

Friday 15 March 2013

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Resource Exploration Inquiry
Productivity Commission
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Dear Mike

Thank you for the opportunity to provide a submission to the Productivity Commission's inquiry into *Mineral and Energy Resource Exploration*, in particular in response to the issues paper, dated 14 December 2012.

This submission is being made as a joint submission between the Queensland Resources Council (QRC) and the Queensland Exploration Council (QEC).

QRC is the peak representative organisation of the Queensland minerals and energy sector. QRC's membership encompasses minerals and energy exploration, production, and processing companies, and associated service companies. The QRC works on behalf of members to ensure Queensland's resources are developed profitably and competitively, in a socially and environmentally sustainable way.

QEC aims to have Queensland acknowledged as the minerals and energy exploration leader by 2020 and with Brisbane confirmed as its heart. With membership comprising a who's who of the resources sector, together with members drawn from finance, events and marketing, research and government, the QEC endeavours to influence perceptions about the importance of exploration, and promote Queensland's prospectivity to investors and businesses that support the exploration sector.

Complementing the policy work of the QRC, the QEC is seeking to promote the natural advantages of Queensland and Brisbane as a home to minerals and energy companies and the wide range of essential service companies.

Minerals and energy are the most important source of export income for Australia, and in Queensland, the backbone of the state's economy. Today, the resources sector continues to play a fundamental role in shaping the future of Australia by contributing to economic growth, creating high-paying jobs, and supporting research and development, regional infrastructure, new services and investment.

Both Councils note that the Inquiry's terms of reference preclude examination of local, state, territory and Commonwealth taxation and fiscal policy. Given the genesis of the inquiry in the Policy Transition Group's recommendation, it is understandable that the Assistant Treasurer doesn't want to see the issue of flow-through-shares re-prosecuted by the industry; but it is a shame that a consideration of fees, charges and royalties has been precluded, as a perennial issue for the exploration industry is steady increase of costs, fees, rents and the like.

Exploration expenditure and increasing the efficiency of exploration activity is highly dependent on capital and the ability to raise capital. Even though flow-through-shares are explicitly out of scope, the availability of finance is a very important part of exploration policy and should be carefully examined by the Commission.

Australia's capital markets are reasonably efficient and we also have reasonable access to overseas capital markets, however the issue is that the ability of the exploration sector to raise capital fluctuates throughout time, primarily because risk taking and investors' appetite for risk is not a constant. The cyclical nature of the availability of high risk capital does not sit comfortably with the long time frames involved in exploration. That is why this issue of impediments to capital raising should still remain a focus of policy.

The availability of capital is not restricted simply to fiscal and taxation policy. As such the QEC seeks to grow investment into exploration by other means; primarily focused on availability of information, education of investors, and increased knowledge. Governments at both the State and Commonwealth level have an important role in providing an environment which is more conducive to investing in exploration. QRC and QEC recommend that the Commission's benchmarking of overseas practices should encompass the economic benefits which accrue from the more proactive hands-on role played by Governments in overseas jurisdictions in fostering exploration activity.

Many in the exploration industry feel that Governments (at all three levels) fail to adequately differentiate between the very limited financial capability of the exploration industry in contrast with the cash flows generated by resource operations. This homogenous view of resource activity fails to recognise the huge up-front investments which are made in developing a mining or energy project.

While the extraction of resources – minerals and energy – ultimately depends on successful exploration programs, many Government policies fail to recognise the very different financial capability between exploration and production. Exploration projects have a very definite lifecycle, whereby any revenues accrue several years after tenure has been awarded.

By way of providing some empirical inputs, QEC commends the exploration scorecard to the Commission ([link](#)). The scorecard provides an opportunity for the industry to provide structured feedback on the industry outlook. Typical of recent feedback is the comment below:

"We need a much more streamlined process for exploration permits, from grant all the way through to relinquishment. We need better staffed agencies that are able to respond to queries in shorter timeframes". Queensland Explorer.

Specific concerns raised by Queensland explorers during the development of the 2012 scorecard include:

→ **Queensland's Statutory Regional Planning**

These new planning processes is to be implemented in 2013 across three regions – Central Queensland, the Darling Downs and Cape York. As currently proposed, these statutory plans will include two new categories of restriction to land, which will affect exploration.

- *Priority Agricultural Areas* – resource activities will have to comply with coexistence criteria to demonstrate that they can coexist without affecting agricultural land uses.
- *Priority Living Areas* – a two kilometre zone around towns of more than 200 people which will require an additional level of scrutiny for any operations in the area.

Key details are yet to emerge as to the specifics of these policies, but even a preliminary analysis suggests that the opportunity cost of these policies could be extraordinarily high. However, the Cape York regional plan will replace the process of river declarations under the *Wild Rivers Act 2005*, which may unlock a substantial area for exploration activity.

→ **Strategic Cropping Land (SCL)**

Strategic cropping land is a complex system of recognizing Queensland's best cropping soils which prevents any permanent alienation of the soil, including prohibiting any open cut mining within the two designated protection zones. The processes are slow, cumbersome and complex – many explorers have opted to quarantine any area of potential strategic cropping land from their tenure, rather than bear the expense and uncertainty of this Act. There is a prospect of the Statutory Regional Plans either replacing or substantially modifying the areas of strategic cropping which fall within the regional planning area.

→ **Land access**

In 2011 as part of the formal review of the new land access provisions in Queensland, QRC conducted a survey which found that over 70 per cent of respondents (55 explorers with active interests in Queensland) disagreed or strongly disagreed with the statement *'the new land access policy in Queensland has improved my company's relationships with our landholders'*. The general view of explorers was that the introduction of a legalistic framework to negotiate access to land has diminished relationships between landholders and resources companies. The intent of the framework has merit; however it must be able to focus primarily on building relationships between the landholder and resource company to ensure sustainable coexistence.

Unfortunately, a perverse outcome of Queensland's land access laws is that the land access process has become focussed on maximizing compensation with little priority on building effective working relationships to ensure there is a minimal impact on the landholder business or enjoyment of the land.

As one survey respondent wrote:

'Under the new Framework especially with the activities of some professional advisors, has meant a more adversarial relationship aimed at maximising compensation not minimising exploration impact and benefits to farming operations, and less certain, slower and more costly land access. This is contrary to the policy objectives and will make Queensland a less attractive place to explore.'

The impact of the new land access laws on small explorers is not one to be ignored. The additional administrative burden is most cumbersome to small companies that rely on a small number of staff to run the everyday operations. A QRC survey found since the introduction of the new land access laws; 1-2 new staff members were required. This is monumental impact for small explorers.

In 2012, the previous Queensland government commissioned an independent review of the land access framework by an independent panel. The panel found that while the introduction of the framework had improved land access negotiation processes, it had not achieved its policy objectives to the extent it had anticipated. The panel made 12 recommendations to amend the land access framework.

The new LNP government responded to these recommendations with a six point action plan. The action plan sets out a series of short and medium term actions for government, and in some cases stakeholders, to be implemented as a matter of priority. The plan includes a number of measures designed to improve the process and provide greater flexibility to parties involved in land access negotiations.

→ **Wild Rivers legislation**

Since the development of the Wild Rivers Act in 2005, QRC has consistently maintained a position of not objecting to the concept of identifying Wild Rivers. The existence of a Wild River should be treated as a requirement to ensure a high standard of environmental control, under appropriate approval conditions. However the resources industry has continued to strongly reject the use of Wild Rivers as a trigger for blanket prohibition of use.

The new LNP Government has recognised the shortcomings of the Wild Rivers Act 2005 and committed to not making any further declarations of wild rivers. The statutory regional plan for Cape York (discussed above) will replace these declarations, which could provide an important fillip to exploration.

The Department of Natural Resources and Mines is developing alternative strategies for the protection of Western Queensland's Lake Eyre Basin rivers, which more appropriately balance river protection and sustainable development opportunities. The Government is also developing a suite of alternative strategies to wild river declarations, which is expected to be released by the end of 2013.

→ **Cash bidding**

On 9 October 2012, the Queensland Minister for Natural Resources and Mines, the Honourable Andrew Cripps MP, announced a new policy for cash bidding for highly prospective coal, petroleum and gas tenements in Queensland. What was not announced was that the legislative

reforms would also apply to mineral tenures as well. QRC does not support a cash bidding process for exploration tenures. Accepting payments for tenure generates moral hazard, compromising the Government's ability to be seen to impartially regulate these projects.

QRC is concerned the cash bidding changes will adversely affect smaller explorers who do not have the up-front capital to bid for tenure. QRC understands the Government's current intention is that only areas known to be highly prospective will be selected for cash bidding. The explanatory notes state that land releases will still happen for areas which are "under-explored", which suggests a two-tier system of tenure in Queensland where the small innovative entrepreneurial exploration companies are effectively precluded from the most prospective country.

QRC continues to be very concerned about the development of this policy, which emerged as part of the mid-year fiscal and economic review under the previous Queensland Government in January 2012. When the policy was announced, QRC publicly described the proposal as:

"Predicated on a flawed assumption that minerals and energy companies are bottomless cash pits. Most small to medium explorers and developers operate on shoestring budgets because of the high-risk nature of their activities".

When the new Queensland Government announced in October 2012 that they would implement the previous Government's policy of cash bidding, QRC emphasised that smaller exploration companies are crucial to the future of the industry and that these exploration companies will be outbid by larger mining companies. QRC said:

"History has shown that the small explorers are the best at making discoveries, the best at juggling the risks. They have the best track record of delivering discoveries of new deposits. This policy is disenfranchising that smaller explorer because this is all about the big cheque book and the early return to the Treasury."

→ **Overlapping tenures**

The current legislative framework for managing overlapping coal and coal seam gas (CSG) tenure in Queensland was first introduced in 2004 with the passage of the *Petroleum and Gas (Production and Safety) Act 2004* and associated amendments to the *Mineral Resources Act 1989* and the *Petroleum Act 1923*.

In the period since the framework was first introduced, there have been substantial developments in the nature and scope of both the CSG and conventional coal mining industries in Queensland. These developments, to both the technical and economic landscape, have placed pressure on the existing overlapping tenure regime while presenting both industries with a number of concerns and barriers to future development.

In April 2012, QRC's coal seam gas and coal members presented Government with a report, *A New Approach to Overlapping Tenure in Queensland*, which sought to identify a series of reforms to give effect to both coal and coal seam gas have a clear path to production, providing both parties with an incentive to negotiate outcomes which suit them. The process of fleshing

out these suggestions is still underway, but the principles are already been applied voluntarily in the field.

→ **Geological Survey of Queensland and GeoScience Australia**

'Australia's resources industry is based on large, high-quality deposits discovered in the late 19th Century and the 20th Century - an exploration endeavour that was supported by high-quality pre-competitive research that mapped the surface of Australia. While demand for Australian minerals remains strong, it is of serious concern that discovery of new deposits has not kept pace with depletion, despite ongoing competitive exploration efforts.

'The decline in exploration success is in large part due to the difficulty in exploring what lies beneath the regions of highly weathered rock and sedimentary basins that cover approximately 80 per cent of Australia. There is no reason to believe that the resource potential of this 80 per cent which lies under cover would be less than the exposed 20 per cent that has provided so much wealth.

'New knowledge is needed to underpin future exploration; just as the work of State Geological Surveys and our universities in the second half of the 19th Century and 20th Century underpins today's mining boom.' Australian Academy of Science ([link](#))

Owing to the importance of geological information as a public good and which underpins Queensland's pre-competitive exploration capability, QRC would like to see more realistic funding for GeoScience Australia and the Geological Survey of Queensland with base funding commensurate with the resource sector's economic importance.

→ **Open access data**

A policy question which is not addressed in the issues paper is the regulation around the treatment of geological data. While the general principle in Queensland is that almost all drilling results are eventually supplied to the Government and become open access (public) data; with the time for which this data is protected as commercially confidential depends on the tenure (production versus exploration) as well as commodity type (typically CSG data is released more rapidly than minerals or coal).

An emerging practice is to provide this data in advance to the Geological Survey, so that it can be accessed by their researchers prior to the information becoming available. This also provides some protection against the data being lost, corrupted or compromised in some manner (akin to an off-site backup). QRC suggests that the Commission considers whether there is a case for greater national harmonisation of these reporting requirements, to ensure that the public good benefits of exploration activity aren't inadvertently eroded.

→ **Benefits from reform**

A recently commissioned report from the [Centre for International Economics](#) (CIE) estimated the benefit from reforming just the mining side of development regulation as having a net present value of \$2 billion. QRC regards the arguments presented as equally applicable to the other resources legislation identified in the Department's discussion paper. The estimates would presumably show an even larger net present value from reform if the reform encompassed *all* resource tenures, but particularly CSG.

→ **Streamlined tenure processes in Queensland**

The exploration sector, across all resources, has a distinct need for clarity and certainty around tenure processes. Industry feedback continues to point to a reputational effect when exploration companies are making investment decisions between jurisdictions. Geology will always be the overriding consideration, but perceptions of the regulatory process are increasingly considered as part of the mix.

Exploration activity is inherently adaptive, because exploration is a process of wrestling with unknowns and uncertainty. QRC members emphasise that sometimes the decisions made in the field, in response to an unexpected result, are those that ultimately generate the most interesting exploration results. A change in the perceived success of an exploration campaign can sometimes hang on the results from a single drill hole.

There are two ultimate goals of exploration; an economic discovery for the company, and the generation of new geological knowledge for the State. Administering tenure successfully needs to provide for a degree of flexibility to allow for early discovery success together with the occasional serendipitous results.

QRC suggests that in the same way that the regulatory framework for small miners in Queensland has been fundamentally reworked so the regulatory requirements are better tailored to match the underlying risk of these activities, so too might a rethink of exploration tenures prove to be productive in increasing the attractiveness of investing in exploration tenures in Queensland.

Thank you again for the opportunity to comment on the issues paper. If you require any further information, the contact on this matter is Andrew Barger, who can be contacted on (07) 3316 2502 or alternatively via email at andrewb@qrc.org.au

Yours sincerely

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List of full hyperlinks in document

- QEC Exploration Scorecard 2012 – please see <http://www.queenslandexploration.com.au/wp-content/uploads/2011/05/QEC-Exploration-Scorecard-2012-Final.pdf>
- Centre for International Economics, *Prioritisation of Regulatory Reforms*, October 2012 for the Queensland Office of Best Practice Regulation <http://www.qca.org.au/files/OBPR-CIE-FinalReport-InterimMRBurdenofRegulation-1112.pdf>
- *Searching the Deep Earth*, A vision for exploration geoscience in Australia, Academy of Science 2012 <http://www.science.org.au/policy/documents/uncover-report.pdf>