

General

The South Australian Chamber of Mines and Energy (SACOME) represents over 320 members in the resources and energy industries in South Australia. We welcome the opportunity to provide comments in relation to the Draft Report and recommendations of the Inquiry into the Non-Financial Barriers to Mineral and Energy Resource Exploration.

Comment on the Draft Recommendations

DRAFT RECOMMENDATION 3.1

Governments should ensure that their authorities responsible for exploration licensing:

- *prepare and publish information on the government's exploration licensing objectives and the criteria by which applications for exploration licences will be assessed*
- *publish the outcome of exploration licence allocation assessments, including the name of the successful bidder and the reasons why their bid was successful.*

SACOME response: AGREE

DRAFT RECOMMENDATION 3.2

Where possible, governments should not allocate exploration licences for tenements that would be too small or too irregular a shape for an efficient mine or production wells to be established. The release of exploration tenements should be deferred until tenements of appropriate size and shape can be issued.

SACOME response: AGREE

DRAFT RECOMMENDATION 3.3

If an Act requires the Minister to notify a person of a decision regarding an exploration licence, the Act should require that the notice include the reasons for the decision.

SACOME response: AGREE

DRAFT RECOMMENDATION 3.4

Where not already implemented, governments should ensure that at a minimum their lead agencies responsible for exploration, coordinate exploration licensing and related approvals (such as environment and heritage approvals). This should include the provision of guidance on the range of approvals that may be required, and on how to navigate the approvals processes.

SACOME response: AGREE

DRAFT RECOMMENDATION 3.5

Governments should ensure that their regulators publish target timeframes for approval processes, including exploration licensing and related approvals (for example environmental and heritage approvals). The lead agency for exploration should publish whole-of-government performance reports against these timeframes on their website.

SACOME response: AGREE

LAND ACCESS

DRAFT RECOMMENDATION 4.1

Drawing on the guiding principles of the Multiple Land Use Framework endorsed by the Standing Council on Energy and Resources, Governments should, when deciding to declare a new national park or conservation reserve in recognition of its environmental and heritage value, use evidence-based analyses of the economic and social costs and benefits of alternative or shared land use, including exploration.

Governments should, where they allow for consideration of exploration activity, assess applications by explorers to access a national park or conservation reserve according to the risk and the potential impact of the specific proposed activity on the environmental and heritage values and on other users of that park or reserve.

SACOME response: AGREE

DRAFT RECOMMENDATION 4.2

State and territory governments should ensure that land holders are informed that reasonable legal costs incurred by them in negotiating a land access agreement are compensable by explorers.

SACOME response: AGREE, but as applicable on a State by State basis. For example, in South Australia, if the mining operator has served a notice to negotiate a waiver of exemption agreement, they are liable to pay costs up to \$500 (or some other amount as prescribed) to the person on which the notice was served for obtaining legal assistance related to the notice.

DRAFT RECOMMENDATION 4.3

Governments should ensure that the development of coal seam gas exploration regulation is evidence-based and is appropriate to the level of risk. The regulation should draw on the guiding principles of the Multiple Land Use Framework endorsed by the Standing Council on Energy and Resources to weigh the economic, social and environmental costs and benefits for those directly affected as well as for the whole community, and should evolve in step with the evidence.

SACOME response: AGREE

HERITAGE PROTECTION

DRAFT RECOMMENDATION 5.1

Until concerns with state and territory legislation have been fully addressed, the Commonwealth should retain the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (ATSIHP Act) and amend it to allow state and territory regimes to be accredited if Commonwealth standards are met. Once all jurisdictional regimes are operating satisfactorily to Commonwealth standards, the Commonwealth should repeal the ATSIHP Act.

SACOME response: AGREE

DRAFT RECOMMENDATION 5.2

Governments should ensure that their heritage authorities:

- require that resource explorers or other parties lodge all heritage surveys with that authority*
- maintain registers which map and list all known Indigenous heritage*
- adopt measures to ensure that sensitive information collected by a survey is only provided to approved parties (and only as necessary for the purposes of their activities), on the basis of agreed protocols.*

SACOME response:

First dot point - Agree;

Second dot point – Agree, however, authorities may need to define the meaning of ‘heritage’;

Third dot point – Agree, but not to the extent that explorers are excluded from using that information to avoid duplication which brings with it unnecessary costs and time delays.

DRAFT RECOMMENDATION 5.3

State and territory governments should manage Indigenous heritage on a risk assessment basis.

- Where there is a low likelihood of heritage significance in a tenement and the exploration activity is low risk, a streamlined ‘duty of care’ or ‘due diligence’ process should be adopted.*
- Where there is a high likelihood of heritage significance and the exploration activity is higher risk, models of agreement making should be adopted rather than a government authorisation system.*
- When negotiated agreements cannot be reached, governments should make decisions about heritage protection based on clear criteria, transparency and consultation with all parties that have a direct interest*

SACOME response: AGREE

ENVIRONMENTAL MANAGEMENT

DRAFT RECOMMENDATION 6.1

The Commonwealth should accredit the National Offshore Petroleum Safety and Environmental Management Authority to undertake environmental assessments and approvals under the Environment Protection and Biodiversity Conservation Act for petroleum activities in Commonwealth waters.

SACOME response: AGREE

DRAFT RECOMMENDATION 6.2

The Commonwealth should improve the efficiency of environmental assessment and approval processes under the Environment Protection and Biodiversity Conservation Act by strengthening bilateral arrangements with the states and territories for assessments and establishing bilateral agreements for the accreditation of approval processes where the state and territory processes meet appropriate standards. The necessary steps to implement this reform should be properly scoped, identified and reviewed by jurisdictions and a timetable for implementation should be agreed.

SACOME response: AGREE, however, we would like bilateral agreements to be extended to accredit the South Australian Mining Act and the Petroleum & Geothermal Act for the purposes of assessment and approvals under the EPBC Act.

DRAFT RECOMMENDATION 6.3

State and territory governments should reconsider the option of conferring their existing petroleum-related regulatory powers in state and territory waters seaward of the low tide mark, including islands within those waters, to the National Offshore Petroleum Safety and Environmental Management Authority.

SACOME response: Would need to investigate more fully the implications of this recommendation.

DRAFT RECOMMENDATION 6.4

Governments should ensure that their environment-related regulatory requirements relating to exploration:

- are the minimum necessary to meet their policy objectives*
- proportionate to the impacts and risks associated with the nature, scale and location of the proposed exploration activity.*

SACOME response: AGREE

DRAFT RECOMMENDATION 6.5

Governments should ensure that their environment-related regulation of exploration activities should be focused towards performance-based environmental outcome measures and away from prescriptive conditions, in order to better manage risk and achieve environmentally sound outcomes.

SACOME response: AGREE

DRAFT RECOMMENDATION 6.6

Governments should ensure that when there is scientific uncertainty surrounding the environmental impacts of exploration activities, regulatory settings should evolve with the best-available science (adaptive management) and decisions on environmental approvals should be evidence-based.

SACOME response: AGREE

DRAFT RECOMMENDATION 6.7

Governments should clearly set out in a single location on the internet environment-related guidance on the range of approvals that may be required.

SACOME response: AGREE

DRAFT RECOMMENDATION 6.8

Governments should ensure that their authorities responsible for assessing environmental plans and environmental impact statements (and equivalent documents) should make archived industry data publicly available on the internet.

SACOME response: AGREE

GEOSCIENCE

DRAFT RECOMMENDATION 7.1

Governments should monitor the outcomes of the cost recovery funding approach to the provision of pre-competitive geoscience information being adopted by the New South Wales Government, with a view to its possible broader application in those jurisdictions.

SACOME response: South Australia prides itself, through the Mineral Resources Division within the Department for Manufacturing, Innovation, Trade, Resources and Energy (DMITRE), in the provision of a wide range of high-quality geophysical data and advice to the exploration industry and the public. For the minerals industry in particular, access to precompetitive geoscientific data reduces the risk for companies venturing to discover new prospects and deposits. All available pre-competitive geoscientific data can be downloaded via the SARIG website at no cost (through funding by the State Government) and SACOME would recommend that it remain so.