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Submission

to the Inquiry into

Resources Exploration Impediments

(Chaired by the Honourable Geoff Prosser MP)

A Submission by

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Submitted to: The Secretary
House of Representives
Standing Committee on Industry and Resources
Parliament House
CANBERRA
ACT 2600

Date: 18 July 2002

Signed by G.M.Derrick .....
18 July 2002

Submission

on

"Impediments to Investment in Mineral and Petroleum Exploration in Australia"

1. Introduction and Focus of this Submission

These brief notes update a previous submission made by me on 7 January 2000 to the Commonwealth Attorney General. The subject of this earlier submission was the impact of the Native Title Act on mineral exploration in Queensland, and this remains the main focus of this brief submission.

It is now clearly established (but not fully understood by politicians and the general public) that mineral exploration in Queensland is in a parlous state. It is with a sense of both melancholy and anger that I report that, since January 2000, absolutely nothing has changed in regard to Native Title and mineral exploration in Queensland. Figure 1 and Figure 2, drawn in 1999, merely serve to emphasise this point once again.

This submission, therefore, presents my earlier submission in its entirety.. It only remains for me to provide an update for the Prosser Standing Committee.

2. My Philosophy regarding Native Title and Exploration

I have a long-standing philosophy, which declares:

a. that Native Title is a fact of life and should be readily recognised and appreciated by explorers;

b. that the mineral exploration industry, from which mining development may flow, is arguably the most important industry of all in its capacity (actual and potential) to assist Aboriginal people, individually and as communities, to levels of economic independence and social betterment which other Australians take for granted as their birthright;

c. that mineral exploration should be actively encouraged by those concerned with the Native Title Act and its operation; in fact, and in practice, just the opposite has occurred, to the extent that the mineral exploration industry has been slowly strangled by cumbersome Federal and State bureaucracies, elements of the legal profession and opportunistic elements within the Native Title industry, who view mining companies as antagonists rather than as allies.

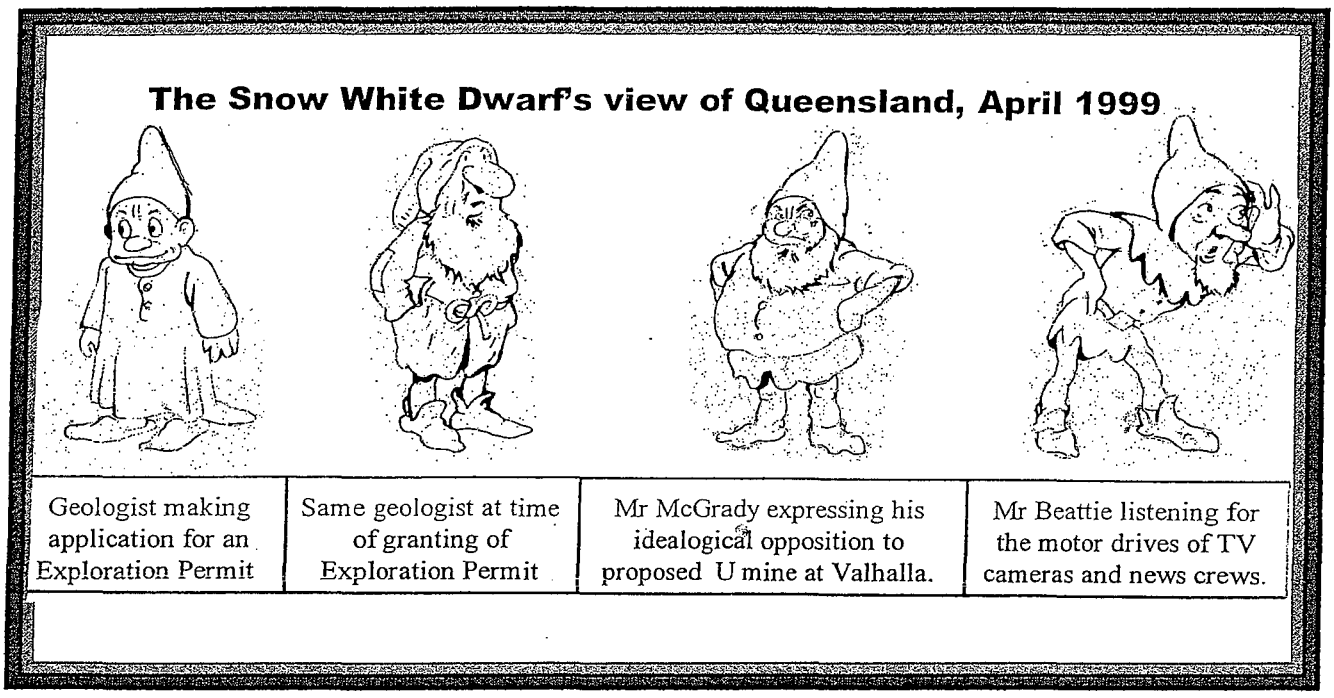
3. Reasons for the Decline in Mineral Exploration

These are many, but in order of importance, I make the following ranking:

a. In Queensland, a total lack of granting of exploration title by the State Mines Department since about December 1996. This drastic action

Figure 1

Snow White and Dwarfs in Queensland



OHP 3
Script notes:

Away from George Street, the view of the mineral exploration industry towards recent events is not a sanguine one.

The 'Snow White' view of events is triggered by:

a. **A huge backlog in the granting of exploration permits (EPM) in Queensland.**

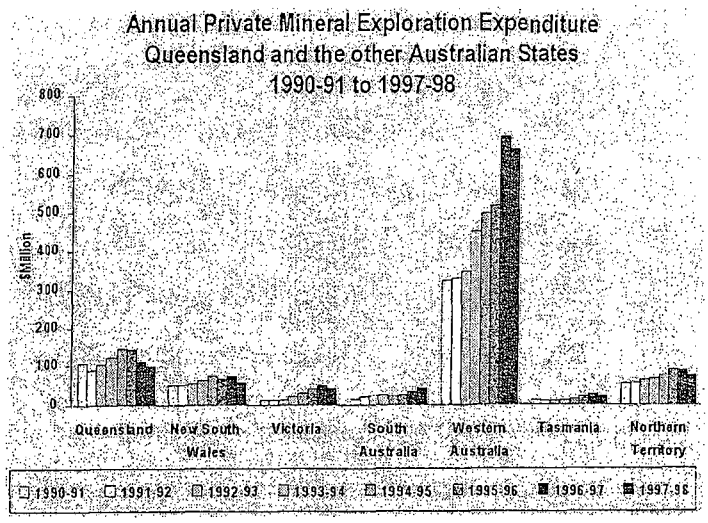
b. **The effective veto by the State Government on any uranium exploration and development in Queensland.**

c. **Mr Beattie declaring publicly in June 1999 that *"We have fixed Native Title"***

Figure 2

The State of Exploration in Queensland

The State of Exploration in Queensland



- **3 successive years of declining expenditure on mineral exploration**
- **+1100 EPM applications on hold due to Native Title implications**
- **Some Elizabeth Creek EPMs applied for Oct. 1996**

OHP 4:
Script Notes:

Exploration in Queensland, especially northwest Queensland, is moribund.

Little or no capacity for exploration is a major reason for current "restructuring" and "destaffing" in many major and junior mining/exploration companies. Skills and experience are being lost to the industry, and many geoscientists will not return this time.

Exploration is the engine room of discovery; without it there can be no new discoveries, except by acquisition. Unlike Olympic Dam (+100 year minelife), Ernest Henry, Century and Cannington are 'only' 20 year minelife projects. Continued access to land for exploration is an imperative for the nation. Currently a high proportion of available exploration funds are being spent overseas.

resulted directly from the application of the Native Title Act, and the inherent inability of the bureaucracy in Queensland to overcome the complexities of the Act.

b. With no ground being made available for exploration, companies both national and international rightly took the view that investment in Queensland was unjustified until such time as the issue of both Native and exploration title was sorted out.

c. A decline in metal prices (copper, lead, zinc) worldwide.

d. Inability of junior exploration companies to raise exploration finance because of a, b and c above.

e. Since 2000, a trend towards amalgamation of companies, resulting in lesser exploration budgets and a rationalising of exploration staff in the amalgamated groups.

4. My Personal Experiences since 2000

I live and breathe geology; I am creative, well regarded by my peers and by clients generally; I am well read and keep up to date with my science. However, I have had no meaningful consulting work for the past two years, and I have been endeavouring to find other work outside of geology and exploration. I manage a small secretarial/office services business, and while this provides me with office space and access to technology, my net income for the past three years has been below the tax-free threshold of $6,000 p.a. Many colleagues report a similar situation, and have been lost to the exploration industry – hundreds of man years of exploration experience are now applied to the plantation seedling industry, teaching, food import-export businesses and house-washing, to name but four vocations now being practised by former geological colleagues of mine.

Those who are surviving tend not to be doing it in mineral exploration; some colleagues have reinvented themselves as, for example, coal and petroleum geologists. The coal industry, unlike the minerals industry, is enjoying less impediment from Native Title matters, and better world markets.

5. The Current Situation in Queensland

There has been no major mineral discovery in Queensland since 1990, and certainly none since 1996 and the introduction of Native Title. Explorers have good reason to be both cynical and outraged that the original intent of the Native Title legislation as introduced by Paul Keating was thwarted and emasculated by various forces and events.

Figure 3 indicates the original intent of the legislation as regards prospecting and exploration, as noted by Paul Keating in 1993.

My previous submission of January 2000 (see Appendix attached) still makes valid reading for the present. Figure 4, from *The Courier Mail* of 17 July 2002,

Figure 3

The way it should have been

The Way it Should Have Been

The time frames set for notification, negotiation and arbitration are tight but fair. Provision is made for expedited processes where a particular grant would not involve major disturbance to land or interference with the life of Aboriginal communities. Moreover, classes of grant can be excluded from the negotiation process altogether where they would have minimal effect on any native title.

Certain prospecting and exploration permits would be likely to fall within this category.

Paul Keating 16 November 1993
2nd reading speech, Native Title bill

OHP 14

The original spirit of the Native title Act is long forgotten it seems. The NTA was never intended to impact so negatively on the exploration process.

The mining industry is still facing interminable delays before the revised Qld Native Title act becomes operative. This bill prepared by the State Government refers to high and low impact exploration, definitions of which need to be discussed and clarified. (e.g. "high impact exploration" is defined as "anything which is not "low impact exploration").

Claimant groups must be made aware of the difference between EXPLORATION and MINING. There may be expectations (fuelled by the Century experiences) on the part of claimant groups to place unrealistic demands on exploration, believing wrongly that resources have already been found, and that exploration means that one has only to "dig it up" and share the proceeds.

Barely one EPM in 1000 may turn out to contain any semblance of an economic resource.

Bid to simplify mining permits

17/07/02

Chris Jones

THE State Government is considering changing its native title laws following mining industry concerns about the system slowing mineral exploration and extraction.

Mines Minister Stephen Robertson yesterday revealed he was considering directing mining companies to bypass state provisions and use federal legislation to access high-impact exploration and mining leases.

Mr Robertson told a parliamentary estimates committee hearing his department was reviewing a formal Queensland Mining Council submission, which canvassed the plan as one of a number of options to streamline the process.

He conceded there was "a level of frustration" within the industry regarding the current process of obtaining leases, but blamed amendments to the state provisions forced by the Senate.

"We remain flexible in terms of what is in the best interests of the mining industry and indigenous communities in this state," Mr Robertson said in answer to Opposition mines spokesman Jeff Seeney.

"If there is something that is more workable ... we obviously have a responsibility to give that serious consideration."

In amendments to the state's native title regime in 2000, Aborigines were granted the right to negotiate on mining leases and high-impact exploration but not low-impact exploration – a power they already had under the Commonwealth Act.

The Senate later passed laws requiring that special access agreements to be negotiated with indigenous people before any leases were granted.

But the state laws were later ruled invalid by the Federal Court – a ruling which is currently being appealed.

The Federal Court ruling has delayed some high-impact applications, but low-impact exploration permits and grants over non-native title land have not been affected.

Almost 200 of the 693 applications for exploration permits made since the State regime came into force have been granted.

A further 90 have been fully processed and 136 were abandoned or rejected.

But only two of the almost 150 applications for high-impact exploration have been granted.

Queensland Mining Council chief executive Michael Pinnock last night welcomed the State Government review, saying the industry wanted to investigate whether it was possible to streamline the process.

He said industry representatives would meet with Mr Robertson next week.

Mr Seeney said it was now clear that alternative state agreements had failed to get mining exploration moving in Queensland.

"The mining industry would be far better off under the provisions of the Federal Government's native title legislation," he said. "While exploration is now picking up in other states, Queensland is slipping further backwards."

Figure 4

News Item, Courier Mail 17 July 2002

July 17, 2002

er to learning

Matthew Fynes-Clinton
EDUCATION REPORTER

BAUXITE mining giant Comalco has pledged to give a job to every indigenous western Cape York student who completes at least Year 10.

In a region where some children only attend school one day every two weeks, the scheme is seen as a significant catalyst for change.

"This is not pie in the sky," Comalco CEO Sam Walsh said yesterday.

"The scheme's aimed at putting students through an 18-month traineeship, which will them give them guaranteed employment.

"They could end up working as truck drivers, plant operators, right up to superintendent or even general manager."

The impetus for the deal was the Western Cape Communities Co-existence Agreement, signed in March last year between Comalco Aluminium Ltd, the Aboriginal traditional owners of western Cape York Peninsula — such as the Wik people — and the State Government.

Comalco vowed to lift its employment of local indigenous people from 8 per cent to 35 per cent by 2010.

Weipa traditional landowner Jackie Madua yesterday explained the sorry educational outcomes that had once afflicted her people.

"When I went to school, even our children who were eagles and could soar and learn quickly ... they were not recognised," she told hundreds of students and an official party including Education Minister Anna Bligh.

"They had to fly around in circles until they had to leave and land somewhere else. Some collapsed from exhaustion and are still collapsed today."

In term four last year at Aurukun, 205km south of Weipa, Year 2 school attendance was 9.63 per cent.

In other words, each enrolled child turned up for class an average of about a day every two weeks.

"The figures are startling — horrendous," said Don Anderson, principal of the new Western Cape College.

Western Cape College, which began this year, is an amalgamation of four schools: the former Weipa pre-school to Year 12 school, Napranum primary (10 minutes away), Aurukun primary-Year 10 and Mapoon primary (85km north of Weipa).

The college has become in effect, a pre-school-Year 12 facility with four campuses.

Ms Bligh says the idea of the college was to provide consistent curriculum, assessment and management across the sites — leading to improved daily attendance rates and Year 10-12 retention.

School hostel facilities will be expanded to further encourage students from outlying campuses to come into Weipa and finish junior and/or senior.

Ms Madua hopes that with the college, today's eagles will have "a place to land where they will be recognised."

Figure 5

News Item, Courier Mail 17 July 2002

shows how little we have progressed since January 2000, and how our Queensland Mines Minister is slowly realising how parlous the situation really is, and what a debacle his own department has presided over these past few years.

No doubt the present government will say that it has progressed well and made things fairer and more streamlined for the exploration industry, but that belies the fact that the part of exploration which finds orebodies, drilling and the like, are classified as high impact exploration, and that classification introduces a whole additional regime of compliance, delays, high proscribed costs and rampant obstructionism and bureaucracy. it would be best for the inquiry to speak to those intimately involved in the permitting process to find out their personal experiences on this matter, but my discussion with a few explorers reveal that it is still an impediment to efficient exploration.

Figure 5, also from *The Courier Mail* of 17 July 2002, reflects one of my philosophical points made earlier – that a healthy, vibrant mining industry that is encouraged to invest and explore is the best thing that Aboriginal people, and the rest of Australia, have going for them. Comalco, the subject of this news item, is set to join with the likes of Pasminco at the world's second largest zinc mine at Century, near Lawn Hill, north of Mount Isa. This latter mine, discovered in 1990 and producing since 1999, employs many Aboriginal people in full-time work, offers trade training and apprenticeships, education scholarships and millions of dollars of funding to local community facilities in the Lawn Hill-Burketown region.

This is how it should be, but the chances of repeating this situation in the near future have been seriously diminished by the events of the past six years especially. I can only repeat the conclusion of my earlier submission – that low-impact exploration will NEVER find an orebody, and it is only by facilitating access to ground, extensive drilling and the application of new geophysical techniques that new discoveries will be made. Unfortunately, the current application of the Native Title legislation classifies these matters as belonging to "high impact" exploration, and as such attracts significant delays and costs, which are still proving a frustration to many. The exploration industry has been badly served by its political and bureaucratic masters, especially in Queensland, and it is time that the whole sorry mess be sorted out and be made workable.

I recommend this submission, and its important APPENDIX, to you.

G.M.Derrick

18 July 2002

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Appendix 1

Copy of Submission by G.M.Derrick

dated 7 January 2000 regarding the

Native title (Qld) State Provisions Amendment Bill 1999

SUBMISSION

Regarding

NATIVE TITLE (QLD) STATE PROVISIONS AMENDMENT BILL 1999.

And

Approved Exploration etc Acts - Qld: Low Impact Exploration Permits.

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Submitted to: **The Honourable Daryl Williams AM QC MP**
Attorney General
Parliament House
CANBERRA ACT 2600

Date: **7 January 2000**

Table of contents

1. INTRODUCTION

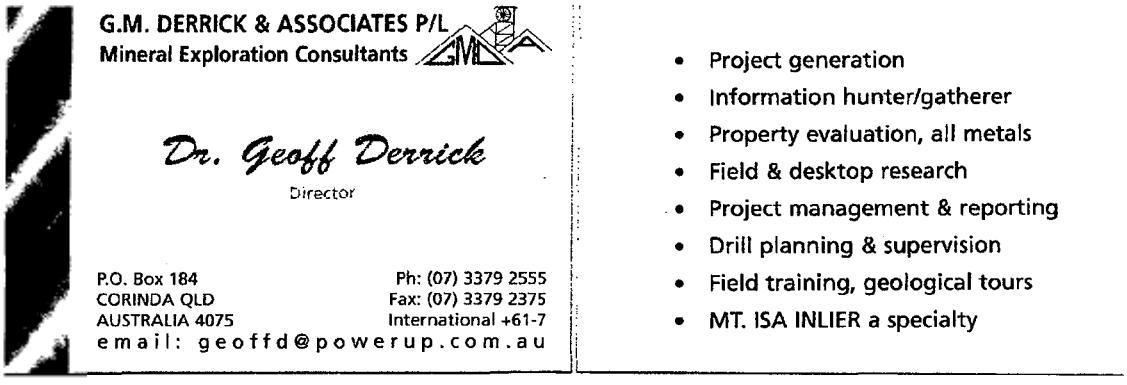
This Submission made by G.M. Derrick is in response to an advertisement placed in Brisbane's Courier Mail newspaper on 3 November 1999, inviting comment on certain aspects of the Native Title (Qld) State Provisions Amendment Act 1999, particularly those parts of the Amendment Act which impinge on Sections 26A, 26B and 43A of the Native Title Act. The most important part of the (proposed) amended act is the definition of low-impact exploration by Queensland legislators, and the various ramifications this legislation may have on future mineral exploration in Queensland.

The text definition of 'low impact exploration' and 'high impact exploration' (Section 482 of the Amendment Act 1999) is included here as Appendix 1, together with the relevant proposed procedural pathways.

2. PROFILE OF G.M. DERRICK

I make this submission as a highly experienced and respected consultant geologist to the mineral exploration industry. I have 36 years geological experience, including 20 years specifically within the exploration industry, and in this time I have experienced no downturn in exploration as severe as at the present time. My **gross** invoiced income for the period June to December 1999 was $8,161.00, and after deducting expenses incurred in generating that income my income has been effectively zero for this period.

My business card sets out details of my range of consulting activities. I also publish a newsletter to the industry ('The Stockex Report') issued 6 times per annum.



I believe my situation is moderately typical of literally hundreds of fellow geologists within the mineral exploration industry who are either unemployed or strongly underemployed at present. I stay within the industry because it is my livelihood and my passion, and because I have much still to offer in skills, insights and experience. Many of my compatriots however have decided to depart the industry permanently.

3: INDUSTRY DEPRESSION & ITS CAUSES

Many learned commentators attribute the current depressed state of the exploration industry to a range of issues, including the Asian economic crisis of 1998-99, a relative collapse of metal prices 1998-99, company restructuring favouring acquisition rather than discovery as a means of creating new mines, and Native Title. All of these have no doubt contributed to the present depressed situation, but Native Title issues are certainly the dominant reason in Queensland, and are the only ones which we, as Australians, are in a position to influence or moderate and resolve.

Exploration expenditure in Queensland has fallen for 3 consecutive years ($160 million to $90 million approx.), and continues to plummet. It is best described as totally moribund, manifested by a Mines Department that has failed to grant Exploration Permit (EP) applications since December 1996. I am personally aware of ungranted EP applications in Northwest Queensland dating back to October 1996. The Mines Department pleads "legal complexities related to Native Title" for this log-jam of ungranted EP applications, which currently total about 1500. Figures 1 and 2 graphically show the effects of Native Title legislation on the granting of Exploration Permits in Queensland from February 1996 (Fig.1) to February 1999 (Fig. 2). The latter clearly shows the vast decrease in granted EPs since 1996, and the accompanying huge increase in ungranted EPs.

The capacity for Native Title dealings to delay and frustrate exploration activity is simply illustrated in extracts below from September 1999 Quarterly Reports for two junior mining/exploration companies (Pegmont Mines NL, Marlborough Gold Mines N.L.). This scenario is repeated constantly throughout most current company exploration reporting.

> *"Although both Pegmont Mines NL and Reefway Pty Ltd have applied for a number of Exploration Permits for Minerals (EPM) since mid-1996, none have been granted because of Native title issues. It is understood that granting may commence sometime next year after appropriate Queensland State Government legislation has been passed. (Pegmont Mines, Sept. 99)*

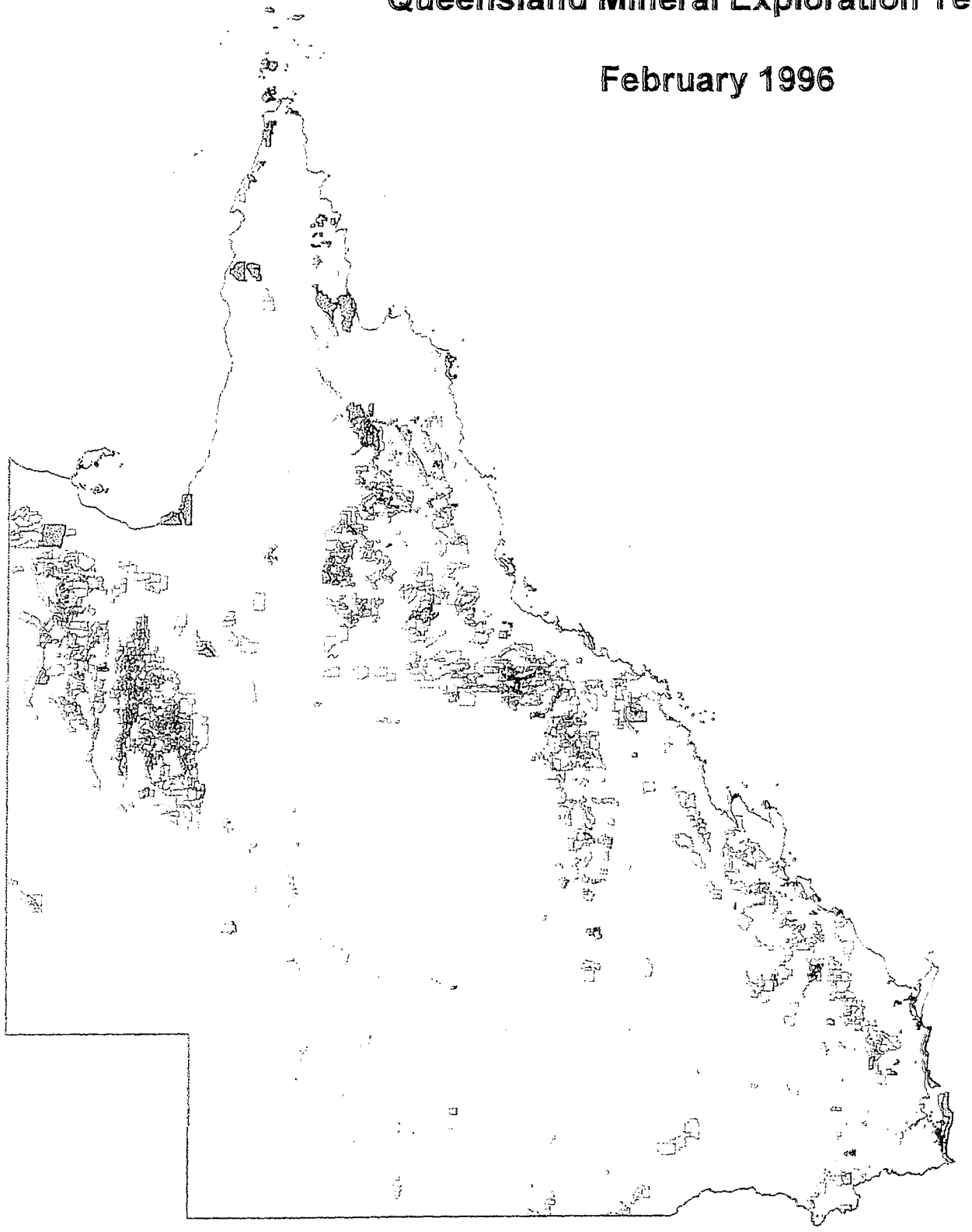
> *"2.5: CALLIOPE, BLACKWALL RANGE, LUCKY BREAK (Marlborough 100%)*
> *No work was performed in the quarter. Granting of these titles are subject to Native title issues and future work will be dependent on the satisfactory resolution of these issues. (Marlborough Gold, Sept. 99)*

A press release is shown below from Qld Mines Minister Tony McGrady dated 11 February 1999, relating to the granting of an exploration permit to WMC over the Elizabeth Creek project, one of Mr. McGrady's favourites in NW Queensland. Despite massive degrees of hype and promotion by Mr. McGrady regarding this project, there remains no public sign of any agreement between WMC and Title claimants, 12 months after grant.

This sort of time span is typical of the current permitting process, and its drawnout nature and inbuilt high costs is a strong disincentive to exploration, and is certainly a strong disincentive to investment in this country by overseas explorers. For their part, Australian explorers unsurprisingly have refocussed their available exploration funds to various overseas countries such as Chile, Peru and Argentina, parts of Africa, SE Asia and even Iran and Georgia.

Queensland Mineral Exploration Tenure

February 1996

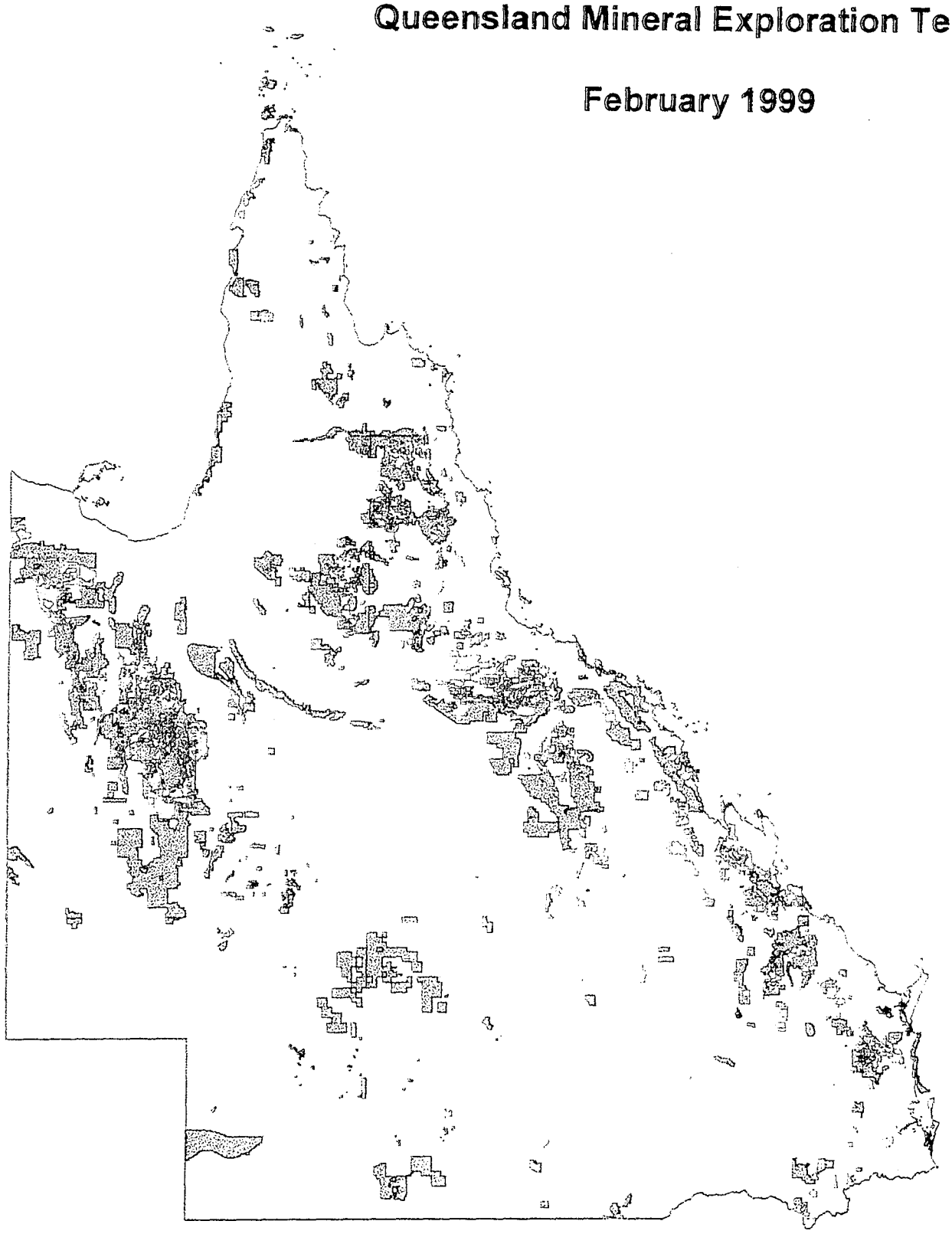


Exploration Permit for Minerals - GRANTED

Exploration Permit for Minerals - APPLICATION

Queensland Mineral Exploration Tenure

February 1999



Exploration Permit for Minerals - GRANTED

Exploration Permit for Minerals - APPLICATION

PRESS RELEASE: Tony McGrady 11 February 1999

"Search for zinc on in Gulf country"

Exploration is to begin for another potential zinc mine in Queensland's Gulf Country.

Mining Minister Tony McGrady says the Elizabeth Creek area contains a large zinc deposit and has similar features to the billion dollar Century zinc mine further to its south.

He says WMC has been granted a 12-month exploration permit that is subject to Native Title provisions.

"There will be some Native Title issues but I think we've all learnt a lot" he said. "But of course the new legislation which is now in Queensland will hopefully expedite that issue but in that part of the State there will be some Native title issues. But I am quite confident they can be addressed", Mr McGrady said.

The sort of predictions and hopes raised by Mr McGrady are nothing if not a fairy tale.

4. THE RELATION BETWEEN EXPLORATION & MINING

Federal and State economists are currently basking in the warm glow of increased receipts from the export of Australian minerals. Production from most of Australia's mines (gold, base metals, coal etc) is at strong levels, and in Queensland new mines such as Cannington (silver-lead-zinc) and Century (zinc-lead-silver) are, or will be, world-class operations. These and existing operations such as Ernest Henry (copper-gold) and Osborne (copper-gold) mines are products of successful exploration over the period 1988 to 1993. Significantly, nothing of significance has been found since, expect for some showings on the limited number of existing EPs which predate December 1996, and on which exploration is proceeding as normal. These operating mines have a finite life, currently 10 to 15 years or so from the present.

Exploration, as distinct from mine production, sows the seed for our future mines and our future wealth, and though they may not realise nor appreciate it, exploration also carries with it the hopes and aspirations of a new generation of Australians. Only one or two in a thousand exploration permits will ever reveal potential for a mine, and companies sink tens of millions of high risk dollars into exploration annually around the world in the hope that their skills and technology will produce a worthwhile discovery. The flow-on benefits of discovery and mine development to Australians, especially Aboriginal Australians, include such matters as royalties, employment, training, social and infrastructure benefits, apprenticeships, a degree of economic independence and better health, education and feelings of self-worth. **If one limits the opportunities for exploration and its discovery offspring, then one is severely limiting the future opportunities for significant portions of indigenous Australia.**

It is also unclear to me as to whether all claimant groups recognise, or are aware of, the fundamental difference between exploration and mine development. It is only the latter which can generate the wealth necessary to fund the social and career benefits noted above. The recently opened Century Zinc mine near Lawn Hill is a case in point, where amounts of up to $90 million have been made available by the State and by Pasminco to local indigenous communities. As zinc concentrate flows along the (buried) pipeline from Century to Karumba, the mayor of Carpentaria Shire, Mr. Bob Walker has declared that, with all of the various opportunities now available, Pasminco *"has given us, and our children, an assurance for the future"*. (Aust. 1.1.2000). Exploration has no such economic pie to share, and unrealistically high levels of compensation requested and occasionally demanded by claimants from explorers attempting to explore on greenfields terrain where no resource is known to exist are both unnecessary and unhelpful to the permitting process. In most states schedules of reasonable compensation payments exist for the pastoral leaseholder, based on agreed payments for each hole drilled or line cleared etc. Exploration offers some casual employment and training opportunities, but it remains essentially an entrée to the main course - that of discovery, investment and mine development and widespread wealth creation.

5. LOW & HIGH IMPACT EXPLORATION

In June 1999, Queensland Premier, Mr. Beattie announced that he and his Government *"had fixed Native Title"*. Subsequent events and delays to the present time suggest he has done nothing of the sort, and his amended legislation, the subject of this submission, carries no guarantee that it will restore confidence, purpose and renewed investment in exploration in Queensland.

The amended legislation introduces the concept of 'Low Impact (Exploration) Activity' (see Appendix 1) as being of great importance to the exploration industry insofar as it purports to allow only a 2 month period covering notification and consultation through to grant and without any objection process being available to claimant groups.

Admirable as this "streamlined" and consultative piece of amended legislation may appear, the bottom line is this: that under normal circumstances "NO MINEABLE RESOURCE WILL EVER BE FOUND UNDER THE LOW IMPACT EXPLORATION PROVISIONS."

This is a self-evident conclusion to serious explorers, but perhaps not to those in Government who drafted the legislation; this legislation allows SOME drilling ONLY along existing roads or tracks (see Appendix 1), and specifically EXCLUDES clearing for a road or track, the latter of course being generally required for serious exploration drilling.

This particular exclusion amounts to an almost complete emasculation of the low impact exploration process. It is only under the most fortuitous and serendipitous of circumstances that ore deposits may occur adjacent to existing tracks. Cannington lead-zinc-silver deposit was a case in point, at least in part, where some drilling took place initially beside the main McKinlay-Boulia Road; however, grading and clearing of other tracks soon became necessary, even on the treeless plains at Cannington; it is also not clear anyway whether the low-impact classification would include use of the larger size of "mobile drill rigs" used by BHP in their initial exploration at Cannington. (Note: All drill rigs are "mobile" - the definition in the Act is not clear as to whether there is a size restriction on rigs that may be used along existing tracks.)

In short, orebodies and their location and areas of exploration potential are determined by the distribution and vagaries of geology, not by the perceived smoothness of the landscape.

I repeat the assertion made above, that under normal circumstances NO MINEABLE RESOURCE WILL EVER BE FOUND UNDER THE LOW IMPACT PROVISIONS. Why, then, would exploration companies who are serious about their craft be attracted to the "Low Impact" route? For some companies it may at first glance offer an opportunity to commence exploration with a minimum of unnecessary wasted time and expense - initial "softshoe" exploration (items 482a, b, c, d and f, Appendix 1). Explorers would soon know whether drilling may be required, and at this point it is presumed that the explorer may withdraw from exploration, or else stop his exploration program and advise the claimants and the Mines Department that in order to drill, the high-impact exploration route must now be followed, with its

provision for the receipt of objections and a possible further 6 month period of negotiation and consultation with native title claimants. (See Appendix 1). Suddenly the gloss of quick and inexpensive access to land has disappeared, as the high-impact exploration route could provide ample opportunity for some or all native title claimants, should they so desire, to delay significantly the exploration process and to extract "economic rent" (ie. objections could be withdrawn for the payment of some monetary sum) from the explorer, despite no resource having yet been identified.

Explorers may be tempted to circumvent to some degree this major and costly interruption to their work by firstly entering a low impact exploration agreement, and immediately (within days or weeks?) applying for high-impact exploration status. So far as can be determined, it is envisaged in this scenario that low-impact exploration could be conducted while the negotiation/consultation process inherent in high-impact exploration status proceeds.

Given the enormous backlog of permit applications, it is highly likely that claimant groups and organisations such as the Queensland Indigenous Working Group and various Land Councils around Queensland will not be able to cope with requests/requirements to enter into various consultations according to the Amended Act, as and when it is passed. The time schedules indicated in Appendix 1 ie. 2 months - Low impact; 6 months - High impact - are unlikely to be achieved, at least in the short term ie. possibly to the end of this current year, or even beyond.

6. A SIMPLE SOLUTION: - ALLOW CLEARING OF ACCESS TRACKS AND DRILLING AS LOW IMPACT EXPLORATION

It is my belief that a vibrant and active exploration industry, acting responsibly within industry-government formulated guidelines, is the engine room for discovery; in turn the discovery of mineable resources then becomes the catalyst for major regional development, wealth creation and economic opportunities and advancement for many Australians who by choice or circumstance live and work in the more remote parts of Australia.

Superficially the low-impact exploration process is attractive because of the maximum two month period prescribed for notification and consultation between parties. It may be **unattractive** to serious explorers because clearing for access tracks is not allowed under low-impact activity, which consequently effectively rules out any serious exploration drilling under most circumstances. (No one is yet able to tell me whether pastoral lease holders can clear an access track to a bore or yard under the same limitations as proposed for explorers). Since drilling is an essential component of the resource discovery process, it follows that low impact exploration as it is currently defined will never result in discovery of a mineral resource.

Under the Amended Act, any explorer wishing to drill using new access tracks must do so under high impact exploration terms, which appears to be unattractive to many explorers, particularly junior explorers, because the process could interrupt the flow of exploration and has built-in mechanisms to add significantly to an explorer's costs - processes of objection, extended consultations, cancelled meetings and continued rescheduling, cultural heritage clearances and all the abuses of the system that this item has engendered in the past, and simply the passage of time spent not exploring while still supporting one's administrative base. Other mining industry groups have calculated that non-exploration costs involved in the high-impact process could exceed $100,000 - money which many companies believe would be better spent directly on the exploration process.

"Clearing" and "drilling" may be emotive words to some, but "clearing" in the context of access tracks involves far less impact on the environment than for example, widening of shire roads, large scrapings of many hectares set aside for storage of road metal, the building of fences on properties and construction of firebreaks along either side of the fencelines. Access tracks to allow drilling activity need only be 3m wide or so and are NOT major bush highways. If vegetation clearing is a problem (under the proposed clearing legislation recently introduced by the Beattie government), there are many cases where access tracks CAN be constructed around and between timbered areas. In many areas the timber is also liable to be regrowth timber and not pristine forest. At the completion of drilling, if no further work is warranted, it has been my experience that temporary tracks quickly return to nature, with the rapid regrowth of trees and saplings and growth of grass, scrub and anthills. Any local areas of the new access track liable to promote water erosion can be readily reshaped to avoid this consequence.

"Drilling" requires a cleared area the size of one or two average lounge rooms, depending on numbers of small support vehicles; drillholes themselves are capped,

sites are tidied, and any sample residues quickly blend with existing soils and vegetation.

In other words, the exploration industry believes it can responsibly construct access tracks for drilling with no significant impact in most exploration locations i.e. as a part of "low-impact activity".

My **SUBMISSION & RECOMMENDATION** is therefore that Section 482e be changed as follows:-

EXISTING:

482.... Low impact activity means

e. drilling and activities associated with drilling that

(i) do not include clearing or site excavation, other than the minimum necessary to establish a drill pad for a mobile rig; and
(ii) do not include clearing for a road or track.

REVISED TO:

482....Low impact activity means

e. drilling and activities associated with drilling that

(i) **includes** the minimum necessary clearing for access roads and tracks, and
(ii) **includes** minimum necessary clearing on site excavation to establish drill pads for standard exploration drill rigs, and
(iii) **includes** track and site cleanup, and rehabilitation as per current agreed government and industry standards.

With this simple change the exploration industry can see a permitting process that offers a 2 month period from application to granting, and a vision of seamless exploration, including drilling, up to a point where either no further exploration can be justified, or where higher impact activities may become necessary. In this submission I do not debate in depth where this point may be defined for purposes of the Act, which is absolutely vacuous on this point since it currently defines "high impact activity" as "activities that are not limited to low impact activities" (see Appendix 1). Some suggested changeover points from low to high impact activity may be when drilling density and frequency is being conducted for resource definition, or when more than one or two drillrigs are required onsite, or when percussion metres drilled exceed 3000 metres, or when diamond drilling metres exceed 2000 metres say, or when a certain number of holes are drilled regardless of metres. Explorers working at this level of activity could be expected to be thinking about the question of whether mining lease applications could be required in due course on the exploration permit.

7. SUMMARY

7:1 Throughout Australia, but particularly in Queensland, mineral exploration is in a significantly depressed state, with over 1500 ungranted permit applications in the Qld Mines Dept alone, hundreds of unemployed and underemployed geologists, and an excess of idle drill rigs around the nation. Gridlock reigns supreme.

7:2 Current buoyant returns from mineral exports are a direct result of exploration success in many areas, but especially NW Queensland, over a decade ago. These mines have a finite life span and a vibrant and progressive exploration industry is required now to locate deposits for our future needs and economic growth.

7:3 Economic and social advancement opportunities for Aboriginal communities are firmly and positively linked to mining developments such as the Century Zinc project in NW Qld; such progress has been made only because of a past successful exploration industry, and it is in the direct interest of Aboriginal groups and country towns and settlements generally, that exploration be encouraged and fostered.

7:4 The exploration industry embraces and acknowledges the rights of all stakeholders (Native Title, Pastoralist), and welcomes a streamlined and consultative permitting process in order to gain co-operative access to land for exploration purposes.

7:5 The Queensland Native Title Amendment Act was prepared by the State Government with limited input from experienced explorationists; it proposes, amongst many clauses, that exploration activity be divided into low impact activity and high impact activity. The former involves a maximum two month process of consultation between applicants and claimants; the latter involves a 6 month period of negotiation and consultation, and includes provisions for the lodgement of objections to the planned exploration process.

7:6 'Low Impact activity' as defined in the Amended Act is superficially attractive to explorers because of the suggested maximum 2 month period of consultation between the parties in order to reach an agreement, and because drilling (possibly of a certain type using small rigs) is allowable provided it takes places along existing roads or tracks. However, since mineral deposits tend not to follow or be controlled by man-made features, it can be concluded that NO MINEABLE RESOURCE WILL EVER BE DEFINED VIA LOW IMPACT EXPLORATION ACTIVITY.

7:7 Under the present provisions of the Qld Amended Act, exploration drilling involving the clearing of access tracks to the drill site is allowable only under high impact activity provision i.e. embarking on a proposed 6 month period of consultation and negotiation and the hearing of objections (if any). Past experience of the mining and exploration industry has been that such a process could introduce a range of objections from the serious to frivolous and unjustifiable, the addressing of which, regardless of their veracity, becomes a

costly and time-consuming process. Some industry calculations suggest that the administrative costs involved for the explorer in high-impact activity processes will exceed $100,000 before any exploration permit is granted.

This expense is additional to any proposed exploration budget and would be a serious disincentive to junior explorers operating on limited budgets, and would be a serious impost on major companies as well.

Far from encouraging exploration, the proposed Qld Amendment Act 1999 does little to enhance the prospects of discovery through exploration, and sets in place serious financial disincentives for companies to explore in this State.

7:8 A solution in the best interests of all parties is proposed, **which allows the clearing of tracks for drill rig access under low impact exploration activity**, subject to explorers demonstrating that such tracks are likely to have no significant impact on the land or waters to be explored. Such access tracks are suggested as having the same or less impact than the clearing of firebreak tracks adjacent to new or old fencelines for example.

With effectively a few penstrokes to allow preliminary drilling under low impact activity, exploration in Queensland would once again become profoundly attractive to explorers, both national and international. It is argued that the fostering of exploration is in the best interests of indigenous communities both for short term, but especially long term employment opportunity, as focussed and carefully managed exploration may result in discoveries of major deposits.

7:9 It is also argued that even following unsuccessful exploration involving construction of access tracks and drilling, natural regeneration of the access tracks with some help from the explorers can be achieved within relatively short time frames of 6 months to 2 years for example. I am able to demonstrate areas of farm and bush land in central NSW where trenches 2m deep and 500m long were dug and rehabilitated; where drilling has taken place in crops of wheat and oats; where over 1200 drillholes have been drilled over a 10 year period and where today no sign remains of any such exploration, except the occasional grid peg leaning against a paddock fence.

7:10 Indigenous communities have nothing to fear and everything to gain by the fostering of and involvement in the exploration process. Although it is outside the scope of this submission and this Qld Amendment Act, it may be that some form of regional land use agreement (RLUA) may be a preferred option for the integration of the interests of explorers, Native Title claimants and pastoralists in the discovery and sustainable development of this nation's resources for the benefit of all.

G.M.Derrick
7 January 2000

APPENDIX 1

DEFINITIONS OF HIGH AND LOW IMPACT ACTIVITIES

And

OUTLINE OF PROPOSED PATHWAYS AND SCHEDULING FOR LOW AND HIGH IMPACT ACTIVITY

Notes on LOW IMPACT EXPLORATION ACTIVITY (EPM)

(provided by G.M.Derrick)

'Meaning of "low impact exploration permit"

'481. For this part, a **"low impact exploration permit"** is an exploration permit that—

(a) is granted over land that is, or that includes, non-exclusive land; and

(b) has a condition that, to the extent that the land the subject of the permit is non-exclusive land, only low impact activities may be carried out.

'Meaning of "low impact activity"

'482. For this part, a **"low impact activity"**, for an exploration permit, means the following activities—

(a) aerial surveys;

Examples—

geological, geophysical, photogrammetric and topographic aerial surveys.

(b) geological and surveying field work that does not involve clearing;

Examples—

- flagging of sites and sample locations
- geological reconnaissance and field mapping
- surveying that does not involve clearing.

(c) sampling by hand methods;

Examples—

- grab sampling
- mine tailings and mine mullock sampling
- panning and sieving
- rock chip sampling
- stream sediment sampling (disturbed and undisturbed samples)
- soil sampling (disturbed and undisturbed samples)
- water sampling.

(d) ground-based geophysical surveys that do not involve clearing;

Examples—

- potential-field methods of surveying, including, for example, gravity, magnetic and radiometric surveys
- electrical methods of surveying, including, for example, electromagnetic, ground penetrating radar, induced polarisation and resistivity surveys
- seismic methods of surveying, including, for example, 'hammer', refraction and vibration-sourced surveys.

(e) drilling and activities associated with drilling that—

(i) do not include clearing or site excavation, other than the minimum necessary to establish a drill pad for a mobile rig; and

(ii) do not include clearing for a road or track;

Examples—

- auger drilling
- downhole geophysical logging
- mechanical drilling.

(f) environmental field work that does not involve clearing.

Examples—

- cultural heritage, environmental and geobotanical surveys
- environmental monitoring.

Notes on
HIGH IMPACT EXPLORATION ACTIVITY

'Meaning of "high impact exploration permit"

'483. For this part, a **"high impact exploration permit"** is an exploration permit that—

(a) is granted over land that is, or includes, non-exclusive land; and

(b) allows activities to be carried out that are not limited to low impact activities.

LOW IMPACT PROSPECTING AND EXPLORATION

Stage One NOTIFICATION

The Applicant must give written notice to

- registered native title bodies corporate
- registered claimants
- representative body
- the mining registrar

For a prospecting permit this may occur at no earlier than 14 days prior to or no later than 7 days after lodgement of the application.

For a exploration permit this may occur at no earlier than 1 month prior to or no later than 7 days after lodgement of the application.

The notice must:

- identify the land or waters
- state details of the activities proposed for the land or waters
- outline the expected impact on the land or waters
- state that the applicant must not act under the permit and enter the land unless the consultation with native title parties

LOW IMPACT PROSPECTING PERMIT

TIME STARTS

LOW IMPACT EXPLORATION PERMIT

MINIMUM TIME PERIOD OF 14 DAYS AFTER GIVING NOTICE TO ALL OF THE NATIVE TITLE

MINIMUM TIME PERIOD OF 1 MONTH AFTER GIVING NOTICE TO ALL OF THE NATIVE TITLE

Stage Two CONSULTATION PERIOD

Consultation must occur about minimising the impact native title rights and interests which would be affected by entry including:

- protection and avoidance of areas or sites of particular significance
- access to the land by the native title holders
- the way in which anything otherwise relates to the entry and affects native title rights and interests.

The native title party may request mediation assistance. After the consultation period ends, the applicant must provide the details and the outcome of the consultation to the mining registrar.

MAXIMUM TIME PERIOD 14 DAYS SUBJECT TO EXTENSION BY AGREEMENT

MAXIMUM TIME PERIOD 2 MONTHS SUBJECT TO EXTENSION BY AGREEMENT

HIGH IMPACT EXPLORATION ON ALTERNATE PROVISION AREAS (e.g. pastoral leases)

Stage One NOTIFICATION

TIME	TIME

The applicant gives written notice to:

- registered native title bodies corporate
- registered claimants
- representative body.

The notice must provide that registered native title claimants and registered native title bodies corporate have 2 months to lodge an objection to the granting of the exploration tenure so far as it affects registered native title rights and interests.

MAXIMUM TIME 2 MONTHS

MONTH 1

MONTH 2

Stage Two OBJECTIONS/CONSULTATION

The applicant must consult the registered native title claimants and registered native title bodies corporate who object about ways of minimising the impact of the exploration tenure on registered native title rights and interests, including access to the land or waters or the way in which anything authorised by the act may be done.

The parties may agree at any time to seek mediation either privately or through the Tribunal. They may also use the conference provisions of the *Mineral Resources Act 1989*.

MAXIMUM TIME 2 MONTHS

MONTH 3

MONTH 4

Stage Three DECISION

If objections are not withdrawn they will be heard and a recommendation made within 2 months.

MAXIMUM TIME 2 MONTHS

MONTH 5

MONTH 6