Greenpeace submission
Minerals Resource Rent Tax

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Greenpeace strongly supports the idea of a tax on super profits from the current mining boom for the benefit of the broader community benefit, particularly in the form of increased superannuation payments.

This should not be understood, however, as supporting the current mining boom and the manner in which it is being encouraged by the Government, particularly the expansion of Australia's coal exports. This drive undermines the Government's own commitments to global action to keep temperature rise under 2 degrees Celsius.

Having reviewed and analysed the latest version of the Minerals Resource Rent Tax bill (MRRT), Greenpeace cannot, however, support the Bill in its current form. There are two primary reasons for this. The documentation released thus far does not provide any data that supports Treasury's revenue projections and the Bill is riddled with subsidies to the fossil fuel sector – subsidies that the Government has 'committed' to eliminating or phasing out.

1. Will the MRRT deliver the money promised?

This is now the third version of the Labor Government's super resource rent tax. The initial SPRT (Super Profit Resource Tax) of 40% was proposed by the Rudd Government in 2010. Following blowback from the mining industry, the Gillard Government proposed a 'lite' version of the tax, now known as the Mineral Resource Rent Tax. An exposure draft of the MRRT was released in early 2011, proposing an ostensible rate of 30%. That was followed by the current version, which reduced the ostensible tax rate to 22.5%. This version was the product of the Energy Minister in collaboration with the former head of BHP Billiton[1].

Treasury's own projected revenues for the community from the tax are $3.7b (2013), $4b (2014) and $3.4b (2015). Worryingly, however, no data has been released to support these assumptions nor is any clarity provided as to how these figures were reached.
http://www.aph.gov.au/library/pubs/bn/eco/MRRT.htm#_Toc309898056

Elsewhere, in an MRRT fact sheet, Treasury examples suggest that there may be no revenue from the tax for the first five years at all.
http://www.futuretax.gov.au/content/Content.aspx?doc=FactSheets/resource_tax_regime.htm, see table, line that reads 'net MRRT'.

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[1] See, e.g., ISSUES PAPER: TECHNICAL DESIGN OF THE MINERALS RESOURCE RENT TAX TRANSITIONING EXISTING PETROLEUM PROJECTS TO THE PETROLEUM RESOURCE RENT TAX AND POLICIES TO PROMOTE EXPLORATION EXPENDITURE, 1 OCTOBER 2010, Department of Energy Resources and Tourism, Forward, pii

These concerns have also been voiced by a number of other relevant parties.

The Senate Select Committee on Scrutiny of New Taxes when reviewing the Bill, concluded that “The projected revenues remain highly speculative with unknown commodity price and production volume assumptions, unknown implications of State and Territory government decisions around royalties…”
The Mining Tax: a bad tax out of a flawed process, June 2011, para 3.85, Senate Select Committee on Scrutiny of New Taxes

Modelling undertaken by Fortescue Metals also suggests that the big mining companies will pay no tax under the MRRT for the first 5 years because of the large front end write-offs available to the bigger miners. (House of Representatives Standing Committee on Economics Advisory Report on the Minerals Resource Rent Tax Bill 2011 and related bills – Dissenting report, November 2011, p3-4).

They also raised a number of questions regarding Treasury’s modeling including on the failure to release the assumptions upon which revenue projections are made and the failure to model specific projects in order to more accurately predict revenue streams. (House of Representatives Standing Committee on Economics Advisory Report on the Minerals Resource Rent Tax Bill 2011 and related bills – Dissenting report, November 2011, pp 3-4)

Until all underlying data has been released, Greenpeace remains extremely skeptical of the revenue projections claimed by Treasury and the resulting benefits to the broader community.

2. Deductions and subsidies promised under the tax

Greenpeace is concerned that the MRRT contains a high number of significant deductions, allowances, uplift rates, depreciation and write off provisions. Under the broadly accepted definition used by the World Trade Organisation (WTO) (see box below) these are subsidies. The Government has previously committed to phasing out or eliminating such subsidies, so Greenpeace is concerned to see these ones included in the MRRT. It appears that the probability of this tax achieving the claimed community benefits is unlikely given these subsidies.

The WTO Agreement on Subsidies and Countervailing Measures (ACMS) provides a definition of "subsidy" that has been accepted by all WTO members. Article 1 of the Agreement states that a "subsidy" exists when there is a "financial contribution" by a government or public body that confers a "benefit". A "financial contribution" arises where: (i) a government practice involves a direct transfer of funds (e.g. grants, loans, and equity infusion), potential direct transfers of funds or liabilities (e.g. loan guarantees); (ii) government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits); (iii) a government provides goods or services other than general infrastructure, or purchases goods; or (iv) a government entrusts or directs a private body to carry out one or more of the above functions. A "benefit" is conferred when the "financial contribution" is provided to the recipient on terms that are more favorable than those that the recipient could have obtained from the market.

ANALYSIS OF THE SCOPE OF ENERGY SUBSIDIES AND SUGGESTIONS FOR THE G-20 INITIATIVE, IEA, OPEC, OECD, WORLD BANK JOINT REPORT Prepared for submission to the G-20 Summit Meeting Toronto (Canada), 26-27 June 2010 16 June 2010

Some of the mechanisms in the tax that Greenpeace believes are deeply problematic are:

- **Uplift rates**. Under the tax, not only can losses incurred as part of the mining process be used as deductions against taxable revenue but the MRRT also permits losses to be carried over into subsequent years if there is no MRRT liability in the year the loss is incurred. This loss may be accrued at the long term bond rate (which has been between 4-7.5% for the last ten years) plus an additional 7%. Losses carried over may, therefore, accrue by over 14% per annum – a significant windfall for the mining company concerned. *Greenpeace believes that the value of both these subsidies and their impacts on the benefits for the community need to urgently be assessed before this bill is passed.*

- **Immediate write off of assets**. The MRRT allows immediate write off of new mining assets. Normally, depreciation is only allowed over a period of time that reflects the actual depreciation of the asset. The effect of this on new mines would be to subsidise the payments for, and building of, infrastructure associated with new mines. *Greenpeace believes that the value of this subsidy and its financial impacts on the proposed benefits for the community needs to urgently to be assessed before this bill is passed*.

- **The MRRT will be accompanied by a 1% reduction in the current company tax rate, reducing it to 29%.** The Howard Government made a commitment in 1999 – 2000 to lower the company tax rate from 35% to 30% in exchange for the elimination of accelerated depreciation. However, whilst the tax rate was lowered, accelerated depreciation remained. Treasury estimates that this subsidy costs taxpayers approximately $880m per annum (unpublished FOI documents from Treasury, 2010). By reducing the rate by a further 1% this is yet another tax break for the industry. *Greenpeace believes that the financial value of this subsidy and its impacts on the proposed benefits for the community needs to urgently to be assessed before this bill is passed*.

- **Deductible expenses.** The MRRT allows a new deduction in that Native Title compensation claims will now be paid, in part, by the public purse. *Greenpeace believes that the financial value of this subsidy and its impacts on the proposed benefits for the community needs to urgently to be assessed before this bill is passed*.

- **All clean up costs associated with breaches of conditions or law are deductible**. This isn't new but is means taxpayers subsidise poor mining practices, which are not already insured by the company. *Greenpeace believes that the financial value of this subsidy and its impacts on the proposed benefits for the community needs to urgently to be assessed before this bill is passed.*

- **The MRRT provides for transferability of deductions**. A company that is constructing a new mine may use expenses incurred in start up to reduce tax liability for an existing mine that would otherwise be subject to the MRRT. No estimate is given of the financial impact of this measure. *Greenpeace believes that the financial value of this subsidy and its impacts on the proposed benefits for the community needs to urgently to be assessed before this bill is passed*.

- **Starting based asset methodologies.** The MRRT will provide credits based on the market value of the existing value of the mine (likely more than just infrastructure), through a credit written down over 25 years. Mining companies may choose an alternative credit, based on the current written down book value of the project's assets and 'generous' accelerated depreciation provisions that allow write-off over a 5 year period. The first option is not subject to 'uplift' – the second is. *Greenpeace believes that the financial value of this subsidy and its impacts on the proposed benefits for the community needs to urgently to be assessed before this bill is passed*.

3. Conclusion

Greenpeace is concerned that this 'tax' that is intended to demonstrate that the Government is securing public benefits from the mining boom, will, in reality, not deliver. Not only are the revenues speculative but the subsidies are so profound that it is difficult to determine whether this tax will have any public benefit at all.

Greenpeace recommends that no further action is taken on the bill until all data and analysis from Treasury are released to allow a proper analysis of the financial impacts of the bill both for the community and the mining industry.

A more honest – and probably more efficient tax and more consistent source of revenue – would be to impose a flat tax rate on super profits.

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