

## Minister for Energy and Resources, and Ports

House of Representatives Standing Committee  
on Industry and Resources

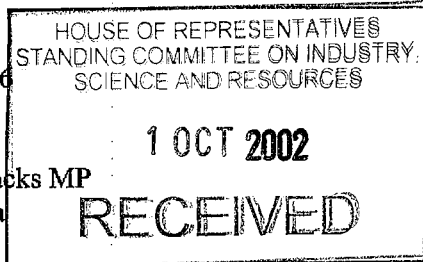
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Secretary: *S. Folkes*

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The Hon Steve Bracks MP  
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Dear Premier

### VICTORIAN SUBMISSION TO COMMONWEALTH INQUIRY INTO RESOURCE EXPLORATION IMPEDIMENTS

On 24 May 2002 the Commonwealth Minister for Industry, Tourism and Resources, the Hon Ian Macfarlane MP, referred the above inquiry to the Standing Committee on Industry and Resources.

The Committee was required to inquire into and report on any impediments to increasing investment in Mineral and petroleum exploration in Australia, including:

- (a) an assessment of Australia's resource endowment and the rates at which it is being drawn down;
- (b) the structure of the industry and role of small companies in resource exploration in Australia;
- (c) impediments to accessing capital, particularly by small companies;
- (d) access to land including Native Title and Cultural Heritage issues;
- (e) environmental and other approval processes, including across jurisdictions;
- (f) public provision of geoscientific data;
- (g) relationships with Indigenous communities; and
- (h) contributions to regional development.

The attached submission discusses each of the issues raised above as they relate to Victoria. A number of these relate to the economic climate within the mining and resources industries. Victoria's position is that the major impediments to exploration are:

- (a) the structure of the mining industry, particularly the withdrawal of major exploration companies in the mineral areas;
- (b) the inability of small mining enterprises to access capital; and



(c) the focus of local communities on perceived negative environmental impacts of proposals and the difficulty in ensuring that those communities also understand the potential range of positive economic, social and environmental impacts.

Regarding environmental and other approval processes, access to land, Native Title and cultural heritage issues, Victoria's position is that these issues do not represent impediments to exploration, but instead are necessary processes that facilitate responsible land and heritage management. Regulatory frameworks in Victoria therefore do not unnecessarily impede the minerals exploration process but do restrict access for exploration in appropriate circumstances in order to protect our natural and cultural heritage.

Victoria is working towards streamlining some processes that should reduce impediments to exploration in this state, while simultaneously maintaining our strong land and heritage management capabilities. Victoria encourages proponents to work within existing environmental and heritage frameworks, and to build relationships with Indigenous and other affected communities, in order to progress exploration.

Comments on the financial aspects of the submission were also sought from the Department of Innovation, Industry and Regional Development.

I seek your endorsement of the attached submission, and ask that you forward it to the Commonwealth Standing Committee on Industry and Resources representing Victoria's position.

The Department of Premier and Cabinet contact officer on this matter is Mr Robert Atkinson.

Yours sincerely



**Candy Broad**  
**Minister for Energy and Resources**

9/ 9 /2002

Encl.

## **VICTORIAN GOVERNMENT SUBMISSION:**

### **STANDING COMMITTEE ON INDUSTRY AND RESOURCES**

#### **COMMONWEALTH INQUIRY INTO RESOURCES EXPLORATION IMPEDIMENTS**

##### **Summary Statement:**

Victoria is committed to a sustainable and appropriate minerals and petroleum industry. As part of this it supports the removal of all unnecessary impediments to exploration.

The major impediments to exploration are:

- The structure of the mining industry, particularly the withdrawal of major exploration companies in the mineral areas
- The inability of small mining enterprises to access capital, and
- The focus of local communities on perceived negative environmental impacts of proposals and the difficulty in ensuring that those communities also understand the potential range of positive economic, social and environmental impacts.

The Victorian Government recognises that exploration companies often refer to restricted access to some land as being an impediment to exploration. In Victoria, some land of high environmental or cultural significance does have restricted access. It also recognises that the provisions of the Native Title Act must be complied with. However, these are not seen as being impediments, but are an appropriate part of ensuring the responsible management of land.

Regulatory frameworks in Victoria therefore do not unnecessarily impede the minerals exploration process but do restrict access for exploration in appropriate circumstances in order to protect our natural and cultural heritage.

Processes for assisting proponents through the regulatory framework can always be improved. Victoria is working towards improving these processes, such as through the current review of the environment assessment process under the Victorian *Environment Effects Act 1978*. The effective and integrated management of Native Title processes also supports the granting of appropriate exploration licences.

Further development of Commonwealth incentives may also promote responsible and sustainable mineral and petroleum exploration, including tax incentives and educational programmes.

##### **Addressing of Issues:**

1. **An assessment of Australia's resource endowment and the rate it is being drawn-down**

Given the current known level of Victoria's resource endowment, it is believed that there is still considerable opportunity for exploration for metals, mineral sands and petroleum in Victoria. The mining industry in Victoria in some sectors (eg. gold) is

relatively mature and the majority of easily won deposits have been already discovered or developed. However scope exists for the re-analysis of ground using modern exploration methods and in more difficult environments where at present the economics does not justify the cost.

The drawdown of Victoria's resource endowment in is not seen as an impediment to exploration. On a global scale a reduction in the known resources of a particular mineral commodity could increase demand for that resource and increase prices for that commodity, thereby increasing the incentives for further exploration.

Since the late 1990's, reduction in exploration expenditure has been due to two factors. First, a confluence of downward phases in a number of commodity price cycles (notably base metals and gold) has reduced the attractiveness of commodity stocks. Second was a reduction in available capital.

In conclusion, Victoria suggests that the current endowment of known resources are not an impediment to exploration. It further suggests that there is ample opportunity for further exploration and the drawdown of Australia's known resource endowment acts to increase prices, which in turn increases incentive to explore.

## **2. & 3. The structure of the industry and the role of small companies in resource exploration in Australia & Impediments to accessing capital, particularly by small companies**

There are two developing trends in the minerals industry that are proving to be direct impediments to exploration and if left unchecked, could have a significant negative influence on the economic health of Australia.

A key factor is the global restructuring of the industry, whereby acquisitions have greatly reduced the number of significant players in the industry. Having acquired the resource inventories of smaller companies, the new global players have greatly reduced their exploration expenditures.

In recent years large companies such as WMC and BHP have made clear their intention to withdraw from "greenfields" exploration. In some such companies (North Ltd, WMC) the entire exploration department has been made redundant. The decision has been based on the poor return from exploration dollars spent in general and the reduced rate of major discoveries since the mid-1970's. Implicit in this strategy is a reliance on smaller companies to develop new projects that can be taken over by the larger companies at a later date. Recent experience has shown that these smaller companies are not able to fill the void left by the larger companies.

The reason for this is that the finance sector, apparently recognise the poor return on capital for the mining sector relative to alternatives such as industrial and technology stocks and has reduced the availability of capital to small companies. Small companies are perceived as an even higher risk than the already high-risk area of mineral exploration due to their limited track record and finances.

Secondly, there has been a trend over several decades for consolidation of asset ownership in the minerals industry. Gold, mineral sands and iron ore are just a few of the industry groups where ownership has contracted in recent years. The effect of this is that the incentive to exploit new deposits is reduced and commodity price growth is encouraged. The impact on the economy is increased prices for goods and pressure on the rate of inflation.

Without support, and in particular the supply of finance, small companies will continue to struggle and put at risk future exploration. Canada provides one example of a means to assist small companies without the direct injection of Government funds. In the late 1980's Canada introduced the "Flow-through Share" programme as a means of directing private capital to exploration companies by way of tax incentives. This system has apparently been very successful in increasing funds for exploration.

One way to improve the current situation may be to make tax allowances for research and development available to exploration and small resource companies with legitimate mining operations (such as work plans, exploration licence bonds in place, etc.). Companies with good environmental mining operations should seek ethical investment funds money.

The current structure of the exploration industry is resulting in an impediment to exploration. To address this issue additional support in the way of tax relief, flow through share programs could be developed for exploration companies.

#### **4. Access to land including Native Title and Cultural Heritage issues;**

##### **Access to land**

Restricted access to some land is cited by some members of the exploration industry as being an impediment to exploration. While access to some land is restricted in Victoria, this is done only where environmental, Native Title, cultural heritage and other significant features warrant a high level of protection. Any restricted access to land is also only applied after all relevant steps are followed and all legislative requirements are met. A total of 36.6% of Victoria is Crown land and a total of 13.7% of Crown land is prohibited to exploration or mining. Victoria does restrict access to some land but this is a part of the overall effective management of land within the State.

Victoria has a robust and transparent framework for determining appropriate uses of public land. Under this framework, resource use, social needs and environmental needs are considered and where conflicts occur, all factors are taken into account.

Enshrined in legislation is a requirement that areas with the highest heritage and conservation values are generally excluded from mineral exploration, although petroleum exploration may be permitted subjected to the highest level of scrutiny. These areas comprise National and State parks and areas administered under the *National Parks Act 1975*.

For land that is not excluded from exploration, various processes are applied depending on the nature of the land and the potential impact of exploration. Each process is transparent and supports responsible and appropriate exploration. It is also integrated with other requirements of a proponent's forward planning.

### **Native Title**

Any exploration tenement granted over Crown land must comply with the Commonwealth Native Title Act 1993 (NTA). To support the effective application of the NTA, the Victorian Government has established a "whole of government" approach to resolve Native Title issues using Indigenous land use agreements. This approach is based on mediation rather than litigation. As a result of this approach Native Title is not seen as an impediment to mineral and petroleum exploration in Victoria but is just another step to be taken in the process to obtain access to land. However, Victoria is continuing to develop more efficient procedures to further streamline Native Title processes.

Victoria has the ability to allow explorers to excise Crown land from licence applications, which has proved successful in allowing exploration to occur without entering Native Title processes. Nevertheless applications undergoing Native Title processes occupy a total area of 20,000km<sup>2</sup> representing 38.5% of Crown land available for exploration and mining. The minimum annual expenditure denied the State due to this is in the order of \$10 million dollars.

Statistical comparisons in Victoria indicate that some companies may not be actively negotiating to progress negotiations and Native Title may well be being used as an excuse not to explore while maintaining ground. This is supported by the fact that no exploration companies have applied for arbitral body determinations under section 35 of the NTA in Victoria and the lack of genuine progress reported during Federal Court hearings. Anecdotal evidence from Mirimbiak (Native Title Representative Body) also indicates the majority of companies may not be actively pursuing negotiations.

To reduce the backlog of applications pending Native Title agreements, the State, Mirimbiak Nations Aboriginal Corporation (the representative body) and Victorian Minerals and Energy Council (VMEC) negotiated a standard proforma agreement under section 31 of the NTA. This proforma agreement came into use as of January 2002.

The establishment of the proforma agreement has streamlined Native Title processes for industry in Victoria, with the Minister for Energy and Resources signing agreements in relation to eight mining and petroleum tenements in the first half of 2002, compared to nine from 1994 to the end of 2001.

The standard agreement is in two parts. The first part of the proforma is a formal agreement as required under the NTA, between Government, the exploration applicants, and the Native Title applicants. This enables the valid granting of a tenement (including renewals), and is registered with the National Native Title Tribunal (NNTT). The second part to each agreement, the Project Consent Deed (PCD), is a commercial arrangement between the tenement applicants and the Native Title applicants. The Victorian Government is not a party to this component.

Victoria is now working on a proforma PCD. The success of the PCD will rely on a mutually acceptable cultural heritage protocol and compensation/profit sharing arrangements. Together, these documents will form a package that will greatly assist the mineral and petroleum industry and Native Title claimants in Victoria.

Native Title issues therefore are not seen as an impediment to exploration. Instead they are just another step in gaining an approval; a step that can be managed effectively when all parties approach it with a willingness to work together.

### **Aboriginal Cultural Heritage and relationships with Indigenous communities**

As with access to all land, relevant legislative issues must be complied prior to granting exploration licences. To ensure that aboriginal cultural heritage is not an impediment, companies must ensure that legislative requirements are met. Also relationships with Indigenous communities must be approached in a responsible manner in order to build long term relationships.

Victoria administers State and Commonwealth heritage legislation that affords blanket protection to all Aboriginal heritage places. There are also provisions within the *Mineral Resources Development Act 1990*<sup>1</sup> that deal with mitigating impacts of mining and exploration activities on registered Aboriginal heritage values.

Well-established procedural mechanisms exist in Victoria to alert mining and exploration licence applicants to the presence of registered heritage values within areas of interest. The existence of Aboriginal heritage values on land does not necessarily preclude mining and exploration.

Consultation and involvement of relevant Aboriginal groups in the initial planning stages of a project, and development of a program of ongoing consultation and negotiation, substantially improves early identification and management of any Aboriginal heritage issues. This has been recognised through development of an industry-driven information booklet<sup>2</sup> designed to assist explorers and miners to establish effective relationships with Indigenous communities, based on mutual understanding and respect.

The Victorian Government is committed to developing effective relationships with Victoria's Indigenous communities in the area of land and resource management. It is leading by example through an *Indigenous Partnership Strategy*<sup>3</sup> to increase participation and involvement of Indigenous people in all areas of land and resource management, including mining and exploration.

Aboriginal heritage and relationships with Indigenous communities are therefore not impediments if companies approach these issues appropriately and in accordance with the relevant legislation.

<sup>1</sup> *Mineral Resources Development Act 1990* (Victoria) s. 45(1) - also see s. 6 (c)(d) s. 18 s. 45(6)

<sup>2</sup> Victorian Chamber of Mines Inc. *Building Relationships - Working with the Indigenous people of Victoria - A Guide for Explorers and Miners* November 2000

<sup>3</sup> State of Victoria, Department of Natural Resources and Environment *Indigenous Partnership Strategy* 2001

## **European Cultural Heritage**

Both the Department of Natural Resources and Environment (NRE) and Heritage Victoria (HV) are committed to ensure the appropriate conservation of Victoria's historical sites. Proposals for mineral exploration activities must recognise and respond to the potential implications of these activities on the cultural heritage values of heritage places and archaeological relics. If established procedures are followed from the outset, this need not impede exploration activity in Victoria.

The *Heritage Act 1995* protects places and objects that are considered to be of cultural heritage significance to the State of Victoria. Places can include buildings, precincts, trees, gardens, industrial structures and machinery, archaeological relics, moveable historic objects associated with heritage places and cemeteries. Shipwrecks and maritime archaeological sites are also protected.

Applications for exploration licences are referred to Heritage Victoria for comment. In response Heritage Victoria provides a summary statement on known heritage sites and required actions or approvals. This information is forwarded to the new licensee at the time of title grant. Licensees are encouraged to liaise with Heritage Victoria and land management groups within relevant land management agencies in the development of any work plans effecting areas containing or near heritage sites.

The heritage status of a site determines what exploration actions may proceed with or without having to apply for a heritage consent or permit. Many less intrusive exploration activities can be conducted without additional heritage approvals, provided work is done in accordance with an approved work plan and the operator follows the advice given in the Heritage Summary Statement provided by Heritage Victoria at the time of title grant.

The proponent is responsible for obtaining any relevant consents and permits as required in the Heritage Summary Statement as well as meeting other commitments that may be specified in any particular consents and/or permits.

As with other issues, European Heritage issues are not an impediment provided companies comply with all relevant legislation and standards.

## **5. Environmental and other approval processes**

Victoria is currently reviewing its environmental assessment processes under the *Environment Effects Act 1978*. The outcome of the review is likely to alter the processes for referring of a proposed mining or exploration proposal for an Environment Effects Statement (EES). Where a proposal is also considered a controlled action under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, the Commonwealth will usually accredit the Victorian EES process to meet the requirements under the EPBC Act. This means that a proponent undertakes one assessment process but still requires both State and Commonwealth approvals.

Victoria is seeking to improve the flexibility and efficiency of the framework for assessment of environmental risks of proposals. Currently, there exists no obligation



for proponents to submit proposals for environment assessment. A draft framework, released for public comment in 2002, proposes the introduction of a four-level system of referral of proposals with the potential to have significant environmental implications<sup>4</sup>.

Along with a reform of statutory procedures, an improvement in environment assessment in Victoria is likely to require proponents to actively engage with stakeholders and integrate environmental and sustainability considerations as part of project planning and design. This has the potential to add to the forward-planning requirements of a proponent, however Victoria considers this necessary for the conservation of significant natural and cultural values. Improvement of these processes in Victoria will streamline current environment assessment procedures, and will add a greater level of certainty for proponents that should not act to impede or discourage exploration activity in Victoria.

The planning and EES processes ensure that all approvals meet appropriate triple bottom line outcomes, taking into account all the relevant social, environmental and economic issues. The planning and EES processes are therefore not impediments to exploration. They are considered necessary steps to ensure that the outcomes are appropriate.

#### **6. Public provision of geoscientific data**

The lack of readily available geoscience data would be an impediment to encouraging mining and petroleum companies from conducting exploration. This is particularly true for the petroleum industry where Australia is competing in an international market.

In Victoria, up to date geoscientific data is widely available and is seen as a positive advantage in encouraging exploration in this State.

The Victorian Initiative for Minerals and Petroleum (VIMP) is a \$29.5 million, 12 year program (up until June 2005), that has improved the geoscientific database of the State, which, together with revamped and updated legislation, has increased the efficiency and effectiveness of exploration and mining in Victoria. The VIMP program has concentrated on acquiring modern geophysical data, accelerated geological map production, expanded databases and GIS products. Digital geoscientific data is distributed free of charge.

The benefits of VIMP are well established and include:

- An increase in annual mineral exploration expenditure from around \$12 million pa before VIMP to peak at over \$50 million, and resting currently (even in difficult times) at around \$33 million pa;
- A three to four fold increase in exploration expenditure as a result of the program;
- Additional average annual private exploration expenditure of around \$15 for each \$1 dollar spent in VIMP;

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<sup>4</sup> State of Victoria, Department of Infrastructure *Environment Assessment Review Issues and Options Technical Paper 2002.*

- Contributions to the discovery of new mineral resources valued at some \$5 billion (mineral sands and gold).

There has been a worldwide decline in mineral exploration activity over the past four years. In part as a result of our good geological database, the downturn has been less in Victoria than elsewhere in Australia.

## **7. Contributions to regional development**

Mineral exploration has a long-standing role in developing new investments, new employment opportunities and new wealth generation in rural Australia. There are few other industries that actively seek out remote localities to conduct business in the same way that mineral exploration does. There are many remote Australian communities that were founded and continue to survive solely because of exploration and mining of the mineral deposits found by that exploration. Kalgoorlie and Mt Isa are good examples.

In regional areas such as Bendigo, recent economic studies (Bendigo Mining's Deborah Reef EES, 1998) showed that the 146 direct full time employees of a new mine would be accompanied by an additional 69 part-time jobs and a further 200 jobs indirectly. Generally speaking, the more remote the location the greater the multiplier effect will be as all of the resources to establish and maintain a new mine need to be built from scratch.

The potential economic benefits to regional communities, not just the company concerned, from continued exploration and mining are significant. Without an exploration programme identifying new resources, the continued benefit to such communities is at risk.

The lack of a clear understanding in some communities of the broader benefits arising from exploration and mining can be an impediment as communities may oppose exploration and mining, perceiving only the potential impact on the environment. A fuller understanding of all the social, environmental and economic benefits of exploration and mining could lead to a more informed community input into proposals.