GEOLOGICAL, EXPLORATION AND MINING SERVICES ASSOCIATION NT Inc.

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GEMSA NT

SUPPORTING MINERAL EXPLORERS IN AUSTRALIA'S NORTHERN TERRITORY

GEMSA NT comments on NTG Discussion Paper:

Regulation of mining activities

Environmental regulatory reform

Foreword: GEMSA NT

The Geological, Exploration and Mining Services Association NT Inc (GEMSA NT) was incorporated in June 2020 by NT- resident service providers and suppliers to the NT mineral exploration sector, in response to our concerns about the impact on our livelihoods from the dwindling greenfields, or grassroots, exploration sector, and the shrinking roles within it for locally resident businesses. We believe that grassroots exploration is in the doldrums and needs to be revitalised if the NT's economic recovery is to be achieved and sustained. We will explain the basis of these beliefs in these comments.

Reasons for GEMSA NT submission

GEMSA NT is fully aligned with the goals of the Territory Economic Reconstruction Commission's final report to:

- Create jobs in the near, medium, and long term.
- Attract private investment.
- Support current and emerging industries.
- Build on the Territory's competitive advantages, and;
- Unlock the potential of the Territory's regions.

GEMSA NT welcomes Government support for development of the pipeline of projects that underpin the Territory Economic Reconstruction Commission's "Operation Rebound", and we also need to point out that those projects that have reached readiness for development are the product of a process that commences with **grassroots exploration**. Those of us who work in and service that sector are best equipped to comment on this early-stage exploration, which is at the very front end of the development of new mining districts. Our interest in this discussion paper relates primarily to how we believe the proposals will impact the attraction of risk investment to the Territory to stimulate grassroots exploration. This is not just a matter of creating government funded pre-competitive data to help justify applications for title. The final decision to make a risk investment in grassroots exploration generally boils down to the amount of red and green tape that potential investors perceive they will encounter should they risk investing in a particular jurisdiction.

The NT occupies about 17.5% of Australia's mainland area, yet last quarter (Sept 2020) accounted for just 3.8% of Australian quarterly mineral exploration expenditure of $745million (all these figures are based on ABS quarterly reports compiled from all active exploration titleholders in Australia. These statistics have been gathered since Q1, 1974. see: Mineral and Petroleum Exploration, Australia, September 2020 | Australian Bureau of Statistics (abs.gov.au)).

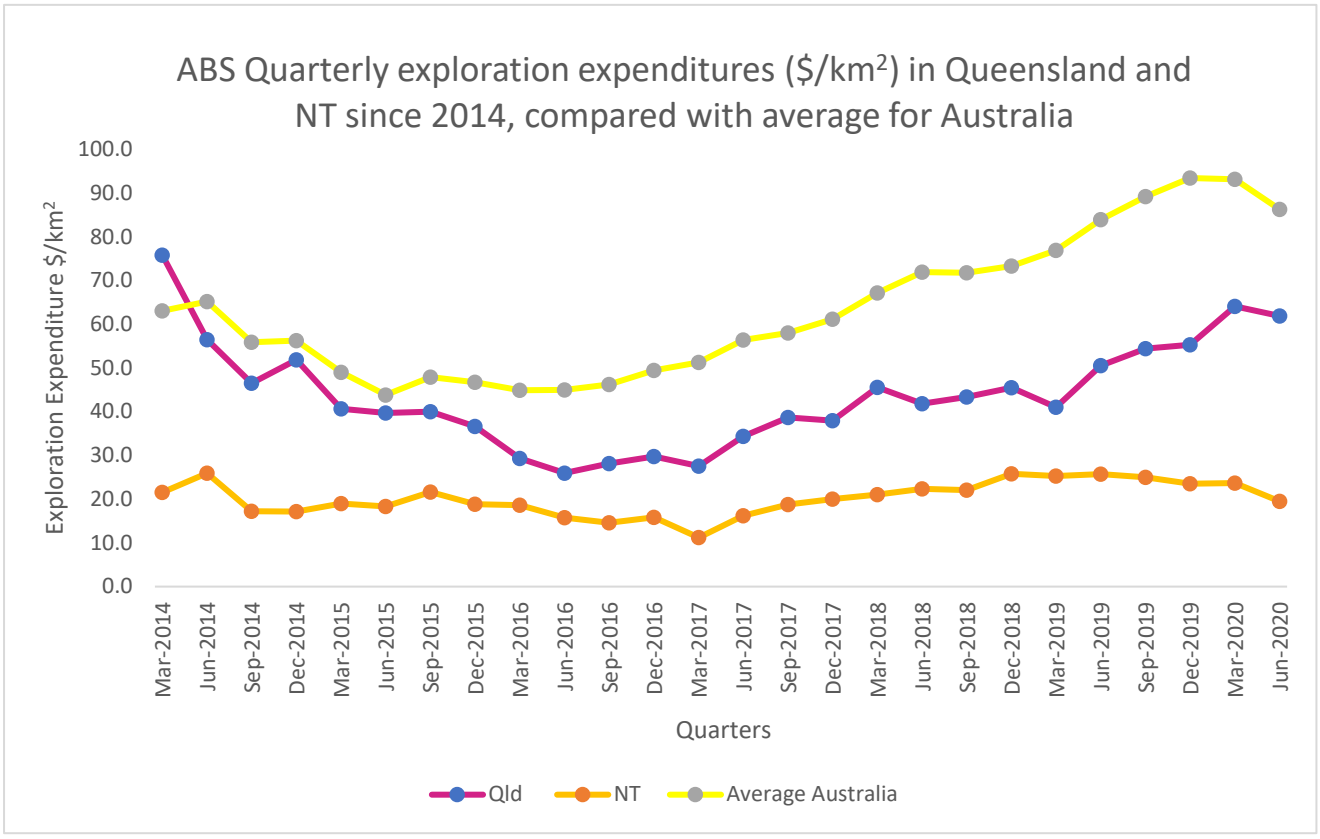
If the NT had Australian average mineral exploration expenditure, that figure would be $130 million, not the miserable $28.2 million that it was. If this figure is broken down into near- mine exploration and exploration for new mines ("grassroots" exploration), we find that only $9.6 million, or 1.3% of the Australian total exploration expenditure was on grassroots exploration in the NT while, based upon the normal split nationwide, this should be around 30% of total exploration expenditure in each jurisdiction, or around $40 million per quarter.

GEMSA NT believes that this is a result of a combination of factors that particularly impact the NT mining sector. While Land Access is a significant factor in this, particularly the delays in negotiating and obtaining access to Aboriginal Freehold Land, other regulatory imposts, perhaps more especially the management of those imposts, have taken an increasing toll on grassroots exploration expenditures in recent decades.

Effective grassroots mineral exploration expenditure is critical to the maintenance of a pipeline of advanced mineral development projects to sustain long term economic growth, and grassroots exploration expenditure has other more immediate benefits. GEMSA NT's aim is to see as much of this expenditure on grassroots mineral exploration as possible flowing to local workers and businesses, frequently in remote parts of the NT that often miss out on the benefits of economic development. Often the beneficiaries of this are community enterprises on Aboriginal Land and Lessees on Pastoral Land, through provision of fuel, supplies, accommodation, plant hire, and other goods and services.

A review of the reasons for this dismal exploration performance, particularly in grassroots exploration, makes it clear that the NT does not enjoy a favourable reputation with that special breed of investors that is prepared to back this highest risk sector of the mining industry. That is, that the risks dealt by Mother Nature in terms of mineral prospectivity are compounded immensely by the human elements of delays, difficulties and inefficiencies with permitting, and the NT is frankly seen as a high-risk environment by all but a few of these professional risk-takers. This fact emerges in the annual surveys of industry executives by both Mining Journal and The Fraser Institute, but the result is also apparent in the ABS statistics of exploration expenditure.

The proposed regulatory reforms seem to be modelled on recent legislative changes in Queensland. In order to evaluate their suitability for the situation in the NT, GEMSA NT has made some enquiries of our colleagues in Queensland. A review of ABS exploration statistics for Queensland demonstrates that that state has in recent years seen a steady fall relative to the average exploration expenditure for Australia of over 30% between 2015 and 2020 (see figure). Such divergences are a result of local factors, most often State policies, and their implementation.



A deeply experienced manager of exploration in both Queensland and the NT in a position to compare permitting procedures between the two jurisdictions was sure that the Queensland system that presently operates had decided operational advantages over current NT permitting procedures for the early stages of exploration, including drilling, where annual payments include disturbance bonds and a disturbance report is filed annually with the Department of Environment and Science, in addition to the technical exploration report with Department of Resources. This resulted in streamlined permitting in the early stages of on- ground exploration, something that GEMSA NT would welcome here.

These advantages of Qld over the NT procedures disappeared once significant disturbance (beyond drilling) is proposed, or mining production title is required, where the workings of Land and Environment Courts added substantially to development costs in many instances. When queried on the marked systematic drop-off in exploration expenditure in Queensland in recent years, the exploration manager responded that it was most likely these uncertainties with development that led to risk investment moving elsewhere.

Also of concern to him in both jurisdictions was the appearance of inexperienced and sometimes inept personnel, answerable to managers increasingly with little or no practical experience, particularly management experience, in the industries they are regulating. Frequently this leads to emphasis on petty decisions that add greatly to management load for industry and are perplexing to investors. Examples of these abound, but we do not wish to lose focus on the issues at hand, and examples of these can be provided verbally if necessary.

The financial and operational competitiveness of Australia's modern mining industry could not be achieved by hillbilly operators running slipshod operations. World's best practice is the rule rather than the exception in our industry. There should be a recognition that regulators and operators share common goals for these operations and there is more to be gained from cooperating to achieve goals than heavy handed policing of trivial issues, possibly while important items are left unaddressed.

There is one standout jurisdiction for mining investment in Australia: Western Australia. WA attracts the lion's share of mining investment, yet given its massive contribution to Australia's prosperity, generates much less environmental controversy than would be expected if the industry there was not being professionally managed overall. GEMSA NT would like to encourage NT regulators seeking to streamline environmental procedures and regulation of mining here to look at what they do on the other side of our long border that is so different to what happens here. A review of NT permitting procedures against a backdrop of economic reform cultured by the TERC report's recommendations surely requires an understanding of what works and does not work in Australia's seven different mining jurisdictions, or at least why WA's expenditure per km^2 on mineral exploration is currently NINE TIMES ours, and why we cannot strive to achieve that.

One related area of activity that also effects mining investment is access to land. In WA, there are some fine examples of meaningful cooperation between aboriginal land councils and mining companies. This leads to a stream of opportunities for indigenous enterprises to participate in mining projects. While the beginnings of this seem to be emerging in Arnhem Land, there is nothing yet like the widespread cooperation that can be seen in the Pilbara. This contrasts with the excruciating delays in access and permitting that we experience with Aboriginal Land in the NT. This also must be changed, as it not only strongly disincentivises mining investment but also keeps Traditional Owners in poverty and unemployment, when many hope they and their families might benefit from development of the mineral wealth beneath their lands.

GEMSA NT believes now is the time to get brave and remodel our regulatory base around something that works, like WA has proven they can.

These comments are made by primarily by Gary Price and Geoff Eupene, both qualified geologists and members of GEMSA NT's management committee, with many years of practical experience in managing exploration programmes in the NT spanning a period of 50 years. Other management committee members have also commented and provided input from their personal experiences working in the NT. While there have been many changes in 50 years, few of the changes have had a positive effect on stimulating grassroots exploration. Perceptions of difficult land access have historically created a negative impression for investors, but as recent surveys show, the NT has also gained a bad reputation for delays in permitting to enable on- ground exploration.

The availability of pre-competitive geological data and the EL application and processing procedures have operated quite well for decades, but this good start to the exploration process is quickly marred by the existing difficulties that explorers face when they try to get onto the ground and commence detailed exploration. The permitting process is too tough. Please look at ways of streamlining this, but also ensuring that the departments that regulate these activities are well resourced with people that are experienced in operating in the industries they are regulating.

There seems to be a fear that familiarity between bureaucrats and mining executives will lead to compromises and corruption, but it will more likely lead to competent and objective assessment of real issues, not trivial distractions that increase costs and lengthen permitting times. Pay structures for departmental managers need to be structured to capture qualified industry managers, people who are skilled in getting the best out of their staff and clear goals that staff can understand technically. That is not happening.

In preparation of these comments, GEMSA NT has concluded that our views on each issue are more clearly understood if they are made as direct comments on each relevant section of the paper. We did attempt to combine answers to the questions in the paper, but concluded this approach was more comprehensible.

1. Introduction (these are GEMSA NT's Comments of the discussion paper with the same headings).

NTG has made a commitment to supporting and encouraging the growth of our industry. It is committed to a World's best practice model. As part of this commitment, an overhaul of existing environmental laws appears to be considered mandatory.

The NTG's commitment to the proposed changes in legislation suggest that the current system has failed, but this is more so in the opinion of regulators than industry.

GEMSA NT has heard rumours that other departments have concluded that Mining Compliance has not acted optimally in some circumstances, particularly with managing the environmental issues in the industry, and given the substance of this paper, believe that more satisfactory environmental compliance and permitting could be obtained by centralising all environmental control into DEPWS. GEMSA NT has no specific position on this but is sceptical that splitting management of permitting is likely to streamline it. It also seems at odds with the TERC report which endorses "One Stop Shop" permitting.

There is no denying that this paper is recommending a duplication of responsibilities across at least two ministries and departments for permitting for the mining industry. It is hard to wrap that in anything other than new red and green tape, at a time when NTG has a clear policy to reduce impediments to investment.

GEMSA NT is also puzzled at the timing of this discussion. The Final Report of the **Independent Review of the EPBC Act** by Professor Graeme Samuel was released in October 2020. This demands a total revamp of that Act, which as we understand it, is the overarching Commonwealth legislation under which the NT environmental laws operate. GEMSA NT is therefore wary about the motives of changes as fundamental as those being discussed in this paper in advance of the Commonwealth reaction to the Samuel report, which must be imminent. Surely it is necessary to learn what changes are proposed to the EPBC act before NT legislation can be finalised? Is this making unnecessary additional work?

Conversely, the situation with MMPs in the recent past has been that *de facto*, issues have been shunted between the Mining Compliance and various offices within DENR/ DEPWS, with no obvious coordination role in force between the agencies and contact and reporting between agencies the responsibility of the proponent. This has been unsatisfactory from our viewpoint and needs to be addressed somehow. GEMSA NT acknowledges that given this experience, direct dealing with DEPWS may help.

Legislation is proposed to overhaul the existing system and replace it with a new "whole of government" system to be initially tested on the mining industry. The industry by default, have become the 'Road Crash Dummies' for this new system which is proposed to be rolled out across other sectors once its operation is honed on miners. If this is because miners are seen as the most problematic group most in need of reform, that is disappointing and surprising. GEMSA NT hopes it is recognition that mining has the most to contribute to the economy and is suffering most from the present lack of clarity and indecision.

The paper presents a preliminary summary of what is proposed but is short on details of the pragmatic reality of the proposals. This seems a naïve approach to a complex issue. Perhaps the intention is to formulate those details based upon feedback. We hope so. GEMSA NT are concerned about the detail, particularly the operational detail, as our interaction with some agencies that will likely remain involved in the revised processes has not been entirely reassuring that streamlining will be easy to achieve.

It seems that not all of GEMSA NT's members were contacted for comment on the paper, so the consultation process may still be incomplete. GEMSA NT has analysed the paper in detail but feels that our mandate and specific expertise does not cover all sections of the paper. We have tried to confine our comments to areas where we do have operational experience. We think it is easier to make in- context statements that clarify our position paragraph by paragraph rather than structure these into the proposed questions. We hope you agree.

2. Principles and objectives of reform

The proposed reform is underpinned by 3 objectives:

- Improved investor certainty
- Better environmental outcomes
- Building community confidence.

With specific reference to the first objective, it is likely that for early-stage exploration projects, this reform will appear to be a disincentive to invest in the NT. We hope that is not what is meant by "investor certainty".

Investors in grassroots exploration, be they global corporations or individual prospectors, are interested in discovering new mineral deposits that have untold value, and these grassroots exploration risks compete with other speculative investments (such as research and development, and perhaps for some, roulette) for funds. These investors are prepared to take on extremely high odds of discovery but are quickly repelled by indications that the process to test the risk proposition will be slow and difficult. They will go elsewhere where they perceive those risks are smaller. They want quick answers.

Investors in grassroots exploration projects (at a pre-resource stage) are driven by risk versus reward logic, as opposed to whether a project meets its environmental criteria or community confidence, or even its projected financial parameters.

All those parameters become important to the next major stages of investment in the projects, the definition of the project's parameters and development, once the discovery of a resource is almost assured and the risks focus on "what can we do with our discovery?" from "is there anything to be discovered?" But the fact is, if we cannot attract the risk taker, we will not get the developer either.

The description of risk-taking investors might conjure up visions of cowboys that have no heed for the environment in which they operate. That indeed seems to be the assumption of many regulators. That is a reason why it is important that bodies such a GEMSA NT with responsible locally based members are involved to ensure that these potentially ephemeral investors do heed local Codes of Practice and provide, and use, budgets that cover restoration of exploration sites. This is achieved by properly constructed regulation of rehabilitation which is largely being achieved at present on exploration sites.

As we have demonstrated in our Foreword, the level of exploration expenditure in the NT is perilously low, almost the lowest of any jurisdiction in the nation, and it does not need the impediments it currently faces. To have GEMSA NT's support, legislative changes need to obviously improve the outlook for grassroots exploration.

We dearly would like to be able to point to improvements in NT mining regulation that present new reasons for risk investors to try their luck here. We see some indications that the existing situation, together with word of proposed reforms that split regulation and reporting across departments may already be impacting on investor confidence in exploration on grassroots projects, and hope that a clear set of guidelines that can be seen as improvements to the status quo will result from this consultation.

3. Mining in the Northern Territory

The NT mining industry represents 19% of the gross state product, but in terms of its importance to NT direct revenue it ranks much more highly. This is because revenue is paid directly to the NTG Treasury via royalty payments, which are not paid by other industries in the NT.

The numbers of authorised exploration, extractive and mining projects are misleading, as the actual number of operating projects is lower. For example, there are currently only 8 out of 64 authorised mining projects which are currently in operation.

We argue that the NT's Mining sector is currently operating at well below its potential, with much of its 'success' based on a couple of Tier 1&2 operations based upon high quality resources that have been operating for decades. To be blunt, there is a big risk to NT revenue with 19% of our gross state product based on such a small number of profitable mining operations.

What would happen to the NT's treasury for example, if one of these major projects suddenly had to halt operations owing to *force majeure* issues?

The paper also claims that the NT needs this reform, based on the single premise that; 'any loss of social licence (i.e., community support) for mining has the potential to compromise future investment in the development of the Territory's resources'.

Whilst we agree that this may impact on investment at the final stages of project approval, it is important to recognise that too much emphasis on obtaining a 'social licence' at early stages of a project (i.e., pre-resource definition) may impact significantly on the ability of an explorer to raise the funds required to get any project to the final stage.

It is important to recognise, that once a project has reached a point where a resource has been defined, then the risk profile for that project changes considerably. A different category of investors are typically involved from this point which improves ability for a company to raise capital for that project on the basis that some form of financial valuation of the project is now possible. At the grassroots stage, the value is perceptive, at best qualitative, not quantitative.

It is vital that any reform improves the attractiveness of the NT for risk investment in early-stage mineral exploration projects.

Within the structure of the proposed reforms, this might be achieved if the "Registration" process generally applied to the exploration programme as far as the normal processes undertaken in Resource Estimation, except in unusual circumstances. And if investors can be convinced that this will be the case.

It is also vital that any reform is conducted in a manner which is sensitive to the long timeframes involved with the development of any mineral exploration project. For example, the soon to be developed Nolan's Bore project has taken close to 30 years of exploration and feasibility studies, compared to for example a typical fracking operation which has a lead time of 2-5 years. Imagine the real costs associated with keeping projects alive and viable and compliant for 30 years before they generate any income! There are lots of easier ways to make a dollar.

4. The existing regulatory framework for mining

Whilst the proposed reforms are expected to apply to operations that are considered to have a significant impact on the environment, this point also needs clarity from a grassroots exploration perspective.

Though it is considered that these processes are unlikely to apply to exploration activities and the majority of smaller extractive activities, there is still a significant risk that they will. This is especially in the case of exploration for what may be considered to have sensitive aspects such as exploration for radioactive minerals, or threatened species issues. Our members have experience of threatened species issues that have impacted on the timeline and scope of grassroots drilling approvals and negative impact on the ability to fund these.

Also, the classification of substantial disturbance appears to be applied with an overly broad brush. For example, we struggle to see why a vibration seismic survey is classed as a substantial disturbance. Is a heavily laden freight train also classed as a substantial disturbance as it has similar impact on its surroundings. We would also argue that drill rigs that are mounted on vehicles up to Landcruiser size that do not require track clearing should not fall under substantial disturbance.

5. Current regulatory challenges

Section 5 details the Hawke review conducted in 2015. This review recognises that the perception that the MMP is not aligned with public perception may not be true in practise.

Regardless of this, the NTG has already favoured ranking public perception ahead of the pragmatic reality of the economic operation of mining ventures under the current Mining Management Plan.

Whilst we probably all agree that the MMP system is not perfect, how can it be guaranteed that the new regulatory regime will work in a more efficient and cost-effective manner?

This has impacts on early-stage exploration owing to its potential for imposing of greater costs and longer timelines for approval for early-stage activities. This is the reputation the Territory now must overcome, that is frequently reported as a major disincentive to investment here.

GEMSA NT submits that the list of perceived problems with past mining operations is no more than a reflection of the accepted mores of the times. As these have changed, so too have the standards of the mining, and virtually all other, industries. Regulators have adjusted also. It is grossly unfair to impose blame solely on the industry. Many mine operators were in fact pioneers in improving safety and environmental standards before regulators acted. And some of the most offending mines were owned by governments!

We also feel that the treatment of legacy mines as universal blights on the landscape is a slight on the many great people that made this nation through mining, and there should be more pride in these pioneers than there is, and more respect for their contribution to the nation's development. There is plenty of potential to preserve some of their achievements rather than bury them in "unmarked graves" and forget them.

6. Proposed environmental regulatory framework for mining.

It is extremely important to recognise that the mining industry deals with exploration and mining of minerals, not the extraction of oil and gas.

The impacts of trying to implement a regulatory regime designed for the oil and gas industry onto the exploration and mining sector will likely have a significantly greater impact because of the quite different business structures of these industries.

For example, siting discovery oil wells is done in an office, and usually is flexible within hundreds of metres. Siting discovery drill holes in mineral exploration must be done in the field, and its position needs to be set within metres.

Translating the findings from an investigation where the industry was not directly involved (and some unfair and uncontested accusations were levelled at the mining industry) into a whole new regulatory regime for the industry is hardly the way to arrive at just treatment of the this fundamentally important industry to the NT economy.

The proposed changes are all mining-specific, so we seek to clarify how this will impact on exploration activities which may also be ground disturbing, on a lesser scale.

Will the potential lack of experience in the new departments with dealing with these matters cause increased delays and costs?

We already know how much time/cost is involved in preparation of an MMP, but what will be the timeframe and cost of preparing an EMP? We have some hope for the "registration" process, subject to details.

We are concerned that increased levels of information available in public in the revised proposals will be used by single interest lobby groups with anti-development agendas to disrupt exploration projects, and for competitors to gain commercially sensitive information on projects. Realisation of those fears would lead to negative outcomes for the NT and little benefit to the environment.

In general terms, the need for an environmental registration and licencing scheme (ERLS) in addition to an MMP seems to increase the regulatory burden. However, in practice, at least with Exploration MMPs, this would merely be formalising a process that is already in place. It is possible that clarifying responsibilities could improve the outcomes from the departments involved, but our variable experiences in recent years lead us to fear that there is a shortage of human resources in both departments that can arrive at practicable solutions for the issues that will arise.

GEMSA NT believes the NT Civil and Administrative Tribunal is ill equipped to undertake judicial and merits reviews of mining approvals and environmental licencing, and the proposals will do nothing except increase the complexity and expense of operating in the NT at a time when our leaders are trying to cut red and green tape. This will not be achieved by this proposal. We believe this structure will mirror the unsatisfactory one in the Land and Environment Courts of Queensland, where some industry experts believe they are playing a part in in the steady reduction in exploration expenditure in Queensland over the past 5-6 years.

6.1 General (mining) environmental obligations or duties

GEMSA NT does not see much to object to in these proposals as they are already in place, which raises the query as to how these activities will not overlap with those being administered by DITT? There is a real threat of regulatory confusion here.

Imposition of the "Land Clearing Guidelines" (2019) on an industry that cannot choose where its potentially high value targets are and whose *modus operandi* is based around the concept of **REHABILIATION** *in recognition of this* is not practicable and is not required. There is little evidence that miners are guilty of broadscale clearing and already minimise clearing of sensitive or significant vegetation types. The wisdom of earlier regulation that exempts mining from the land clearing guidelines should continue to be recognised. Our introductory experience in applying this to exploration sites demonstrates that it will waste both explorers' and regulators' time granting exceptions when alternatives to clearing do not exist. Only then will explorers clear.

6.2 Environmental registration and licensing scheme overview

GEMSA NT generally supports the concept of environmental registration for low impact activities like drilling programmes and limited trenching according to standard conditions, which has real potential to streamline these procedures compared with the present MMP Exploration burdens. A critical matter is the scopes of activities included. Currently, handheld activities from a vehicle do not require an MMP and should not require registration or licencing. Beyond that, and where this could help a lot, would be if drilling and trenching, provided they followed standard guidelines, including rehabilitation, through to the conclusion of the Resource Definition process, could be the subject of registration. There has been attempts to do this with existing exploration MMP templates, but these have not worked particularly well mainly because of the inability of the DITT and predecessors to deal internally with the sections of the MMP that address matters controlled by DEPWS. Will the changes fix this? That is the big question here.

Some consideration could be given to extending the scope of the "Code of Conduct" for mineral explorers to cover these activities from an environmental perspective and bodies such as GEMSA NT might be prepared to promote compliance with the Code amongst members. This surely must defuse unwarranted public concern.

The requirement for a licence to operate may be perceived to be like the current requirement for an authorisation, but we see potential for this to be more expensive and more time-consuming, particularly because of the danger of duplication of answerability to responsible authorities. Avoidance of duplication of regulation or triplication (where is WorkSafe in all this?) is our major concern with the licencing proposal from the aspect of early-stage exploration. However, if the registration system can be made to work then hopefully these matters are restricted to real issues.

6.3 Environmental registrations

See comments above.

6.4 Environmental licences

GEMSA NT would like to understand more about what is proposed in standard conditions and when these need to be modified. We anticipate that generally these would not be necessary for most exploration works which would be implemented under a registration.

6.5 Registration and licence condition reviews

We are curious as to how these reviews will interact with other performance issues that are regulated by other agencies including DITT. GEMSA NT recognises that a review mechanism is necessary but hopes it could be coordinated across government.

6.6 Independent specialist review and sign-off

GEMSA NT does not believe that this section would apply to resource evaluation programmes that are our major area of interest, so will leave comment to miners.

6.7 Public participation and transparency

GEMSA NT does not believe that this section would apply to resource evaluation programmes that are our major area of interest, so will leave comment to miners.

6.8 Improving timeliness and certainty.

In practice, this will not change the current timelines much. What delays permitting is the delays that will be encountered when "query cycles" are initiated. If you need to formally request additional information, our rule

of thumb based on experience is that it will extend the time to permit delivery by at least three months. This leads to probably excess information being supplied in the initial application to attempt to avoid being sucked into a "query cycle". In a lot of cases this could be avoided for minor issues in a regime where phone calls were used to clearly explain what additional information is required in a modified application.

6.9 Environmental incident reporting and recording

No comment.

6.10 Environmental Compliance and enforcement

No comment.

6.11 Mine remediation and environmental licence surrender

As far as the comments in the discussion paper affect the mineral exploration sector, GEMSA NT interprets the closure planning that can be incorporated at the exploration stage to compliance with the undertakings in the MMP, registration or licence under which the exploration work is conducted. We are curious as to how the division of authority between the various aspects of closure can be allocated between departments.

We note that in fact a favourite place for explorers to work is to look for extensions of existing or past workings. This "brownfield" exploration is currently producing a boom in gold and nickel exploration activity in Western Australia and Victoria, and to a lesser extent other states. It would be unfair to current explorers to combine restoration of legacy workings into the conditions of registrations for drill programmes on old mine sites. This needs to be clearly accepted on permits for exploration activities. It should also be understood that there are sometimes reasons why disturbances cannot be immediately restored. Drillholes may need to be left open so that down hole geophysics can be conducted etc. it should be possible to incorporate such conditions in the terms of registrations and licences, with postponement, not avoidance, of restoration.

6.12 Reviews of environmental decisions

The issue of an Exploration Licence confers on the holder the right to conduct exploration and apply for mining title subject to compliance with conditions of the legislation. This right is gained through the Crown's ownership of minerals, as distinct to surface rights for farming or grazing etc, which is done on a separate title. This is an indirect way to negate the rights of mining titleholders by both directly affected and indirectly affected persons. It also dilutes the rights of the Crown to deal with explorers and miners for the benefit of all citizens not the "directly and indirectly" affected ones. There are existing mechanisms to deal with access onto mining titles and using environmental legislation to avoid these is a dream that agitators, enemies of development and those who seek to profit from resistance have long harboured. This is a backdoor way to shut down mining development and would not be implemented by a government dedicated to encouraging development by cutting red and green tape. Queensland seems to be providing a good example of how not to deal with this if the aim is to stimulate development.

7 Proposed mining management regulatory reforms

GEMSA NT hopes that there will be opportunities to examine and comment on these proposals when they are more specific. Generally, we are curious to learn how splitting the management of mining regulation across multiple jurisdictions is going to avoid duplication and streamline execution. We recognise that the system does not currently work well but are sceptical that the mechanisms proposed will ease the burden on operators.

7.2 Authorisation and Mining Management Plan reform

GEMSA NT hopes that there will be opportunities to examine and comment on these proposals when they are more specific. Generally, we are curious to learn how splitting the management of mining regulation across

multiple jurisdictions is going to avoid duplication and streamline execution. We recognise that the system does not currently work well but are sceptical that the mechanisms proposed will ease the burden on operators.

7.3 Management of mining securities

We feel operators will have more relevant input on this matter.

7.4 Reviews of mining decisions

We feel operators will have more relevant input on this matter.

7.5 Management of care and maintenance periods.

We feel operators will have more relevant input on this matter.

7.6 Management of legacy mines

GEMSA NT believes that the heritage aspects of legacy mines need more acceptance. We support the prioritisation of making legacy mine sites safe, while affording the opportunity for protecting and preserving the heritage aspects of such sites. There has been a neglect of the evidence of the historic role that mining played in the development of the NT in recent decades. There may be opportunities to get mining companies, especially those developing new mines in the vicinity of legacy sites to get involved in their protection and preservation. There will be occasions where modern mines wish to extend and destroy legacy infrastructure, and in such cases, destruction may be necessary, but in such cases the pre-existing site should be recorded in detail prior to that. In some cases, there may be alternative means to develop the deposit that has a better outcome. A review process should be in place in such circumstances. There should be motivation for companies to get involved in legacy rehabilitation as part of new project development. We think this often occurs at present.

7.7 Land access arrangements

Current land access arrangements, and the actual LEGISLATION, recognise the rights of Pastoralists to utilise the surface, and miners the minerals on the same piece of land. This is by its nature potentially difficult and is something that explorers have always had to deal with. Generally, there has been few serious problems where genuine pastoralists encounter genuine explorers in an environment of mutual respect: pastoralists want to go about their business of producing cattle and selling them, and explorers want to go about their exploration and complete their intended programme. The interactions to allow both parties to achieve this are generally civil and courteous and readily achieved. Key to this process is establishing contact by the preferred means and maintaining that contact. Virtually all major issues that we are aware of have arisen where no dialogue was established or maintained between parties.

One difficulty in establishing this dialogue arose in the past due to a flawed procedure in the mining law to provide notice to landowners and leaseholders. Under the Mineral Titles Act, an applicant for a title is obliged to serve notice on the holder of a pastoral lease at the address registered on the title at the LTO. Proof that the notice has been served on the leasee at its registered address obtained from a title search is required. Even if this address is obviously wrong, the applicant must serve the notice on the recorded address. In more than a few cases the information held by the titles office is not up to date, and the notice of application is not received. Furthermore, the Leasee may not reside on the property and in some cases a resident manager does not have regular contact with the leasee. In such cases there may have been no certain way for an explorer to notify the right people of a proposed entry or survey. There was no official means for an explorer to identify who and how to contact to advise of entry in these situations. This led to a very few incidents that could have had serious outcomes, and a mechanism was devised where DPI (and its successor) now maintains an up-to-date register of both owners and managers of pastoral properties. Theoretically, this should enable correct notification of the appropriate people

and we are unaware of any difficulties with this since the procedure was introduced. However, apparently, privacy requirements prevent the provision of this information directly to explorers. The establishment of direct dialogue with managers is important to develop the level of trust needed for an ongoing relationship.

Largely based upon these few incidents from the past, and perhaps some sloppy cleaning up of drill sites, trenches, and other instances of disrespect, there have been recent calls for introduction of compulsory land access agreements in advance of issue of exploration titles. GEMSA NT believes that the relationship between pastoralists and land occupiers is best dealt with by a Code of Conduct, as has recently been released by the Minister for Industry Tourism and Trade. Naturally, the Code should continue to assure that explorers conduct themselves respectfully and comply with current legislation including these proposed changes when implemented. GEMSA NT wholeheartedly supports adoption of the Code and is prepared to promote its strict adoption by our members.

The discussion paper has not specifically canvassed the imposition of compulsory land access agreements in advance of title, and if it did GEMSA NT has strong and compelling views on why this is not workable for the mineral exploration industry in the NT. If this arises as a matter for discussion, we seek the right to comment further.

We believe that it would help the relationship between cattlemen and explorers if this matter of compulsory land access agreements ahead of title grant were decisively rejected by NTG, and that the register of contact information was managed (for fees) by a private body able to provide direct contact between the parties so that direct dialogue is encouraged. The NT Cattlemen's Association would appear to be an appropriate body to perform this task.

8 Transitional arrangements

With the transfer of existing authorisations, there may be many issues owing to the complexity of current company structures.

The NTG currently cannot clearly define a response with issues such as stamp duty with the transfer of titles.

9 Future reform activities

9.1 Residual risk payments

GEMSA NT needs longer to consider this proposal. In principle we feel that mine closure and security refunds need to be final. Once an operation has been restored to a condition sufficient to achieve approval of closure, then ongoing responsibilities must be limited. The proposal to charge these at the time of closure or surrender leaves operators with an unknown "blank cheque" sitting in the accounts. One presumes it could often be financially difficult at the conclusion of production cash flow and remediation expenses to fund a "residual risk payment", perhaps calculated by a cash- strapped government, other than by non-return of security funds held. There are third world governments already adept at this procedure. It might be easy to draw up a list of destinations that warrant a study tour to finesse this. However, such matters often end up in expensive international arbitration. GEMSA NT is unlikely to be convinced this is a good plan.

9.2 Chain of responsibility legislation

This is a vexing issue. It opens real possibilities for political grandstanding, witch-hunts, and scape-goating of opponents or rivals. As conceivable targets of such legislation as "related persons" of many mining projects, should GEMSA NT members worry if even old age might not save them from being hauled from their retirement home beds off to prison as the last man standing from some past project gone wrong in the future? If this sort

of legislation is necessary, it should also apply to the actions and inactions of governments as well as private citizens.

Can we find the people who introduced cane toads to Australia, or gamba grass, or for that matter, rabbits, or lantana or prickly pear or cats? Or perhaps even horses, sheep and cattle? We cannot think of any mining projects that have created the environmental liabilities that those people did.

GEMSA NT does not claim that any laws were broken in the story that follows, and Multiplex, the group mentioned, was a private company at the time that has since transformed into a global group. However, the issue is described from the direct recollections of a GEMSA NT management committee member adversely affected by the incident, and we believe is the sort of circumstance, rare in the industry, that chain of responsibility legislation should seek to prevent or rectify:

"Mt Todd had some $300 million in Tax losses from the construction of the Mt Todd Processing Mill when the operation was mothballed and the operating company [Pegasus] placed under administration. A scheme was devised by a Senior partner in the Brisbane office of KPMG for Multiplex to realise these construction tax losses as offsets to the windfall profits that Multiplex had made from the construction of infrastructure for the Sydney Olympics.

The scheme was that Multiplex, initially unrelated to the Mount Todd project, would finance the restart of the gold processing operation through Multiplex Resources Pty Ltd [later renamed Yimuyn Manjerr Pty Ltd], a subsidiary of Multiplex that had no guarantees back to the parent company. General Gold was brought in as the Mining and Processing managers. The ownership structure was Multiplex Resources Pty Ltd with 93%, General Gold with 2% and Pegasus [the original owner/operator of the Mt Todd Mine and hence the owner of the Tax losses] with 5%, this maintained the nexus to the tax losses. All contracts with suppliers were through General Gold the operator. Multiplex supplied the funding to Multiplex Resources Pty Ltd who then financed General Gold as the operators. The operation recommenced in March 1999 and ran for one full financial year and ceased operations two weeks into the new trading year (July2000). Multiplex Resources changed its name to Yimuyn Manjerr Investments midway through the trading year. Yimuyn Manjerr ceased financing General Gold into the new trading year, General Gold advised their bank, and a receiver was appointed, and the company liquidated, as were the companies supplying services to General Gold, including my assay company, there was no finance guarantee back to the Multiplex parent company even though they owned 93% of the operation.

The General Gold receiver subpoenaed the Multiplex Directors and Senior Managers and the KPMG partner that devised the scheme for a court challenge. The only way to circumvent this was to have a creditor meeting to approve a General Gold scheme of arrangement. Multiplex achieved this by agreeing to pay the mining contractors' debt in full which was the biggest debt by volume, and to fund all employees' debt including a redundancy payment, which was the biggest debt by number. The Creditors Meeting approved this, and the scheme was accepted, and the legal action ceased. I met with Grant Tambling, the NT Senator, and asked that this matter be raised in Parliament and asked that he request the federal govt review tax offset legislation in this instance. Senator Tambling did nothing in Canberra but referred it to the NT govt who advised me that it was a Commonwealth matter and there was nothing they could do. Subsequently my assay laboratory company in Pine Creek, my Malaysian assay laboratory company in Sarawak and my Environmental Laboratory company in Darwin [now owned by Intertek] were all liquidated because of the $200K debt owed from the Mt Todd operation to my companies. Multiplex were successful in securing $270 million of these tax losses as offsets, at least four NT companies were liquidated, and Northern Territory taxpayers left with a $100 million environmental liability. Surely there was a clear responsibility by both the NT and Commonwealth governments to ensure that situations like this do not arise and should be addressed in this review." -Ray Wooldridge.

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"SUPPORTING MINERAL EXPLORATION IN AUSTRALIA'S NORTHERN TERRITORY"

Synopsis of GEMSA NT comments on "Regulation of mining activities Environmental regulatory reform"
NTG discussion paper, December 2020.

1. *GEMSA NT's submission seeks to provide comment specifically on those parts of the discussion paper that we feel will affect GEMSA NT's aims of fostering a renaissance of greenfield/ grassroots exploration in the NT, as this is necessary to achieve a thriving mining industry in line with the aims of the TERC report.*

2. *The NT mineral exploration industry is underperforming, and the reasons for that have been clearly identified in successive independent studies as excessive permitting delays which drive away risk investment before the exploration process starts.*

3. *We should not look to Queensland as an example of how to fix this. That state has in the last 6 years shown a steady decrease in its exploration performance, largely as a result of the introduction of new legislation that has discouraged exploration expenditure.*

4. *Regulators should gain an understanding of how mining permitting works in the various Australian jurisdictions, particularly WA's to try to replicate their system which is resulting in NINE times more exploration expenditure in WA than we have in the NT.*

5. *GEMSA NT is puzzled why this review is necessary at this time when the Commonwealth's response to the Samuel review of the EPBC Act should be imminent, and this may require us to do this all over again.*

6. *We believe it is important that the new legislation demonstrates to potential investors that a framework that clearly improves expectations for reduction in permitting times when operating in the NT is now in place.*

7. *The new proposals, by splitting permitting approvals between DEPWS and DITT, clearly undermine the "one stop shop" concept and appear to promote duplication. However, it probably formalises a process that is already operating unsuccessfully and offers the opportunity to legislate that into practice. And perhaps fix it in a legislative sense.*

8. *GEMSA NT is nervous about this reform process. On one hand, we see good possibilities that the concept of "Registration" for low impact activities, and "Licencing" for more complex projects could improve the present situation, particularly for permitting low impact activities. However, we doubt that existing agencies presently have the necessary human resources, skills base, experience in industry practices, and management structure, to implement these changes in a manner that will consistently work to streamline the permitting process. The implementation is more important than what the words say.*

9. *Replacement of the present appeal process by referrals to the NT Civil and Administrative Tribunal is probably the forerunner of a move to establish an equivalent of the Queensland Land and Environment Court. We understand that this is an important reason driving a decline in mineral exploration in Queensland. We do not support these changes.*

10. *Legacy mine regulation should be readdressed to focus on making abandoned mine sites safe and where possible should take into consideration the heritage aspects of these*

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reminders of the mining industry's part in building the NT. These monuments to our pioneers should be preserved where possible, not buried in "unmarked graves".

11. *Most serious problems with land access that have occurred in the relationship between pastoralists and mineral title holders can be tracked back to the lack of a mechanism for explorers to obtain accurate contact information for the operators of pastoral leases. We believe that there are now means of doing this that avoid dangerous incidents, though this should be improved to encourage dialogue between explorers and pastoralists to be more direct. All explorers should comply with the Code of Conduct introduced by the Minister for Industry Tourism and Trade, and consideration should be given to extending this to include environmental undertakings as well.*

12. *GEMSA NT thinks that proposed residual risk payments are likely to be used by cash strapped governments to legalise taking security deposits on closure of mining projects following successful rehabilitation rather than refunding them as intended by current laws. To provide business certainty, we believe that mine closure and security refunds need to be final.*

13. *Chain of responsibility legislation is draconian, but if it is to be considered, it should be applicable to government agencies and public servants as well as private citizens.*

Geoff Eupene,
Chair, Geological, Exploration and Mining Services Association NT Inc.
1 March 2021.