South Wales, where up to 100 ships have had to wait off the coast for backlogs to clear.

Companies may question why they should incur the cost of building a bigger mine or invest in exploration if they can't be guaranteed that they can ship it. Some companies also reportedly pay their customers millions each year to compensate for shipping delay. Planned production levels cannot be met, resulting in employees being laid off, which was the experience of Coal and Allied. Left unresolved this will affect Australia's reputation as a credible international supplier.

So the challenges facing the resources sector in 2008 are widespread, born in no small part by the adaptation of business to the forthcoming changes to the industrial relations legislation. But I have said previously that the resources sector will be prepared to learn to live with the new regime. Industrial relations legislation is not the sole priority of business – the pendulum keeps on going back and forth and business understands that the legislation itself will not dictate the relationship they have with their employees. The continued focus for business will be on managing its people and rewarding innovation.

The greatest challenge rests with the incoming Rudd Labor government, a government who says they have a policy that strikes an appropriate balance between employer and employee rights and will be good for the economy. The challenge simply will be to facilitate mechanisms that keep record low industrial disputation levels, reduce unemployment, keeps inflation and interest rates under control, to provide certainty to business, to restrain militant union behaviour and give access to skilled migration.

The position of the Senate is unknown but what we do know is that the election results are seen as a clear mandate for the Rudd Government's policy to abolish AWAs. We do not expect the Senate to save AWAs – whether it is something that happens before or after the change of the Senate on 1 July 2008, the focus for business remains the same – to IR proof its business by ensuring its employees are fully engaged.