

28 September 2022

Ms Alex Blood
Executive Director, Minerals Resources
Department of Energy and Mining

Via email: Alexandra.Blood@sa.gov.au

Dear Alex

Thank you for the opportunity to provide feedback on the *Draft Minerals Exploration Code of Conduct* ('the Code') and for meeting with SACOME on 29 August 2022.

We have further considered the Code and how it may be used by industry, including facilitating a meeting with key exploration companies that are members of SACOME.

The feedback from this meeting largely mirrored our initial advice provided to you in our meeting.

The nomenclature of 'Code of Conduct' is extremely concerning for industry. While SACOME understands the purpose of the Code is to enable companies to self-audit the quality of their engagement with landholders, its name strongly suggests further legal and reporting obligations for companies, with associated cost and administrative burdens.

As the proposed reporting obligations would be a material duplication of compliance work already undertaken by exploration companies, the financial and physical resource costs associated with this activity would need to be 'allowable expenditure' within 'new data expenditure'. It should be explicitly stated that this activity is considered part of the cost of acquiring field data.

As an example of duplication,sa prior to DEM granting a PEPR for exploration operations not covered by the Generic PEPR, in section B – 'Program Preparation and Access to Land' – the proponent already needs to establish work undertaken in preparing the proposal, including:

- Desktop reviews of existing information
- Field visits for reconnaissance
- Contractor consultation (i.e. equipment scale, type)

- Any other information used when planning the proposed program.

Section B of the PEPR application also requires that the content of consultation for tenement holders and other stakeholders be specified, with respect to the following:

- Notices of Entry
- Waivers
- Native Title Agreements
- Heritage clearances
- Land access agreements with pastoralists
- Agreements with the Department of Defence
- Any other relevant information

The name raises the serious prospect of the Code being mandated, with audits to be undertaken by third parties and potentially published. This is reinforced by the reference to third party auditors on page 28 of the document, which is ostensibly a self-audit tool. SACOME recommends this reference be removed.

While SACOME understands this is not the Minister's intention, SACOME and its Members **do not support** mandating the Code of Conduct, audits, or the publication of audits.

The public disclosure will also be a material imposition on landowners.

Ultimately, it would be disappointing if companies did not meaningfully engage with the Code, were it not for its name. 'Revised Guidelines for Engaging with Landowners' more accurately reflects the nature of this work and would facilitate greater uptake.

As advised, SACOME considers the use of templates in Part C and self-assessment tools in Part D to be of practical benefit to industry; and the use of checklists with links to relevant documentation in Part B provide a simple way for companies to meet their obligations and have a meaningful conversation with landholders.

In a similar vein to the concerns regarding nomenclature, potential and minor improvements should include:

- Amendments throughout Part D to clarify, beyond all doubt, the simple auditing tool is both voluntary and for self-assessment purposes; and

- Ensuring the language used throughout the document is entirely consistent with existing Departmental guidance and requirements.

Based on feedback received, the definition of landholder is too broad and ought to be confined to the landholder/s immediately impacted by the activity or activities. An additional concern was clarifying the interaction of this document with native title obligations, noting this is a discrete process.

In summary, SACOME reiterates that this document's characterisation as a Code of Conduct is **not supported**.

SACOME thanks the Department for Energy & Mining for the opportunity to provide feedback on the Code and welcomes further constructive engagement on this important topic.

Yours sincerely



Rebecca Knol
Chief Executive Officer
South Australian Chamber of Mines & Energy