AUSTRALIAN COAL ASSOCIATION

3 June 2013

Senator Mark Bishop
Chair, Senate Economics Legislation Committee
Parliament House
CANBERRA ACT 2600

Via email: economics.sen@aph.gov.au

Dear Senator Bishop,

INQUIRY INTO THE AUSTRALIAN JOBS BILL 2013

The Australian Coal Association (ACA) welcomes the opportunity to make a submission to the Senate Economics Legislation Committee's Inquiry into the draft Australian Jobs Bill 2013 (the 'draft Bill').

On 16 February 2013, the Government announced it would mandate that every project worth more than $500 million develop an Australian Industry Participation plan to give local suppliers a greater chance at tendering. In addition, projects worth $2 billion or more would be required to employ Australian Industry Opportunity Officers in their global supply offices to qualify for a 5 per cent tariff reduction on imports under existing project by-law arrangements. This change has not been justified on economic efficiency grounds. Further, the approach does not take into account the manner in which the coal industry interacts with local suppliers.

Recommendation

The ACA supports the submission made by the Minerals Council of Australia (MCA) that the draft Bill is counterproductive and should be reconsidered. The ACA agrees that planned amendments to Australian Industry Participation requirements, including the proposal to embed Australian Industry Opportunity officers into private sector procurement processes, will only increase the compliance costs of an already complex policy. The ACA submits that these proposals should be withdrawn so the Government can refocus its efforts on measures that actually build the capacity of Australian firms to participate in major project supply chains.

Difficult operating conditions make additional red tape especially harmful

The new compliance costs contained in the draft Bill come at a challenging time for the Australian coal industry. We are now experiencing the most difficult operating conditions in ten years, owing to a high Australian dollar, rising input costs, increasing tax and regulatory burdens, and growing delays in the processing of project approvals.

Independent research recently conducted for the ACA highlights the difficult operating conditions facing the black coal industry:

- At current coal prices and exchange rates, 52 per cent of metallurgical coal export production, and 68 per cent of thermal export coal production, is achieving an operating margin (before capital recovery) of less than $10/tonne.

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- At these prices and exchange rates, only three proposed Australian metallurgical coal projects and no thermal coal projects are viable in the long term.

This research is consistent with new data provided by the Bureau of Resources and Energy Economics (BREE) on major resource projects. BREE reported that:

- The number of projects in the total nominal coal investment 'pipeline' has fallen from 100 to 93 in the period October 2012 to April 2013.[1]
- No coal projects have progressed from the Publicly Announced stage to the Feasibility Stage between October 2012 and April 2013.[2]
- Seven coal projects in the Feasibility Stage have been delayed or cancelled over the year to April 2013. The total value of these projects was estimated at $29 billion, with construction employment estimated at 9,650 and operating employment estimated at 2,250.[3]
- Two coal projects in the Publicly Announced stage were cancelled and removed from BREE's list in the six months to April 2013. The combined value of these two projects was estimated at $1.3 billion, with construction employment estimated at 2,500 and operating employment estimated at 1,400.[4]

In addition, BHP Billiton reported last week that it will not be undertaking investment in new coal developments and it will continue to reduce business development and exploration expenditure. The company added that its capital expenditure will peak in 2013.[5]

Australia's environmental and development approval processes are becoming increasingly complex and onerous and characterised by unnecessary duplication and inconsistency across State and Federal processes. This is contributing to the erosion of Australia's attractiveness as an investment destination, including for coal mining and related infrastructure projects.

Australian coal projects are experiencing costly delays on an increasing basis. The average Australian thermal coal project is now delayed an additional 1.3 years relative to projects elsewhere (3.1 years compared with 1.8 for the rest of the world) and each year the average delay increases by a further 3-4 months.[6] These delays have a profound impact on the industry's ability to maintain market share and take advantage of global demand. They also come at immense cost. A one month delay in commissioning a large greenfield open-cut coal mine can cost in the order of $10 million in lost revenue.

The Government should be supporting productivity growth by cutting red tape

Recent substantial declines in world coal prices have brought issues of cost and productivity into sharp relief. Policies that support productivity growth are essential if the Australian coal industry is to manage existing cost challenges efficiently and respond competitively to the next upswing.

Productivity growth in turn hinges on innovation, that is on:

> '*the implementation of a new or significantly improved product (good or service), or process, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations*.'[7]

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[1] Bureau of Resources and Energy Economics, *Resources and Energy Major Projects,* April 2013 projects listing, pp. 8 and 11; October 2012 projects listing

[2] Bureau of Resources and Energy Economics, *Resources and Energy Major Projects,* April 2013 report, p. 8

[3] Bureau of Resources and Energy Economics, *Resources and Energy Major Projects,* April 2013 report, p. 29, and April 2013 projects listing; October 2012 projects listing; April 2012 projects listing; Sarah-Jane Tasker, 'New Kooragang terminal in doubt as PWCS cuts coal contract tonnages', *The Australian,* 2 May 2013; Queensland Department of State Development, Infrastructure and Planning*, Yarwun Coal Terminal Project Overview*.

[4] Bureau of Resources and Energy Economics, *Resources and Energy Major Projects,* April 2013 report, p. 8; October 2012 projects listing.

[5] Sarah-Jane Tasker, 'BHP says no new major coal projects planned, cost cuts to continue', *The Australian,* 29 May 2013.

[6] Port Jackson Partners, *Opportunity at risk: regaining our competitive edge in minerals resources,* report to the Minerals Council of Australia, 2012, pp. 10 and 27.

[7] Ministerial report on the OECD Innovation Strategy, F*ostering innovation to strengthen growth and address global and social challenges - key findings,* 27-28 May 2010, C/MIN(2010), Box 1, p. 6.

In commodity industries like coal, the emphasis is on process innovation – notably the introduction of new and improved technology – and new forms of work organisation. Such innovation is critical to the Australian coal industry, which (as noted in Section 1.3 above) faces fierce international competition and must continually adapt and improve its operations to remain profitable.[8]

ABS survey data shed light on both the objects of innovation expenditure in mining as well as the obstacles to innovative activity. Since mining is a sophisticated and capital-intensive industry, it is unsurprising that innovation expenditure is most commonly directed to equipment, machinery or technology (35 per of 'innovation-active' [9] miners), research and experimental development (32 per cent) and training (28 per cent). Nonetheless, the primary obstacles to innovation in mining are lack of skilled persons (cited by 29 per cent of innovative miners surveyed) and government regulation and compliance (25 per cent) – ahead of lack of access to additional funds (19 per cent).[10]

Lack of skilled labour is a common obstacle to innovation across all industries (cited by 30 per cent of innovative businesses surveyed). However, ABS data suggest that regulation is a more significant barrier to innovation in mining than in industry as a whole. While one in four innovative miners nominate regulation and compliance as an impediment, the corresponding number for all innovative businesses is around one in six.[11]

These survey results confirm that flexible labour markets and efficient regulation are important enablers of innovation. However, the local content measures proposed by the Government would solely act to impede productivity growth in the coal mining industry, by interfering in the commercial operation of companies and imposing duplicative reporting requirements.

Further, the Government's proposals overlook the fact that the Australian coal industry already has a strong business interest in the development and maintenance of a vibrant and competitive local supplier, repair and maintenance industry. ACA member companies already source substantial purchases locally on major projects and generally achieve high levels of Australian content. Where on the basis of price, technology, quality and aftersales service there are opportunities for local businesses to supply goods and services to a mine, this is preferred. For example, aftersales services are far easier to organise if the company providing them is local.

Development of black coal resources occurs in close cooperation with the community

Coal mines typically operate in a region for two, three or more decades. They employ a local workforce and inject tens of millions of dollars into the local community alone in annual pay packets. Each mine also indirectly stimulates regional job opportunities reliant on the mine through flow-on business opportunities for Australian firms. For example, in 2011-12:

- The Queensland coal industry spent $3 billion on salaries of direct employees and $16 billion on goods and services and voluntary community contributions.[12]
- The NSW coal industry in the Hunter Valley alone spent $1.3 billion on salaries of direct employees and $3.3 billion on goods and services and voluntary community contributions.[13]

[8] According to the Australian Bureau of Statistics' innovation survey, 36 per cent of mining businesses undertook some form of innovation in 2010-11. Innovation was most frequently attributed to 'profit-related reasons' (74 per cent of innovating businesses in mining), 'production and delivery reasons' (58 per cent) and 'competition, demand and/or market-related drivers' (50 per cent). It is also noteworthy that 33 per cent of innovating businesses in mining cite 'improving safety or working conditions' as a driver of innovation. See ABS, *Innovation in Australian Business 2010-11*, Cat. 8158.0, 23 August 2012.
[9] The ABS defines innovation-active businesses as those which have undertaken innovative activity in the survey period, including any new or significantly improved: (1) goods or services; (2) operational processes; (3) organisational/managerial processes; or (4) marketing methods.
[10] ABS, *Innovation in Australian Business 2010-11*, Cat. 8158.0 (data cubes).
[11] ibid.
[12] Lawrence Consulting, *Economic Impact of Resources Sector on the Queensland Economy 2011/12*, Prepared for Queensland Resources Council, November 2012, p. i.
[13] Lawrence Consulting and the University of Newcastle, *NSW Mining Economic Impact Survey 2011/12*, Preliminary Summary Report, November 2012, p. 6.

Since 2004-05, there has been significant growth in coal and iron ore production and investment. That has led to increased employment across the economy with the coal mining industry's direct employment growing by 140 per cent and the value of exports almost tripling.[14] This growth in activity has not only created jobs in the coal industry. It has also stimulated jobs and growth in industries that provide inputs to coal mining, coal transport and coal project financing.

The Reserve Bank of Australia estimates the 'resource economy' accounted for around 18 per cent of GDP in 2011-12, which is double its share of the economy in 2003-04. About a third of this share is due to resource extraction activities but two-thirds is due to sectors that provide inputs to mining:

> *'On average, around one-quarter of the value of coal and iron ore exports in 2008/09 represented value added by industries outside of the resource extraction sector. On the other hand, oil & gas extraction, which uses fewer domestic intermediate inputs to extract every $1 of output than coal and iron ore, generated fewer spillovers to other domestic industries.'*

And:

> '*[R]esource extraction employment directly accounted for around one-third'* of total employment in the resource economy in 2011-12, with the remaining two thirds coming '*from the various resource-related industries, such as business services, construction and manufacturing, which are significantly more labour intensive than resource extraction*'[15]

Coal mines are also significant long-term contributors to the local community. Information on coal industry community contributions is available from individual coal company websites, including in their annual Sustainability or Corporate and Social Responsibility reports. This shows that the Australian coal industry invests in:

- Education projects, including tertiary scholarships, apprenticeships and traineeships
- Training programs related to mining and support industries and programs that promote cross-sector skill development, e.g. mining and agriculture
- Work placement programs in partnership with local High Schools and tertiary institutions
- Programs that encourage flexible learning, life skills development, leadership, further education and improved employability
- Support for local communities including: donations for community organisations, hospitals, libraries and recreation venues/activities
- Direct assistance to enhance or develop facilities to encourage employees and their families to be active and, in turn, decrease the risk of lifestyle diseases such as cardiovascular disease and Type 2 diabetes.

Coal companies typically provide general information for suppliers on their website as well as specific information for particular projects. They have established relationships with local suppliers and usually have pre-qualification registers. To be eligible, companies must be registered for GST and have a current ABN. Businesses likely to supply personnel onsite must have Workcover, public liability insurance and meet mining industry safety and training requirements. Consultancy/service providers are required to have professional indemnity or professional insurance. Suppliers are also expected to meet company Health, Safety, Environment and Community policies and procedures when doing business.

Other sources of information regarding major coal projects include:

- Industry Capability Network/Industrial Supplies Offices, which assist in procurement and project management to maximise local content

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[14] Australian Bureau of Statistics, *Labour Force Australia*, Cat. No. 6291.0 and BREE, *Resources and Energy Statistics*, various issues.
[15] Vanessa Rayner and James Bishop, *Industry dimensions of the resource boom: an input-output analysis,* Reserve Bank of Australia Research Discussion Paper, February 2013, pp. 17 and 36 respectively.

- Deloitte Access Economics' quarterly *Investment Monitor*, which lists around 900 Australian investment projects, each valued from $20 million. Projects are divided by State, sector and status (ie, possible, under consideration, committed, under construction). The publication also contains commentary on industry trends, and company contact details for those companies involved in the projects
- Bureau of Resources and Energy Economics' six-monthly listing of major resource and energy projects
- The *Queensland Resources and Energy Sector Code of Practice for Local Content,* recently launched by the Queensland Resources Council in association with the Queensland Government. The Code focuses on improving the capacity of local suppliers rather than reaching for a new regulation and is underwritten by a robust reporting, information sharing and administrative framework that will help resources and energy companies operating in Queensland refine their local content strategies.[16]

Local content in major projects

Government requirements for their own agencies or private firms to purchase goods and services from domestic sources represent a form of non-tariff protection that operates 'behind the border'. The aim is to reduce imports.

> *'A legitimate rationale for such rules would require that there be 'information failure' or other possible sources of disadvantage experienced by local suppliers. However this is hard to sustain. If anything, local firms typically have significant advantages over foreigners, related to greater proximity and familiarity and fewer transaction risks. This is in fact the main rationale for the existence of Austrade and the support it provides to Australian firms seeking to sell in foreign markets. When large firms operating here source inputs overseas, this will typically be because it makes financial sense for them to do so. In such cases, it will generally make sense for Australia's economy too.'*[17]

RMIT research[18] suggests for every job created in the coal industry, two to three more are indirectly created in related manufacturing, construction, electricity and business service industries. Policies that focus attention on enhancing the cost competitiveness of Australian manufacturing and support services associated with Australia's comparative advantages, including in resource extraction, plays to our strengths and does not penalise those sectors of the economy that are the most internationally competitive. This is achieved if a principled approach is taken that has as its objectives:

- Encouraging and enhancing investment in world class mining and other operations
- Encouraging the involvement of Australian industry in supplying these operations with goods and services based on open-competition in price, technology, quality and aftersales service.
- Lowering input costs for industry by allowing relief from import tariffs where there are sound reasons for doing so in preference to using local suppliers
- Promoting Australian capability and encouraging the integration of Australian industry into global supply chains
- Ensuring such policy approaches are non-discriminatory and transparent and address identified market failures.

The Australian Industry Participation National Framework 200 [19] commits all governments to incorporate in their industry development policy the following principles: full, fair and reasonable opportunity, free of interstate preferences, regional development, competitive neutrality, value for money, transparency of process, policy consistency and consistency with Australia's international

[16] Queensland Resources and Energy Sector Code of Practice for Local Content
[17] Gary Banks, Chairman, Productivity Commission, *Industry assistance in a 'patchwork economy'*, address to the annual dinner of the Australian Chamber of Commerce and Industry, 23 November 2011, p. 5.
[18] Sinclair Davidson and Ashton de Silva, *The Australian Coal Industry – Adding value to the Australian Economy*, paper commissioned by the ACA, April 2013, p. 7.
[19] Available at www.innovation.gov.au and signed by Australian, State and Territory Industry Ministers in April 2001.

obligations. The Enhanced Project By-law Scheme (EPBS) gives expression to this aim at the Australian Government level.

The Australian Government's recent Industry and Innovation Statement proposes further regulatory requirements for major projects on the argument that they are necessary to enhance Australian industry participation. The Statement includes stated principles [20] and a commitment '*to open, competitive markets and to working with business to ensure regulation is not creating unnecessary costs and inflexibilities'*. However, these are more statements of desirable outcomes rather than cornerstone principles, such as non-discrimination and transparency.

The proposal to embed Australian Industry Opportunity officers into private sector procurement teams and related initiatives:

- Have not been grounded in sound economic analysis
- Would expose companies to having to reveal commercially sensitive information
- Would open up companies to commercially unrealistic ambit claims by third parties with a vested interest in overturning normal commercial decision-making
- Are likely to result in considerable compliance costs in what are already complex processes around AIP Plans and access to tariff concessions under the EPBS.

On 1 July 2012, significant reforms to Australian industry participation initiatives came into effect. These reforms aim to strengthen the Commonwealth's approach to AIP. Given those recent changes the need for more bureaucracy and regulation in this area needs clear justification on economic efficiency grounds. In the absence of such evidence they should not proceed because:

> *'Local content rules, to the extent that they are successful in diverting purchases from the lowest cost sources internationally, merely reduce a nation's purchasing power. While some local firms may do better, others will do worse as their competitiveness is eroded. Productivity and prosperity are both impaired.'*[21]

Consistent with the policy objective in this area, the Australian Government should instead refocus its efforts on measures that actually build the capacity of Australian firms (especially small and medium sized enterprises) to participate in major project supply chains, including in the resources sector. The focus should be on enabling actions, with an emphasis on unlocking synergies between private sector and government investments, rather than on imposing greater regulatory complexity and costs on companies. The Queensland Resources Council initiative mentioned above is a good illustration of the capacity building approach that should be followed.

Areas where enabling actions either have or could prove fruitful include:

- Studies of resource sector supply chains to identify areas of opportunity for local industry and to understand how these opportunities can be realised
- Collaborate R&D initiatives that would assist local industry in capturing higher value areas in resource supply chains
- Innovation programs designed to address particular knowledge and technology gaps among suppliers to the Australian minerals sector.

[20] Australian Government, *A Plan for Australian Jobs: The Australian Government's Industry and Innovation Statement*, Department of Industry, Innovation, Science, Research and Tertiary Education, 2013, pp. 5-6.
[21] Gary Banks, op. cit., p. 5.

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CONCLUSION

Almost a decade of growth in the Australian coal industry has encouraged many in the community to believe the industry's competitive position – and the prosperity it generates – is assured. However, Australia cannot take its abundant coal resources for granted. While the continuing industrialisation of Asia means that global opportunities for coal remain strong, Australian companies can only seize these opportunities if the competitive conditions and policy settings are right.

The draft Bill proposes unnecessary compliance burdens on top of already onerous and duplicative regulatory requirements. It should be reconsidered and withdrawn. Should you have any questions, please contact Peter Morris, Director Economic Policy on 02 6120 0200 or peter.morris@australiancoal.com.au.

Yours sincerely

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