



**MINERAL AND ENERGY RESOURCE EXPLORATION
PRODUCTIVITY COMMISSION DRAFT REPORT**

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About The AusIMM

The Australasian Institute of Mining and Metallurgy (The AusIMM) was formed in 1893, representing professionals engaged in all facets of the global minerals sector. With a focus on 'enhancing professional excellence', The AusIMM delivers an ongoing program of professional development services to ensure our members are supported throughout their careers to provide high quality professional input to industry and the community.

The AusIMM is the leading organisation representing minerals sector professionals in the Australasian region, primarily in the disciplines of mining engineering, metallurgy and geoscience. Our purpose is to provide leadership and opportunities for minerals industry professionals.

We have more than 13 000 members spread across industry, government and academia, of which over 1600 are student members currently enrolled in undergraduate studies.

As a professional organisation whose members have an ethical duty to put the community first, The AusIMM constitutes a forum through which technical experts in the minerals sector can comment on policy for a sustainable industry, free of private and sectional interests.

This submission

The AusIMM welcomes the Productivity Commission's inquiry into Mineral and Energy Resource Exploration. Exploration is an essential foundation for a successful minerals sector in Australia.

Many AusIMM members are involved in mineral resource exploration. AusIMM members place a high priority on ensuring there is a sustainable 'pipeline' of future minerals development projects which is only possible if the exploration sector is healthy and enjoys ongoing community and government support.

It is pleasing to see the Commission's *draft report* includes careful consideration of the very complex issues and diverse factors that influence a productive, efficient and vibrant minerals exploration sector. The Commission's consideration of The AusIMM's initial submission and the opportunity to present at a public hearing are greatly appreciated.

This submission is split into three parts as follows:

1. Overview of minerals exploration issues and the role of governments in supporting an effective and productive minerals exploration sector.
2. Overview responses to the Commission's *draft report* for this inquiry.
3. Detailed responses to the *draft report*.

1. OVERVIEW OF MINERALS EXPLORATION ISSUES

Companies and investors make decisions about investing in minerals exploration on the basis of three key considerations:

1. Below ground – is the geology prospective?
2. Above ground – can you effectively work in the area?
3. Can you fund it?

Governments influence all three of these considerations and have enormous power to influence the level of minerals exploration investment in a region.

The following table presents a brief overview of the key roles that governments should play in order to support minerals exploration investment in an area:

Key consideration	Key government roles
Below ground – is the geology prospective?	<ul style="list-style-type: none"> • Pre-competitive geological information generation and dissemination
Above ground – can you effectively work in the area?	<ul style="list-style-type: none"> • Establishing minerals exploration tenure • Facilitating access to land for exploration • Access to information relevant to an exploration tenure
Can you fund it?	<ul style="list-style-type: none"> • Fiscal policy that supports capital-raising and business investment in exploration

There is considerable diversity in the way state and territory governments deal with some of these issues. For example, state and territory governments have a multiplicity of approaches to regulating land access for mineral exploration.

The AusIMM would welcome this Productivity Commission inquiry making clear recommendations that help state and territory governments to focus on their core regulatory roles and move towards more consistent approaches that adopt best practice regulatory administration.

This framework of the three key considerations in minerals exploration investment decisions may provide a framework for the Commission to use in exploring best practice in government’s facilitation and regulation of minerals exploration.

An initial analysis, informed by the minerals industry professionals who contributed to this AusIMM submission, is set out below.

Key consideration one: Below ground – is the geology prospective?

The essential role of governments (as the resource owner) in producing pre-competitive geological data is well described in the Commission’s issues paper. AusIMM members are of the view that Australia’s various geoscience organisations produce very high quality pre-competitive data and play a very constructive role in supporting minerals exploration investment. AusIMM members believe that governments are under-investing in the development of pre-competitive data sufficient to support an adequate level of future greenfields minerals exploration investment.

Key consideration two: Above ground – can you effectively work in the area?

Minerals exploration tenure

As noted in the Commission’s issues paper, there are diverse approaches to establishing and administering minerals exploration tenure across Australia’s various governments. This diversity imposes unnecessary costs and challenges for minerals professionals and businesses who work across state and territory borders. A move to uniform approaches would be welcomed.

AusIMM members have direct experience of regulatory agencies responsible for minerals exploration tenure management being unable to effectively administer their obligations. This includes significant delays in the processing of applications and the failure of regulators to communicate effectively with tenure applicants. Communication failures described by AusIMM members include:

- lack of acknowledgement of applications and payments received
- inability to get advice regarding the status of a tenure application
- evident gaps in communication between government agencies dealing with related regulatory requirements (for example, native title and environmental obligations).

These issues cause considerable delay, costs and uncertainty. They can adversely impact the ability to negotiate land access with landholders and can damage relationships with local communities. These factors have significant potential to reduce minerals exploration investment.

AusIMM members are not in a position to present a comprehensive analysis of the reasons for these problems in obtaining minerals exploration tenure, but it is thought that a lack of staff resources, under-investment in modern information management systems and overly complicated regulatory requirements that are inefficient to administer are all contributing factors.

Access to land for exploration and access to relevant information

There is considerable diversity between states and territories regarding access to land regimes. These issues are well documented in the Commission's issues paper.

AusIMM members are very supportive of the role of governments in protecting community interests through ensuring appropriate controls to protect heritage and environmental values. There are a number of changes that could be made to improve the targeting, transparency and speed of these regulatory systems. Suggestions include:

- Establishing or improving public registers of native title status of land and public registers of past heritage or environmental surveys in a region. Such registers could significantly reduce the risks and costs inherent in seeking exploration tenure and land access.
- Improved information provided by governments to assist landholders and communities to understand the minerals exploration land access process and the rights and obligations of the minerals explorer, the landholder and community members.

Key consideration three: Can you fund it?

Access to funding is a key factor that limits the level of minerals exploration in Australia. AusIMM members believe that this issue is particularly important for low-capital 'junior' explorers who dominate greenfields exploration investment.

The AusIMM strongly supports government initiatives to improve access to capital by minerals explorers. Specific recommendations are:

- The Australian Government should establish a flow through shares scheme or an alternative instrument that assists capital-raising for greenfields minerals exploration.
- Governments should continue to co-invest in minerals exploration. To choose just one example, the West Australian Exploration Incentive Scheme¹ makes a substantial contribution to boosting greenfields exploration investment in that state.

¹ The WA Exploration Incentive Scheme co-funds greenfields minerals exploration and is funded from a portion of minerals royalty receipts. (See www.dmp.wa.gov.au/7743.aspx).

2. OVERVIEW REACTION TO THE *DRAFT REPORT*

The Commission's *draft report* is positive in its direction. The *draft report* provides welcome analysis of the exploration sector.

AusIMM members report a rapidly changing business environment for exploration and the Commission should examine this closely in producing its final report.

The AusIMM was disappointed at the federal government's decision to exclude analysis of taxation, financial incentives, fees, charges and royalties from the inquiry.

All Australian governments have a role to play in maintaining a healthy mining industry and they should play a stronger role in ensuring the public is well informed about the mining industry, how it is regulated and its importance to Australia's economic and social development

The challenges to minerals professionals are well summarised in the Commission's comment: 'The sheer volume of legislation governing mineral and energy resource exploration makes the system difficult to describe and synthesise' (p 64 of the *draft report*).

The AusIMM would like to see the Commission's final report include a stronger focus on:

1. simplifying and streamlining legal requirements with states and territories adopting consistent regulatory requirements where appropriate
2. reducing administrative delay costs via states and territories improving their regulatory culture, systems, transparency and timeliness (ie best practice regulatory administration).

The draft recommendations for a 'lead' coordinating agency, performance reporting and improved guidance on approvals processes are strongly supported by The AusIMM.

The Commission should examine and make recommendations regarding how states and territories can effectively collaborate on consistent and simplified legal requirements and on improved regulatory administration without undermining positive competition for exploration investment attraction between Australian jurisdictions.

There are many unrealised opportunities for state and territory agencies/regulators to learn from each other and share best practice approaches. There are many unrealised opportunities for state and territory agencies/regulators to learn from minerals professionals, minerals companies and the community. There have been many experiences in the past of government agencies consulting to seek opinions but then failing to make any practical changes to implement the advice received.

Minerals professionals are currently experiencing significant disruption in their careers as falling confidence in the future of Australia's minerals sector impacts business investment decisions and exploration activity is wound back.

Government initiatives are required urgently in order to restore confidence and build investment in minerals exploration, retain skilled professionals in the Australian exploration industry and to underpin future new mine developments.

Government should commission an assessment of options to support minerals exploration through reformed taxation, financial incentives and other financial arrangements.

The AusIMM continues to advocate that Australia should establish a flow through shares scheme or an alternative instrument that assists in capital-raising for minerals exploration.

3. DETAILED RESPONSES TO THE *DRAFT REPORT*

Chapter three – Exploration licensing and approvals

AusIMM members report that they experience significant delays and poor communication from many of the responsible agencies when applying for an exploration licence.

AusIMM members who work across state and territory borders face a significant challenge in understanding the different processes and approval stages required in each state and territory.

AusIMM members report that they experience a very different ‘regulatory culture’ and level of responsiveness between the responsible agencies in different states and territories. It is believed that this difference in culture and attitude by regulatory agencies can be at least as significant a determinant of the cost and complexity of seeking a regulatory approval as the quality of the statutory requirements (the ‘black letter laws’) themselves.

Anecdotes from members include exploration applications being ‘lost’ for many years, applications taking up to five years for a decision to be made and experiences of multiple applications suddenly being approved at a time when the original exploration plans have been forgotten or when the source of funding for exploration activities is no longer available.

Areas of exploration interest do not recognise state and territory borders and methods by which regulators can grant access to cross-border tenements is an issue that should be considered.

The AusIMM supports the intent of draft recommendations 3.1, 3.4 and 3.5 and would like to see a stronger focus on:

1. simplifying and streamlining legal requirements with states and territories adopting consistent regulatory requirements where appropriate
2. reducing administrative costs and delay costs via states and territories improving their regulatory culture, systems, transparency and timeliness (ie best practice regulatory administration).

The AusIMM supports draft recommendation 3.3 (Minister publish reasons for decision) and suggests a stronger approach of requiring that all regulatory decisions are accompanied by a summary of the reasons for the decision taken.

The AusIMM supports draft recommendation 3.5 (target time-frames) and suggests a stronger approach of mandatory time-frames that if breached lead to an automatic approval of the application.

The AusIMM questions whether draft recommendation 3.2 is appropriate. There is a risk that this recommendation could lead to regulators inappropriately withholding small scale tenures in situations where a small tenure could lead to a viable mining operation in the future (for example, for high value commodities where a small-footprint mining venture can be economically viable). The AusIMM recommends that decisions about the appropriate scale of tenure allocations should be left to well-informed regulators to determine.

Chapter four – Land access issues

AusIMM members report that they experience significant delays and poor communication from responsible agencies when seeking land access approvals. The reasons for these delays and poor communication need to be further investigated.

Members also face challenges in understanding the different processes and approval stages required in each state and territory. The clarity and consistency of communications by government agencies requires further attention. The AusIMM asks the Commission to recommend that state and territory governments work together to improve the consistency of regulatory steps/requirements for land access approvals and to better communicate those steps/requirements.

The AusIMM asks the Commission to augment the draft recommendation 4.1 to recommend that a survey of minerals potential should be a part of the process in considering all future decisions to declare Crown land as reserves and parks.

The AusIMM asks the Commission to add to the draft chapter four recommendations by asking governments to adopt the policy goal of *assisting landholders and explorers to reach a negotiated land access agreement with minimal reliance on the legal system and with appropriate compensation arrangements that recognise both parties' needs*.

The AusIMM asks the Commission to expand recommendation 4.2 to recognise the needs of explorers and landholders for transparency regarding compensation. The intent of draft recommendation 4.2 is supported, but is not appropriate in acknowledging the information and clarity needs only of landholders.

The AusIMM recommends that the Commission examines the work of the Queensland Land Access Review Panel as a potential foundation for land access policy harmonisation by state and territory governments.

The intent of draft recommendation 4.3 is supported. It is noted that while coal seam gas is a resource that has been the subject of particular community concern and debate recently, the draft recommendation posits an approach that is appropriately applied to all resources, including all possible mineral, hydrocarbon and unconventional energy or resource exploration licences. The draft recommendation should be expanded in this way.

Chapter five – Heritage protection

The AusIMM strongly supports the draft recommendations 5.1 to 5.3.

The AusIMM is pleased to see the Commission's recommendations aimed at improved registers of heritage surveys to avoid the need for duplicated heritage assessment efforts in the future. This is a reform that The AusIMM has advocated for many years.

Chapter six – Environmental management

The Commission's draft recommendations 6.1 to 6.8 are positive and supported by The AusIMM. The Institute recommends that these draft recommendations should be strengthened to:

1. Ask that governments focus on improving the consistency of regulatory requirements, administrative process and communications arrangements between states and territories in order to reduce complexity for minerals professionals and compliance costs for businesses.
2. Recommend that as a minimum, governments set target time-frames for environmental regulatory decisions and require regulators to report performance against those time-frames (as per the Commission's draft recommendation 3.5).

Chapter seven – Pre-competitive geoscience information

Geoscience is the foundation of exploration activity and The AusIMM is pleased that the Commission's draft report makes clear that exploration is the foundation of future minerals sector development.

Exploration activity appears to be rapidly declining. AusIMM members are reporting that there has been a significant change in the employment market for exploration professionals during the past year. Reports indicate that many exploration professionals have been made redundant or are currently under-employed.

The AusIMM welcomes the Commission's clear understanding that high quality pre-competitive geoscience data is essential for the future of the industry.

The AusIMM asks the Commission to recommend that governments should urgently commit to significantly increasing their investment in pre-competitive geoscience data. Such investment would:

1. Retain highly skilled geoscientists in Australia (many professionals may otherwise leave the minerals industry or leave Australia as a result of reductions in industry exploration activity and job opportunities).
2. Underpin future minerals discoveries, mine development and increased government revenue as new deposits are developed.

Chapter eight – Workforce issues

Community engagement regulation

The AusIMM sees a gap in the draft recommendations regarding the regulation of community engagement processes.

Effective community engagement is a priority issue for AusIMM members. The AusIMM understands that effective community engagement at the exploration stages is absolutely essential as a foundation for building a social licence to operate possible future mining activities. The AusIMM believes that minerals professionals and companies are strongly motivated to build effective community relationships and that this can be best achieved through government agencies supporting transparent and effective communications rather than by prescriptive regulation of community engagement.

Various regulatory requirements for community engagement exist across the states and territories. These existing regulatory requirements are not well analysed in the draft report. AusIMM members believe that community engagement requirements from government agencies have become increasingly complex in recent years and that they are subject to regular change, making it difficult for minerals professionals to ensure that they are aware of and can meet the expectations of regulators.

This is an area that requires a nationally consistent approach:

1. regulators should clearly communicate and monitor minimum requirements for the provision of information to the community and opportunity for community input to tenement allocation decisions
2. effective community engagement cannot be prescribed in regulation that sets out 'one size fits all' step-by-step requirements
3. government agencies should support (not regulate) minerals professionals in community engagement
4. governments should support communication and engagement capability development both for communities and for minerals professionals.

In addition, we ask that the Commission add recommendations to its final report addressing the crucial role that governments play in supporting informed community debate about the minerals industry and its benefits and costs. As the owner of the mineral resources and a major beneficiary of mining activity, governments have an obligation to better support informed debate and decision making across the community.

Health and safety

Health and safety is a vital issue for all minerals professionals. The AusIMM is concerned that the draft report does not include any recommendations regarding health and safety regulation.

The AusIMM urges the Commission to include in its final report a recommendation that governments continue to pursue consistent, effective, streamlined and efficient health and safety regulatory and administrative frameworks for the minerals sector.

Missing issue: taxation, financial incentives, fees, charges and royalties

The AusIMM understands that the Commission has not been able to consider taxation, financial incentives, fees, charges and royalties issues due to restrictions imposed by the government in the terms of reference for this inquiry.

The AusIMM recommends that the Australian Government should commission an assessment of options for governments to better support effective minerals exploration through reformed taxation, financial incentives and other financial arrangements.

The AusIMM continues to advocate that Australia should establish a flow through shares scheme or an alternative instrument that assists capital-raising for minerals exploration.

With many minerals professionals being adversely affected by the current change in minerals industry sentiment and a reduction in exploration activity, these issues need urgent attention.