



**Treasurer  
Minister for  
Industrial Relations**

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

7 NOV 2012

Dear Secretary

**Inquiry into the Minerals Resource Rent Tax Amendment (Protecting Revenue) Bill 2012**

I am writing in response to your invitation to make a submission to this inquiry.

I understand that the Minerals Resource Rent Tax Amendment (Protecting Revenue) Bill 2012 would amend the *Minerals Resource Rent Tax Act 2011*:

- To clarify that the intention of the Act is that mining profits may be reduced by a miner's Commonwealth, State and Territory mining royalty amounts in force on 1 July 2011.
- To provide that any increases in royalties after 1 July 2011 should be disregarded when calculating royalty credits for the Minerals Resource Rent Tax; and
- So that the bill will apply to MRRT assessments from its first year of operation, from 2012-13.

New South Wales announced an increase in coal royalties in our 2011-12 Budget. This was reiterated in our 2012-13 Budget. This increase is intended to address the negative financial impacts on New South Wales of the Australian Government's carbon tax on emissions of carbon dioxide and other greenhouse gases which commenced on 1 July 2012.

New South Wales opposes these amendments to the *Minerals Resource Rent Tax Bill 2011* on the basis of the following considerations:

- The carbon tax will have a negative effect on NSW finances and no other form of compensation has been offered
- The amendment would impinge on the rights of the States to impose royalties
- The amendment is contrary to the recommendations of the Policy Transition Group
- The amendment would apply retrospectively, based on an arbitrary date.

The carbon tax will reduce dividends from State-owned electricity companies and increase the cost of a range of State government services. The carbon tax is now estimated to cost the NSW Government around \$1.5 billion in its first four years.

The Commonwealth has not offered any compensation to New South Wales to offset the effect of the carbon tax on State finances resulting in the need to increase royalties.

Mineral resources are the property of the States. A mining right is, in essence, a contract between a State and the proponent of a mining project specifying the rights, obligations, terms and conditions for the development of the project, and the framework for ongoing relations and cooperation between the parties. Royalties are payments to the owners of the mineral resources in exchange for the right to extract them.

Mining royalties have been a long-standing revenue source for State and, before federation, colonial governments. New South Wales has been levying mining royalties since 1884, nearly two decades before federation.

The MRRT seeks to tax the resources of the States and then seeks to limit what can be done by the States. This is a distortion that should not be allowed. The arbitrary date is before the Commonwealth has collected any revenue. The Bill should not impose restrictions on the States on the intersection of State and Commonwealth taxation arrangements.

The Commonwealth's minerals taxation regime was developed without any consultation with the States, including the manner in which the tax would interact with existing State taxes. This was contrary to recommendations in the Henry tax review.

On 3 August 2010 the Australian Government appointed a Policy Transition Group (PTG) to advise on the technical design of the MRRT.

The Commonwealth's Policy Transition Group (PTG) recommended that there be full crediting of all current and future State royalties 'so as to provide certainty about the overall tax impost on the coal and iron ore mining industries.' New South Wales notes the PTG also recommended 'the Australian, State and Territory Governments put in place arrangements to ensure that State and Territory Governments do not have an incentive to increase royalties on coal and iron ore.' (Source: Policy Transition Group Report to the Australian Government, *New Resource Taxation Arrangements*, December 2010, p. 57.)

On 24 March 2011 the Australian Government announced it had accepted all the TPG's recommendations. The threshold for application of the MRRT was set at profits of \$75 million.

New South Wales announced the increase in coal royalties following the Commonwealth's acceptance of the PTG's recommendations. The 2011-12 NSW Budget was delivered on 6 September 2011, instead of the usual June timing, due to the NSW election earlier in 2011. This would place the NSW increase after the 30 June date set in the Bill. The Bill would amend the legislation in a way which is retrospective, based on an arbitrary date, and which is contrary to the PTG's recommendations.

New South Wales opposes the amendment based on these considerations.

Thank you for the opportunity to comment on this Bill.

Yours faithfully

**MIKE BAIRD MP**