27th March 2013

Mr Tim Bryant
Committee Secretary
Senate Economics References Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Tim

Inquiry into the development and operation of the Minerals Resource Rent Tax

Thank you for the opportunity to make comment on the Inquiry into the development and operation of the Minerals Resource Rent Tax (MRRT).

As AMEC is the peak national industry body for mineral exploration and mining companies within Australia, with a membership of over 360 explorers, emerging miners and the companies servicing them, many of which have a direct interest in iron ore and coal, it has a direct interest in the development and operation of the MRRT.

AMEC publicly opposed the original Resource Super Profits Tax (RSPT) announced in May 2010, including the detrimental effect the tax would have on Australia`s international competitiveness and attractiveness as a place in which to invest, and on the effect it could have on regions and communities throughout Australia.

AMEC has also continued to oppose the replacement Minerals Resource Rent Tax (MRRT) announced by the Government in July 2010 as it was ill conceived, unfair, discriminatory, complex and not long term strategic tax reform.

Consultation process

The MRRT was ill conceived as it was a direct result of a private and secret consultation process with three large multi-national companies and the subsequent execution of a Heads of Agreement with those companies, which formed the basis of the tax design.

AMEC was not consulted in any way during this private 'negotiation' process.

It should be noted that these companies had no mandate to act on behalf of the hundreds of mining and exploration companies with Australian projects or interests in iron ore and coal. These conglomerates also did not have any mandate to act in any way on behalf of AMEC or its wide membership base.

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AMEC considers that these companies undoubtedly negotiated the Heads of Agreement with the Government with the interest of their own shareholders in mind, and not necessarily for the benefit of the wider industry.

Notwithstanding these views, AMEC has continued to constructively participate in the process, liaise with the Treasury and the Australian Taxation Office on the implementation and issuance of guidance material on the extremely complex MRRT legislation.

Design features

In AMEC`s view the tax is unfair and discriminatory to small emerging mining companies which generally have higher risk profiles, have limited access to working capital, have lower economies of scale and consequently a higher unit-cost of production in comparison to large mature miners. This will make it more difficult for them to compete with large mature miners in the domestic and global markets.

The design of the proposed MRRT however provides mature miners with significant tax shields (through the 'starting base allowance'), and additional financial advantages to large mature multi-national conglomerates that are not available to emerging miners in the same proportion. Such a situation ultimately distorts the 'unit cost of production' and investment decisions.

Expert independent modeling by the University of Western Australia[1] highlights the unfair and discriminatory nature of the MRRT regime, and shows that there will be at least a 4% difference in the level of effective total taxation (including income tax, royalties and the MRRT) between a project that was in existence before 2 May 2010 (mostly the three major iron ore and coal miners), and that applying to less advanced or new developments taking place after 1 July 2012.

The modeling shows that before the introduction of the MRRT the average total tax (income tax and royalties) for mining companies would have been around 38%, and post MRRT the total effective tax rate increases to over 40% and over 44% for existing and new projects respectively[2].

This means that under the proposed MRRT regime a small emerging miner could be paying an **additional effective tax rate of 6%,** compared to a large mature miner that could be paying an extra 2%.

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[1] Dr. Pietro Guj, Research Professor, Centre for Exploration Targeting, The University of Western Australia – 'Is MRRT competitively neutral?'.

[2] Evidence provided by Mr Morgan Ball, the Chief Finance Officer of BC Iron to the House of Representatives Committee on 9 November 2011 expected the company`s effective tax rate to go from roughly 39% to potentially 46% to 48% subject to commodity prices.

This differential, which is caused by the large tax shield provided to mature miners who are able to claim a significant deduction for the market value of their 'starting base assets', allows them to reduce their MRRT liability for the remaining life of the mine or 25 years, whichever is the lesser.

Small emerging miners are not able to claim such extensive 'tax shields', and therefore their 'unit cost of production' and ultimate effective tax rate is detrimentally affected.

This is a significant issue in respect of competitive neutrality and equality, and is fundamental to AMEC`s continued opposition to the design of the MRRT.

In the longer term as smaller miners start to reach the MRRT profit threshold, this will be extremely unfair and discriminatory.

Compliance costs

There is an inefficient and high level of administration and compliance costs to industry and Government associated with the new regime.

Based on direct and anecdotal member feedback, AMEC conservatively estimates that the minimum accumulated total set up costs for all iron ore and coal smaller miners and junior exploration companies (excluding large miners) is estimated to be over $20 million in the first year, and an ongoing annual administration and compliance cost in excess of $2 million.

Administration costs incurred by the Federal Government, particularly through the Australian Taxation Office are also understood to be extremely high.

Related matters – trends and empirical research

Australia`s mining industry is no longer as cost competitive as it once was with production costs continuing to rise dramatically. In late 2012, Port Jackson Partners released a report which clearly identified Australia was now far less competitive than its international counterparts.

On 23rd February 2013, it was stated in The Australian newspaper that "*in 2007 it cost Xstrata $61 to produce a tonne of thermal coal in Australia. Today it is $176 with a global average of $106.*"

Small mining and junior mineral exploration companies are experiencing an environment where:

- cost pressures are increasing due to a range of additional operating expenses; taxes and levies
- discoveries are reducing, getting deeper and harder to find
- approvals are becoming far more expensive

- equity investment is being lost to competitive offshore projects.

As a nation with significant minerals endowment, it is imperative that Australia maintains and enhances its competitive edge and market share over other emerging and multiplying jurisdictions in order to take immediate advantage of the significant economic, social and economic dividends.

Contrary to public perceptions, Australia is currently faced with a serious problem due to insufficient exploration investment to discover and develop the mines of tomorrow.

Research by the University of Western Australia (UWA) released in September 2012[3] stated that:

- *'about half of Australia's non-bulk commodities mines would be exhausted in between 7 and 18 years'.*
- *It takes on average 7 years to convert a discovery into an operating mine.*
- *Discoveries are reducing, getting deeper and harder to find, and equity investment is being lost to competitive offshore projects.*
- *Australia has a declining share of global exploration expenditure'*

The Australian Academy of Science also recently stated that "*Discovery of new deposits in Australia has not kept pace with depletion.*[4]

An analysis of Initial Public Offerings (IPOs) of Metals and Mining companies on the ASX over the past nine years shows an average of 59 IPOs per annum, peaking at 126 in 2007, dropping to 71 in 2011, and a significant reduction to only 35 in the 2012 calendar year.

Date	**Number of IPO's**	**Amount Raised - Millions**	**Average - Millions**
2004	46	$ 1,061	$ 23
2005	49	$ 268	$ 5
2006	81	$ 673	$ 8
2007	126	$ 940	$ 7
2008	36	$ 329	$ 9
2009	20	$ 111	$ 6

3 Where are the Mines of tomorrow?', September 2012 University of Western Australia
4 Searching the Deep Earth – Executive summary

2010	64	$ 1,027	$16
2011	71	$ 411	$ 6
2012	35	$ 137	$ 4

It is also evident from the ASX that over 50% of funds being raised through IPOs in Australia over the past few years has been for overseas projects, such as Africa and Canada.

The highly respected Canadian based research organisation, the Fraser Institute recently released its annual Survey of Mining Companies on various global jurisdictions and their individual attractiveness as a place in which to invest in exploration. Unfortunately, the survey shows that Australia has slipped in the rankings from 8 out of 45 jurisdictions in 2001/02 to 30 out of 96 jurisdictions in the 2012/13 report. The survey clearly shows the increase in competitive jurisdictions and the fact that Australia is seen as a less attractive place to invest now than it was a decade ago.

Ongoing taxation reviews and public policy changes through such initiatives as the Minerals Resource Rent Tax, Clean Energy Future Plan, and part removal of the diesel fuel credit arrangement have also added to the uncertainty and investment apprehension.

In addition, the ongoing threat of the expansion in commodities covered by the MRRT, full removal of the diesel fuel credit arrangements and further taxation reforms have all created angst with investors, financiers and boards.

All of these trends, empirical evidence, uncertainty and lack of predictability point to the fact that Australia`s reputation and sovereign risk as a safe place in which to invest is in decline, and that action must be taken to reverse those trends by promoting investment, growth and productivity in the mining and exploration sector, and not penalise it.

I would welcome the opportunity of appearing before the Committee.

If you require any further information please do not hesitate to contact me direct.

Yours sincerely

Simon Bennison
Chief Executive Officer