

TRY-03428



Hon Tim Nicholls MP

Member for Clayfield

Treasurer and Minister for Trade

27 MAR 2013

The Secretary
Senate Economics References Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Senator Bushby

Thank you for your letter of 4 March 2013 inviting submissions to the Senate Economics References Committee (the Committee) regarding the inquiry into the development and operation of the Mineral Resource Rent Tax (MRRT). I can understand the Federal Parliament's concern regarding the paltry revenue so far collected by the Australian Government through the flawed MRRT.

I can assure you that this outcome has been of the Australian Government's own making. Despite the experience gained by the States through many years of partnership with the mining companies in the development of their industry, we were not invited to be in any way involved in the forecasting of revenue collected in the first half of the year – forecasting which has been proved inaccurate.

At the very least, this recent experience demonstrates the inherent variability and uncertainty that accompanies a profit-based resource charge, and it justifies states' reluctance to adopt such a charge. State Governments, not having the Commonwealth's large revenue base, would find it difficult to absorb such revenue volatility.

The Queensland Government has been, and will continue to be, opposed to the Australian Government's MRRT. The introduction of the MRRT represents a federal incursion into what has traditionally been a State revenue base and a State responsibility. It adds another unnecessary layer of taxation to the mining industry, increasing the cost, risk and complexity of investing in Australia.

It is estimated that the additional cost of implementing and administering the MRRT and extended petroleum resource rent tax to 30 June 2013 exceeds \$50 million. These figures do not include further costs borne by the Australian Government in developing and revising the Resource Super Profits Tax and the MRRT, or the costs borne by industry participants, States and other relevant stakeholders in understanding and negotiating the workings of each iteration of the resource rent tax.

By means of comparison, Queensland's Office of State Revenue (OSR) estimates that the operating cost of administering state royalties in 2012-13 to be \$2.1 million, noting that the Mid Year Fiscal and Economic Review estimates that OSR will collect more than \$2.2 billion in royalty revenue in 2012-13.

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States own the mineral and petroleum resources within their jurisdictions and have the right to levy what they consider to be an appropriate charge for them. The minerals located in Queensland belong to the people of Queensland, who are entitled to a fair return from the commercial exploitation of those minerals. By implementing the MRRT, the Federal Government has constrained the ability of the Queensland Government to levy appropriate charges for resources on behalf of Queenslanders.

As you would be aware, the MRRT is currently being challenged by Fortescue Metals Group Ltd. The challenge was heard by the High Court on 6 and 7 March 2013, and we are waiting for the High Court to deliver its judgement. Queensland in its submissions argued that the MRRT regime was invalid on the grounds that:

- it discriminates between the States due to the unique treatment of royalties. The main argument is that the MRRT regime seeks to equalise the position of taxpayers by imposing a law which discriminates between the States by neutralising the objectives of States' royalty regimes under which the taxpayers are granted rights to extract minerals, contrary to section 51(ii) of the Constitution; and/or
- it impermissibly curtails the capacity and function of the State (for example, to exact economic rent for its mineral resources and facilitate development in the State) contrary to the Melbourne Corporation principle.

The Federal Government must not respond to the revenue shortfall caused by the MRRT with further incursions into States' revenue raising capacity. It is crucial that the revenue raising capacity of States and Territories is preserved, so that States and Territories can continue to meet their expenditure responsibilities. Continual encroachment by the Federal Government into revenue bases traditionally held by the States is not sustainable, particularly where, as in this case, inadequate compensation is to be made available to the resource States.

Any amendment to the MRRT to generate more revenue will intensify the sovereign risk issues already created by the introduction of the new tax. The MRRT has undoubtedly damaged Australia's international reputation in the mining industry without raising significant revenue for the people of Australia. The Federal Government must not create even more uncertainty for this crucial industry.

The Queensland Government is committed to encouraging and promoting mining investment. To assist the mining industry to reduce costs and otherwise lower the regulatory burden, the Government established a Resources Cabinet Committee comprising the Honourable Jeff Seeney MP, Deputy Premier and Minister for State Development, Infrastructure and Planning, the Honourable Andrew Powell MP, Minister for Environment and Heritage Protection, the Honourable Andrew Cripps MP, Minister for Natural Resources and Mines and myself, which has been working with industry to develop a package of measures. Enhancements to productivity in this sector will make it even more competitive.

Resource Cabinet Committee achievements to date include:

- a pilot mine water release strategy supported by an enhanced environmental monitoring program that has been put in place for the 2012-13 wet season;
- implementing new administrative arrangements to the Strategic Cropping Land Act 2011 to remove unnecessary assessment of resource activities, saving industry millions of dollars over the long term;

- development of a revised Coal Seam Gas (CSG) Water Management Policy for the future use and management of CSG water providing certainty and clarity for decision makers, proponents and the community;
- extending the timeframe for the refit of regulated dams from three to five years, reducing costs and impact on industry; and
- successfully negotiating conduct and compensation agreements with the gas industry to access to state forests.

In 2013, the Resources Cabinet Committee will focus on a number of key regulatory initiatives including:

- reforming the social impact mitigation process in consultation with the Queensland Resources Council, industry and the Local Government Association of Queensland;
- evaluating the outcomes of the pilot mine water discharge strategy and investigating the feasibility of a long term, cost effective approach for mine water management;
- reforming Queensland's resources legislation with the goal of achieving a single resources Act;
- implementing a revised process for Environmental Impact Statements;
- developing a new model for financial assurance;
- establishing an improved state environmental offsets policy;
- finalising policies on oil shale and uranium mining; and
- developing an alternative framework for the management of Wild Rivers.

The Committee will continue to ask industry to bring forward issues that are adding costs to business and creating delays. Through this process, the Government will be looking for real world practical examples where its intervention will lead to positive changes to enable industry to expand and grow. The Government has also guaranteed for a period of ten years (to the end of the 2021-22 financial year) that coal royalties will not be increased again.

The Queensland Government has also established the Office of Best Practice Regulation (OBPR), which has a key role in reducing unnecessary regulation within Government. The OBPR has identified regulation of mining development as a priority area for reform.

Queensland does not want interference by the Federal Government to undermine our efforts to support the sustainable development of the mining industry in our State.

Thank you for the opportunity to submit the Queensland Government's position to the Committee.

Yours sincerely

Tim Nicholls
Treasurer and Minister for Trade