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The Productivity Commission

The Productivity Commission is the Australian Government’s independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission’s independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

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Senator Arthur Sinodinos AO  
Assistant Treasurer

Parliament House

CANBERRA ACT 2600

Dear Assistant Treasurer

In accordance with Section 11 of the *Productivity Commission Act 1998*, we have pleasure in submitting to you the Commission’s final report into Non-Financial Barriers to Mineral and Energy Resource Exploration.

Yours sincerely

|  |  |  |
| --- | --- | --- |
| Michael Woods  Presiding Commissioner | Jonathan Coppel  Commissioner |  |

# Terms of reference

### Inquiry into Non-financial barriers to mineral and energy resource exploration

I, David Bradbury, Assistant Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake an inquiry into the *Non-financial barriers to mineral and energy resource exploration*.

***BACKGROUND***

The Policy Transition Group (PTG) was established to advise on the implementation and technical design elements of the new resource taxation reforms, and minerals and petroleum exploration. In its report to the Australian Government in December 2010, the PTG recommended that the Productivity Commission be tasked with undertaking an examination of the regulatory barriers faced by exploration companies. The report noted that ‘a range of approvals are required before exploration can begin, including land access, native title, indigenous and non-indigenous heritage, environmental, conservation estate, and planning and infrastructure approvals’.

***PURPOSE***

This review will examine exploration approvals systems and processes, within and across jurisdictions, to assess their effectiveness and efficiency. The Commission will also assess areas of duplication between State, Territory and Commonwealth regulation for potential streamlining and further review. The Commission will also assess costs associated with government processes and broader economic costs such as that associated with regulatory duplication but not related to taxation, financial incentives, fees, charges and royalties.

***SCOPE OF THE INQUIRY***

The Commission is requested to outline high priority reform options to address non-financial barriers to exploration for mineral and energy resources in Australia. In order to achieve this, the Commission should:

* determine if there is evidence of unnecessary regulatory burden and if there is, make recommendations on how to reduce or eliminate these burdens;
* examine the complexity and time frames of government approvals processes for exploration, and potential for delay due to appeals both within and across jurisdictions;
* examine areas of duplication between and within Local, State, Territory and Commonwealth regulation that can be triggered throughout an exploration project;
* examine costs of non-financial barriers (including regulatory and related costs);
* consider options to improve the regulatory environment for exploration activities, having regard to regulatory objectives; and
* assess the impact of non-financial barriers on international competitiveness and economic performance of Australia’s exploration sector.

Local, state, territory and Commonwealth taxation and fiscal policy is not to be examined.

The inquiry is not to re-examine the Government’s response to the Report of the Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999*.

The inquiry is not to examine processes under the Commonwealth’s *Native Title Act 1993*, the *Aboriginal Land Rights (Northern Territory) Act 1976* or state Indigenous land rights regimes.

In undertaking this inquiry, the Commission should take into account current or recent reviews commissioned by state, territory and the Commonwealth Governments regarding regulatory approval processes for exploration.

There is a continued need for government involvement in pre-competitive geoscience to attract exploration investment. As such, the Exploration Investment and Geoscience (EIG) working group’s report to the Standing Council on Energy and Resources on options that may be used to improve Australia’s global position for attracting resource exploration investment should inform this inquiry. This inquiry will also consider the work the EIG working group is undertaking on resource reserve disclosure by non-Australian Stock Exchange (ASX) companies.

The Commission should consult with all relevant state, territory and Commonwealth government agencies and other key stakeholders. The Commission will report within 12 months of receipt of this reference and will hold public hearings for the purpose of this inquiry. The Commission is to provide a draft and final report to the Australian Government, both of which will be published.

The Government will consider the Commission’s recommendations, and its response will be announced as soon as possible after the receipt of the Commission’s final report.

The Australian Government will refer the final report to the Council of Australian Governments for action by Australian jurisdictions after the inquiry report has been tabled in Parliament.

DAVID BRADBURY

[Received 27 September 2012]

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# Abbreviations and explanations

Abbreviations

AAPA Aboriginal Areas Protection Authority

ABS Australian Bureau of Statistics

ACF Australian Conservation Foundation

AMEC Association of Mining and Exploration Companies

AMMA Australian Mines and Metals Association

ANEDO Australian Network of Environmental Defender’s Offices

APPEA Australian Petroleum Production and Exploration Association

ATSIHP Act Aboriginal and Torres Strait Islander Heritage Protection Act

AUA Australian Uranium Association

AusIMM Australasian Institute of Mining and Metallurgy

CHMP Cultural Heritage Management Plan

COAG Council of Australian Governments

CSG Coal seam gas

CSIRO Commonwealth Scientific and Industrial Research Organisation

DoFD Department of Finance and Deregulation

DRET Department of Resources, Energy and Tourism

EIGWG Exploration Investment and Geoscience Working Group

EPBC Act Environmental Protection and Biodiversity Conservation Act

GA Geoscience Australia

IC Industry Commission

MCA Minerals Council of Australia

NOPSEMA National Offshore Petroleum Safety and Environmental Management Authority

NTA Native Title Act

OPGGS Act Offshore Petroleum and Greenhouse Gas Storage Act

PC Productivity Commission

PTG Policy Transition Group

QEC Queensland Exploration Council

QRC Queensland Resources Council

SACOME South Australian Chamber of Mines and Energy

SCER Standing Council on Energy and Resources

SEWPaC Department of Sustainability, Environment, Water, Population and Communities

SLO Social licence to operate

Explanations

|  |  |
| --- | --- |
| Billion | The convention used for a billion is a thousand million (109). |
| Findings | *Findings in the body of the report are paragraphs high­lighted using italics, as this is.* |
| Recommendations | ***Recommendations in the body of the report are high­lighted using bold italics, as this is.*** |
| Base metals | Are non-ferrous (ie not containing iron) metals used in industrial products. they include copper, lead, nickel and zinc. |
| Brownfield | Locations close to existing or historical mines or wells or known resource locations. |
| Coastal waters | The waters between the territorial sea baseline (which is generally situated at the lowest astronomical tide line along the coast) and the line that is three nautical miles seaward of the territorial sea baseline, as well as any waters landward of the baseline that are outside the limits of a state or territory. |
| Energy resources | Includes petroleum, coal and coal seam gas. |
| Exploration | Activities that relate to the gathering of knowledge as to the location, quantity and quality of mineral and energy resource deposits. |
| Extraction | The process of removing mineral and energy resources. This includes mining and oil and gas wells. |
| Geoscience | The study of the structure and evolution of geology and mineral and energy resources. |
| Greenfield | Locations remote from existing or historical mines or wells or known resource locations. |
| Internal waters of a state or territory | The waters on the landward side of the territorial sea baseline that fall within the Constitutional boundaries of a state or territory. They may include bays, gulfs, estuaries, rivers, creeks, inlets, ports or harbours. |
| Junior explorer | A company whose principal activities are exploring for mineral or energy reserves and whose main income is derived from selling the rights to any such discoveries. They have little or no involvement in operating mines or wells. |
| Mineral resources | Naturally occurring materials that cannot be renewed. |
| Petroleum | Naturally occurring hydrocarbons including crude oil, natural gas, oil shale and similar products. |
| Pre-competitive geoscience | Government provided information about the broad geology of a region which is then used by private explorers to select areas for more intensive exploration. |
| Prospectivity | The relative geological potential of different possible exploration locations. The probability that a given area will contain mineral or energy deposits. |
| Senior explorer/miner | A company that is involved in operating mines or wells. While they may undertake exploration activities, exploration would be a small component of their expenditure. |
| Social Licence to Operate | Achieved when an organisation has ongoing acceptance from the local community or other relevant stakeholders. |
| Territorial sea baseline | Generally is the line of lowest astronomical tide along the coast, but it also encompasses straight lines across bays, across rivers and between islands, as well as along heavily indented areas of coastline under certain circumstances. |
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