Queensland Government Submission

Productivity Commission Draft Report
Mineral and Energy Resource Exploration
July 2013

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1. Introduction

The Queensland Government welcomes the opportunity to make a submission in response to the Productivity Commission (the Commission) Draft Report titled *Mineral and Energy Resource Exploration* (the Draft Report) released in May 2013. This submission has been compiled by the Department of Natural Resources and Mines (DNRM) on behalf of the Queensland Government and focuses on the main recommendations and specific sections of the draft report which were of interest to Queensland.

The Queensland Government is committed to growing a four pillar economy, with resources being one of the key pillars alongside construction, tourism and agriculture. The Government is also committed to creating a legislative and business environment that fosters resource sector growth.

The resources industry is a key driver of the Queensland economy, with an instrumental role in the development of the State's social infrastructure, job creation, and the delivery of a range of broader, positive economic benefits for the people of Queensland.

Queensland is globally recognised as one of the world's most prospective minerals and energy provinces. With more than 30 billion tonnes of identified resources of black coal, Queensland is the world's largest seaborne coal exporter. Queensland is also rich in copper, lead, silver, zinc, bauxite, phosphate rock, magnesite and silica sand, and its gemfields attract thousands of fossickers annually.

The development of the world's first coal seam gas to liquefied natural gas (CSG-LNG) industry has been a major catalyst for increased in resource activity in Queensland. More than $60 billion of private sector investment has been approved for the development of the three LNG export facilities near Gladstone so far.

The Queensland Government welcomes long-term investments in the State that will allow all Queenslanders to share in the benefits of the resources sector. The latest figures from the Australian Bureau of Statistics show that $7.36 billion was invested in the Queensland resources industry in the March quarter of the 2012-2013 financial year. That equates to a greater than 20 per cent increase on the $6.06 billion invested in the Queensland resource sector in the same period in 2011-2012.

The Queensland Government also recognises that funds directed to resource exploration now, will underwrite future jobs and regional economic growth, delivering long-term benefits to the economy. This is why the Queensland Government announced funding of $30 million over three years for the Geological Survey of Queensland (GSQ) as part of the 2013-2014 State Budget. This funding is recognition of GSQ's role in attracting investment into the State and will fund seven initiatives supporting Queensland´s resource exploration industries.

The Queensland Government has also shown its commitment to reducing constraints on industry by overturning bans on the development of industries such as oil shale and uranium. Allowing the development of these industries in the State is sending the message to the investment community that Queensland is open for business.

In conjunction with the recent releases of new exploration land and ongoing efforts to streamline the assessment process for resource projects, these initiatives highlight a range of activities the Queensland Government is undertaking to support the growth of the State's economy.

2. Queensland's Regulatory Reform Agenda

Queensland is an attractive investment destination for resource exploration activities. However, in order to maintain and grow investment, the Queensland Government recognises that it must work towards reducing the current level of regulatory burden on Queensland's industries.

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 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.

In recognition of the resources sector's contribution to the State, the Resources Cabinet Committee (RCC) was established to address issues for resource companies dealing with government regulation and to reduce red and green tape to facilitate investment in the sector. By inviting industry representatives to RCC meetings, the Queensland Government is working to develop a relationship with industry that will support the current momentum in resource investment.

The resources sector, as one of the four pillars of the State's economy, is a key focus of regulatory reform and red tape reduction efforts and reforms to resources sector regulation are contributing to the Queensland government's broader framework for measuring and reducing the burden of regulation.

For example, the passage of the *Mines Legislation (Streamlining) Amendment Act 2012,* the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*, the *Mining and Other Legislation Amendment Act 2013* and the *Land, Water and Other Legislation Amendment Act 2013* have all contributed to a significant reduction of the regulatory burden faced by the resources industry.

The Greentape Reduction Project implemented changes to Queensland's environment legislation, contributing to the Queensland Government's overall commitment to reduce red tape by 20 per cent. This project rebuilt the approval processes for environmental licensing under the act to reduce costs, improve business investment certainty and allow front-line environmental regulation to be delivered more efficiently. The changes will reduce the burden of slow approvals for industry and government and bring the environmental approvals process in line with international best practice.

The Streamlining Approvals Project is a key initiative that is driving and will continue to drive business and system transformation for resource permit approvals, to bring about a more seamless system and establish more efficient tenure management processes, making it easier for resource companies to continue operations on schedule.

Since the submission period for the Productivity Commission Issues Paper on non-financial barriers to resource exploration closed, the Queensland Government has committed to a program of work to Modernise Queensland's Resource Acts (MQRA). Under this program, by 2016, Queensland will have modernised its mining and petroleum tenures administration legislation for all resource types through the phased development of a common resources Act.

Once implemented the exploration sector, along with other resource sectors, will reap the rewards of a modern, efficient and simplified legislative model which will increase the attractiveness of Queensland as an investment destination for all exploration sectors.

The objectives of the program are to:

- build on the achievements of / rationale behind the streamlining legislative reforms;
- deliver a common and flexible system(s) of tenure and resource administration to cover coal, mineral, petroleum, geothermal and geo-sequestration tenure;
- streamline, clarify and simplify regulatory requirements;
- reduce the regulatory burden and costs of complying with the current legislation;
- delivers a level playing field with all resource types subject to the same basic tenure structure and process; and
- appropriately manage any special characteristics of a particular resource type.

Final recommendations from the Productivity Commission that are consistent with Queensland Government policy will be considered for implementation through the MQRA program and other ongoing programs and projects such as the Streamlining Approvals Project. In this regard it is noted that through the Streamlining Approvals Project the Queensland Government is preparing and publishing information on the Government's exploration objectives and the criteria by which applications for exploration licences will be assessed.

3. Exploration Licensing and Approvals

The regulatory framework (page 64 of the Draft Report)

The Queensland Government requests that the following amendments be made to 'Table 3.1 Key legislation governing mineral and energy exploration' on page 65 of the Draft Report:

- Under Onshore Petroleum Acts for Queensland, both the *Petroleum Act 1923* and the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) need to be listed. Whilst the P&G Act is the primary Act governing onshore petroleum development in Queensland, there are still tenures administered under the *Petroleum Act 1923*.

Uranium (page 75-76 of the Draft Report)

The Queensland Government has noted that the Commission states that the approach to issuing exploration licences for uranium differs from the approach used for other resources. In Queensland, the process for allocating exploration permits for uranium does not differentiate from other forms of minerals (with the exception of coal). The *Mineral Resources Act 1989* (MRA) provides the framework for granting tenure and uranium falls within the definition of mineral. As such, exploration for all minerals other than coal (including uranium) requires an 'exploration permit for minerals'.

The Commission also states concerns have been raised that in some instances the procedures and approaches that are used for regulating uranium exploration are not transparent or are based on policies that appear to diverge from good regulatory practices.

In October 2012, the Queensland Government established the Uranium Mining Implementation Committee (UMIC). Its role was to recommend a best practice policy framework for the orderly development and operation of a uranium mining and export industry in Queensland. On 18 March 2013, a final report was delivered to the Queensland Government and contained 40 recommendations on how to achieve this.

A key finding of the UMIC was that "many of the environmental and radiation safety issues in uranium mining also occur in other existing mining activities. Thus uranium mining is similar to other metalliferous mining operations in terms of the environmental issues that must be addressed."

Consequently, no legislative amendments were recommended as the existing frameworks in Queensland can accommodate uranium mining. Actions recommended to government included matters such as updating guidance material to provide contemporary knowledge and ensuring capability in assessment given the timeframes since the last operational mine.

The Queensland Government is currently assessing the UMIC's report and recommendations. The Government response will determine the next steps towards establishing a best-practice framework for uranium mining in Queensland.

The transparency of licence allocation decisions (pages 78-79 of the Draft Report)

Amendments to Queensland's resources legislation to remove the need to publish weightings for each tender evaluation criteria commenced on 31 March 2013.

Against each specific evaluation criteria explicitly stated in every call for tenders for exploration rights, tenderers have always been expected to submit their best possible response including providing programs of works of a sufficiently high quality to distinguish them from their competitors.

Consistent with this approach, the State continues to strongly encourage tenderers to develop innovative techniques and inclusions in their proposed work programs so as to try to ensure the best possible party might be allocated the tenure.

The change to remove a requirement to issue publicly stated weightings for each criterion provides the State the ability to employ reasoned judgement as to the relative merit and appropriateness of the weightings for each separate tender evaluation criteria within each tender round, which is common commercial practice.

Nevertheless, the State will continue to set and publish clearly defined evaluation criteria by which all tenderers can be judged on their merits for all future calls of tenders.

This change—the removal of weightings—encourages tenderers to submit a program of work in line with their capabilities and site suitability rather than submitting a program that is designed to achieve a high assessment score under a published weightings and scoring system. In past instances, DNRM has experienced cases that clearly indicated the tenderer had included an overly aggressive work program simply to win the highest score, rather than being the most appropriate for the site. The new approach counters this tactic.

Since the introduction of competitive cash bidding in Queensland in 2012, a total of 2,829 sub-blocks have been released through the competitive tender process *without* a cash bidding component. The first two rounds of cash bidding, for potentially highly prospective Coal Seam Gas, by comparison have released only 147 sub-blocks.

The Queensland Government's competitive tender process for exploration rights supports the small explorer sector. This group is good at making discoveries and managing the risks of exploration. That is why the Queensland competitive cash tender process is only implemented for a few small areas that are considered potentially highly prospective. This potential is based on analysis of extensive publically available exploration results that lead to this conclusion. The areas released with a cash bidding component are not areas where 'discovery' is required, rather a proving up of what are likely to be commercially viable resources.

The Queensland Government continues to release areas for exploration and new discoveries *without* a cash bid component. These areas target junior explorers, providing the opportunity to explore green-field areas through a series of non-cash (work program-based) competitive tenders planned for both petroleum and gas and coal areas.

A work program continues to be an evaluation criterion for the granting of a cash tender for potentially highly prospective areas. This provides a balanced assessment of tenders since the highest cash bid does not necessarily guarantee the most suitable approach to exploration and development.

In relation to the comment in the Draft Report that cash bids limit exploration expenditure, anecdotally larger companies have acquired exploration rights from smaller / junior explorers for significant upfront payments. The competitive cash tender process releases land that has been objectively analysed by DNRM's geologists, based on available data from activities on and around these areas. This verifies the quality of the resource opportunity being released to the market.

The Queensland Government notes that the Queensland Resources Council (QRC) is concerned by the level of transparency and fairness of the cash bidding tender process.

As witnessed in the first release of petroleum exploration permits under competitive cash tender, the process is fair and transparent. After publicly announcing the release of this land for exploration, the call for tender was made publicly available on the Queensland Government's e-tenders website. The Queensland Government's e-tenders website is not new and numerous tenders ranging from medical services to regional development projects were successfully completed in 2012.

To maintain the highest level of integrity, the current competitive tender documentation includes all legislative and administrative requirements of the process including the criteria for evaluating tenders and selecting the preferred tenderer.

The QRC's submission to the Productivity Commission's Issues Paper suggests that by accepting payments for exploration tenure, the Government's ability to impartially regulate will be compromised. The Queensland Government has significant experience in impartially evaluating exploration permit tenders and it is required to impartially regulate these tenures regardless of whether a competitive tender process has been used.

As an added precaution in ensuring this integrity and impartiality is maintained in the competitive cash tendering process, Government has engaged independent probity advisors to oversee every stage of the implementation and tendering process. The probity advisors have been responsible for preparing a probity plan, advising on confidentiality and communication protocols and ensuring every aspect of the process meets appropriate probity standards.

All staff and advisors involved with the process have been required to declare and continue to declare any conflicts of interest and external consultants have been engaged throughout the process to ensure best practice. At the conclusion of the first round of competitive cash tendering, the probity advisors prepared a probity report on the process. This was published on the DNRM's website. The report presented the probity advisors' observation that the process was based on transparent systems and objective criteria.

3.1 Response to Draft Recommendation 3.1

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.

Between October 2012 and June 2013, as a part of the Queensland Government's commitment to consistent and transparent exploration assessment processes and to coincide with the development on MyMinesOnline (a customised information and application lodgement system for the resource sector that provides a combined view of resource and environmental approval data), DNRM published the following documents:

Exploration Permit (Minerals and Coal) Guideline
- The guideline provides step by step advice on how to prepare and lodge a properly made application and a comprehensive overview of how applications are assessed.
- The guideline provides support and guidance for both the new MyMinesOnline exploration permit application process and the paper-based application process.
- The guideline ensures that applications are managed in a transparent, timely and consistent manner.

Works Programs (Authority to Prospect – Petroleum and Gas) Guidelines

- The guideline provides information about Authority to Prospect (ATP) work program requirements and how DNRM assess a work program submitted with an application.
- This guideline is designed to assist applicants and potential applicants prepare and complete an application for an ATP in respect of work program requirements.

Operational Policies – DNRM has published the following policies for exploration requirements:

- Strict compliance and substantial compliance.
- Excluding land subject to native title.
- Eligibility, proof of identity and authorised person/s.
- Work program and relinquishment conditions.
- Application to vary conditions of an exploration permit.
- Renewal of exploration permits.
- Project-based permit administration.
- Conditional surrender of exploration permits (including competitive assessment and determining the priority of competing applications).
- Assessment of applications for exploration permits.
- Prescribed areas (excess, non-contiguous).
- Notice to Progress Applications.

These guidelines and operational policies formalise existing internal operational practices/policies and propose a number of changes to how exploration permit applications are administered and assessed in Queensland. The overarching goals of these documents are to:

- manage exploration in a manner consistent with the resources legislation and the continuing development of the State's resources and the resource industry;
- deliver a considerable reduction of time and red tape for making permit applications and the assessment of permit applications for grant or renewal; and
- provide better administrative and regulatory guidance and structure to industry and departmental officers.

A number of other documents are in development or have been published to assist applicants and potential applicants including:

- Guide to native title process.
- Administrative compliance tools policy.
- Permit administration guide.
- Overlapping Permit Guideline.
- Collection of security guide.
- Refund of fees policy.
- Refuse to receive (an application) policy.
- Geophysical survey data practice direction.
- Exceptional circumstances policy.

These published Queensland Government guidelines and policies are available on the DNRM website at: http://mines.industry.qld.gov.au/mining/legislation-policy-planning.htm

3.2 Response to Draft Recommendation 3.2

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.

Similar to other jurisdictions, except for South Australia and Tasmania, under the current Queensland regulatory framework an exploration permit area is based on graticular blocks (one minute of latitude by one minute of longitude). The average size of a graticular block is approximately 3.22 square kilometres (322 hectares or 795 acres).

For minerals, under the Mineral Resources Regulation 2003 there is a prescribed maximum number of sub-blocks but there is no minimum number of sub-blocks required for a permit. However proponents must apply for at least one sub-block, they are not permitted to make an application over part of a sub-block. The Queensland Government has not prescribed a minimum amount of sub-blocks because it caters for small scale mining activities that may only operate on one sub-block. Small scale mining businesses are able to efficiently explore and mine smaller areas, and by having smaller permit areas they benefit from the reduced fees, and reduced regulatory burden. Regional communities will also benefit from the boost in activity through flow on effects in the economy.

Generally mineral and coal permit areas are not "irregular" because it is a requirement that each sub-block, which is being applied for, has at least one side in common with another sub-block (this is called contiguous land). Please refer to Figure 1 below.

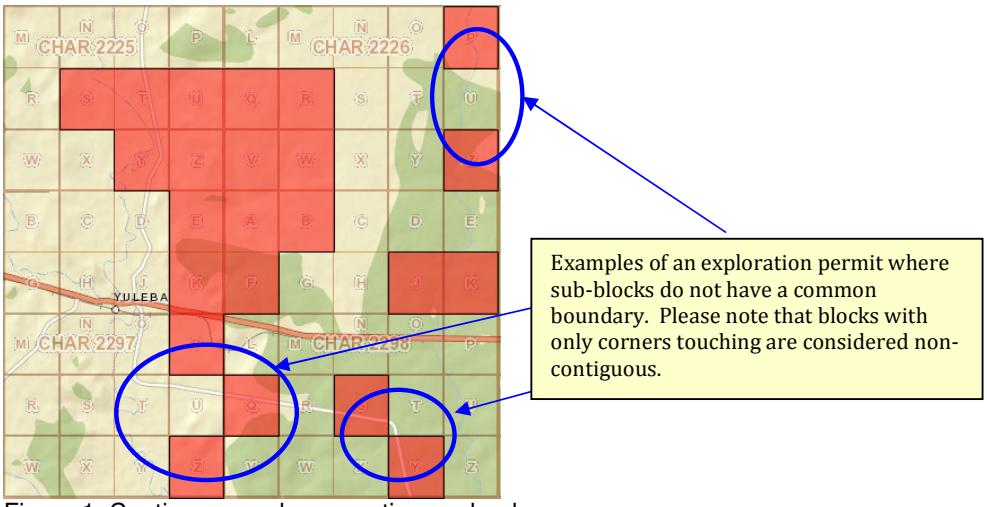

Figure 1. Contiguous and non-contiguous land

The regulating department, DNRM, may grant an exploration permit for sub-blocks with non-contiguous boundaries if the Minister for Natural Resources and Mines is satisfied that the proposed work program is consistent with competent and efficient mineral exploration practices.

For coal and petroleum exploration areas that are released under Queensland's tender process, DNRM determines the proposed area of the permit with an aim to enhance the State's knowledge of the area's resource potential and optimise coal and petroleum development and production.

3.3 Response to Information Request on page 84

Information Request
The Commission is seeking information on the steps being taken to resolve the potential for regulatory tension in relation to co-located coal and coal seam gas resources.

The Queensland Government is working with the coal and CSG industries to investigate a new framework for overlapping coal and CSG tenures. The proposed framework is aimed at creating an effective overlapping tenures framework that will deliver greater certainty, cooperation and facilitate the joint development of resources.

3.4 Response to Draft Recommendation 3.3

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.

Under the MRA and the P&G Act each tenderer not granted a permit must be given notice of the decision. The legislation currently does not prescribe that reasons must be provided with the decision.

However the applicant may request a statement of reasons under section 32 of the *Judicial Review Act 1991*, and the Government ensures they are provided with a detailed statement of the actual reasons relied upon by the decision-maker i.e. an explanation why the facts and law led to the decision.

3.5 Response to Draft Recommendation 3.4

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.

Queensland's current arrangements include coordination of exploration licensing and related approvals such as environment and heritage approvals.

For example, the exploration guideline for minerals and coal provides information about Environmental Authority (EA) requirements. Furthermore, EAs for mineral applications are required to be submitted with the permit application and DNRM will forward the EA application to the Queensland Department of Environment and Heritage Protection (EHP) for assessment. EHP will advise of the EA number once the EA is issued. Confirmation that the EA is issued is also required prior to the grant of the permit.

Further, the work program (ATP) guideline will be updated to include information about EA requirements when ATP permit functionality is released on MyMinesOnline.

Native Title rights and interest are managed by DNRM as a part of the application assessment process. DNRM has published a Native Title Guide which is designed to assist applicants through the different native title processes in Queensland. The Native Title Guide is available online from the DNRM website at http://mines.industry.qld.gov.au/assets/native-title-pdf/native-title-process-guide.pdf

However, the Queensland Government notes that coordination of exploration licensing and related approvals has potential to further streamline approval processes for activities conducted on public land, and that this will be considered as part of the MQRA project.

3.6 Response to Draft Recommendation 3.5

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.

The Draft Report (page 100) notes that the Queensland Government has established target timeframes for approval processes, including specific targets for exploration. Exploration specific targets include:

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

Exploration permit applicants are able to track the status of their applications through the Mines Online portal.

4. Land Access

4.1 Response to Draft Recommendation 4.1

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.

In Queensland, the *Nature Conservation Act 1992* (NCA) provides for the declaration of different types of protected areas including national parks, conservation parks, resources reserves and nature refuges. The NCA also prevents mining interests from being issued over national parks and conservation parks for exploration or resource development activities. A rigorous process to examine resource tenure and prospectivity is therefore undertaken as part of any proposal to designate a new national park or conservation park. Where resource interests are identified through this process, areas may be declared as resources reserves (see further information below) to allow for managed access to resources while also protecting the values of the area.

Furthermore, the proximity to a national park or conservation reserve will require site-specific assessment of the application to ensure that the risk and potential impact of the specific proposed activity on the environmental and heritage values are assessed.

Although not permitted on national parks and conservation parks, resource exploration is possible on other NCA protected areas, including resources reserves and nature refuges. Resources reserves are managed by the Queensland Department of National Parks, Recreation, Sport and Racing to recognise and protect areas of cultural and natural values whilst providing for controlled use of these areas for other activities (including resource exploration and potentially development) under strict conditions.

The Queensland Government notes that this recommendation is inconsistent with the application of the draft Multiple Land Use Framework (MLUF) guiding principles. These principles apply regardless of tenure and if targeting national parks and conservation reserves then other areas such as urban, industry, military need to be considered in the Inquiry based on the same rationale.

The MLUF guiding principles underpin the key areas to activity to achieve multiple and sequential land use outcomes and include:

- best use of resources;
- coexistence;
- strategic planning;
- tailored participation of communities and landholders;
- engagement and education;
- decision making and accountability;
- efficient processes; and

- accessible, relevant information.

Queensland is addressing this issue through the State Planning Policy (SPP) and Statutory Regional Plans which meet the MLUF guiding principles and identify and address matters of state interest in the planning system.

It is recommended that the following aspects of the SPP be noted:

- A single SPP has been developed to replace the multiple policies in existence. By expressing the State's interests in a comprehensive manner it will be easier for local government to reflect and balance state interests 'up front' in local planning schemes, ensuring the approval of the right development in the right location without undue delays.
- The SPP will be supported by an integrated mapping system.
- The SPP specifically includes mining and extractive resources as an interest of the State in planning and development processes under the *Sustainable Planning Act 2009* and has recently undergone public consultation.
- An aim of the SPP is to ensure that mineral, coal, petroleum, gas and extractive resources are appropriately considered in local government planning schemes in order to support a strong resources industry and the supply of energy and construction materials, and to avoid and manage current and potential land use conflicts.

Land access regimes (page 106-108 of the Draft Report)

Exploration land release strategies need to be mindful that there are differing types of agricultural land uses, and these will have a range of differing compatibility requirements with the proposed resource activity (e.g. grazing, annual horticulture, organics etc).

In addition, such strategies also need to consider the differing vulnerabilities of the natural resources and land condition (i.e. groundwater depth and soil types) in relation to both the proposed resource activity and the current agricultural land use(s).

Crown Land (page 106 of the Draft Report)

This section has a focus on parks and reserves, and the environmental and heritage values of those areas, and does not sufficiently recognise the role of the State as the owner of lands set aside for non-conservation uses (for example State forests and recreation reserves) and the particular co-existence issues that arise from those uses. The Queensland Government requests that this section be expanded to recognise the role of the State as the owner of the lands. Suggested words to include in the Draft Report are included below:

- Non-conservation reserves, such as State forests, recreation reserves and quarry reserves, in Queensland are also available for mineral and energy resource exploration and subsequent mining or production. Such proposed usage of these reserves usually involves consultation between the relevant parties, on-site inspections, negotiations and agreed outcomes in an attempt to minimise the nature and extent of any adverse impacts and to maintain at least in part the intended purpose of the reserve and its current uses. In some cases compensation may be payable to the State, trustees of the affected reserve and/or to particular users of the affected reserve.

Private Land (pages 109-113 of the Draft Report)

The section on Queensland on page 111 of the Draft Report is factually incorrect. The section states, "Under the Code, preliminary exploration activities (low impact exploration) only require the explorer to provide 10 days' notice before initial entry." This should be amended to state: "Under the Queensland land access laws, exploration activities (low impact exploration) only require the explorer to provide 10 days' notice before initial entry." The Code does not regulate the process – this is provided for through the primary legislation ie. the P&G Act, the *Petroleum Act 1923*, the MRA, the *Geothermal Act 2010*, and the *Greenhouse Gas Storage Act 2009* collectively.

4.2 Response to Draft Recommendation 4.2

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.

In Queensland, resource authority holders are required to compensate landholders for reasonable and necessary accounting, legal, and valuation costs incurred to negotiate or prepare a conduct and compensation agreement.

The Government is taking steps to ensure that both parties in a land access arrangement (landholders and resource authority holders) are well informed about the compensation framework under the land access laws. The Government is currently reviewing all stakeholder information sources with the purpose of combining into a single, comprehensive and plain language resource for land access. This will include delivering improved information and providing better guidance around the heads of compensation, such as legal costs. The Queensland Government is also ensuring transparency across the compensation framework. The Government is reviewing the heads of compensation under the land access laws. This review includes considering the compensation requirement of reasonable and necessary legal, accounting and valuation costs.

The Draft Report reconfirms a number of conclusions made in the land access review and the Queensland Government's Six Point Action Plan. The Six Point Action Plan outlines critical actions to be progressed as a matter of priority:

1. Compensation and Conduct
    a. Review heads of compensation to ensure no cost or erosion of landholder rights; and
    b. Expand Land Court jurisdiction to hear matters concerning conduct and compensation.
2. A single accredited form of alternative dispute resolution (ADR), independent of government, that is recognised by, and can be integrated into the Land Court process.
3. Conduct and Compensation Agreement (CCA) to be noted on title by resource companies.
4. Parties can agree to opt out of making a CCA, at the election of the Landholder, save for entering into an agreement to be noted on title.[1]
5. Development of template CCAs for mineral, coal and CSG industries in partnership with the resource and agricultural sectors.
6. Review of stakeholder information sources – with the purpose of combining into a single, comprehensive and plain language resource for landholders and resource companies.

[1] Note that this mechanism would not allow a company to 'sign away' obligations to comply with the Land Access Code, or to be accountable for compensation for impact.

4.3 Response to Draft Recommendation 4.3

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.

To oversee the development of Queensland's CSG-LNG industry, the Government has established a comprehensive governance framework. Government at all levels is focused on reaching the right balance between growing a world-class gas industry, protecting the environment and delivering opportunities to Queenslanders. The Queensland Government is committed to a regulatory framework that is efficient and supports the growth of the resources industry.

On 31 May 2013, the Queensland Minister for Natural Resources and Mines endorsed the National Harmonised Regulatory Framework for Natural Gas from Coal Seams on behalf of the Queensland Government at the Standing Council on Energy and Resources. The National Harmonised Framework for Natural Gas from Coal Seams was developed with respect to the MLUF principles and provides guidance to regulators in managing the development of CSG and ensuring regulatory regimes are robust and outcomes-based. Queensland is a leading jurisdiction in regulating the development of the CSG industry and is compliant with the leading practice strategies put forward under the Framework.

Another strategy implemented by the Queensland Government is the strategic cropping land (SCL) framework which is designed to protect land that is highly suitable for cropping and manage the impacts of development, such as CSG exploration, on that land. The regulation of CSG exploration activities under the SCL framework is based on scientific evidence and a risk assessment of the likely impacts of these activities on SCL. On this basis, the SCL framework does not prevent resource exploration from occurring where it will result in temporary impacts on SCL, provided the land is fully restored after the exploration activity concludes. The framework is also generally consistent with the guiding principles of the MLUF.

Queensland's new generation of statutory regional plans are generally consistent with the MLUF guiding principles. The regional outcomes of the draft Darling Downs and Central Queensland regional plans seek to enable agriculture and resources industries to grow with certainty and investor confidence and support compatible resource activities within Priority Living Areas which are in the communities' interest. The policies for agriculture and resources aim to maximise the opportunities for co-existence of resource and agricultural land uses - while recognising that within identified Priority Agricultural Areas (PAAs) agriculture is the priority land use and any other land use that seeks to operate in a PAA must co-exist with agriculture.

Amendments to the EP Act or the Environmental Protection Regulation 2008 (EP Regulation) comply with the Regulatory Impact Statement system, which includes an assessment of what evidence is available to substantiate the problem, and whether the proposed response is proportionate to the level of risk. These amendments are discussed further under section 6.6 of this submission.

Given their nature, cumulative impacts are best addressed by the administering authority (ie. the lead agency, usually the Office of the Coordinator-General or EHP).

Social license to operate (pages 127-129 of the Draft Report)

The Queensland Government acknowledges and supports the Productivity Commission's views on engaging stakeholders and the need to obtain a 'social licence to operate' as a good corporate citizen by adopting the principles outlined in the Ministerial Council on Mineral and Petroleum Resources (MCMPR 2005) Principles for Engagement with Communities and Stakeholders.

As a means of identifying and responding to local concerns of undesirable, unintended consequences referred to at page 58 of the Draft Report under 'Negative spill over effects', the Productivity Commission is directed to the Queensland Department of State Development, Infrastructure and Planning, Regional and Resource Towns Action Plan, (March 2013) http://www.dsdip.qld.gov.au/resources/plan/draft-regional-and-resource-towns-action-plan.pdf

The action plan targets specific regional cities and resource towns across Queensland and focuses on the issues and concerns raised through consultation with stakeholders and the local councils, as well as feedback received during a series of 11 facilitated workshops held in August and September 2012.

The Government has also recently announced that it will be part of an alliance of organisations with AgForce, the Australian Petroleum Production and Exploration Association, and the GasFields Commission that will provide funding to ensure that the AgForce CSG Landholder Project continues. The Project will ensure critical information on the development of the CSG industry in Queensland will continue to flow to landholders. They will provide information regarding legal and land access frameworks, the rights and responsibilities of both landholders and CSG companies, and explain the use of mapping to plan for and negotiate around the impacts of CSG production on agricultural and grazing enterprises.

In May 2012, the Queensland Government established the GasFields Commission to manage the coexistence between rural landholders, regional communities and the CSG industry in Queensland. The GasFields Commission will achieve outcomes for communities affected by onshore gas industry growth in Queensland by independently evaluating policy and industry practices and strengthening protections for the environment, groundwater and existing rural industries like agriculture.

From another perspective, one of the key DestinationQ commitments is to consider the inclusion of tourism impacts and opportunities in the environmental impact statement (EIS) processes for resource (mining and gas) and energy projects in Queensland. In this context, the Queensland Government is undertaking the development of a specific tourism guideline which proponents can refer to, in conjunction with the Government's streamlined EIS process.

The guideline aims to ensure the impacts on: existing tourism value; facilities and assets; and future prospective tourism opportunities; can be avoided, minimised, mitigated, managed or off-set by the conditions, strategies and other information contained within the EIS.

5. Heritage Protection

Laws and regulation protecting heritage (page 133 of the Draft Report)

The Queensland Government requests that the following amendment be made to page 134, 'Principal state and territory heritage legislation', Table 5.1 of the Draft Report:

The *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003* are administered by the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs, not EHP.

Who makes heritage decisions? (page 144 of the Draft Report)

The Queensland Government requests that the following amendment be made to page 144, 'Who makes heritage decisions', paragraph 3 of the Draft Report:

Replace Department of Environment and Resource Management with the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs.

5.1 Response to Draft Recommendation 5.1

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.

In November 2009, the Queensland Government provided a response to the review of the Commonwealth's ATSIHP Act. This response outlined concerns with a number of proposals outlined in the Discussion Paper entitled 'Indigenous heritage law reform: Possible reforms to the legislative arrangements for protecting traditional areas and objects' for being too rigid and limiting the flexible approach inherent in the Queensland cultural heritage legislation.

The Queensland Government response to the Discussion Paper is available at http://www.environment.gov.au/heritage/laws/indigenous/lawreform/pubs/submissions/qld-government.pdf

The concerns outlined in this paper continue to be relevant, and any attempt to require amendments to the Queensland legislation to attain accreditation would also be contrary to the Queensland Government's commitment to reduce the regulatory burden of doing business in Queensland. Importantly, the Queensland legislation in its current form would not satisfy the Commonwealth's proposed accreditation criteria due to the absence of a 'call in' power for the Minister. The Queensland Government does not support the introduction of a 'call in' power and as such, there appears to be little incentive for Queensland to seek accreditation from the Federal Minister.

Notably, since May 2008 only one matter in Queensland has been formally referred to the Australian Government for protection of cultural heritage under the ATSIHP Act.

5.2 Response to Draft Recommendation 5.2

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.

A register based approach to cultural heritage management is contrary to the current agreement making framework established by the Queensland legislation.

The Queensland Government is strongly opposed to any system of management that relies on a centralised State sponsored register as the primary means of determining whether cultural heritage will be harmed by an activity.

Under Queensland legislation, the Government maintains a cultural heritage database and cultural heritage register to assist land users in assessing the potential cultural heritage values of an area. However, consulting the database and register does not in itself satisfy a land user's cultural heritage duty of care.

Due to the nature and extent of Aboriginal and Torres Strait Islander cultural heritage throughout the Australian landscape, it is impossible for any database or register to be a comprehensive or complete record of all significant sites and places in an area.

In Queensland, the primary responsibility for maintaining information and knowledge about the existence and significance of cultural heritage rests in the hands of the relevant Aboriginal or Torres Strait Islander party rather than the Government. This reinforces the need for land users to consult directly with Aboriginal or Torres Strait Islander parties and negotiate agreements about the management of cultural heritage.

The Queensland Government does not support mandatory reporting of all heritage survey results to a centralised authority. Mandatory reporting of survey information is only required under Queensland legislation when cultural heritage is revealed to exist because of an activity carried out under an approved cultural heritage management plan developed under Part 7 of the Queensland *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*, which also deals with cultural heritage management plans. It is noted that a provision exists to not provide this information to the Government if the parties agree not to.

Where agreements which do not require statutory approval are reached directly between the relevant parties, mandatory reporting requirements merely impose an unnecessary layer of government regulation. In these circumstances, the amount and extent of information to be lodged with the State is entirely a matter for the parties involved.

The Queensland legislation contains provisions which ensure that information contained in the database is only provided to approved parties for the purposes of meeting their cultural heritage duty of care.

Further information on accessing the cultural heritage database and register is available at http://www.datsima.qld.gov.au/atsis/aboriginal-torres-strait-islander-peoples/indigenous-cultural-heritage/cultural-heritage-database-and-register-search-request

5.3 Response to Draft Recommendation 5.3

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.

This recommendation reflects the current compliance framework of the Queensland legislation. However, the Queensland Government is opposed to the notion that governments should intervene in circumstances when negotiated agreements cannot be reached.

This recommendation is contrary to the operation of the Queensland legislation which promotes consultation and agreement with traditional owners but enables land users to continue their activities should parties fail to reach agreement.

The Queensland legislation outlines a number of options available to land users in complying with the cultural heritage duty of care when parties have been unable to reach agreement on cultural heritage management.

In these circumstances, land users must continue to take all reasonable and practicable measures to avoid harm to cultural heritage. This ensures the Government does not assume the role of brokering agreement between parties, which could be perceived to undermine the independence of the regulator.

6. Environmental Management

6.1 Response to Draft Recommendation 6.1

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.

This is a Commonwealth issue, therefore the Queensland Government will not be providing comment on this recommendation.

6.2 Response to Draft Recommendation 6.2

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.

Queensland's existing Environmental Protection and Biodiversity Conservation bilateral agreement on assessment has already been strengthened and updated in June 2012. Queensland also participated in discussions with the Commonwealth on accreditation of approval processes during 2012, which included scoping of issues and analysis of standards in accordance with a COAG agreed timeline. Subsequently, the Commonwealth withdrew from these discussions in all states and territories and there has been no further activity.

6.3 Response to Information Request on page 189

Information Request
The Commission seeks views from inquiry participants on the benefits and costs of strategic assessments in relation to resource exploration proposals, as a tool to avoid unnecessary regulatory burden and to improve environmental outcomes.

Strategic assessments for exploration have the potential to reduce environmental impacts and improve environmental outcomes by better identifying environmental values and constraints. This would give increased certainty to the proponent of the environmental risks of their proposal and reduce the information needs for state environmental authority assessment. Strategic assessments reduce costs for proponents by effectively endorsing existing state approval processes and removing the need for separate Commonwealth approval.

Queensland is implementing an environmental licensing approach that reduces regulatory burden and improves environmental outcomes. In particular, the new system of standard environmental applications (eligibility criteria and standard conditions – see comments on Draft Recommendation 6.5 below) for petroleum and gas exploration activities was recently approved.

This system applies to lower risk activities (e.g. most exploration activities, subject to particular conditions) and provides the greatest scope for regulatory simplification - operators

whose proposals meet the eligibility criteria are issued with an environmental authority that contains the standard conditions.

In this context it appears that strategic assessments will not be crucial to developing standard applications but may assist with risk identification and improve certainty regarding particular environmental values and objectives to be addressed/protected.

6.4 Response to Draft Recommendation 6.3

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.

Queensland does not support conferring its 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 (NOPSEMA).

As worded, the recommendation would capture Curtis Island which is a hub for CSG-LNG activities. The companies currently building and proposing to build facilities on Curtis Island would also have operations on Queensland's mainland. The CSG-LNG projects also have pipelines crossing the low water mark from the mainland and going across the narrows (under sea water) to Curtis Island. These pipelines are used to transport gas from mainland Queensland to Curtis Island and are regulated under the P&G Act.

Currently the safety and health aspects of these projects are also regulated under the P&G Act. If Queensland confers its powers to NOPSEMA the CSG-LNG projects would be subject to two safety regimes. This would create additional uncertainty and unnecessary regulatory duplication, which the Draft Report is trying to address.

The Government notes that offshore petroleum exploration has the risk of impacting on Queensland's tourism industry, which is one of the four pillars of the Queensland economy. Any decision to allow petroleum activities in Queensland waters would therefore have to balance these competing interests in the interests of the people of Queensland.

Further, the Queensland Government is committed to the sustainable management and productive use of Queensland's land and water resources. Approximately $80 million over five years will be directed to natural resource management, including initiatives to protect the Great Barrier Reef World Heritage Area. This is a reflection of the Government's commitment to striking a balance between economic development and the responsible management of the State's land, water and environmental values.

Consequently, the Queensland government does not support this recommendation in the absence of a full policy analysis of costs and benefits to Queensland of conferring the existing petroleum-related regulatory powers to NOPSEMA.

6.5 Response to Draft Recommendation 6.4

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.

Amendments to the EP Act or the EP Regulation must comply with the Regulatory Impact Statement system, which includes an assessment of what evidence is available to substantiate the problem, and whether the proposed response is proportionate to the level of risk.

Queensland is already meeting the requirements of this recommendation through the development of streamlined approvals for lower risk petroleum and geothermal exploration activities as well as petroleum pipeline and survey activities. These were created in collaboration with industry and included a risk assessment process.

Under legislative amendments introduced earlier this year, the operator of a small scale mining activity is no longer required to hold an environmental authority to undertake the activity. Certain low-risk exploration activities for minerals other than coal are eligible to operate without an environmental authority. As a result of these changes up to 256 exploration permit holders will benefit. For low-impact exploration activities standard approvals exist which mean that low-risk activities go through an administrative approval process rather than a full technical assessment, which is proportionate to the nature, scale and location of these activities.

Aligning regulatory requirements with the likely magnitude of impacts (pages 191-194 of the Draft Report)

Paragraph 2 on page 193 of the Draft Report highlights the Queensland Government's introduction of legislation to provide streamlined approvals. The Queensland Government would like to add the following words to this statement:

- The Queensland Government has noted that streamlined approvals have now commenced for low risk petroleum exploration, pipeline and survey activities as well as geothermal exploration activities.

6.6 Response to Draft Recommendation 6.5

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.

The Queensland Government is already meeting the requirements of this recommendation through the development of streamlined approvals for lower risk petroleum and geothermal exploration activities as well as petroleum pipeline and survey activities. These approvals include outcome focused conditions with the exception of issues with a high level of community concern such as hydraulic fracturing.

Low-risk exploration activities for mining are also now regulated through a simpler application process known as a standard application. A standard application may be made where the operation of the activity meets the eligibility criteria for the activity, and where the operator

can comply with the standard conditions for the activity. Most exploration activities associated with mining, unless for example they are carried out in environmentally sensitive areas such as national parks, comply with the eligibility criteria and therefore can take advantage of the streamlined approval processes.

On 31 May 2013, the Queensland Government established eligibility criteria and standard conditions for various activities, including petroleum exploration and geothermal exploration. The eligibility criteria and standard conditions were developed in consultation with industry and open to a period of public consultation.

For higher-risk assessments, the recent introduction of the environmental objective assessment for the assessment of environmental authorities helps to focus decision-makers on the environmental risks of the activity and the outcomes to be sought in regulating the activity. The environmental objectives, and associated performance outcomes for each objective, are contained in schedule 5 of the EP Regulation, which commenced on 31 March 2013.

In addition, EHP has recently introduced a Regulatory Strategy which sets out how the department will carry out its role as Queensland's environment and heritage regulator. It describes the department's approach across the four stages of regulation—setting standards, applying standards, monitoring performance and responding to performance.

The Regulatory Strategy commits EHP to:

- working collaboratively with industry and the community to develop standards to manage and protect the environment and heritage places;
- reducing red tape by streamlining the process of applying for approvals from the department, and imposing approval conditions that focus on the outcomes the client must achieve;
- increasing its monitoring of clients to check that they are complying with their obligations and; and
- taking strong enforcement action where necessary.

These initiatives ensure that the environment-related regulation of exploration activities is focused towards performance-based environmental outcome measures.

6.7 Response to Draft Recommendation 6.6

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.

The Queensland Government is already meeting the requirements of this recommendation through scientific, fact based, risk assessment and conditioning. Where a risk is identified conditions such as baseline assessments, monitoring and reporting are included on the environmental authority. This ensures that where a risk is realised the Government is informed and appropriate measures are implemented to ensure environmental harm is minimised.

6.8 Response to Draft Recommendation 6.7

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.

The Queensland Government is already meeting the requirements of this recommendation through the development and implementation of the Business and Industry Portal at www.business.qld.gov.au . The portal provides links to all necessary information through webpage content or through a "fee and form finder".

Information on exploring for mining resources can be accessed at http://www.business.qld.gov.au/industry/mining/applying-for-mining-resource-permits/exploring-for-mining-resources

This includes information on general permit conditions for mining exploration; applying for exploration permits for minerals and coal; and tendering to explore for petroleum and gas. For easier access to information on applying for other related approvals (such as environmental authorities), the Business and Industry Portal also provides direct links to relevant pages administered by DNRM and EHP.

Improving the administration of assessment and approval processes (pages 202-205 of the Draft Report)

The Queensland Government requests that references to the Department of Environment and Resource Management be changed to the Department of Environment and Heritage Protection on pages 199 and 144, and in Box 5.5 of the Draft Report.

6.9 Response to Draft Recommendation 6.8

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.

The Queensland Government is already meeting the requirements of this recommendation through legislative requirements under sections 197 and 540 of the EP Act to provide access to environmental authority application documents on a public register.

The volume of EIS material, and the practice of applicants submitting the material in hard-copy, makes it unfeasible to make that information available on the internet. EHP is actively exploring options to require EIS information to be submitted in a manner that can be represented spatially, which would allow such information to be made more easily available on the internet.

All EIS documentation is in the public domain. Documentation related to current EIS processes are made available on the Department of Environment and Heritage Protection website at http://www.ehp.qld.gov.au/management/impact-assessment/eis-processes/current.html .The setting up of an archived EIS data internet source is a matter for resourcing prioritisation.

7. Geoscience

7.1 Response to Information Request on page 219

Information Request
The Commission is seeking information on the current proportion of funding for Australia's geological agencies that is sourced from ongoing block appropriation. The Commission is also seeking views from stakeholders as to whether the current funding arrangements of Australia's geological surveys represent the optimal way to finance the collection and provision of pre-competitive geoscience information.

The proportion of funding for the Geological Survey of Queensland sourced from ongoing block appropriation varies from year to year but is generally half or less of the total. Table 1 (below) sets out where funds have been directed in previous years.

Table 1. Geological Survey of Queensland Budgets – 2008-09 through 2012-13

Queensland GSQ Budgets	2008/09	2009/10	2010/11	2011/12	2012/13
Base	5,974,334.59	7,664,778.85	8,134,496.80	8,620,270.06	8,712,822.00
Total Special or Limited Life Funding	11,673,924.98	7,456,515.66	7,019,072.26	10,484,952.54	5,520,040.00
Total Budget	17,648,259.57	15,121,294.51	15,153,569.06	19,105,222.60	14,232,862.00

In addition to this block appropriation funding, the Queensland Government recently announced that the Geological Survey of Queensland will also receive $30 million over the next three years under the Future Resources Program to fund seven initiatives which will support the resources and exploration industries.

This funding boost has been made possible by the monies raised through the competitive cash bidding process and represents a return on this investment by industry.

The seven initiatives include:

- Industry Priorities Initiative;
- Mount Isa Geophysics Initiative;
- Geochemical Data Extraction Initiative;
- Collaborative Drilling Grants Initiative;
- Core Library Extension Initiative;
- Cape York Mineral Resource Assessment Initiative; and
- Seismic Section Scanning Initiative.

7.2 Response to Draft Recommendation 7.1

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.

The Queensland Government supports cost recovery principles where appropriate and agrees to monitor the New South Wales situation.