Department of **Natural Resources and Mines**

# Queensland Government Submission

## Productivity Commission Issues Paper
## Mineral and Energy Resource Exploration
## March 2013

Queensland Government

# 1 Contents

# 2 Introduction

The Queensland Government welcomes the opportunity to make this submission in response to the Productivity Commission Issues Paper entitled *Mineral and Energy Resource Exploration* released in December 2012. This submission has been compiled by the Department of Natural Resources and Mines on behalf of the Queensland Government.

The Queensland Government would like to take this opportunity to comment on the limitations placed on the scope of the Inquiry. The Queensland Government acknowledges that Native Title processes are out of scope for this Inquiry, and is disappointed that it has been excluded. Native Title processes impose significant costs and barriers on the resources industry – both financial and non-financial. Whilst acknowledging the recent reforms in the *Native Title Amendment (Reform) Bill 2011,* industry is still experiencing significant delays in finalising the necessary negotiations with native title holders and claimants. The Queensland Government believes that the barriers the Native Title system imposes on resource exploration should be further examined by this Inquiry.

In addition, the Queensland Government remains of the view that without accreditation of State environmental regulation, there remains the potential for duplicate approval processes for any exploration activities (and non-exploration activities) that trigger the *Environment Protection and Biodiversity Conservation Act (1999)* where they may have a 'significant impact' on matters of national environmental significance.

The Queensland Government is committed to growing a Four Pillar economy, with resources being one of the key pillars. However, while the Government is delivering industry greater certainty in order for it to grow and continue to contribute to the State's economy, in return it expects the world's best social and environmental outcomes and insists on closer partnerships between communities, business owners, landholders and industry operators. These interactions can contribute to the overall burden on industry. However, the Queensland Government believes that this balance is necessary.

Essential to achieving this balance, is a stable and clear legislative framework with effective support from Government, which cuts through unnecessary regulatory burden and streamlines application and approvals systems. The Queensland Government acknowledges that creation of employment opportunities in the resources sector is directly related to streamlined approvals processes and providing transparency and accountability to secure the necessary financial investment decisions from industry.

Queensland is recognised globally as one of the world's most prospective minerals and energy provinces. It is the world's largest seaborne coal exporter and it is the site for the world's first Coal Seam Gas (CSG) to Liquefied Natural Gas (LNG) production facility, which will create a major new export industry for the State. This development has seen Queensland's CSG industry boom over the past 15 years, with major developments located in the Bowen, Surat and Galilee Basins, and at Gladstone.

The North West Queensland Mineral Province centred on the Mount Isa-Cloncurry region, boasts a significant portion of the world's known lead and zinc resources, as well as large resources of silver, copper, gold and phosphate deposits. Furthermore, Queensland is home to significant prospects in the form of geosequestration, geothermal energy, oil shale and underground coal gasification projects.

The mining and exploration sectors continue to dominate private capital investment decisions in Queensland, with the sector now accounting for over two thirds of all investment in this State. In the 12 months to the end of September 2012, a total of $27.35 billion was invested in the mining and exploration sectors in Queensland. This was a new record and more than double the $13.8 billion spent in the previous 12 month period to September 2011[1]. Over the past 12 months, Queensland has accounted for 30.7 per cent of all private capital investment in mining and exploration in Australia. This is a 50 per cent increase on the long-term average for this State of just over 20 per cent over the previous decade[2]. The bulk of this expenditure is associated with the development of the LNG export facilities near Gladstone and similar major developments in the coal mining sector.

Exploration expenditure in Queensland was more than $1.35 billion for the 12 months ended September 2012. Coal and CSG exploration continues to dominate and account for 80 per cent of total exploration expenditure. The mining and exploration sectors also continue to be major sources of employment for Queensland with an estimated 71,300 direct full-time jobs reported for November 2012[3].

These statistics demonstrate that Queensland is an attractive investment destination for resources exploration activities and that the State is open for business. However, in order to maintain and grow these levels of investment, the Queensland Government is undertaking a bold process of regulatory reform and is committed to reducing the current level of regulatory burden on Queensland's industries by 20 per cent. The Queensland Government has also established a Resources Cabinet Committee to examine the impacts of regulation on the resources industry. Through an active process of continual reform the Queensland Government is creating the right environment for exploration across the State.

[1] ABS Report 8412.0 - Mineral and Petroleum Exploration, Australia released on 3 December 2012 (http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/C8F3145448902749CA257AC60012C32F/$File/84120_sep%202012.pdf)

[2] ABS Report 5625.0 - Private New Capital Expenditure and Expected Expenditure, Australia released on 29 November 2012 (http://www.ausstats.abs.gov.au/ausstats/meisubs.nsf/0/D1A56CA5A923445FCA257AC4000F5589/$File/attag5k8.pdf)

[3] ABS Report 6291.0.55.003 - Labour Force, Australia, Detailed, Quarterly, released on 13 December 2012

# 3 Recommendation

It is recommended that in finalising its report to the Commonwealth of Australian Governments that the Productivity Commission give consideration to significant improvements that the Queensland Government is making to encourage growth in exploration across the State.

In particular, that Queensland's current process of regulatory, system and operational reform under the Streamlining Approvals Project, which is complemented by reforms to the environmental assessment processes under the Greentape Reduction Project, and the implementation of the recommendations of the Land Access Review, will lead to significant reductions in red and green tape. This will allow projects to get started earlier. It is also important to note that Queensland's Strategic Cropping Land (SCL) Framework generally is not prohibitive to mineral and energy resources exploration activities being undertaken on SCL and that it provides a streamlined approvals process for most exploration activities that may be undertaken on SCL.

Finally, it is important to note that Queensland's non-Indigenous heritage conservation arrangements do not present an impediment to resources exploration activities and it is considered that Queensland's Indigenous heritage conservation framework provides a streamlined and balanced approach.

# 4 Queensland's regulatory reform agenda

The Queensland Government is committed to growing a Four Pillar economy focusing on the pillars of tourism, agriculture, resources and construction. The important contribution that the minerals and energy resources industries make to the State economy has been recognised and the Queensland Government is committed to cutting red tape and regulation in order to cement this State as a world leader in this sector.

The Queensland Government has committed to a target to reduce red tape and regulation by 20 per cent by 2018. This initiative is designed to remove unnecessary regulatory barriers for Queensland business and industry sectors (including the resources and energy sector) and to once again make Queensland a great State with great opportunities.

The achievement of this target has been supported by the establishment of the Office of Best Practice Regulation (OBPR) within the Queensland Competition Authority, who will oversee implementation of this reform program. The OBPR has a key role in reducing unnecessary regulation within government which includes establishing baseline levels of regulation and agency targets whose progress will be measured and publicly reported on an annual basis. The OBPR has recently returned its Final Report to Government *Measuring and Reducing the Burden of Regulation* which establishes a framework for reducing Queensland's current level of regulatory burden on industry and business.

Also, since taking office, the Queensland Government has established a special Cabinet committee to examine the impacts of regulation specifically on the mining industry in a determined bid to cut red tape and remove impediments to project assessments and approvals in an effort to lower the industry's cost structures. The Resources Cabinet Committee (RCC) which consists of senior Cabinet Ministers will examine the entire regulatory environment to assess its costs and impacts on mining companies and remove disincentives wherever possible. The RCC will engage directly with the resources sector – companies, individuals and industry representatives to hear their views on problems and put forward solutions.

# 5 Approval system and process reforms

## 5.1 Streamlining approvals project

### 5.1.1 Background

In 2009, a review to streamline exploration and development approval processes as they relate to the mining and petroleum industries in Queensland was initiated. Three reports, *Streamlining Approvals project: mining and petroleum tenures approval project (2009) Resource Sector Growth – Industry Proposals for Streamlining Queensland's Approval processes (2010)* and *On the Right Track – Progress on the Streamlining Mining and Petroleum Approvals Project (2011)* identified opportunities to:

- improve the speed and predictability of approvals;
- promote project specific regulation as opposed to an all in-compassing template; and
- increase regulatory certainty.

Key findings were that assessment processes, including exploration, were heavily reliant on hard copies of documentation that constrained flow of information between proponents and regulatory agencies and within and between regulatory agencies.

In 2010 a cooperative Government-Industry Implementation Group (GIIG) was established to undertake detailed work across five specialist working groups (Environment, Legislation, Native Title, Small-scale Mining and Tenure). These working groups have in turn identified additional ways to improve the existing complex multi-stage approval process for implementation.

The recommendations in the three reports and the ongoing deliberations of the GIIG continue to be developed for Government and industry's consideration and implementation.

### 5.1.2 Detailed response

Since 2009, the Queensland Government has invested in a wide ranging program of work in consultation with industry stakeholders to address the specific issues identified and implement the recommendations of the three reports. This reform agenda has been driven through the Streamlining Approvals Project and delivered under its key elements of:

- systems reform - the implementation of the *MyMines Online* web site;
- legislative reform through *Mines Legislation (Streamlining) Amendment Act 2012* (Streamlining Act), *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* (reported on in section 5.2 below) and more recently through the *Mining and Other Legislation Amendment Bill 2012* (MOLA Bill); and
- administrative/operational reforms.

Individual initiatives embedded within these programs/projects specifically addressed exploration issues or addressed tenure wide issues and as a result provided benefits to exploration. An ongoing program of work designed to accelerate the rate of reform and reduce the regulatory burden is articulated within the Government's rolling program of six month action plans to address specific identified issues and at a more strategic industry wide level is being developed in consultation with industry.

## MyMines online

A key outcome of Queensland's Streamlining Approvals Project has been the progressive introduction of an online service delivery platform, *MyMines Online,* through which industry can transact with Government in a seamless online environment. *MyMines Online* continues to be developed with an ultimate goal of system-to-system integration, particularly for regulatory reporting and performance management.

*MyMines Online* was launched in December 2011, allowing exploration permit holders and their authorised representatives to view information pertaining to the status of their tenures. Since late 2012 applications for an exploration permit for all minerals other than coal, were able to be lodged via the *MyMines Online* system.

*Future program*
The *MyMines Online* project addresses the concerns of industry as a whole, not solely those of explorers. The project will progressively release additional functionality allowing the full spectrum of tenures, across all resource types, to be applied for online. This will also be supported with additional functionality for maintaining and administering tenures and will involve the development of associated policies focused on delivering transparency to industry.

*MyMines Online* in future will offer:
- richer spatial search functionality, returning details of constraints that should be noted, could impede, or should be excluded from an application;
- a consolidated view of all current activity with the Government in relation to resource approvals; and
- projection of timeframes for conclusion of processes.

## Legislative reforms

*Current legislative program*
Queensland is implementing a package of legislative reforms to Queensland's resource Acts[4] that will significantly reduce the regulatory burden for the resources sector, including the exploration sector. The Streamlining Act provides the legislative basis underpinning the Streamlining Approvals Project.

The Streamlining Act commenced the alignment of operational processes under Queensland's resources legislation to provide a consistent and clear regulatory framework for certain dealings with Government. The Streamlining Act made amendments to establish common structure, terminology and assessment processes for resource activities required under the legislative framework created by the resource Acts. These reforms have provided greater flexibility in Government responses to the significant increases in applications for resource activities.

The MOLA Bill includes a package of reforms to reduce the regulatory burden for eligible small scale miners. Under the package of reforms eligible small scale exploration activities for minerals other than coal will not be required to hold an Environmental Authority (EA). Removing the EA requirement reduces regulatory costs associated with these exploration activities, as they will no longer need to make an application, pay annual fees or comply with ongoing administrative requirements. Eligibility criteria will limit environmental risk.

[4] Mineral Resources Act 1989, Petroleum and Gas (Production and Safety) Act 2004, Petroleum Act 1923, Greenhouse Gas Storage Act 2009 and Geothermal Energy Act 2010 (collectively referred to as the 'resource Acts').

These reforms are being implemented in parallel to the Government's Greentape Reduction Project which is outlined in section 5.2 below.

*Future legislative program*
The Queensland Government is currently consulting with industry on the possibility of a multi-year staged approach to harmonise its five principal resource Acts[5]. While the framework for any future legislative reform is uncertain, any reform will continue to be focused on reducing the administrative and financial burden on industry and government, while at the same time harmonising, where possible, the disparate legislation.

**Administrative and operational reform**

A priority for the GIIG working groups was to find opportunities to deliver an efficient and effective regulatory process. The working groups identified opportunities to reduce project assessment timeframes without compromising environmental, native title and land use considerations. Target assessment timeframes have been established and endorsed including exploration specific targets of:

- exploration permit for mineral or coal to be reduced by six months by 2014 – a time saving of up to 65 per cent; and
- exploration permit application, with code compliant EA and exclusive of native title reduced by three months by 2014 – a time saving of up to 25 per cent.

The implementation of an electronic service delivery model and legislative reform are being supported by the introduction of administrative, operational and policy initiatives. These initiatives will better align resource to demands, increase transparency of process and timeliness of responses and processing, also standardising work flow to establish clear expectations of and on both Government and industry.

*New operational policies*
The Queensland Government has developed a series of guides to help existing and prospective exploration permit holders, understand the legislation governing the issue of permits, and their responsibilities as a permit holder. In addition, several new and revised operational polices[6] have been released in conjunction with the release of online lodgement functionality for exploration permits for minerals other than coal through *MyMines Online*.

*Service delivery model*
As an element of the Streamlining Approvals Project, the Government is building a refined service delivery model involving three centres (hubs) of dedicated resource expertise – for coal; minerals; and petroleum - with an exclusive focus on assessment. Dedicated staff will concentrate on the assessment of applications within their dedicated sector. This will foster the development of sector specific expertise and ensure that field officers' time is spent working directly with industry. The implementation of this new model across the State will see the interim establishment of virtual teams within regional hubs in order to meet processing requirements while transitioning to the new model. Transition has begun with the establishment of coal and mineral assessment hubs in Central and Northern regions, enabling field officers to focus exclusively on land-access related field matters and field compliance.

[5] Mineral Resources Act 1989, Petroleum and Gas (Production and Safety) Act 2004, Petroleum Act 1923, Greenhouse Gas Storage Act 2009 and Geothermal Energy Act 2010 (collectively referred to as the 'resource Acts').

[6] http://mines.industry.qld.gov.au/mining/operational-policies.htm. .

*Future program of administrative and operational reform*
A recurring theme of work for the Streamlining Approvals Project has been that exploration investment is the foundation for future and ongoing development of the Queensland resources sector.

Exploration reform initiatives are key to encouraging this investment and continue to be progressed. For instance, the rapid increase in exploration permits since the 2008 resources boom has seen an enormous increase in the number of variation applications. In response, the Government is considering reforms to variation requirements and processes with the objectives of:

- encouraging efficient exploration and turnover of land held under exploration permits;
- maximising efficiency of human resources allocated to managing exploration permit tenures;
- reducing the administrative burden on both government and industry; and
- improving alignment between Queensland resources legislation.

The Queensland Government's package of legislative, administrative and operational reforms will deliver benefits to the State's exploration industry that will continue to accrue over time. These benefits include:

- allowing industry to transact with Government online, that will encourage greater visibility and interaction and accountability of both government and industry at each step of the approval process;
- providing continuous improvements of online functionality;
- facilitating the modernisation of tenure administration;
- providing clear and transparent policies associated with applications for exploration permits which will drive improved and complete applications;
- enabling Government to spend less time on administrative maintenance of tenures and more time on active assessment of exploration (and indeed other) permits;
- streamlining administrative processes and requirements for managing mineral and coal exploration permits to deal with all business transactions, changes of ownership and departmental information requests to applicants;
- clarifying land access arrangements for exploration permit holders to undertake environmental studies; and
- providing for a consistent process for assessing an application and providing for it to proceed despite it being incomplete if it is substantially compliant with requirements.

## 5.2 Greentape reduction project

### 5.2.1 Background

Chapters 5 and 5A of the *Environmental Protection Act 1994* prescribe the environmental approvals processes for resource activities. Chapter 5 relates to mining activities and Chapter 5A relates to petroleum and gas activities. Collectively these are referred to as resource activities.

Currently all resource activities, including exploration and prospecting activities require an EA. The licensing scheme recognises that different types of resource activities may have different types of environmental authorities which are proportionate to their environmental risk. Resource activities are currently described as level 1 (high risk) or level 2 (low risk) activities.

Level 1 resource activities are subject to the highest levels of assessment and generally involve large scale activities and activities operating in environmentally sensitive areas.

Level 2 mining activities operate under a code of environmental compliance (code) which sets out the standard conditions that apply to the activity. The code is taken to be the EA for the mining activity and additional conditions may be applied if some aspects of the code cannot be complied with. Most exploration activities associated with mining, unless for example they are carried out in environmentally sensitive areas such as national parks, are level 2 activities and take advantage of the streamlined approval processes.

Codes of environmental compliance do not currently exist for level 2 petroleum and gas activities and therefore all are currently subject to a full assessment process.

### 5.2.2 Detailed response

In response to industry and government concerns that the approvals processes had become increasingly complex over time, the Queensland Government recently introduced a number of greentape reduction reforms that will modify the approvals framework for resource activities. The reforms will provide a streamlined and more flexible approvals framework that is proportionate to the environmental risks, whilst maintaining environmental outcomes.

The reforms are being introduced through both the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* and the MOLA Bill. The reforms will benefit all resource activities and are planned to commence on 31 March 2013.

A summary of the reforms proposed under the greentape reforms, as they relate to the exploration industry, are provided below.

*The* amendments contained in the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* will*:*

- remove the requirement for prospecting activities to hold an EA;
- streamline the EA approval processes by replacing the separate approvals processes in Chapters 5 and 5A with a single, staged approval process for all resource activities;
- provide an increased range of standard applications with standard conditions for low risk activities, including level 2 mining exploration activities and level 2 petroleum and gas exploration activities. Once introduced, approximately 90 per cent of petroleum and gas applications will be able to obtain an 'off the shelf' approval, thus removing the need for case by case assessment each time;
- reduce assessment timeframes by allowing public notification to occur before a draft EA has been issued;
- link the EA to the resource tenure so that the EA will transfer automatically with the transfer of tenure. This will remove the need for transfer applications to be made under the *Environmental Protection Act 1994*; and
- remove the need to pay annual fees for the EA while waiting for the resource tenure to be approved as the EA will only take effect when the tenure is approved.

The amendments contained in the MOLA Bill will*:*

- remove the requirement for low risk mining exploration activities to hold an EA;
- provide low risk exploration activities that will be restricted in size and where they can operate, for example, not in watercourses. They will include exploration for minerals (other than coal) if the area of the exploration permit does not exceed four sub-blocks and the following additional criteria are also met:
  - it is not carried out in a wild river area or on strategic cropping land or potential strategic cropping land; and
  - it is not, or will not be, carried out in a watercourse or riverine area; and
  - it is not carried out in or within one kilometre of a category A environmentally sensitive area (e.g. national park); and

- it is not carried out in or within 500 metres of a category B environmentally sensitive area (e.g. a World Heritage management area); and
- it is not carried out in a designated environmental area (e.g. nature refuge); and
- it is not carried out as part of a petroleum activity or a prescribed environmentally relevant activity (e.g. mineral processing plant); and
- it does not cause more than 1000m2 of land to be disturbed.

- remove the EA requirement that will benefit people undertaking mining exploration activities as they will no longer need to make an application, pay annual fees or comply with ongoing administrative requirements.

## 5.3 Land access framework reform

### 5.3.1 Background

Queensland's Land Access Framework seeks a balanced approach to private land access and recognises and clarifies the rights of permit or authority holders and landholders in relation to the access of private land for resource related activities. It provides for consistent legislative requirements and processes across the State's resource sectors that are transparent, equitable and bring landholders and permit or authority holders together at the front end of the process to negotiate access solutions.

The framework includes a consistent regime across all Queensland resources legislation that includes:

- a legislative requirement for compliance with a single statutory Land Access Code;
- a notice of entry process for defined 'preliminary' (low impact) activities;
- a requirement for the making of a Conduct and Compensation Agreement prior to entry to land for 'advanced' (more significant impact) petroleum and gas, geothermal, greenhouse gas storage, and mineral exploration activities;
- a graduated negotiation and dispute resolution processes to remedy disputes; and
- improved compliance and enforcement processes for administering the Land Access Code.

The laws generally apply to the activities of resource companies involved in mineral, petroleum and gas, geothermal and greenhouse gas storage exploration and development in Queensland. They apply to respective tenures or authorities as follows:

- *Mineral Resources Act 1989* - exploration permits, mineral development licences;
- *Petroleum and Gas (Production and Safety ) Act 2004* - all authorities;
- *Petroleum Act 1923* - all authorities;
- *Greenhouse Gas Storage Act 2009* - all authorities; and
- *Geothermal Energy Act 2010* - all authorities.

### 5.3.2 Detailed response

In early 2012, a review of the Queensland Government's Land Access Framework (Land Access Review) was undertaken by an independent panel of agricultural and resource industry experts. The purpose of the review was to assess the framework and its effectiveness and make recommendations on improvements to the framework.

The Land Access Review involved targeted consultation with a broad range of stakeholders across the State with practical experience in the land access arrangements. Stakeholders included resource companies, agricultural landholders, peak bodies, legal practitioners, valuers and consultants.

The independent panel documented its analysis of stakeholders' feedback, together with a list of recommendations in a report to government entitled *Land Access Framework - 12-month review*[7].

In summary the independent panel outlined the following key issues associated with the land access framework. The independent panel also made recommendations to the Queensland Government about how to address these issues.

*Process complexity*
The independent panel identified a range of individual issues that were attributed to the complexity of the land access process, particularly in relation to notification requirements and negotiation processes.

The independent panel noted general feedback from a broad range of stakeholders including that:

- notification requirements are overly onerous and introduced a large amount of paperwork for little quantifiable benefit;
- statutory negotiation process has added time and cost to the process of negotiation access and compensation;
- some companies and landholders have utilised strategic behaviour in negotiation to either delay or force access; and
- dispute resolution requirements of the framework were not successful and sometimes added costs and time to the land access process.

*Legal and professional representation*
The independent panel noted that the involvement of legal and other professional representatives was one of the most prominent points raised by stakeholders. Feedback particularly from the resources sector was that the introduction of the ability for landholders to access legal and other professional advice in compensation has added significant costs and delays to the land access process.

*Diversity in land use and resource activities*
A key finding of the independent panel was that the 'one size fits all' approach to land access in Queensland had shortcomings and there is greater need for recognition of the different issues and experiences faced by groups in different geographic areas of the State.

For example, the North West Queensland Minerals Province (Mount Isa) has a long history of mineral resource exploration and development, and there are many cases of landholders and resource companies working together, and of resource exploitation and farming practices co-existing for many decades. Traditionally, land access in this part of Queensland has revolved around 'handshake' agreements and providing in-kind compensation, such as upgrading fences and roads, rather than complex and legalistic up-front compensation agreements.

In contrast, experiences of communities in the Surat Basin have been very different and far more acrimonious for a number of reasons. The area is more closely settled than other parts of rural Queensland; the land is generally more productive from an agricultural viewpoint; and the region has less history and experience with the resources sector.

[7] http://mines.industry.qld.gov.au/assets/native-title-pdf/Land_Access_Review_Panel_report.pdf)

As a significant part of the Surat Basin is high-value agricultural land, often farmed using specialised practices and irrigation, local landholders are especially sensitive to the impacts that resource exploration has on their land and the environment. The independent panel also noted that social amenity issues were more significant in the Surat Basin, which is likely due to the higher density of population than other regional areas and the cultural value that locals place on amenity. Therefore conduct and compensation negotiations and agreements tend by nature to be more complex and take longer to negotiate.

*Queensland Government response*

After seeking the views of the community and stakeholders, these recommendations were evaluated and a report produced entitled *Queensland Government response to the report of the Land Access Review Panel - December 2012*[8]. The focus of Queensland's response is a 'Six Point Action Plan' which was developed in response to the Land Access Review independent panel report recommendations.

The Six Point Action Plan is as follows:

1. examine, conduct and compensation provisions including:
   (a) reviewing heads of compensation to ensure no cost or erosion of landholder rights; and
   (b) expanding Land Court jurisdiction to include conduct.
2. implement a single Land Court-accredited form of independent alternative dispute resolution, integrated into the Land Court;
3. amend legislation to ensure that conduct and compensation agreements (CCA) to be noted on land titles by companies;
4. amend legislation to provide a mechanism for parties to agree to opt out of the Land Access Framework (at the election of the landholder if both parties agree);
5. develop standard CCAs for mineral, coal and CSG industries in partnership with the resource and agricultural sectors; and
6. review and rationalise information sources into a single resource for landholders and resource companies.

To ensure that Queensland's response is appropriately implemented in a timely manner, the Queensland Government has established a Land Access Implementation Committee (the Committee). The Committee will be guided by an independent chairperson and consist of representatives from the following organisations:

- AgForce;
- Queensland Farmers Federation;
- Queensland Resources Council;
- Australian Petroleum Production and Exploration Association;
- Association of Mining and Exploration Companies; and
- The Gasfields Commission.

[8] (http://mines.industry.qld.gov.au/assets/native-title-pdf/qg-response-land-access-framework.pdf

## 5.4 Statutory regional planning reform

### 5.4.1 Background

The Queensland Government has committed to reforming the State's planning framework–the *Sustainable Planning Act 2009*. Reforms include the development of a single state planning policy; the establishment of a single assessment and referral agency; and the development of new-look statutory regional plans for the State–all of which will reduce regulatory burden and provide certainty for property owners, developers and industry. Initial development of these plans will focus on the Darling Downs and Central Queensland regions which are experiencing significant resources sector growth.

### 5.4.2 Detailed response

Queensland's new generation of statutory regional plans will foster diverse and strong economic growth; manage urban development and resolve land use conflicts such as those arising between agricultural and mining activities. This will create a more streamlined approach to land use planning and provide greater certainty for landholders and developers.

The development of the Central Queensland and Darling Downs Regional Plans is well underway with the development of an Issues Paper, Economic Development Strategy and Infrastructure Baseline Study for each region. Matters to be addressed in regional plans include maximising opportunities for co-existence between agricultural land uses and resource exploration and development activities; and establishing suitable statutory separation distances between resource activities and other land uses such as agriculture and residential areas.

Commencement of statutory public consultation on the Central Queensland and Darling Downs Regional Plans is planned for June 2013 with commencement of plans intended in late 2013.

It should be noted that while the regional plans will undoubtedly ensure a closer relationship between the land use planning framework under the *Sustainable Planning Act 2009* and the Queensland's resource Acts[9], the resource Acts will continue to operate as they currently do.

[9] Mineral Resources Act 1989, Petroleum and Gas (Production and Safety) Act 2004, Petroleum Act 1923, Greenhouse Gas Storage Act 2009 and Geothermal Energy Act 2010 (collectively referred to as the 'resource Acts').

# 6 Ongoing regulatory arrangements

## 6.1 Strategic cropping land framework

### 6.1.1 Background

Significant expansion of resource exploration and development has seen the interaction between resource exploration and development and agriculture increase significantly over recent years. In Queensland the experience has been that a boom in CSG and coal exploration in more closely settled, and higher value agricultural areas of the Darling Downs has seen concern levels heightened with agricultural stakeholders and landholders. This is also compounded by the fact that unlike some other parts of the State (North West Queensland, Bowen Basin) there is not a significant history of co-existence of the two sectors.

Queensland's SCL framework, which commenced on 30 January 2012 includes the *Strategic Cropping Land Act 2011* (SCL Act) and a State Planning Policy under the *Sustainable Planning Act 2009*. The SCL framework aims to protect land that is highly suitable for cropping, manage the impacts of resource development activities (such as mineral and energy exploration), and preserve the productive capacity of that land for future generations.

### 6.1.2 Detailed response

As part of the Queensland Government's ongoing commitment to reducing unnecessary regulation of industry, changes to the administration of the SCL framework have been made for resource activities. These changes relate to how resource activities are assessed under the *Strategic Cropping Land Act 2011*, the SCL standard conditions code, application fees, and minor changes to the map identifying where potential SCL is expected to exist.

From September 2012, only those resource activities proposed to be conducted directly on SCL or potential SCL will need an SCL assessment. Previously, an SCL assessment was required where a resource tenure area contained any SCL or potential SCL. This change significantly reduces the regulatory burden on the resources sector.

The SCL standard conditions code for resource activities has also been revised to further simplify the SCL compliance framework for certain resource activities that have a temporary impact on SCL and pose only a low risk to strategic cropping land.

The code expedites the approval process under the SCL framework, while ensuring there are appropriate standards of management and protection of strategic cropping land. Certain temporary resource activities with no additional impact or a minimal impact on SCL or potential SCL can now be approved using the code.

### 6.1.3 Response to questions

Response to specific questions (relevant to SCL) identified in the Issues Paper are outlined below.

| |
|---|
| *Question: Are there different factors influencing exploration expenditure by junior explorers and established producers?* |

Given the fees associated with obtaining an SCL development assessment decision ($500 - $10,149 for a compliance certificate issued under the standard conditions code; or $28,207 for a full SCL protection decision); established producers may be more likely than junior explorers to apply to undertake exploration on SCL or potential SCL.

*Question: How has the complexity of the approvals process increased over time? What factors are contributing to the increasing coverage and complexity of the approvals process? What can be done to reduce this complexity while still meeting regulatory objectives?*

The complexity of approvals required under the SCL Act is being reduced. Recently, the Queensland Department of Natural Resources and Mines revised the code to accommodate a wider variety of temporary resource activities and reduce the regulatory burden for proponents.

*Question: Are there specific examples of overlap and duplication of regulatory requirements faced by resource explorers? What are the costs associated with such arrangements*? *Are there examples where different tiers of government mutually recognise compliance with another government's regulatory arrangements?*

Queensland was the first jurisdiction in Australia to introduce specific legislation to protect land that is highly suitable for cropping from resource developments. There is no overlap between the SCL Act requirements and other Queensland statutory requirements.

*Question: Has there been an adequate examination of the costs and benefits of excluding exploration activities from particular land? Should land be indefinitely excluded from exploration activities, and if so under what circumstances? Are independent, transparent and evidence based processes used to determine which land is to be excluded from exploration activities?*

A regulatory assessment of the costs and benefits to business and government of the broader SCL framework was undertaken before the SCL Act was introduced. This included an assessment of costs and benefits to the resources sector. It was acknowledged that implementation of the SCL framework would have financial implications for government, business and the community.

Generally, exploration activities are not excluded from any land that is identified as SCL or potential SCL (unless the proponent elects to have this restriction imposed on their resource authority). The only exception to this is where the exploration activity is determined to have a permanent impact to SCL or potential SCL in a protection area. In this case, the development would be prohibited from proceeding unless the proponent was successful in demonstrating the project was in exceptional circumstances.

*Question: How can the mineral and energy exploration sector coexist with other types of land use, such as agriculture? Are the additional processes and conditions placed on exploration activities necessary to ensure agricultural production is protected? Are current government policies and legislative responses based on a robust and transparent account of the costs and benefits of different types of land and aquifer use?*

The SCL framework has been introduced as a way to manage land use competition over Queensland's important agricultural land and encourage improved coexistence between the resource and agricultural sectors. The SCL code provides a good example of how conditioning of resource activities is used to allow resource activities to proceed on SCL while ensuring the land is protected for current and future agricultural use.

## 6.2 Heritage protection framework

*Question: Are the current heritage requirements providing an appropriate balance between heritage preservation and resource exploration? Are there aspects of Indigenous and non-Indigenous heritage requirements that pose an unnecessary impediment to resources exploration? Are there ways to streamline the processes while still meeting regulatory objectives?*

**Non-indigenous heritage requirements**

### 6.2.1 Background

All aspects of development (including development associated with exploration activities) on a Queensland Heritage Place (some exemptions apply) are assessable development under the *Sustainable Planning Act 2009* (SPA) and a development approval is required. Applications are assessed against the *Queensland Heritage Act 1992.*

The *Mineral Resources Act 1989* does not override the requirements of the SPA or the *Queensland Heritage Act 1992* in relation to development on a Queensland Heritage Place.

### 6.2.2 Detailed response

Development associated with exploration activities on a Queensland Heritage Place is assessable under the SPA. Section 319 of the *Mineral Resources Act 1989* provides that the SPA does not generally apply to development authorised under the *Mineral Resources Act 1989*. However, the legislation provides for exceptions, including for administering the Integrated Development Assessment System under the SPA in relation to Queensland Heritage Places under the *Queensland Heritage Act 1992*.

Over 1600 places are entered in the Queensland Heritage Register. They include houses, rural homesteads, civic buildings, roads, bridges, workplaces, cinemas, landscapes, archaeological sites and trees. Seventy-six of these places are historic mining places. These are highly concentrated in a few local government areas in north Queensland generally associated with historic mining towns.

Although development associated with exploration on a Queensland Heritage Place is assessable, very few applications are lodged for assessment on historic mining places. The probable reasons for this are that:

- the mineral resources at these sites have previously been exploited and are now depleted; or
- most historic mining places entered in the Queensland Heritage Register have a defined heritage boundary (usually quite small) and so exploration can occur outside the boundary without having to lodge an application.

As a result, Queensland's heritage conservation arrangements generally do not present impediments to resource exploration.

**Indigenous heritage requirements**

### 6.2.3 Background

The *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003* provides blanket protection for all Aboriginal and Torres Strait Islander cultural heritage. The cultural heritage duty of care states that all land users must take all reasonable and practicable measures to ensure the activity does not harm cultural heritage (the cultural heritage duty of care). Guidelines have been gazetted to assist land users comply with the cultural heritage duty of care.

Activities associated with exploration can comply with the cultural heritage duty of care in a number of ways including:

- under an approved cultural heritage management plan;
- under a native title agreement or another agreement with the statutory Aboriginal or Torres Strait Islander party unless cultural heritage is expressly excluded from being subject to the agreement;
- in compliance with the cultural heritage duty of care guidelines; and
- in compliance with native title protection conditions but only if cultural heritage is expressly or impliedly the subject of the conditions.

### 6.2.4 Detailed response

The compliance framework established by the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003* provides a streamlined and balanced process for managing cultural heritage arising from resource exploration activities. This is achieved by:

- minimising direct government involvement in the negotiation of cultural heritage agreements;
- eliminating the need for government approval of cultural heritage agreements (with the exception of activities that trigger Environmental Impact Statements);
- empowering Aboriginal and Torres Strait Islander people to determine the significance of cultural heritage;
- enabling land users to liaise directly with the statutory Aboriginal or Torres Strait Islander party for an area to tailor specific agreements for their projects;
- utilising provisions of the Commonwealth *Native Title Act 1993* where appropriate to eliminate duplication;
- reducing mandatory reporting requirements to government; and
- encouraging flexible and non-prescriptive approaches to the management of cultural heritage.

# 7 Other issues impacting on the performance and efficiency of resource exploration

## 7.1 Government geoscientific activities

### 7.1.1 Background

The Queensland Government acknowledges the availability of pre-competitive geoscientific data is perceived to positively impact on exploration companies' commercial objectives, boosting the State's attractiveness as an exploration centre[10]. This is why the Queensland Government through Geological Survey Queensland (GSQ) provides significant support to geoscience programs and initiatives to attract exploration investment across the State.

The Government's Greenfields 2020 program is designed to identify new mineral and energy provinces and to also revitalise interest in more mature provinces by providing new information through the application of new ideas and technologies. The New Minerals Frontiers Initiative under Greenfields 2020 involves substantive regional geophysical surveys, 3D-4D modelling and mineral system studies supporting mineral and energy exploration. Another initiative under Greenfields 2020, the Collaborative Drilling Initiative (CDI), is designed to stimulate exploration investment in under-explored parts of Queensland through the provision of grants to enable innovative drilling proposals to take place.

### 7.1.2 Detailed response

The availability and quality of precompetitive data in Queensland has seen the use of the Interactive Resource and Tenure Maps system (IRTM) and Queensland Exploration reporting system (QDEX) increase significantly over the last 12 months with a threefold increase in IRTM downloads from around 50Gb to 153Gb and a 60 per cent increase in QDEX downloads[11]. This would support increased exploration productivity.

Queensland has an excellent global reputation in respect to the collection, storage and delivery of geological data, the application of new technology, exploration promotion, global benchmarking and the provision of drilling initiatives. Looking to the future, it is expected that in 2013 the Queensland Government will deliver the following outcomes in this area:

- production of a new geological map and 900 page book on the geology of Queensland. The map was released in conjunction with the 34th International Geological Congress held in Brisbane in August 2012. The map and book together showcase Queensland and its mineral and petroleum potential to the world;
- establishment of online search and delivery capability for large geological spatial data sets to replace the current manual system;
- major releases of precompetitive data on the results of the Galilee and Thomson airborne magnetic and radiometric surveys were released in late 2012, which will reduce exploration risk and will attract exploration investment into these underexplored areas of Queensland;
- completion of regional assessments of the geothermal potential of areas near existing power transmission lines in Queensland undertaken under the Coastal Geothermal Energy Initiative;
- production and release of at least 14 substantial reports on the geology and mineral and petroleum potential of Queensland, which will demonstrate the geological potential of this State and serve to attract significant exploration interest and investment into the Queensland economy;

[10] http://www.queenslandexploration.com.au/wp-content/uploads/2011/10/QEC-Exploration-Scorecard-FINAL-21-October-2011.pdf

[11] http://www.queenslandexploration.com.au/wp-content/uploads/2011/10/QEC-Exploration-Scorecard-FINAL-21-October-2011.pdf

- completion of Rounds five and six of the CDI grant scheme; and
- continue to raise awareness of the geological prospectivity of Queensland and help attract significant investment to the State by hosting and participating in industry forums such as the Mining 2012 Resources Convention, the 34th International Geological Congress and GSQ's Digging Deeper Seminar.

## 7.2 Safety and health framework

*Question: To what extent have the various OHS regimes created unnecessary burdens for exploration activities? Have the various industry specific regimes resulted in unnecessary duplication or overlap?*

### 7.2.1 Background

Queensland has industry specific safety and health legislation for mining and petroleum and gas operations. This is necessary because of the risks and hazards present at these operations. The *Coal Mining Safety and Health Act 1999, Mining and Quarrying Safety and Health Act 1999* and *Petroleum and Gas (Production and Safety) Act 2004* apply to mining and petroleum and gas operations. These pieces of legislation follow a performance- and risk- based approach rather than a prescriptive approach, which allows industry to develop its own approaches to achieving safety outcomes.

The Queensland legislation requires operators to develop safety management systems to manage risks and hazards; they do not prescribe a 'one size fits all' approach. Operators are required to assess the risks and hazards for their operations and develop safety management systems with the objective of meeting their legislated obligation of safety performance within an acceptable level of risk. Production and protection are able to occur concurrently under Queensland's resource safety legislation. Operators are not required to submit their safety management systems to regulators for approval. Instead, regulators audit and inspect the systems during site visits.

The approach taken under the Queensland legislation means the legislation is flexible enough to cater for exploration and production sites regardless of size and complexity and does not place unnecessary burden on companies. There may be fewer hazards on exploration sites than production sites but incidents can still occur. For example, in 2006 there was a fatality on a minerals exploration site and in 2008 there was a fatality on a coal exploration site. In general, it can be asserted that there is poor compliance with safety regulations on many exploration sites across mining and petroleum and gas operations and there is much to do to lift the standard.

The industry specific legislation is needed to protect workers involved in exploration activities and as the industry evolves the legislation needs to adapt. The Government works with industry to develop necessary changes.

### 7.2.2 Detailed response

**Mine safety legislation**

All safety and health matters on mine sites are regulated by either the *Coal Mining Safety and Health Act 1999* or *Mining and Quarrying Safety and Health Act 1999*. This means there is no overlap with the general *Work Health and Safety Act 2011*. Under these two pieces of legislation all mines and quarries regardless of whether it is an exploration or production site are required to operate under a safety and health management system (SHMS). The SHMS identifies all hazards and is subject to risk assessment and regular audits to ensure it remains effective. The size and complexity of the SHMS is commensurate to the size and complexity of each mining operation.

To assist operators to meet their safety and health obligations the Department of Natural Resources and Mines has published a range of guidance notes developed together with industry and unions. One was specifically developed to assist in reducing accidents, injuries, incidents and occupational diseases in the exploration industry by ensuring that proper attention is given to safety management in all on-shore exploration activities[12]. Another provides assistance to operators in meeting their obligations to review the effectiveness and implementation of safety and health management systems at mines and quarries[13].

*National mine safety framework*
Queensland is participating in the Council of Australian Governments' National Mine Safety Framework, which aims to develop nationally consistent mine safety legislation. In particular, Queensland has been working closely with New South Wales and Western Australia to develop consistent legislation and regulation. Together these three states account for 90 per cent of mining activities in Australia.

While the legislation and regulation will not be identical across the three jurisdictions the technical requirements will be very similar. This is likely to reduce the regulatory burden on explorers who have multi-state operations.

**Petroleum and gas safety legislation**

Like the mining safety legislation, Queensland's *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) requires operators of operating plants to develop safety management plans to manage risks associated with petroleum and gas activities and facilities. The size and complexity of the plans depends on the size and complexity of the operations. Operators must determine through risk assessment what needs to be included in the safety management plan. The requirements under the P&G Act are consistent with best practice and Australian Standards for risk management and assessment.

The P&G Act, unlike the Queensland mining safety Acts, does not exclusively apply to all activities on a petroleum authority. The P&G Act applies to activities and facilities defined as an operating plant. Other activities are regulated by the *Work Health and Safety Act 2011* (WHS Act). In broad terms the P&G Act applies to matters requiring technical expertise in petroleum and gas and is of a complexity that needs to be covered by a safety management system. The WHS Act applies to all other safety matters. This means petroleum and gas explorers need to comply with both pieces of legislation but there is no overlap in requirements and explorers do not need to develop a safety management system under the WHS Act.

[12] Department of Natural Resources and Mines (2004), *Minerals exploration safety guidance note*

[13] Department of Mines and Energy (2008), *Guidance Note QGN09 Reviewing the Effectiveness of Safety and Health Management Systems*, version 2