

## **MINING INTERESTS IN THE WOOMERA PROHIBITED AREA**

### **GOVERNMENT STATEMENT**

The Woomera Prohibited Area (WPA) is a globally unique testing range and is vital to Australia's defence capability. The range's remoteness, 127,000 km<sup>2</sup> size, and relative lack of human activity allow Defence to test long-range weapons systems and conduct classified test activities, sometimes with our allies, in safety and within prescribed security protocols.

The use of the WPA has increased greatly in recent years and is expected to continue to increase due to emerging defence technologies. The Australian Government, through Defence, ensures the safety and security of its weapons testing activities by controlling access to the WPA.

Mining already occurs in the WPA and there are further mineral deposits of potential economic significance located within the WPA's current boundaries. The region generally has proved to have high prospectivity for Australia's resources industry.

The Australian and South Australian Governments are committed to working with all stakeholders to facilitate both industry and defence activities within the WPA to the maximum extent possible. Government practice favours multiple land use, including mining, where this can be accommodated without compromising Defence's activities. For this reason, the Australian Government intends to undertake a review into the future use of the WPA in the context of both its national security and economic significance. The review will include wide consultation with all stakeholders, and is anticipated to be completed by the end of this year. In the interim, this statement provides guidelines on the granting of access to the WPA.

Defence's most dangerous and continuous testing activity is carried out in a Core Area of Operation within the WPA. It is unlikely that concerns relating to compatibility with Defence's activities, national security, and human safety, could be sufficiently mitigated to allow exploration or mining in this area. In the non-core area – which forms the greater part of the WPA – it is more likely that exploration and mining activity could coexist with Defence activities, although such activity would still be subject to restrictions.

The Australian Government considers all exploration and mining applications within the WPA on a case-by-case basis, examining a range of operational compatibility, safety, and national security issues relevant to compatibility (some of which are classified) in determining whether a particular mining activity could co-exist with Defence activities. In making its assessment, the Government consults with the company concerned and the South Australian Government.

Although the Australian Government encourages foreign investment, recognising the role it plays in supporting economic growth and employment, the sensitivity of activities conducted in the WPA means that the prospect of foreign involvement in a resource company would be likely to raise national security issues in relation to proposed activities within the WPA. Accordingly, where companies are foreign

owned, controlled or subject to influence from foreign persons (see guidance notes annexed to this statement) and seek to operate within the WPA, the Government would review all applications to determine whether foreign involvement is appropriate.

Where foreign involvement is a factor, and requires Foreign Investment Review Board (FIRB) approval, resources companies with current or prospective interests in the WPA should first seek assessment from Defence before making any application to the FIRB. Defence would consult with other relevant agencies prior to making its recommendation to the FIRB. In the first instance, companies should contact the Assistant Secretary Property Services - telephone: 02 6266 8650 or email: [WOOM.ProhibitedArea@defence.gov.au](mailto:WOOM.ProhibitedArea@defence.gov.au) - to obtain further information. Only when Defence's assessment has been received would the FIRB commence formal consideration of the application under Australia's foreign investment policy.

Resource companies are advised to contact the Australian Government or the South Australian State Government to discuss their proposal prior to formal submission, whether this relates to a new interest or an alteration (for example, changes to organisational structure, ownership, etc.) to an existing interest in the WPA. All such inquiries will be referred to Defence in the first instance.

As an annex to this statement, to provide greater certainty for potential investors, the Government has issued guidance notes for obtaining a Deed of Access for exploration and mining purposes within the WPA. The issues outlined in this statement are applicable to all companies seeking access to explore or mine in the WPA.

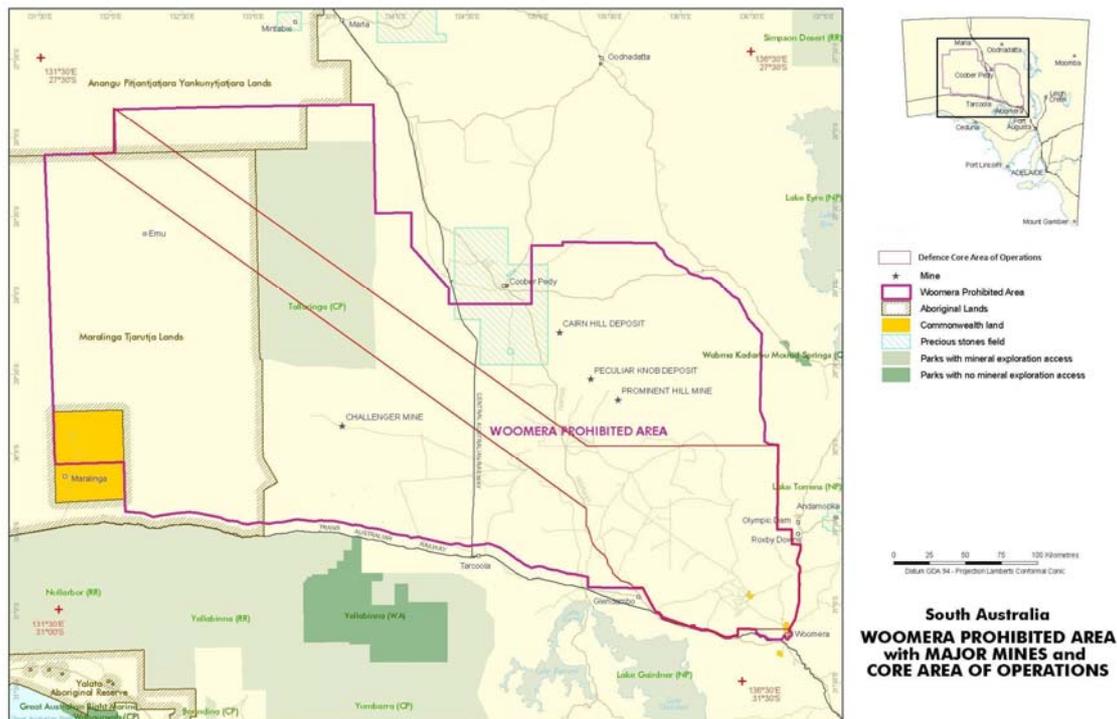
On receipt of correspondence relating to exploration and mining activity in the WPA, Defence will conduct the appropriate risk assessment (in accordance with the Risk Management Standard AS/NZS 4360) and consultation processes relevant to safety, operations and national security, and advise the companies concerned of the outcome within a maximum of 120 days.

In making its access decisions, the Australian Government will have regard to the issues relevant to compatibility attached to this statement. In some cases it will be possible to resolve any concerns which may be highlighted by the assessment process to the mutual satisfaction of the Australian Government and the companies involved. However, companies should not assume that access to the WPA will be granted.

## **ANNEX: Guidance for Potential WPA Investors**

Although issues are considered on a case-by-case basis, the following map and guidance are intended to assist potential investors considering applying for a deed of access within the WPA.

### **WPA Indicative Representation of Areas of National Security and Safety Concern**



### **Core Area of Operation**

- It is unlikely that the need for compatibility with Defence's activities, national security and human safety concerns could be sufficiently mitigated to allow access for exploration or mining in this area.

### **Non Core Area of Operation**

- Although safety risks are reduced in the non core area, assessment of safety, compatibility with Defence's activities and national security concerns will apply. The latter will be especially relevant if the prospective entity has a degree of foreign ownership, and/or is controlled or influenced by foreign entities.
- National security concerns may determine the nature of acceptable company ownership, structure or access.
- All applications for access, for both the core and non core areas, will be assessed on a case by case basis.

### **Issues relevant to Defence compatibility assessment**

For reasons of national security it may not always be possible to disclose the full detail of a decision relating to access to the WPA. Each proposal will be considered against issues such as (but not limited to):

- safety of all personnel (Defence and non-Defence) during defence operations, including an assessment of the risk posed by contamination;
- safety of personal and commercial property;
- compatibility of the proposed commercial activity with Defence's current activities;
- ability for Defence to accommodate disruptions to its activities;
- ability for the commercial entity to accommodate disruptions, including for extended periods, to its activities;
- potential opportunities to obtain protected information;
- measures necessary to limit access to and knowledge of sensitive information of a national security nature;
- ability to implement adequate physical access control measures when required
- compatibility with long-term Defence use of the WPA;
- potential impacts on Defence's logistics and supply systems and overall physical presence; and
- level of indemnity by the proponent.

#### **Information requirements from potential investors**

The Government is concerned to understand any factors that indicate a capacity on the part of foreign persons or foreign corporations to influence the operations or management of activity in the WPA. Information of use in conducting a risk assessment of foreign involvement in activities in the WPA may include:

- an outline of proposed permanent and non-permanent infrastructure, including but not limited to housing, roads, rail, communications, utilities and supply chain activities;
- the area and scale of the proposed commercial activity;
- proposed project time-line with resource and activity intensity, including logistical and physical impact of proposed activity;
- major shareholders and business associates;
- whether the company is a foreign person under the *Foreign Acquisitions and Takeovers Act 1975* or the subject of a foreign investment proposal under the Act or Australia's Foreign Investment Policy;
- mechanisms to uphold terms and conditions of a potential deed of access;
- measures to segregate running core-activities from communication and influence with non-approved persons or organisations (physical control and access arrangements);
- measures to demonstrate the ability to withdraw human presence safely on short notice or for extended periods;
- measures to demonstrate that only approved persons may have access to, and communicate from, the proposed physical site;
- number and nationality of personnel involved in the proposed commercial activity;
- requirements of additional infrastructure (permanent and non-permanent, size and location);
- ownership by a single foreign person or foreign corporation (either alone or together with Associates) of 15 per cent or more holding in a corporation, business or trust;

- ownership by two or more foreign persons or foreign corporations (and any Associates) with a total holding of 40 per cent or more in a corporation, business or trust;
- foreign person(s) serving as members of the organisation's board of directors (or similar governing body), officers, executive personnel, general partners, trustees or senior management officials;
- foreign person(s) or foreign corporation having the power, direct or indirect, to control the election, appointment, or tenure of members of the organisation's board of directors (or similar governing body) or other management positions of the organisation, or have the power to control or cause the direction of other decisions or activities of the organisation;
- any contracts, agreements, understandings, or arrangements with a foreign person(s) or foreign corporation;
- any indebtedness, liabilities, or obligations to a foreign person(s) or foreign corporation by the organisation, whether as a borrower, surety, guarantor or otherwise;
- any derivation of its total revenues or net income from any single foreign person(s) or foreign corporation or in aggregate, 40 per cent or more of its revenues or net income from foreign persons or foreign corporation;
- any shares held through a nominee or subsidiary including what percentage the nominee or subsidiary owns in any foreign person(s) or foreign corporation; and
- any members of the organisation's board of directors (or similar governing body), officers, executive personnel, general partners, trustees, or senior management officials holding any positions with, or serve as consultants for, any foreign person(s) or foreign corporation.

### **Process for obtaining a Deed of Access for exploration and mining activity in the WPA**

The Australian and South Australian Governments have put in place a coordination mechanism to facilitate access by resource companies to the WPA where this is compatible with Defence activities. Companies wishing to conduct mining related activities within the WPA must recognise and make appropriate provision for the commercial risks inherent in conducting their business on a weapons testing range. For comprehensive advice on applying for access to explore or mine in the WPA, companies should contact the Assistant Secretary Property Services - telephone: 02 6266 8650 or email: [WOOM.ProhibitedArea@defence.gov.au](mailto:WOOM.ProhibitedArea@defence.gov.au)

The following is a general outline of the access process:

- A resource company requires an exploration or mining licence from the South Australian Government (Primary Industries and Resources – South Australia) prior to seeking access to tenements in the WPA.
- The company lodges an application for a Deed of Access with Defence consistent with the issues relevant to compatibility specified herein.
- Defence conducts a risk assessment, which may include consultation with relevant Commonwealth and State government agencies.
- The authority to grant access to the WPA for exploration or mining resides with the Minister for Defence, who makes access decisions based on advice from the Department of Defence which is developed in consultation with other agencies. The Minister may authorise less-sensitive access decisions to the Secretary of

Defence. The Defence Minister will normally make a decision on access within 90 days of receipt of the application. In exceptional circumstances, an additional 30 days may be required (ie a total of 120 days). Where this is the case, the resources company would be notified.

- The company is notified of the Minister's access decision. If the decision is favourable, Defence will enter into negotiations with the company to finalise the Deed of Access.
- Where foreign investment triggers consideration by the Foreign Investment Review Board (FIRB), the company should apply to the FIRB after the Defence assessment is complete. (Companies are not precluded from applying directly to the FIRB where a tenement within the WPA is being purchased, but access to the WPA is not being sought, as the tenement will not be exploited. However, the FIRB will consult with Defence in relation to any application relating to an interest in the WPA whether or not access is required).