



**Government  
of South Australia**

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Mr David Sullivan  
Committee Secretary  
Senate Foreign Affairs, Defence and Trade Committee  
Parliament House  
CANBERRA ACT 2600

BY EMAIL: [fadt.sen@aph.gov.au](mailto:fadt.sen@aph.gov.au)

Dear Mr Sullivan

**Inquiry into Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014**

Subject to the two qualifications outlined below, the Government of South Australia is supportive of Defence legislation providing a clearer regime for new users seeking access to the Woomera Prohibited Area.

Providing clarity and certainty of access for non-Defence users has been a long-term ambition of the State Government and close working relations have been established with Defence over the past five and a half years to ensure the proposed regime facilitates ongoing mineral and energy resources activity while complementing the State Government's mineral and energy resources investment goals and regulatory framework.

We cannot emphasise enough the importance to South Australia that this innovative coexistence framework brings to the future infrastructure and economic development of our State's world-class resources province. The passage of this legislative amendment will formally support the practical implementation of this framework.

In this time of extremely challenging global financial circumstances for the mining sector, industry confidence in a stable and predictable State and Commonwealth regulatory framework is paramount.

Subject to the qualifications bellow, the *Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014* will ensure that mineral and petroleum explorers are afforded a secure and transparent regulatory process to access one of the most prospective regions in Australia with an international profile as it hosts world-class Olympic Dam style copper and uranium mineral deposits.

There is also no question that the Woomera Prohibited Area is strategically important for a number of existing resident user groups. Beyond Defence, the area is also inhabited and used extensively by pastoral operators, rail and road companies, conservation groups, and Indigenous groups.

Although outside the framework of this legislation, Defence has demonstrated its intent to work with these existing users to clarify current arrangements and permissions, which have to date been largely informal.

The State Government recognises the Woomera Prohibited Area is a unique Defence facility which should be preserved for important test and evaluation activity. Restricting non-Defence access at certain times and in certain areas is appropriate in the face of national security and personal safety imperatives. The proposed legislation and associated Rules provide reasonable measures for Defence to continue its valuable work while managing increased non-Defence activities.

We acknowledge the genuine commitment that Defence has shown to implementing the recommendations of the Hawke Review and welcome the Australian Government's ongoing commitment to allow access to new users, particularly the mineral and energy resources sector, and enclose for the Committee's consideration a formal submission which outlines the State's views on *Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014*, the draft *Woomera Prohibited Area Rules 2013* (WPA Rules) and other coexistence issues.

Two issues prevent the State Government from giving the Bill unqualified support. The first is a new liability provision applying to existing users introduced in the 2014 Bill but not present in previous iterations. It is the State Government's view that this provision significantly limits existing users' ability to claim compensation for damage caused by Defence, contravening reassurances given throughout consultation that the position of current users would remain unaffected by the new regime.

The second is that the State has not been provided with a final copy of the proposed WPA Rules. Defence advises the WPA Rules are not settled and continue to be developed. The WPA Rules are the essence of the coexistence regime. The State cannot then fully support the introduction of the *Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014* unless and until the WPA Rules are finalised and the State Government and other relevant stakeholders are given sufficient opportunity to consider their practical implications.

Both of these matters are more fully explored in the attached submission. In the true spirit of coexistence, we trust the Committee will be able to address the State's concerns and progress the legislation.



Should you require further details please do not hesitate to contact the Deputy Chief Executive, Resources and Energy Group of the Department for Manufacturing, Innovation, Trade, Resources and Energy, Dr Paul Heithersay,

Yours sincerely

 **Hon Tom Koutsantonis MP**

Minister for Mineral Resources and Energy

 29<sup>th</sup> April 2014

**GOVERNMENT OF SOUTH AUSTRALIA**

**SUBMISSION TO THE**

**SENATE STANDING COMMITTEES ON FOREIGN  
AFFAIRS, DEFENCE AND TRADE  
INQUIRY INTO DEFENCE LEGISLATION AMENDMENT  
(WOOMERA PROHIBITED AREA) BILL 2014**

**April 2014**



**Government  
of South Australia**

**1. The Woomera Prohibited Area is important to South Australia's defence and mineral and energy resources strategies**

- 1.1 The defence and mineral and energy resources sectors are key planks in the State's economic development strategy.
- 1.2 South Australia aims to double the defence sector's contribution to the State's economy to \$2 billion, and to increase the defence workforce from 16,000 to 37,000 by 2020. The upgrade and ongoing development of the Woomera Prohibited Area (WPA) will support achievement of these ambitious targets.
- 1.3 In addition to being a significant component of South Australia's defence heritage, the WPA continues to operate as a major test, evaluation and training range for the Department of Defence (Defence), allied nations and commercial users. In 2007–08 (latest figures), the WPA is estimated to have directly and indirectly supported some 242 jobs and contributed close to \$17.8 million to the State's economy. The WPA is also well patronised, with some 15,400 business visitor nights recorded by local accommodation venues over the same period.
- 1.4 The ongoing development of the WPA, together with the expansion and development of the Cultana Training Area are critical elements underpinning South Australia's intent to provide Defence with a modern and comprehensive test and training environment representative of possible operational theatres.
- 1.5 With planned equipment upgrades worth up to \$500 million, there is no doubt the WPA will experience an increase in demand by Defence users over the medium term. It is a national strategic asset whose importance cannot be overstated.
- 1.6 The WPA incorporates a major part of the State's potential for significant mineral and energy resources, including 31 percent of the Gawler Craton, one of the world's major mineral domains, and the Arckaringa, Officer and Eromanga Basins for conventional and unconventional hydrocarbons and coal. Geoscience Australia has estimated that 62 percent of Australia's known copper resources, as well as 78 percent of the country's known uranium resources are located within the WPA and immediate surrounds. These basins also host increasingly important supplies of groundwater for industry, pastoral and indigenous communities.
- 1.7 The mining and energy resource production sector plays a critical role in the economic development of South Australia and is one of the State Government's seven strategic priorities. Over the last decade, the resource sector has succeeded in increasing production values in mineral and petroleum from \$1.7 billion in 2001–02 to \$6.3 billion in 2011–12.
- 1.8 Over \$4.6 billion or around 37 percent of total merchandise from South Australia are generated from this sector, which has grown strongly in recent years. The recognition of the importance of the growth in mining to the State is also reflected in a number of *South Australia's Strategic Plan* targets, particularly:
  - T41 – Minerals exploration expenditure in South Australia to be maintained in excess of \$200 million per annum until 2015
  - T42 – Increase the value of mineral production and processing to \$10 billion by 2020
- 1.9 The Gawler Craton hosts the immense Olympic Dam copper-gold-uranium-silver deposit, immediately adjacent to the eastern boundary of the WPA. This boundary of



the WPA was amended in the early 1980s to accommodate the establishment of the Olympic Dam mine and Roxby Downs Township.

- 1.10 Ninety-four percent of the WPA is covered by mineral, petroleum and geothermal exploration and production tenements. At 22 April 2014, there were 189 mineral Exploration Licences held by 55 different companies investing a minimum of \$16 million per annum on the search for primarily copper, gold, coal, uranium and iron ore. 33 of these tenement holders have an active Defence Deed of Access, permitting them on-ground access for exploration purposes.
- 1.11 In the past 40 years, mineral explorers have spent more than \$350 million within the WPA, leading to key discoveries including Olympic Dam in 1975, which is estimated to have a current in-ground value of \$880 billion.
- 1.12 There are four operating mines in the WPA – Challenger Gold Mine (Dominion) and Prominent Hill Copper-Gold Mine (OZ Minerals), Cairn Hill Iron Ore Mine (IMX Resources) and Peculiar Knob Iron Ore Mine (Arrium) – all have long-term Deeds of Access with Defence providing guaranteed access for the life of each mine.
- 1.13 In excess of \$1 billion of capital expenditure has been invested in these four projects which now employ more than 1500 people onsite and deliver over \$20 million in royalties to the State annually. These companies are also providing employment, training and economic development opportunities to local communities such as Coober Pedy through the construction of infrastructure and utilities, support and mentoring of indigenous and community leaders; sourcing of local goods and services and active support to community participation programs of clubs and events.
- 1.14 Growing resource industry confidence in the Woomera coexistence regulatory framework is also demonstrated by the 2012 investment of \$135 million worth of total project capital in OZ Minerals' Ankata Project to expand the Prominent Hill copper and gold mining operations underground. Similarly, Arrium has invested \$86 million into the construction of its Peculiar Knob Iron Ore Mine, which it purchased from WPG Resources in October 2011.
- 1.15 Defence discussions are also underway with Arrium to advance the Hawks Nest Iron Ore project, located in the Amber Zone 2 (centreline corridor). While there is an excellent working relationship between Defence and Arrium, ensuring that the new legislation is put in place this year would provide greater confidence in the pathway forward for this important project.
- 1.16 Over the next decade, South Australian geologists have conservatively estimated the potential for more than \$35 billion worth of developments in copper, iron ore, gold and uranium in the WPA, consistent with a detailed resource potential analysis recently undertaken by Geoscience Australia.
- 1.17 Despite the global economic challenges due to declining commodity prices and higher operating costs, a number of resource projects are anticipated to advance throughout the WPA in the near future, including:
  - Kingsgate Consolidated has announced that it will implement a new mine plan at the Challenger Gold Mine and focus on the higher grade Challenger West ore body. This is expected to result in an annual production rate of 70,000 to 80,000 ounces from a site that is still the most remote gold operation in Australia.



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- IMX has announced encouraging results from a Scoping Study on its Mount Woods Magnetite Project, located approximately 15km south-west of IMX's operating Cairn Hill mine. Based on this positive review, IMX is looking to conduct further studies including drilling to better define the mineralisation and economics of the project.
  - Apollo Minerals Ltd have entered into a strategic alliance with High Power Exploration Inc. (HPX) who will invest up to \$3.4m in Apollo's South Australian licenses (1500km<sup>2</sup>). Under the Commonwealth Hill Joint Venture, HPX will apply its in-house geophysical tools and expertise in areas highly prospective for base metals. Mr Eric Finlayson, previously Rio Tinto's Head of Exploration will be appointed as HPX's representative for the project. HPX is indirectly controlled by international financier and mining entrepreneur Robert Friedland.
  - Monax Mining with its strategic alliance partner, major Chilean copper producer Antofagasta Minerals has recently completed gravity and magnetics surveys at its Millers Creek Project (7 tenements covering 3165km<sup>2</sup>) following on from a recent SA government survey in the area. Once data modelling is completed the results will be presented to the Monax/Antofagasta Technical Committee for a decision to drill prospective targets.
  - Other major/international mining companies also exploring in the area include; BHP Billiton (Australia), Vale (Brazil), Teck Cominco (Canada), Fortescue Metals (Australia), Arrium Mining (Australia).
- 1.18 There are 12 Petroleum Exploration Licences (PEL) held by seven different companies, with a further 16 applications pending. One company is currently active on the ground in the WPA. There are three Geothermal Exploration Licences (GEL) held by two companies, although neither has sought on-ground access from Defence this year. In the period 2004 to 2012, Petroleum and Geothermal exploration expenditure was \$4.2 million and forecast expenditure from 2012 to 2017 is expected to be a further \$124.7 million in work program commitments.
- 1.19 Several petroleum projects are emerging within the WPA, including Linc Energy's shale oil project in the deeper troughs of the Arkaringa Basin. Over the next five years, the company intend to acquire over 1000 kilometres of 2D seismic data and drill four to six wells to further define the shale oil resource potential. In addition, testing by White Energy has indicated that the Lake Phillipson coal is suitable for coal gasification. Mined coal gasification is one of the options being considered for commercialisation of the Lake Phillipson coal deposit within the WPA. Any of these projects has the potential to underpin future competition within Australian gas markets, exports of Liquefied Natural Gas, and the security of Australia's transport fuel supplies.
- 1.20 Over the last five years, demonstrably as a result of the State Government's PACE initiative, South Australia has achieved recognition as the top-ranking Australian jurisdiction for mineral and geothermal energy potential and has consistently ranked in the global top ten most attractive minerals investment destinations and as the most attractive Australian jurisdiction for petroleum exploration.
- 1.21 South Australia's high profile also reflects the global perception that the State Government is pro-mining and pro-development and committed to ensuring access to land for exploration along with efficient and timely approvals for minerals, petroleum and geothermal projects.
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**2. The State Government is working alongside Defence to implement mining-Defence coexistence in the WPA**

- 2.1 Defence has longstanding, effective and harmonious working relationships with the mineral and energy resources sector. Relations however were tested in the mid-2000s following significant growth in mineral and energy resources activity within the WPA, including construction of the Prominent Hill mine. This increased activity also coincided with expanded Defence use of the area.
- 2.2 In February 2009, to facilitate better communication and collaboration, the State Government established a Woomera Working Group comprised of representatives from Defence SA, the then Primary Industries and Resources South Australia, Air Force Headquarters, Aerospace Operational Support Group, Defence Support Group, and the Department of Resources, Energy and Tourism.
- 2.3 The State Government has continued to work closely with Defence during and since the 2010 Hawke Review of the WPA to ensure ongoing certainty of access for the mineral and energy resources sector, to minimise red tape through joint development of business processes, and to support Defence develop and implement the legal and legislative measures required to fully implement the Hawke-proposed coexistence framework.
- 2.4 Signifying the importance of this policy framework, the State Government maintains dedicated representatives in both WPA Coordination Office and on WPA Advisory Board, to ensure ongoing and consistent representation of State interests.
- 2.5 The State Government has actively supported Defence's external consultations on previous versions of the draft legislation and Rules, which reflect the Hawke Review and subsequent 2012 Deeds of Access consultations with the mineral and energy resources sector. To date, the State Government is not aware that any major issues with either document have been raised by the mineral and energy resources sector, bearing in mind that they are yet to see the latest version of the Rules.
- 2.6 The State Government has also recently completed a major \$2 million regional geophysical survey within and adjacent to the WPA including the Red Zone, taking vital measurements from more than 34,000 gravity ground stations. This new data set provides better data to investors on the geological potential of the region, particularly underexplored areas of the WPA, and will inform ongoing successful implementation of the coexistence policy.
- 2.7 Notwithstanding this longstanding operational camaraderie, the State Government has unfortunately been given less than 3 weeks to consider the *Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014* (2014 WPA Bill). The 2014 WPA Bill contains a provision in the new Part 2 that is of particular concern and which was not present in previous iterations of the Bill.
- 2.8 The State does not support the repeal and replacement of Regulation 36 of the Defence Force Regulations 1952 as proposed. The State's legal advice is that this would significantly reduce Defence's liability for its actions on the WPA in respect of current users, who include miners, pastoralists, Indigenous groups, rail users, researchers and others. A summary of this advice is annexed to this submission.
- 2.9 Throughout consultation with existing users, the State and Defence have both repeatedly represented that the new coexistence regime would not change the terms upon which they occupy or access the WPA.



- 2.10 The new Regulation 36 is inconsistent with these assertions by limiting Defence's current obligation to compensate existing users for "any loss or damage" to only requiring it to compensate existing users for "acquisition of property".
- 2.11 For example, where an exclusion from the WPA causes loss to pastoralists due to an inability to complete shearing, they are currently compensated. This loss is not though caused by Defence's acquisition of the pastoralists' property and as such would not appear to be within the scope of the new compensation provision proposed for existing users under the new Regulation 36.
- 2.12 Similarly, case law has held that the destruction of property by explosion does not amount the "acquisition of property". Such destruction is surely one of the most significant risks for existing users on the WPA.
- 2.13 Although the State understands that it was not the intent of the new clause to vary compensation provisions, it is our view that this is the effect. The State does not support the amendment in its current form and requests that the new Regulation 36 is amended so that existing users continue to enjoy their current level of protection from loss or damage caused by Defence.
- 2.14 The other factor preventing the State from fully supporting the 2014 WPA Bill is that it is yet to see a final draft of the WPA Rules.
- 2.15 The 2014 WPA Bill is largely enabling and procedural; the substance and operational provisions of the coexistence regime will be almost entirely contained within Rules to be declared after the Bill is passed. While the State was provided with a draft copy of the Rules in May 2013, advice from Defence is that the Rules continue to be developed and are not yet settled.
- 2.16 The State cannot fully support a coexistence regime until it knows the detail and scope of it. It requires an opportunity for all stakeholders to consider the Rules as they will actually be implemented. Stakeholders were given several weeks and a Defence sponsored workshop to provide feedback on the Rules when they were released in 2013. A similar opportunity should be given when a final version of the Rules is settled.
- 2.17 South Australia Police submit that while as extant WPA users they consider themselves unaffected by the Rules, they consider the Rules unclear as to under what authority other emergency services (including social services) will be able to access. In order to remove this ambiguity, South Australia Police seek amendment to Part 3 of the Rules (standing permissions) to provide specific rights of access for police, emergency and social services.
- 2.18 The Royal Flying Doctor Service made a similar submission to State Government regarding the Rules, and wish the Rules to specifically address their access rights in both routine and in particular evacuation and emergency response operations.
- 2.19 Under the 2014 WPA Bill the Rules are decided or amended solely by agreement between the Commonwealth Ministers for Defence and Industry. The State considers that under a true coexistence regime, the State too should be consulted in the formation and agreement of the Rules. The Rules will affect the viability of businesses operating in South Australia for many years to come. Accordingly the State requests that the 2014 WPA Bill is amended to require consultation with the State during the finalisation and any variation of the Rules.



**3. The State Government is working with Defence to support deeper engagement with existing users**

- 3.1 The State Government recognises and supports the intent of the 2014 WPA Bill to regulate new user access to the WPA.
- 3.2 There are though significant existing and long term non-Defence interests within the WPA governed largely by informal permissions and access protocols. These groups include but are not limited to:
- two aboriginal groups (Maralinga Tjarutja and Anangu Pitjantjatjara Yankunytjatjara) with freehold land ownership over a significant portion of the WPA
  - three native title holders (Antakirinja Matu-Yankunytjatjara, Arabana and Gawler Ranges) and one registered native title claimant group (Kokatha Uwankara)
  - 25 pastoral leases – nine are family-owned, eleven held by corporations, three held by aboriginal groups, one is managed by a conservation group, and one held by a mining interest
  - commercial and private tourists, particularly interested in 4WD activity and access to the Tallaringa Conservation Park<sup>1</sup>, and
  - numerous transport corridors, including the Stuart Highway and Adelaide to Darwin rail line, which will have Standing Permissions established to guarantee ongoing free right of access.
- 3.3 Since the 2013 release of the draft Rules, a number of these groups have sought clarification from Defence on existing permissions and access arrangements, as well as possible impact of the new legislative framework on their activities as the 2014 WPA Bill requires existing users to establish an authority (granted before the commencement of the proposed amendments) for the purposes of Part VII of the *Defence Force Regulations 1952*.
- 3.4 Many existing users cannot easily establish the origins of their access authority and it is important that the long established practices of these existing users are not adversely affected by the proposed legislative changes. The State notes for example, concerns raised by the operators of the Adelaide to Darwin rail line regarding potential impact on their maintenance procedures and practices.
- 3.5 While it may not be possible to clarify the authority of all existing users before the passage of legislation (in which case, it is important for the legislation to provide scope for these uses to continue), the State Government is assured by Defence's demonstrated commitment to work more closely with existing users to clarify permissions and access arrangements.
- 3.6 Notably, Defence has been working with the Maralinga Tjarutja Executive and Anangu Pitjantjatjara Yankunytjatjara Executive, as well as the native title holders and registered claimant group to better understand and respect aboriginal cultural and site protection activities within the WPA. Joint land management arrangements and agreements that take these activities into account are being negotiated. Amendments have also been made to the bill and draft Rules to reflect existing traditional ownership, native title rights and the land management role of the Anangu Pitjantjatjara Yankunytjatjara and Maralinga Tjarutja corporations.

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<sup>1</sup> Tourists will be subject to permit requirements under the 2014 WPA Bill. The State Government supports this arrangement given the transient and temporary nature of this activity.



- 3.7 The State Government is also aware that the Maralinga Tjarutja traditional owners (supported by Anangu Pitjantjatjara Yakunytjatjara) have requested excision of the remainder of Section 400 (historic Maralinga nuclear test site) from the WPA. The State Government and the WPA Advisory Board are both supportive of ongoing bilateral discussions between Defence and relevant parties on this issue.
- 3.8 The State Government notes that the area is safe for some purposes but remains highly contaminated. The significance of this land to the Maralinga Tjarutja people, major rehabilitation efforts and prior land hand back are acknowledged.

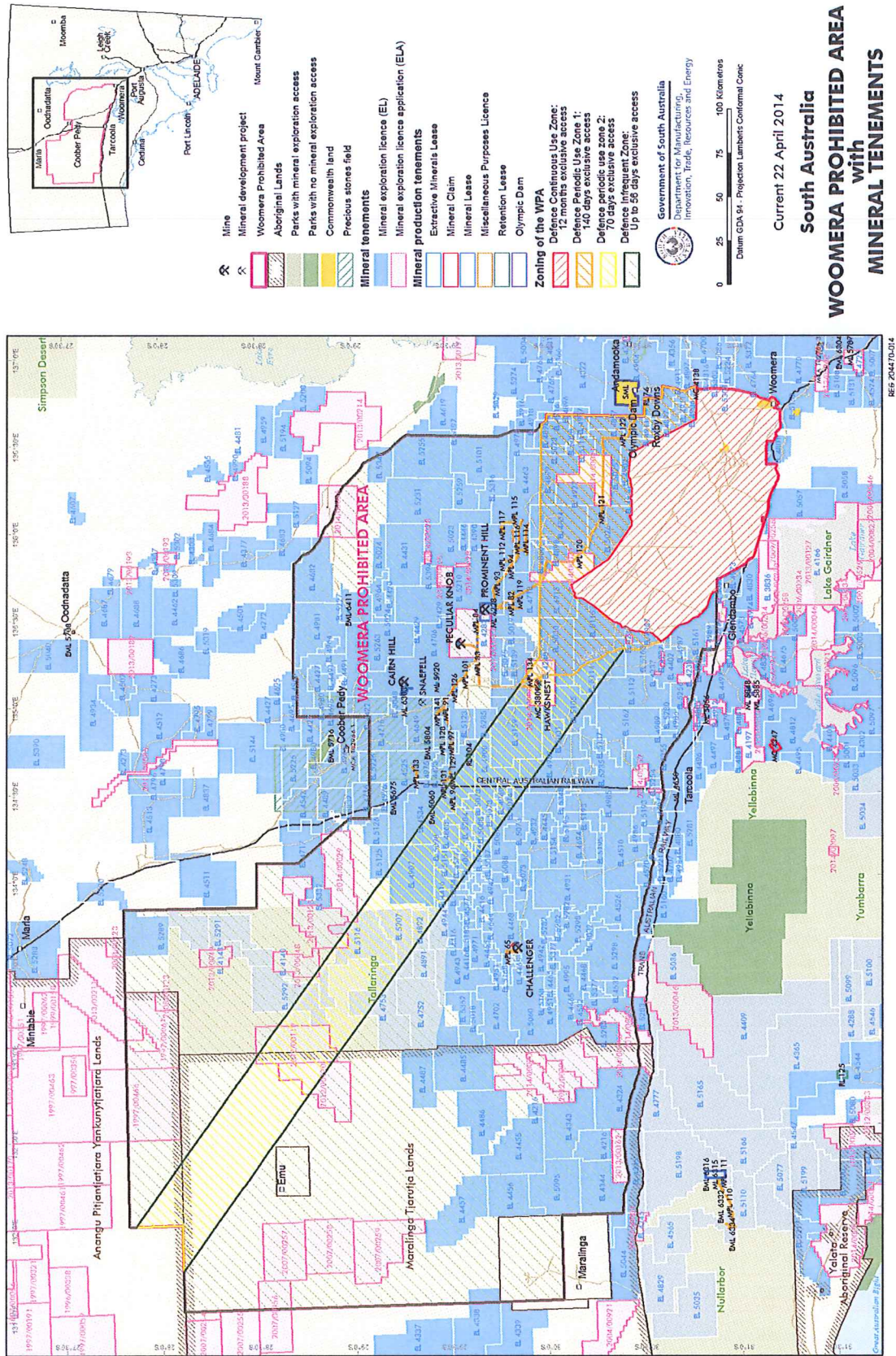
#### **4. Summary**

- 4.1 Defence and mining are both critically important contributors to the South Australian economy, with significant State Government resources dedicated to further developing both sectors.
- 4.2 The State Government is deeply committed to developing, implementing, maintaining and enhancing effective and mutually beneficial coexistence arrangements in the WPA.
- 4.3 The State Government following consultation with stakeholders needs to agree to the final proposed nature and extent of those arrangements before it can offer unequivocal support to the 2014 WPA Bill.
- 4.4 The State Government highlights the need for Defence to continue to work in good faith with parties seeking to be treated as existing users where there may be any ambiguity as to this fact.
- 4.5 The State Government requests that the 2014 WPA Bill is amended to:
- reinstate the intended compensation provisions applicable to existing users of the WPA, and
  - require consultation with the State Government in the finalisation of the WPA Rules and their amendment from time to time.

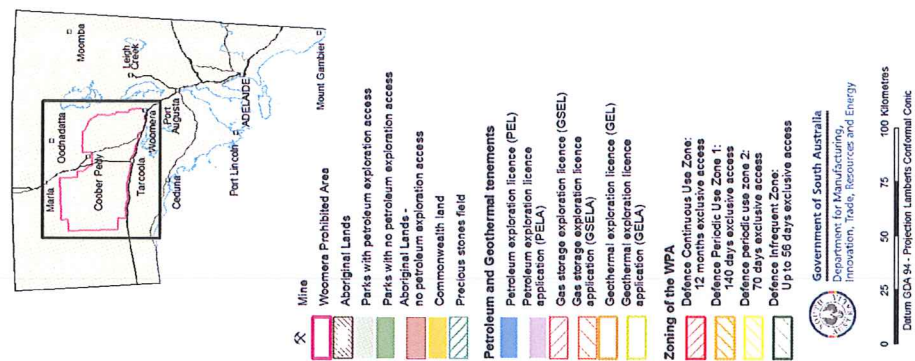
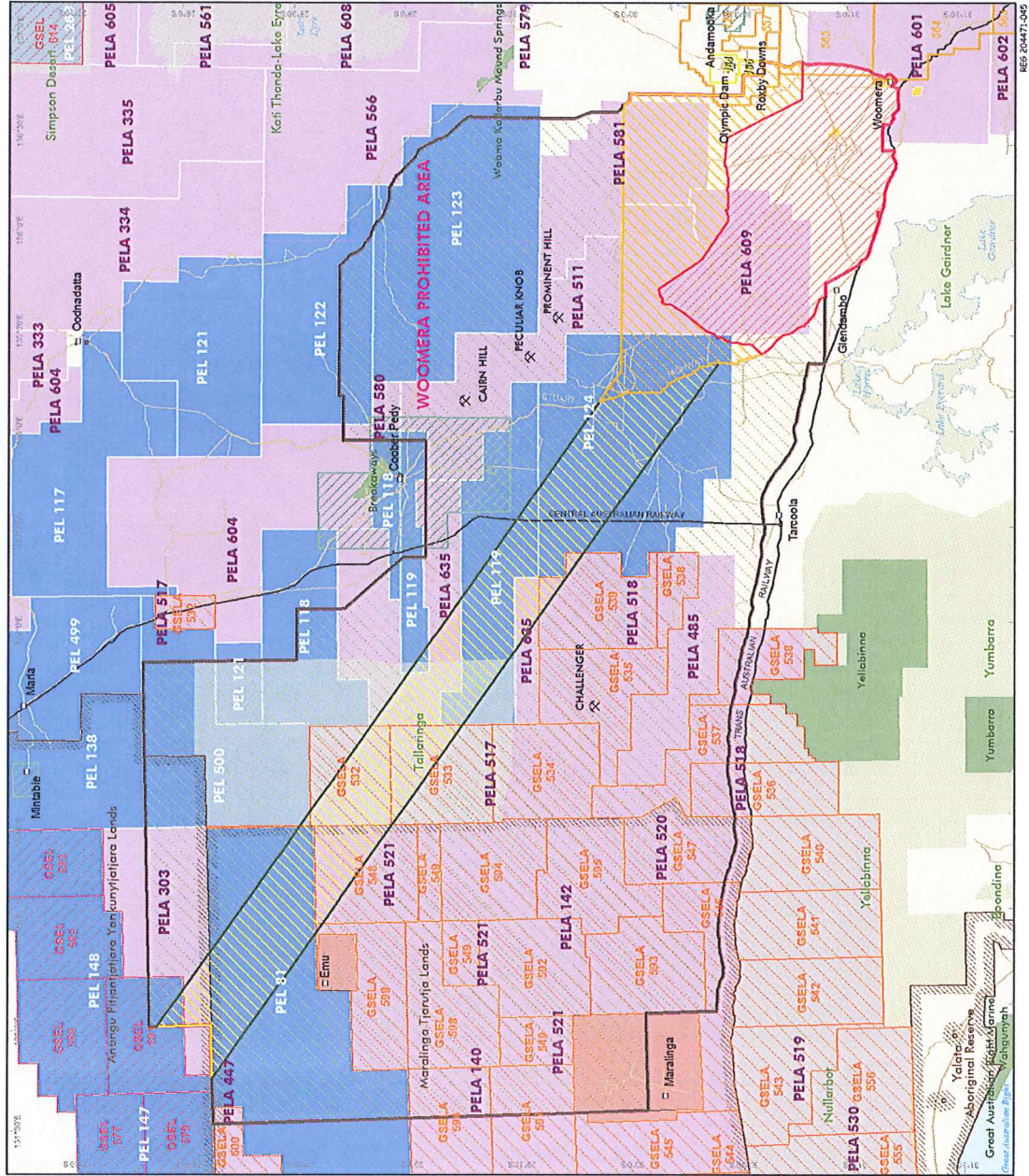
#### **ANNEXURES**

- 1 – Mineral Tenements, Projects and Prospects
- 2 – Petroleum Tenements and Wells
- 3 – Pastoral Leases
- 4 – Aboriginal native title claim areas and freehold land
- 5 – Summary of legal advice in respect or proposed new Regulation 36







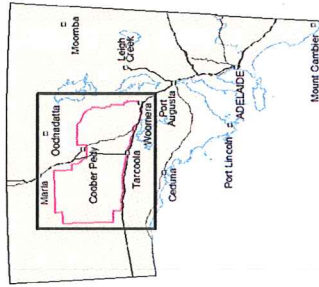
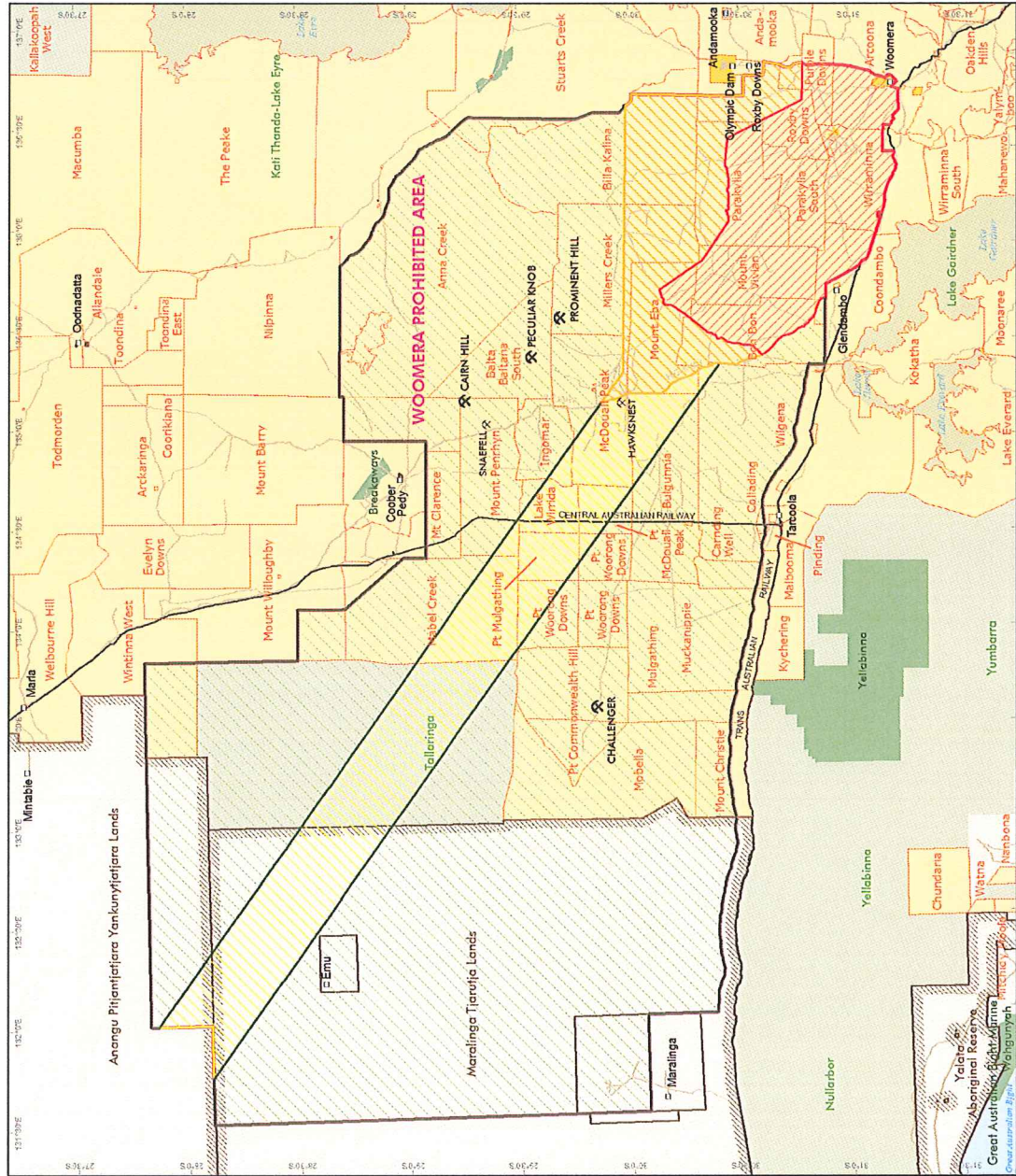


Current 22 April 2014  
South Australia  
**WOOMERA PROHIBITED AREA and PETROLEUM and GEOTHERMAL ENERGY ACT 2000 TENEMENTS**

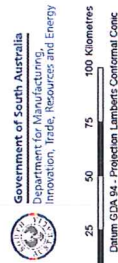
Government of South Australia  
Department for Manufacturing, Innovation, Trade, Resources and Energy

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- Mine
- Mineral development project
- Woomera Prohibited Area
- Aboriginal Lands
- Parks with mineral exploration access
- Parks with no mineral exploration access
- Commonwealth land
- Pastoral Lease boundaries
- Zoning of the WPA
  - Defence Continuous Use Zone: 12 months exclusive access
  - Defence Periodic Use Zone 1: 140 days exclusive access
  - Defence Periodic Use Zone 2: 70 days exclusive access
  - Defence Infrequent Use Zone: Up to 30 days exclusive access



Current 22 April 2014  
South Australia  
**WOOMERA PROHIBITED AREA**  
**with**  
**PASTORAL LEASE BOUNDARIES**







**Proposed amendments to Regulation 36 of the Defence Force Regulations 1952**

Under Regulation 36 as it currently stands the Commonwealth is liable to pay compensation where:

- “(a) any person suffers loss or damage by reason of anything done in pursuance of regulation 34 in relation to any land or water in which he has any legal or equitable interest; or
- (b) by reason of the operation of regulation 35 a person ordinarily resident in a prohibited area at the time when the area becomes a prohibited area suffers any loss or damage;”

Regulation 34 essentially allows the Minister to authorise entry to and use of any area of land necessary to carry out testing of war material.

Regulation 35 allows areas of land to be declared prohibited areas and thus establish areas in which persons may not enter without the permission of the Commonwealth Minister.

Whilst Regulation 35 is the most relevant regulation to the existing use of the Woomera Prohibited Area (WPA) both Regulations may be relevant to activities carried out in connection with that area (these regulations can also clearly be used to authorise testing activities in areas outside of the WPA).

Whilst there may be room for argument as to what activities or restrictions the words “by reason of the operation of Regulation 35” actually extend to, the existing regulation provides for compensation for any “loss or damage” suffered as a result of the exercise of the rights in Regulation 34 or “by reason of the operation of Regulation 35”.

Part 2 of Schedule 1 of the Amendment Bill proposes to substitute the existing Regulation 36 with a new Regulation that states that the Commonwealth will be liable to pay compensation only if the operation of regulation 34 or 35 would result in an acquisition under section 52(xxi) of the Constitution. This is a substantially different entitlement than that currently provided for and arguably does no more than provide for compensation that would already be a necessity under the Constitution.

The terms “loss or damage” in the existing Regulation would extend to losses that do not amount to an acquisition and to remove that entitlement would substantially diminish the possible compensation that may be available to affected stakeholders as a result of the declaration of the prohibited area and relevant Commonwealth testing operations.



In particular it should be noted that:

- loss or damage arising from destruction of property will not generally amount to an acquisition; and
- short term or minor restrictions on a landowners ability to access or use land are unlikely to be regarded as an acquisition but may well result in loss or damage to the landowner.

Whilst the State accepts that the Commonwealth may wish to ensure the validity of the existing regulations under section 51(xxxi) of the Constitution, it is the State's view that this should not occur at the expense of the existing rights of stakeholders in the WPA. Any amendments to implement this should be in addition to the existing compensation rights set out in Regulation 36 and not in substitution for it.