



Queensland
Government

Queensland Government Submission

To

**House of Representatives Standing Committee on
Industry and Resources Inquiry into Resources
Exploration Impediments**

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Executive Summary

Resources exploration expenditure in Australia, and particularly Queensland has declined markedly over the last 5 years. Queensland's current level of mineral exploration expenditure is at its lowest level in real terms in 25 years. If the underlying issues responsible for this downward trend are not addressed, over time there will be a considerable impact on the Australian economy and significant consequences for many regional economies throughout the country.

Queensland's mining industries extend from its oil and gas fields in the State's south west, through to the north west's resource rich Carpentaria Minerals Province, over to the northern goldfields and Weipa's bauxite deposits on Cape York, then down to the Bowen Basin, which is the world's largest coal exporting province. The mining industry has been a key driver in making Queensland the most decentralised State economy in the country.

The Queensland Government recently commissioned a study to determine the economic and social benefits derived from Queensland's mining industries¹. The findings of the study are contained in the attached report, *Queensland's Mining Industries: Creating Wealth for the Community, the State, and the Nation* (copy at Attachments 1-7). In addition to being an important component of the State's economy, the study confirms the significant contribution these industries make to many of Queensland's regional economies.

Exploration is the lifeblood of the resources sector. For the Queensland and ultimately the Australian economy to continue to accrue significant economic benefits from mining industries, there needs to be a robust exploration industry searching for and discovering commercially exploitable mineral and petroleum resources. The *Queensland's Mining Industries: Creating Wealth for the Community, the State, and the Nation* report reinforces this point. The report indicates that exploration is the key to sustaining a competitive mining industry and a competitive mining industry is a prerequisite for the growth of high-value mineral processing and technological service industries².

However, at the current low rate of exploration, resources and reserves are not being identified to support future sustainable development. In other words, the rate of production is faster than the current rate of discoveries. Analysis recently undertaken by the Queensland Mining Council (graph at Attachment 8) indicates that unless new commercially viable base and precious metal discoveries are made, only one metalliferous mine will be operating in Queensland in 2020. This assumes all known potential base and precious metal projects will be commissioned within five years and will be mined out by 2015. The need for further exploration is even more pronounced in Queensland's petroleum industry. At current rates of production, Queensland's identified oil reserves will run dry within 8 years.

¹ Refers to industries associated with the exploration for, and production of, mineral and primary energy (oil, gas and coal) resources. This includes mineral processing and refining of petroleum, and industries that provide contract mining services.

² Page iv.

There is an important role for governments to play in relation to the reinvigoration of resources exploration investment throughout Australia. The Queensland Government has introduced a number of initiatives to enhance the State's attractiveness as an investment location, but the Commonwealth Government also needs to consider implementing measures which will complement and assist relevant State Government efforts in this area. Recommended measures for the Commonwealth Government to consider, and which are discussed in this submission include:

1. Increasing resources exploration investment through the introduction of tax incentives such as flow-through shares or alternatively, by classifying all 'greenfields' exploration as research and development (R&D) and thereby enabling such exploration activity to qualify for the R&D Tax Concession.
2. That the Commonwealth Government rectify identified deficiencies in the *Native Title Act 1993* by introducing into Parliament as soon as possible, the Amendment Bill that was prepared in 2001.
3. Increased Commonwealth Government funding to Representative Aboriginal and Torres Strait Islander Bodies (Land Councils) established under the *Native Title Act 1993* for 'future act' negotiations and related processes.
4. Increased Commonwealth Government funding to establish a new national geoscience program, and greater collaboration between State Governments³ and the Commonwealth Government to provide 'essential' new generation geoscientific datasets and to develop and maintain uniform data management standards.
5. That through its role on the Ministerial Council on Mineral and Petroleum Resources, the Commonwealth Government, in collaboration with State Governments, actively pursue greater regulatory consistency between Federal and State jurisdictions within Australia.

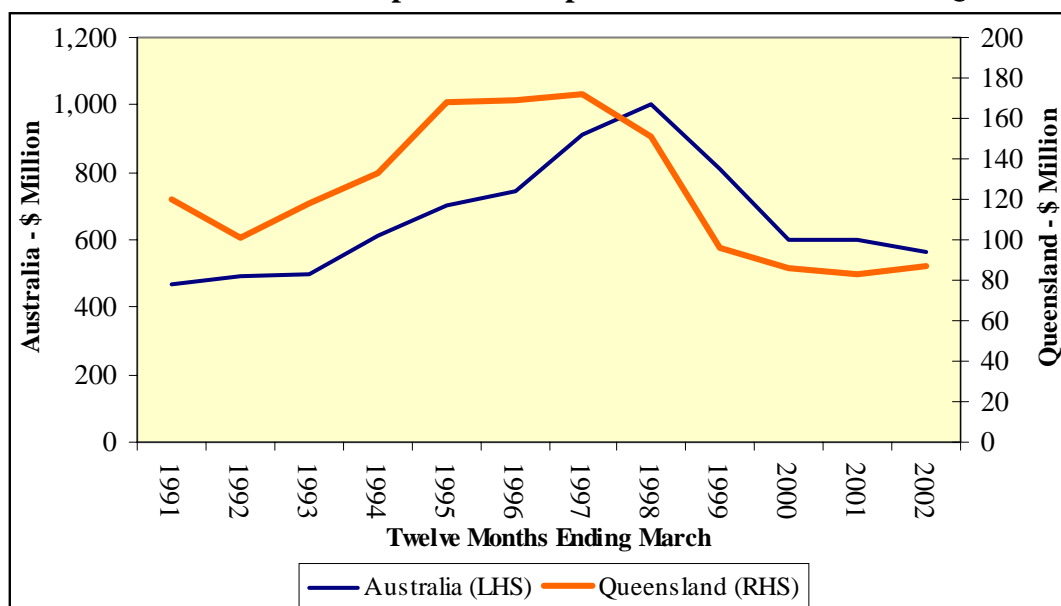
The implementation of these measures will provide greater certainty for all stakeholders and also enable explorers to better manage the substantial investment risk associated with exploration activity. It will also assist in strengthening Australia's position in its pursuit of the global resources exploration dollar.

³ For the purposes of this submission, means all Australian States and the Territories.

1.0 Introduction

In line with global trends, there has been a significant decrease in resources exploration expenditure in Australia in recent years. During the five-year period to the end of March 2002, Australia's mineral exploration expenditure fell 38 percent to \$564 million. Concurrently, exploration expenditure in Queensland fell 50 percent to \$87 million and is currently at its lowest level in real terms in 25 years. If the underlying issues responsible for this downward trend are not addressed, over time there will be a considerable impact on the Australian economy and significant consequences for many regional economies throughout the country.

Annual Private Mineral Exploration Expenditure in Australia and Queensland



Source: ABS Cat. No. 8412.0, various years.

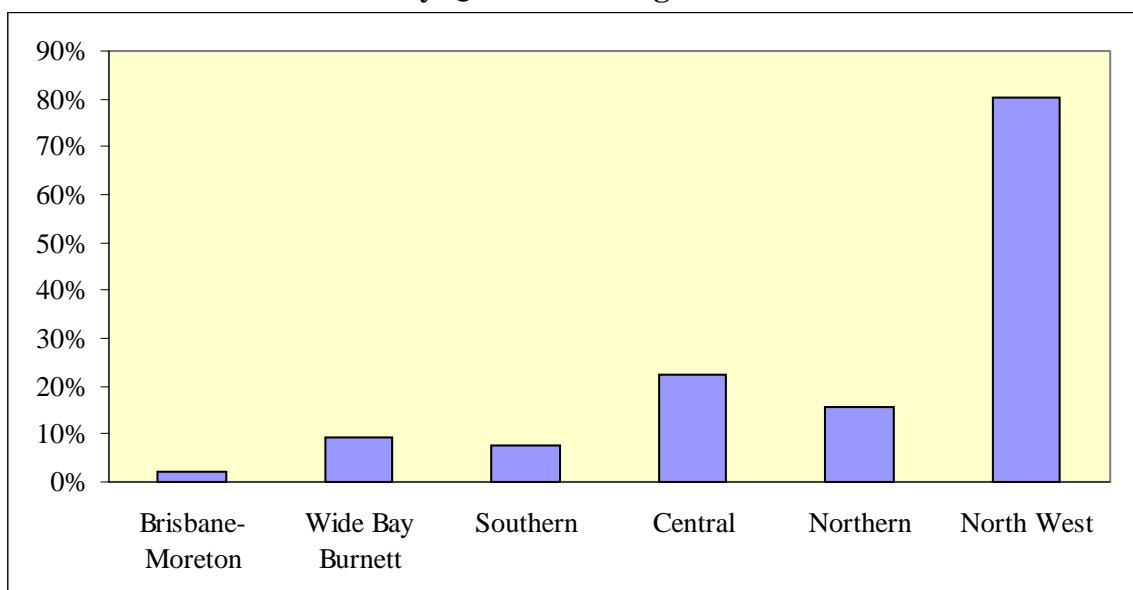
2.0 Economic and Regional Development Implications

When considering the nexus between exploration and mining through to minerals processing and beyond, the potential economic multiplier effects are enormous. The Queensland Government recently commissioned a study to determine the economic and social benefits derived from its mining industries. The findings of the study are contained in the attached report, *Queensland's Mining Industries: Creating Wealth for the Community, the State, and the Nation*.

The study confirms the significant contribution these industries make to many of Queensland's regional economies. The study found that the mining and minerals processing sectors currently contribute around 10.2 percent of Gross State Product or around \$9.4 billion per year in Queensland.

Queensland's mining industries directly and indirectly generate 86,000 full-time equivalent jobs in Queensland and another 7,000 throughout the rest of Australia.

Percentage of Total Full-Time Equivalent Jobs Attributable to Mining Industries by Queensland Region



Source: Office of Economic & Statistical Research 2001, *Regional Profiles, June 2001 Release (various)*

Underpinning this economic contribution is a strong export performance. The latest available Queensland Government data indicates there was a record \$12.5 billion in mining-related exports over the 12-month period ending 31 March 2002. This represented 54 percent of Queensland's total exports for that period.

While Queensland mining-related exports are currently at record levels, the most notable growth area in recent years has been the minerals-processing sector. During the 5-year period ending June 2001, the State's processed minerals exports increased 157 percent to \$3.1 billion. This export performance can only strengthen when Comalco's \$1.5 billion alumina refinery at Gladstone and AMC's \$1.3 billion magnesium plant at Stanwell, near Rockhampton, come on stream.

Queensland's mining industries extend from its oil and gas fields in the State's south west, through to the north west's resource rich Carpentaria Minerals Province, over to the northern goldfields and Weipa's bauxite deposits on Cape York, then down to the Bowen Basin which is the world's largest coal exporting province. The mining industry has been a key driver in making Queensland the most decentralised State economy in the country.

For the Queensland and ultimately the Australian economy to continue to accrue significant economic benefits from mining industries, there needs to be a robust exploration industry searching for and discovering commercially exploitable mineral and petroleum resources. Exploration is the lifeblood of the resources sector. The *Queensland's Mining Industries: Creating Wealth for the Community, the State, and the Nation* report reinforces this point. The report indicates that exploration is the key to sustaining a competitive mining industry and a competitive mining industry is a prerequisite for the growth of high-value mineral processing and technological service industries.

This position is supported by the findings of the Queensland's Government's development of a *Framework for Value-Adding to Minerals in Queensland*. The issue of exploration was included in the Framework as it is considered essential to have secure, long term access to mineral resources to attract value-adding investments⁴.

However, at the current low rate of exploration, resources and reserves are not being identified to support future sustainable development. In other words, the rate of production is faster than the current rate of discoveries. Analysis recently undertaken by the Queensland Mining Council (graph at Attachment 8) indicates that unless new commercially viable base and precious metal discoveries are made, only one metalliferous mine will be operating in Queensland in 2020. This assumes all known potential base and precious metal projects will be commissioned within five years and will be mined out by 2015. The need for further exploration is even more pronounced in Queensland's petroleum industry. At current rates of production, Queensland's identified oil reserves will run dry within 8 years.

Another major issue to consider is that once a commercial mineral deposit is discovered, depending on economic, infrastructure, regulatory and other relevant matters, it is not uncommon for a mine development to take around 10 years to be commissioned. In other words, there is a significant time lag between the discovery and commissioning stages. For these reasons, Queensland's Minister for Mines, the Honourable Stephen Robertson MP, has publicly announced that reinvigoration of Queensland's exploration industry is a top priority for his portfolio.

To enhance the attractiveness of Queensland as a resources exploration investment location, the Queensland Government through its Department of Natural Resources and Mines provides funding for a range of geoscience related initiatives. However, in addition to State-based programs, the Queensland Government believes there are a number of immediate and longer term Commonwealth measures which should be given serious consideration, as set out below.

3.0 Market and Related Issues

The structure of Australia's mining industry has changed considerably over recent years, with the number of 'junior' companies decreasing. In 1999, junior companies (companies with a market capitalisation of less than \$30 million) made up 64 percent of mining sector entities listed on the Australian Stock Exchange. By 2001, the percentage had fallen to 51 percent. Given that 'junior' companies have played a much greater role in Australia's exploration industry in recent years, this could have significant implications for future discoveries and the outlook for mining in Australia.

These 'junior' companies rely heavily on the availability of risk capital to continue exploration. The strong focus on investment in 'new economy' industries in recent times has significantly increased competition for the investment dollar, and this has had a detrimental impact on the ability of 'junior' companies to raise exploration capital.

⁴ Queensland Department of State Development and Queensland Department of Natural Resources and Mines, *Framework for Value-Adding to Minerals in Queensland*, April 2001.

This structural change has also affected the mining industry's 'major' players, with mergers and acquisitions becoming commonplace. The drive for synergies, economies of scale and cost savings has resulted in a consolidation of the global mining industry. A decade ago, the top five metal and mining companies in the world accounted for less than 25 percent of the total equity value of the industry. Today, the top five account for 50 percent and a huge gap has opened between those companies and the rest of the field. As rationalisation continues both in Australia and overseas, the result is a reduction of combined exploration budgets when compared to the pre-amalgamation budgets of the individual companies.

As a consequence of these structural changes, the outlook for resources exploration is uncertain. The Australian Bureau of Agricultural and Resource Economics' (ABARE) view is that a sustained period of higher mineral prices will be required for significant improvement in the outlook for exploration⁵.

Resources exploration is a very high-risk industry, but there are a number of measures which should be considered to reduce the investment risk inherent in exploration activity.

3.1 Flow-Through Shares

One method of increasing capital investment in exploration is the introduction of tax incentives such as flow-through shares or classification of at least part of exploration activities as research and development (R&D). The flow-through shares scheme has been very effective in providing risk capital for exploration in Canada, and has contributed to a higher level of exploration success than in most other countries. It enables companies engaged solely in exploration, with little or no assessable income against which deductible expenditure can be offset, to transfer to shareholders the tax deductions associated with exploration activities.

The Australian Gold Council and the Association of Mining and Exploration Companies have made representations to the Federal Government concerning the parlous state of the exploration industry, and advocated the possible introduction of a flow-through shares system, similar to that operating successfully in Canada for over 17 years.

In normal circumstances, bona fide exploration expenditure is deductible in full as incurred. However, companies engaged solely in exploration may gain no tax relief, as there may be little or no assessable income against which to offset the expenditure. A flow-through shares system essentially would allow the tax deduction to be passed on, or attributed to, the shareholder, and be deductible at a marginal rate of up to 48.5 percent.

While special tax provisions and incentives, (i.e. R&D concessions), have often targeted the so-called 'new economy' areas of biotechnology and information technology, little has been done to direct what is also essentially venture capital into exploration. For mining and petroleum companies, flow-through shares can provide a less costly means of raising equity-based financing for exploration and development,

⁵ ABARE 2002, *Australian Commodities: Forecasts and Issues*, June quarter 2001, p.287.

particularly for ‘junior’ exploration companies whose access to alternative sources of financing are limited.

The Federal Government’s immediate concern about flow-through shares may be the impact on taxation revenue. As the exploration expenditure may not have been previously available as an offset to the company, there would now be an immediate loss in tax revenue, as high as 48.5 percent of the relevant attributed expenditure. However, as the exploration expenditure is deductible against the shareholder’s income, proceeds from the sale of flow-through shares will trigger capital gains tax consequences, with the cost of the shares being reduced to nil if the full amount of subscribed capital has been claimed as a deduction.

Furthermore, if additional commercial resource deposits are discovered, there are potential regional economic benefits, as well as increased royalty streams to State Governments, and increased tax revenue to the Commonwealth. Accordingly, the taxation effect of a flow-through shares system could be seen merely as a deferred revenue collection, which will ultimately be recouped from production at a later stage.

As a further incentive to encourage investment in exploration, an uplift factor could be applied to the expenditure, (ie. attributed expenditure deductible at say 133 percent, instead of 100 percent). Alternatively, a non-refundable credit could be attached to the expenditure, similar to the 15 percent credit offered in Canada since October 2000. However, in order to avoid abuse of the system, stringent conditions would need to be applied to the issue of flow-through shares, and a review would be appropriate after a specified period to ensure that the Government’s policy objectives of the scheme were being met.

Ultimately, the level of investment in flow-through shares would depend on the outlook for commodity prices, with investment decisions primarily a function of perceived exploration success and project profitability. However, with an appropriately structured flow-through shares system, the maximum investment loss could be significantly reduced, thereby reducing the overall level of risk to the investor, and hopefully attracting more capital to the exploration industry.

3.2 Research and Development Tax Concession

Australia has been a leader in mining research and development (R&D), investing large amounts of capital to develop new technologies and processes to underpin its competitiveness⁶. The exploration industry has been a major contributor in making Australian mining-related intellectual property one of the nation’s fastest growing export industries with over \$1 billion in exports in 1999-2000. In total, Australian exports of mining skills and technology are estimated to be worth over \$2 billion per year⁷.

⁶ *Queensland’s Mining Industries: Creating Wealth for the Community, the State, and the Nation*, page 8.

⁷ *ibid*, page 14.

Queensland's mining and minerals processing sectors presently contribute around 34 percent of the State's total investment in R&D⁸. Recognising that the mining industry is very much about innovation and R&D, the Queensland Government is strongly backing the industry's R&D efforts through its involvement in a number of Co-operative Research Centres and Queensland's Sustainable Minerals Institute. The Queensland Government recognises that successful mining related R&D programs will assist in sustaining these very important industry sectors and ensure that all Australians will benefit in economic and social terms for many years to come.

Research and development activities, for the purposes of the R&D Tax Concession are defined in section 73B of the *Income Tax Assessment Act 1936*.

The R&D Tax Concession is the principal Federal Government initiative to enhance and increase the amount of R&D being conducted in Australia. It is broad-based, not industry specific and market-driven, with each company controlling the direction and thrust of its R&D. The concession enables Australian companies to deduct up to 125 percent of eligible expenditure incurred on R&D activities from assessable income when lodging their tax returns.

Companies may claim the expenses associated with activities that meet the definition of R&D. In summary, for the purposes of the concession, R&D activities must be:

- Systematic, investigative and experimental activities (referred to as 'core' activities) which:
 - involve innovation (i.e. contain an appreciable element of novelty); or
 - high levels of technical risk (i.e. the technical outcome cannot be known or determined in advance on the basis of current knowledge or experience and the uncertainty can only be removed by applying scientific methods); and
 - are carried on for the purpose of acquiring new knowledge (whether or not that knowledge will have a specific practical application) or creating new or improved materials, products, devices, processes or services; or
- Other activities (referred to as 'supporting' activities) which are directly related to undertaking the above 'core' activities.

There are a number of activities which are excluded as 'core' activities, and can only be claimed if they are directly related to the carrying on of R&D (i.e. as 'supporting' activities). For mining and petroleum companies, the most relevant activity is:

- prospecting, exploring or drilling for minerals, petroleum or natural gas for the purpose of discovering deposits, determining more precisely the location of deposits or determining the size or quality of deposits.

When considering the highly competitive nature of the global resources exploration industry, whereby it demands ongoing innovation, involves a high degree of technical risk and that the exploration activities themselves are carried out for the purpose of acquiring new knowledge, then there is a strong argument for all 'greenfields' (unexplored territory) exploration to be classified as R&D. It could also be argued from a scientific perspective, that 'greenfields' exploration is based on typical scientific research methodology. This involves developing and testing a theory or

⁸ *Queensland's Mining Industries: Creating Wealth for the Community, the State, and the Nation*, page 8.

hypothesis and assessing the results, before possible additional testing and further assessment. These exploration activities also increase knowledge and reduce uncertainty.

Many of the world's major exploration and mining companies in recent years have concentrated their exploration efforts around existing mining operations ('brownfields') and have also focussed more on corporate acquisition opportunities rather than injecting funds into higher risk 'greenfields' exploration activity.

The ongoing mining industry rationalisation has also resulted in an increasing number of geologists and other exploration industry personnel being made redundant. Some of these unemployed exploration industry personnel are collaborating in small groups, as either consultants or forming 'junior' companies to undertake 'greenfields' exploration in Australia. Classifying all 'greenfields' exploration as R&D and thus making it eligible for the concession, could stimulate much needed 'greenfields' exploration activity and also assist in addressing the current unemployment problem ravaging the Australian exploration industry. It could also contribute to reducing the drain of Australia's geoscience expertise to competitor countries.

If such a concession was granted by the Federal Government, similar to that proposed for the flow-through shares scheme, a review would be appropriate after a specified period to ensure that the Government's policy objectives of the initiative were being met.

Recommendation

- 1. That the Commonwealth Government introduce tax incentives such as flow-through shares or alternatively, by classifying all 'greenfields' exploration as research and development (R&D) and thereby enabling such exploration activity to qualify for the R&D Tax Concession.***

4.0 The Role of Governments

There is an important role for governments to play in relation to the reinvigoration of resources exploration investment throughout Australia. The Queensland Government has introduced a number of initiatives to enhance the State's attractiveness as an investment location, but the Commonwealth Government also needs to consider implementing measures which will complement and assist relevant State Government efforts in this area.

4.1 Land Access - Native Title

Lawful access to land for exploration and mining is a major Queensland Government priority. Since the introduction of the Commonwealth *Native Title Act 1993* (NTA), there has been a major decline in the number of mining and petroleum tenements being granted to explorers in Queensland. There is currently a significant backlog of applications for exploration tenements. Native title procedures must be followed to gain lawful access to the majority of mineralised land in Queensland. The negotiation processes required under the NTA have proved to be extremely slow, complex and

resource intensive. The newness and fluidity of native title case law has added a perception of further uncertainty for exploration investors.

Since the introduction of Queensland's Alternative State Provisions (ASPs) in September 2000, there has been progress in reducing the exploration tenement backlog, as the ASPs allow for a simpler process to be applied in the case of low-impact exploration. However, on 8 February 2002, Justice Wilcox of the Federal Court brought down his decision on the application by the Central Queensland Land Council for a judicial review of the decision by the Commonwealth Attorney-General to approve Queensland's ASPs.

Queensland's 119 low-impact exploration permits and 2 low-impact mineral development licences granted over native title affected land under the ASPs since 18 September 2000 were found to be valid. However, Justice Wilcox found that the Commonwealth Attorney-General's Determinations under section 43 of the NTA relating to high-impact exploration permits and mining tenements were invalid on technical grounds.

The content of Queensland's ASPs remains intact. It was the Commonwealth's process of making the section 43 Determinations that was flawed. The Queensland Premier, the Honourable Peter Beattie MP, wrote to the Commonwealth Attorney-General on 8 February 2002 and again on 25 June 2002, requesting that the section 43 Determinations for Queensland's ASPs be remade. The Attorney-General has rejected the Premier's request.

The Queensland and Federal Governments have appealed Justice Wilcox's decision in relation to the section 43 Determination to the Full Federal Court. The Central Queensland Land Council has cross-appealed the decision in relation to the low-impact ASPs. The hearing of the appeals in the Full Federal Court has been set down for 26-27 August 2002. A judgement may be expected by December 2002.

Industry and the Queensland Government are concerned that grants of high-impact exploration permits and mining tenements are at a standstill. The Government is considering options to resume grants as soon as possible.

The Queensland Government is promoting the use of Indigenous Land Use Agreements (ILUAs) as a flexible alternative to the ASPs. The Queensland Premier and the Chair of the Queensland Indigenous Working Group launched the State-wide model ILUA in October 2001. The State-wide model ILUA sets out the framework for ILUAs between the State and individual native title groups. Individual ILUAs to enable the grant of about 150 exploration permits have been authorised by the relevant native title groups and agreements are being prepared. Explorers with applications in those areas which are covered by an ILUA will be able to opt-in to the agreements and grants can then be made. Explorers will be committing to an on-the-ground, step-by-step process which provides certainty within the framework of the ILUA.

The success of the ILUA process is also evidenced by the Kalkadoon ILUA which covers an area in the State's north-west. The State, an explorer's reference group and the Kalkadoon Steering Committee negotiated the Kalkadoon ILUA, which provides

a mechanism for the grant of 58 exploration permits for minerals within the Kalkadoon native title claim. Other prominent north-west Queensland aboriginal groups have commenced negotiation of a similar ILUA in their native title claim areas.

The Queensland Government is also facilitating ILUAs between small miners and native title parties in western, central and north Queensland mining areas. The first of these to be registered is the Winton ILUA for opal miners, which enables the grant of over 100 exploration permits in the backlog.

The Queensland Government is hopeful that the State-wide agreement, together with the Kalkadoon exploration ILUA and other ILUAs will provide the basis for eliminating Queensland's exploration and mining tenement application backlog by the end of 2003. The Queensland Government's commitment to reducing this backlog of applications also includes the recruitment of additional staff and the streamlining of tenement processes.

However, the success of ILUAs depends on the willingness and resources of native title groups and industry. The remaking of the section 43 Determinations or the introduction of the Commonwealth Right to Negotiate (RTN) procedure is necessary to re-establish rigorous processes as an alternative to ILUAs, particularly to progress new applications to grant.

The level of Commonwealth Government funding provided to Representative Aboriginal and Torres Strait Islander Bodies (Land Councils) for the implementation of 'future acts' under the NTA is of concern to the Queensland Government.

Land Councils primarily focus on the progress of native title claim determinations. However, any financial benefits which may accrue to indigenous stakeholders are likely to come from the results of negotiations for 'future acts' ie. dealings or actions which affect native title, particularly mining activities. Currently, Land Councils do not have the financial resources to fund indigenous stakeholders' attendance at meetings to undertake mining-related negotiations. Similarly, small miners, including medium-sized companies, do not have the financial resources to pay travel allowances to indigenous stakeholders. As a result, important meetings cannot be held and applicable mining tenements cannot be granted.

The Queensland Government spent almost \$1 million in 2001-02 on developing and implementing ILUAs for backlog exploration permits. This includes costs involved with meetings with native title parties and funding for positions in native title representative bodies to assist with the implementation of ILUAs.

The Queensland Government has made great progress in building sound working relationships with native title representative bodies in recent years. It is recognised that 'future act' dealings require significant resource commitments by native title representative bodies and often, they are not funded adequately to deal with these additional obligations.

A recommended solution is for native title representative bodies to receive additional funding from the Federal Government for ‘future act’ negotiations and related processes.

Commonwealth and State officials have identified technical deficiencies in the NTA, which, if rectified, would significantly streamline processes for access to land for exploration and mining. It is recommended that the Amendment Bill that was drafted late in 2001 should be introduced into the Federal Parliament as soon as possible.

Recommendation

- 2. That the Commonwealth Government rectify identified deficiencies in the Native Title Act 1993 by introducing into Parliament as soon as possible, the Amendment Bill that was prepared in 2001.***
- 3. That the Commonwealth Government provide increased funding to Representative Aboriginal and Torres Strait Islander Bodies (Land Councils) established under the Native Title Act 1993 for ‘future act’ negotiations and related processes.***

4.2 Public Provision of Geoscientific Data

The Queensland Government through its Department of Natural Resources and Mines provides funding for a range of geoscience related initiatives. For example, the Government recently announced in its 2002-2003 State Budget, additional funding of \$9.2 million over four years to attract exploration by providing greater access to land through streamlined native title processes, including the roll-out of the State-wide model Indigenous Land Use Agreement. The allocation will also be used to:

- improve geoscience data and information collection using the latest technology;
- revise geological maps in key prospective areas; and
- improve access to key exploration data over the internet.

Commercial imperatives dictate that modern exploration demands instant online access to comprehensive and up to date geoscientific datasets as an essential component in the targeting of prospective areas. Experience in Queensland and elsewhere confirms that provision of new regional geoscientific datasets can have a significant positive impact on exploration investment, particularly in the early, high-risk stage of the exploration process. In effect, this type of information reduces an explorer’s investment risk. Long-term collaboration between the States and the Commonwealth has developed a relatively uniform geoscientific database over the whole country, comprising geology, mineral and petroleum deposits, geochemistry, gravity, and airborne magnetic and radiometric data.

The rate of mineral discoveries in Australia, and particularly in Queensland, has slowed significantly over the last decade, which partially reflects the increased difficulty of finding concealed and buried mineral deposits. The provision of new generation, regional geoscientific datasets produced by the application of the latest

technology to areas under cover, is essential to attract and assist exploration investment in the future. Currently these technologies include:

- deep seismic profiling;
- high resolution electromagnetic (EM) surveys; and
- airborne gravity.

The importance of regional geoscientific datasets to the exploration industry has been recognised by the States, which have expended and committed in excess of \$270 million of additional funding to major data acquisition programs over the period 1992-2005. A significant portion of this investment has been devoted to the capture of semi-detailed airborne magnetic and radiometric data, which is crucial to the exploration industry.

In contrast, the focus of the Commonwealth geological survey, Geoscience Australia, has moved away from onshore mineral and petroleum exploration during this period. Collaborative projects are carried out by the States and the Commonwealth under the National Geoscience Agreement, but currently only three joint projects are operating throughout Australia, with a very restricted geographic distribution. There are no joint projects in operation or under consideration in Queensland.

The provision of 'essential' new generation geoscientific datasets, will require the establishment of a new national program with a substantial financial contribution from the Commonwealth Government. The success of previous programs of this type is clearly demonstrated by the earlier joint State-Commonwealth program of 1:250 000 scale geological mapping of Queensland, which provided the regional coverage used in the initial development of the immense coal resources of the Bowen Basin.

Another necessary element to attracting exploration investment is the establishment of sophisticated information systems to provide instant data delivery and customised products to the exploration industry. Instant access to geoscientific data is now considered to be just as important as data acquisition and compilation. Continued co-operation and collaboration between the States and the Commonwealth in such geoscience programs is essential to develop and maintain uniform data management standards.

Recommendation

4. That Government funding be increased to establish a new national geoscience program, and greater collaboration between State Governments and the Commonwealth Government to provide 'essential' new generation geoscientific datasets and to develop and maintain uniform data management standards.

4.3 Commonwealth–State Jurisdictional Issues

In a competitive global economy, a commercial advantage may be gained by ensuring regulatory consistency between Federal, State or provincial jurisdictions in a particular country. There is considerable disparity between State-based resources

industry regulatory regimes within Australia. This regulatory inconsistency between jurisdictions causes inefficiencies and increases the business costs of an investor. The Ministerial Council on Mineral and Petroleum Resources is considered by the Queensland Government to be the appropriate body to address these issues, albeit over a longer timeframe than other measures discussed above.

The Ministerial Council on Mineral and Petroleum Resources (MCMPR) was established by the Council of Australian Governments in June 2001 to subsume the minerals and upstream petroleum component of the former Australian and New Zealand Minerals and Energy Council (ANZMEC).

The MCMPR consists of the Commonwealth Minister for Industry, Tourism and Resources and State and Territory Ministers with responsibility for minerals and petroleum. The New Zealand Minister of Energy and the Papua New Guinean Minister for Mining and the Minister for Petroleum and Energy have observer status. The MCMPR's objectives include:

- progressing constructive and compatible changes to the basic legislative and policy framework for the sustainable development of minerals and petroleum resources, including influencing the direction of climate change response measures;
- facilitating economically competitive development of the minerals and petroleum industries;
- improving co-ordination and, where appropriate, the consistency of policy regimes;
- encouraging new and expanded investment in competitive minerals and petroleum development opportunities; and
- providing an opportunity for information and policy exchange.

The former ANZMEC forum enabled the Commonwealth and States to work together to improve or provide regulatory consistency between Federal and State jurisdictions. For example, under the Offshore Constitutional Settlement of 1979 (OCS), the Commonwealth and States agreed that, as far as practicable a common offshore mining regime should apply in Commonwealth and State waters. State offshore waters extend three nautical miles from Australia's territorial sea baseline (generally the coastline), and Commonwealth waters lie beyond the three nautical mile limit.

The Commonwealth enacted its offshore legislation through its *Offshore Minerals Act 1994*. Under the auspices of the former ANZMEC, a 'model' Bill to apply in State waters was developed by the Western Australian Government in consultation with Parliamentary Counsels in other States, including Queensland. In accordance with the OCS, Western Australia's 'model' Bill mirrored the Commonwealth legislation. This was to ensure that exploration and mining proposals in Commonwealth and State waters receive consistent treatment, which is particularly important if projects straddle both jurisdictions.

Western Australia's 'model' Bill provided the basis for the development of Queensland's mirror legislation, the *Offshore Minerals Act 1998*. Queensland was the first State to enact its offshore minerals legislation and other States have since followed.

Other issues which have been considered by the former ANZMEC, and now the MCMPR, include occupational health and safety, diving safety (offshore), environmental and native title issues, minerals statistics and geodetic datum (GDA 94).

In the early 1990s, the ANZMEC subcommittee on Onshore Minerals Legislation was active in identifying the possible scope for greater consistency in Australian onshore mining legislation. The impetus was lost following the introduction of the NTA and the subsequent adoption of different procedural responses by the States. The former Minerals Legislation Working Group continued this review, amongst other activities. The Queensland Government view is that there is still scope for increased consistency to assist industry clients who operate across the nation and internationally. It is recommended that the working group be re-convened formally under the MCMPR for this purpose.

Similar to the Queensland Government's position on continued co-operation and collaboration between the States and the Commonwealth in relation to the public provision of geoscientific data, there is a very important role for all jurisdictions to play through the MCMPR in, amongst other things, establishing greater regulatory consistency between Federal and State jurisdictions within Australia.

There is also scope for greater consistency between Federal and State jurisdictions in aspects of Commonwealth indigenous cultural heritage and reducing potential duplication in environmental assessment requirements.

The *Aboriginal and Torres Strait Islander Heritage Protection Bill 1998* was passed by the House of Representatives in February 1999. In November 1999, the Senate passed a large number of amendments to the Bill, most of which were unacceptable to the Government. In December 1999, the House of Representatives rejected all but a few of the amendments made by the Senate. Senator Hill then commenced negotiations with the Opposition parties, with a view to reaching agreement on amendments that would ensure the passage of the Bill through the Senate. The States and key stakeholder groups were consulted on proposed amendments to the Bill.

The outcome of the negotiations and consultation with stakeholders, and the way in which these are now reflected in the Bill, are uncertain. However, the following key principles remain important to the State. The Bill should provide that the Commonwealth Act would become a true avenue of last resort and provide for Commonwealth accreditation of State regimes for indigenous heritage protection, according to a set of national standards. Where the Commonwealth accredits a State regime, access to the Commonwealth Act would be subject to a 'national interest' test. The Bill should clarify the respective roles of the Commonwealth and the States and ensure that duplication and overlap are diminished and that nationally significant areas can be protected.

In the context of reducing potential Federal-State duplication in environmental requirements, the Commonwealth and the State of Queensland are negotiating a Bilateral Agreement under the *Commonwealth Environmental Protection and Biodiversity Conservation Act*. The intent of the agreement is to accredit Queensland

environmental assessment processes so that environmental assessment is not duplicated by the Commonwealth and the State.

Recommendation

- 5. That the Commonwealth, through its role on the Ministerial Council on Mineral and Petroleum Resources, actively pursue, in collaboration with State Governments, greater regulatory consistency between Federal and State jurisdictions within Australia.***