



Ms Christine McDonald  
Secretary  
Standing Committee on Environment and Communication  
Legislation Committee  
Parliament House  
Capital Hill ACT 2600

Dear Ms McDonald,

The Minerals Council of Australia welcomes the opportunity to highlight the immediate need for the repeal of the carbon tax by the passage of Clean Energy Legislation (Carbon Tax Repeal) Bill 2013 and ten related Bills.

Please find a brief submission attached.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'SJM' followed by a flourish.

Sid Marris  
Director – Industry Policy

22 November, 2013



Submission to Senate Standing Committee on Environment and Communication Legislation Committee

Inquiry into the *Clean Energy Legislation (Carbon Tax Repeal) Bill 2013* and related bills

*The immediate need to repeal the carbon tax*

The repeal of the *Clean Energy Act* is an important first step in the development of a better, more sustainable climate change policy for Australia.

The minerals industry regards energy security reconciled with the twin imperatives of sustainable development and climate change management as the essential policy priority. Recognising the imperative of managing anthropogenic climate change, the industry has long argued that climate change policy should provide for a measured transition to a low emissions global economy. This is best achieved through the use of market-based policy measures that promote the abatement of greenhouse gas emissions at lowest cost, while minimising adverse social and economic impacts. This in turn requires that Australia's policy be globally-aligned, in synch and proportionate with action by other nations.

In practice, the industry's response to climate change – through abatement and adaptation – differs from company to company, but is firmly embedded in principles of sustainable development and securing and maintaining a social licence to operate. Companies seek to improve abatement, carbon productivity and economic returns together – indeed it is impossible to sustain environmental and social stewardship without financial stability and profitability.

*The burden of the carbon tax*

The Clean Energy Act, referred to as the "carbon tax", puts a deadweight on the Australian economy. In 2013-14, it added an estimate \$6.4 billion to the nation's tax bill (equivalent to a 10 per cent increase in company tax revenue).<sup>1</sup> One element alone, the carbon tax equivalent reduction in the Fuel Tax Credit scheme imposed a direct cost on more than 60,000 businesses across the economy; not just 400-500 'big polluters' as claimed by the former Government. The MCA estimates that for the mining sector the combined costs of permits, higher fuel costs and pass through of carbon costs on gas and electricity was an added burden of about \$1.2 billion.

This burden is an impost on a scale faced by none of Australia's minerals export competitors.

By any measure, the Australian carbon pricing scheme is the world's biggest carbon tax. The carbon price is the world's highest for a comprehensive, economy-wide scheme – four times higher than the current EU ETS price, six times the NZ carbon price, nearly double the Californian trading price, 12 times the price in the US North East regional scheme and ranging from double to triple the price in the Chinese pilot markets.<sup>2</sup> Moreover, most of these schemes issue a much higher share of permits free, thus largely shielding their export and import-competing businesses from competitive damage.

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<sup>1</sup> Commonwealth Economic Statement 2013-14, Table 7, p 35.

<sup>2</sup> The Shenzhen market has seen prices pushed higher, though this is thought to be the combination of speculators manipulating a largely illiquid market. Scheme managers now propose to allocate 90 per cent of permits and trade about 3 per cent, the remaining 7 per cent will be part of a government pool used to prevent price volatility. Thomson Reuters, Carbon Market Daily, October 23 and 31, 2013.

The total tax take the 2012-13 financial (A\$6.4 billion), is also the largest, more than the EU (A\$4.2 billion), California, (US\$600 million over 2 years), or the now under review UK Climate Change levy (£637 million, US\$1.080 billion).<sup>3</sup>

The transition period for industry to adjust is the world's shortest. Hundreds of Australian companies were required to buy all permits to cover their entire emissions from Day 1 of the scheme. In contrast, no EU firm is required to buy permits to cover 100 per cent of its liability until 2027 – the 25th year of the EU scheme.

The EU has granted free permits to approximately 160 sectors ranging from the entire mining and minerals processing sectors, sugar refining, wine production, dairy production, clock-making and motor cycle manufacture. More than 100 sectors in Europe will receive protection while their Australian competitors do not.

The tax receipts from the respective schemes tell the story. In its first 2 years, the net direct Australian carbon tax burden on industry will be \$9.8 billion. That is more tax than the EU scheme generated in the first 7 years of its operation.<sup>4</sup>

The EU scheme also does not include methane fugitive emissions (e.g. from the extraction of coal) in its trading scheme, while the Australian carbon tax imposes an annual burden of \$750 million on the Australian coal sector. The European Commission is currently weighing up applications from member countries for increased assistance for its industries. In California, 90 per cent of permits were allocated free at the commencement of its scheme this year and more than 95 per cent of permits are proposed to be allocated free under the South Korean design.<sup>5</sup>

Repeal of the *Clean Energy Act* is necessary because it is a poorly designed response to the policy challenge. The minerals industry looks forward to engaging in the process of designing the Direct Action scheme to provide for a more efficient and effective approach

Policy must be fashioned such that measures surrounding security of supply, competitiveness and sustainability reinforce, not contradict, each other. In a period in which rising costs have undermined competitiveness and investment, calibrating carbon policy to encourage change without discouraging investment and innovation must be done with care.

The burden of the *Clean Energy Act* has been immediate and punitive. Rather than providing for a measured transition to a low emissions economy, this carbon tax operates as a blunt redistribution mechanism. Funds that could be used for investment in new technologies are taken as tax payments.

Australia's approach should be focussed on practical measures to contribute to the international challenge of responding to climate change. The MCA has consistently opposed the *Clean Energy Act* as it imposed high costs for little environmental benefit, undermined competitiveness and did little to boost substantial investment in a broad range of low emissions technologies and adaption measures. The minerals industry is seeking a better way forward.

#### *Ensuring investor confidence*

Investor confidence is now best served by beginning the process of policy design again. This first step, the repeal of the carbon tax, seeks to guard against legislative uncertainty with a clear statement of the Government's intention that the tax will formally end on 30 June 2014 (with final reconciliation by 2 February 2015). The minerals industry will work with the Government on the design of the Direct Action policy but in the first instance urges the Parliament to respect the authority the electorate has given the Government to repeal the carbon tax.

The need for timely repeal is underscored by the potential for price anomalies in short-term electricity and gas markets, where embedded carbon tax costs are passed on to customers from 1 July 2014, even though later those carbon costs become invalid.

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<sup>3</sup> Sources: International Council of Mining and Metals compilations, Options in recycling revenues generated through carbon pricing, 2013; <http://www.energysolutionsforum.com/californias-carbon-market-revenue-expected-to-disappoint/> ; EU scheme has transition from Phase 2 in calendar year 2012 to Phase 3 in 2013 when the tax take is higher (rising to approx. A\$6billion, the same revenue as Australia for an economy twenty times the size).

<sup>4</sup> (Phase 1 and 2, 2005 to 2012).

<sup>5</sup> For example the Netherlands has requested Euro 624 million (A\$855 million) for the next 8 years for its emissions intensive industries Carbon Market Daily, Thomson Reuters, 21 October, 2013.

The Bill has been written with the clear intention that the carbon tax will be repealed from 30 June 2014. The wording demonstrates to the legislature the Government's intentions. Changing legislation of this type at the end of a financial year is efficient and orderly for business and investment. And it will avoid increasing the burden on Australian business through the imposition of a \$25.40 a tonne fixed price for 2014-15.

The end of the financial year is the right time to act to ensure business and investor confidence in the Australian economy. The minerals industry urges the Parliament to respect the authority the electorate has given the Government to repeal the *Clean Energy Act*.

There will be minimal transitional issues if the Bill is passed in a timely manner. While the Government has sought to support investor confidence by framing the Bill in a way which deals with a delay beyond 30 June 2014, (operating retrospectively in the first instance), other issues may arise for business the longer the Bill takes to pass.

While the Bill seeks to be clear about the state of carbon liabilities post 30 June 2014 – that is, retrospective application if the Bill is passed after that date – it is less clear about the operation of the compliance mechanisms. Minerals companies take their compliance obligations seriously and it is a key concern for investors.

Companies face uncertainty from 30 June 2014 over supplies of electricity and gas through the relevant trading markets. The costs of the carbon tax remain embedded in these supplies from July. If the carbon tax is repealed at a later stage, the inclusion of these costs would, retrospectively, not be legally valid. As large energy users, minerals companies are concerned at the scope for markets to be distorted as a result of ongoing uncertainty about the application of this additional cost.

In addition, minerals companies, as large users of energy, use a mix of contract and spot market purchased electricity and gas. These negotiations will be distorted or even disrupted by any ongoing uncertainty over a key cost component.

Similarly, for fuel tax credits, mining companies are required to manage their payment of tax or claiming of credits through the monthly Business Activity Statement. Most large companies self-manage their obligations under the Fuel Tax Credit Scheme, while others enter into contractual arrangements with suppliers. The ongoing expense of accounting for and managing the carbon equivalent component of the Fuel Tax Credit will mount the longer the scheme remains in place after June 2014.

The existing legislation requires that the Clean Energy Regulator conduct two auctions for future years before June 2014. The decision to participate in an auction should normally be a simple commercial choice, but uncertainty over the fate of the Bill will distort this decision making. Businesses seeking to manage their liabilities will be conflicted between the expectation of repeal and good practice of managing permit acquisition across several years if the legislation is not repealed as proposed.

#### *Renewing efforts on practical measures*

Repeal of the carbon tax is just the first step in the reform of Australia's climate change policies. The development of the Direct Action framework and proposed Emissions Reduction Fund will be the next important development and the minerals industry looks forward to the consultation process for this policy.

This repeal sets a course for a new approach to managing climate change with a greater direct focus on technology rather than the unproductive burden of a tax.