



8 December 2023

Ms Tania Morrison
Director, Royalties and Assurance
Northern Territory Government
Level 14 Charles Darwin Centre
19 The Mall
DARWIN NT 0800

By email: royaltiesandassurance.dtf@nt.gov.au

Dear Ms Morrison,

Northern Territory mineral royalty scheme reform

The Minerals Council of Australia – Northern Territory Division (MCA NT) welcomes the opportunity to continue to provide the Department of Treasury and Finance (DTF) feedback for the proposed four-tiered ad valorem mineral royalty scheme. This proposed scheme presents an opportunity for the Northern Territory Government to establish a modern, competitive and simple to administer royalty regime to attract new investment for the benefit of all stakeholders.

The ABS quarterly statistics for September 2023 was the highest mineral expenditure recorded in the Northern Territory at \$74.4 million. This increase in exploration must translate into the development of mining projects to create jobs, community engagement and growth to support regional economic development, potentially for generations.

In our initial submission dated 18 August 2023, the MCA NT and members endorsed the headline recommendation of the Mineral Development Taskforce (MDT) Final Report and supported DTF in replacing the current hybrid royalty regime with an ad-valorem regime.

In a second submission dated 18 October 2023, the MCA NT provided support for a four-tiered model royalty regime. The Northern Territory mining sector has a diverse range of secondary treatment processes and would benefit from differentiation of concentration (ore dressing) and metallurgical processing (chemical treatment). The MCA NT noted that a four-tiered model would provide both a fair return to the Northern Territory and a competitive investment destination. This aligns with the conclusions in the MDT Final Report that states that 'the royalty system is one of the most effective ways the NT can stimulate any industry'¹.

This submission provides feedback on the summary of proposed ad valorem royalty model provided by DTF on Friday 17 November 2023.

Royalty valuation and sales value

A royalty valuation point has been proposed in the new ad valorem royalty scheme and provides different points of valuation for sales to third parties and related parties, even where all sales may be on arm's length terms.

In order for the new regime to be simple to administer for royalty payers and for the Territory Revenue Office (TRO), it is important that the system utilise the audited financial accounts of the royalty payer (i.e. Sales Revenue) and not require recreation and rework of sales values using the current gross realisation methodology¹.

The MCA NT suggest providing visibility of the new regulations and process of mineral valuation, including the process to resolve valuation when an agreement cannot be determined.

Allowable costs

The proposed ad valorem scheme proposes Allowable Costs to be deducted from the sales value prior to determining royalty value. Allowable Costs are expenses genuinely incurred by the royalty payer for the transportation of a mineral from the mining project area to the customer.

DTF have advised that the intent of Allowable Costs is to accommodate for the higher transportation costs incurred by the royalty payer in the Northern Territory compared to royalty payers in other jurisdictions. The MDT Final report notes that mines in the Northern Territory are often in very remote areas with a lack of suitable infrastructure resulting in reduced supply chain connectivity and increased costs that can adversely affect project viability².

The proposed model limits Allowable Costs to freight costs, insurance costs and ocean freight. The MCA NT regard this list of Allowable Costs as too narrow and it does not reflect the transportation costs incurred by the royalty payer. Additionally, the definitions of insurance and freight as currently listed appear ambiguous and require clarity to provide certainty to the royalty payer.

In the Northern Territory, minerals are currently transported from the mining project areas to the customer through a range of methods including:

- Road, primarily through trucks and road trains on private and public roads
- Rail, through privately constructed rail sidings
- Air, including the use of planes and helicopters using private airstrips and commercial airports
- Waterways, including the shipment of product through privately owned ports in Darwin, Gove/Nhulunbuy and Alyangula, the use of barges, and the transshipment to vessels moored in deeper waters of the Gulf of Carpentaria

The above list of known transportation operations goes beyond the list provided and is likely not exhaustive or future proofed for transportation options for the mine of the future, such as drones.

Furthermore, the definitions as provided does not provide certainty on whether transportation costs must be incurred directly from the royalty payer, or whether total costs from a third party including any contracting fees can be incurred. Winchelsea Island Mining project, for example, has committed to providing jobs to local clan-based enterprises for barging and transportation³.

The MCA NT understands simplicity is important, and instead of a limited or prescriptive definition, suggests a broader and flexible definition of transportation so royalty payers are provided with full relief for the increased costs associated with transportation from remote parts of the Northern Territory. A broader and flexible definition aligns with the MDT recommendations of a simple and competitive royalty regime that is easy for TRO to administer. Suggestions for additional clarity and expansion of the definition include:

¹ Northern Territory Government, [Mineral Royalty Gross Realisation Guidelines](#), Northern Territory Government, Darwin, 2019.

² Mineral Development Taskforce, [Mineral Development Taskforce Final Report](#), Darwin, 2022.

³ Winchelsea Mining, [Community](#), Groote Eyelandt, 2023.

- Freight costs regardless of mode (barge, air, road, rail, port, other)
- All handling costs (security, stevedoring)
- All insurance costs for both freight and handling
- Costs regardless of whether the costs are incurred and expended by a royalty payer or paid by the royalty payer to a third party by way of reimbursement or an allowance
- Potential for miscellaneous costs- for example the Queensland Government provide concessions for shipment delays.

The MCA NT recommends that Allowable Costs are defined in the Act to mitigate against the risk of future changes occurring without appropriate parliamentary scrutiny. A broader definition and investment certainty aligns with the MDT recommendations of a simple and competitive royalty regime that is easy for TRO to administer.

It is once again important that the system uses the financial accounts of the companies and does not require companies to recreate and rework Allowable Costs.

Tiered royalty regime

In our previous submissions the MCA NT highlighted Western Australia and South Australia as the benchmarks for simple, transparent, and competitive tiered royalty regimes. The Western Australian Government reviewed its royalty system in 2015 and recommended a four-tiered system to account for the wider variety of minerals and products in secondary treatments⁴. The MCA NT also supports this recommendation. The Northern Territory mining sector has a diverse range of secondary treatment processes and would benefit from differentiation of concentration (ore dressing) and metallurgical processing (chemical treatment).

A four-tiered model could provide both a fair return to the Northern Territory and a competitive investment destination. However, without understanding the royalty rates for each tier it is not possible to conclude how competitive the regime will be.

Table of treatment categories

The proposed royalty regime specifies that the treatment category of a mineral at the time it is sold or removed from the Northern Territory will determine the royalty rate. It is once again important that this system uses the timing points of the financial accounts of the companies and does not require companies to recreate and rework this point in time. The proposed regulations will include a table of treatment categories where commodities are defined into treatment categories.

The MCA NT note that it will be important for DTF to consult with experts to ensure that the table of treatment categories is fit for purpose, aligns with the geology of Northern Territory and will be regularly reassessed to ensure that the treatment categories remain contemporary.

The fields of mineral processing and metallurgy are rapidly evolving in line with the demand for critical minerals and lower grade ore as well as innovative methods to reprocess tailings. The MCA NT recommend having a mechanism whereby the miner can reserve the right to discuss the treatment category if it appears at odds with the description of treatment categories. In other words, the treatment categories should be indicative and a safe harbour for a miner to follow. Where, however, the mining company considers the category to be wrong, it should be able to seek TRO agreement and not be required to use the listed category. This right should not be limited to the beginning of the project or mine operations, as circumstances may change.

The MCA NT and members have noted several commodities that require reassessment:

- Diamonds and precious gemstones are not currently listed in the table.

⁴ Western Australia Government, [Mineral Royalty Rate Analysis: Final Report](#), Western Australia Government, Perth, 2015.

- The proposed Table of treatment categories lists Gold as Category 3, Secondary Treatment (metallurgical – chemical treatment) and three categories for silver. Gold and silver can each be sold as crushed or screened material (Category 1), concentrates (Category 2), ore (Category 3), or as a metal (Category 4).
- Hematite is a type of iron ore currently listed as category 2. Magnetite is also a type of iron ore listed as 'Iron ore (Category 2). In the Northern Territory, there are examples of deposits with both hematite and magnetite, and the MCA NT suggest that both iron ore minerals are combined with all four categories to reflect the broad range of produced products.
- Manganese and phosphate could have increased Final Treatment categories in line with the results in the MDT Final Report.
- Kaolin and ochre are types of clays. All clays are extractive materials defined in Section 10 of the *Minerals Titles Act 2010*.
- Spongolite is a silicon-dominated rock that unusual as it is composed of sponge spicules, however is chemically indifferent from other extractive minerals such bulk quartz or silica sands defined as extractives in Section 10 of the *Minerals Titles Act 2010*.
- Spongolite is not known to occur in the Northern Territory with no mention of the mineral in the NT Geological Survey's publication *Geology and Mineral Resources of the Northern Territory*. The inclusion is a carryover from the WA scheme and should be removed.
- Coal is only an uneconomical and rare commodity in the Northern Territory, only known in the Pedirka Basin in the Simpson Desert region at depths uneconomic for mining. If coal is included for completeness, there are a range of other minerals with known and emerging potential which should also be included.
- Feldspar is a common mineral that may be fossicked or quarried across the Northern Territory. It commonly occurs in close association with quartz and is commercially used in glassmaking in a flux with quartz. The MCA NT regards this rock as an extractive mineral based on the definition of extractives in Section 10 of the *Minerals Titles Act 2010*.
- There are a range of critical minerals missing from the table. To align with the Northern Territory Government's Critical Minerals ambitions, it is suggested that at a minimum, the Northern Territory Geological Survey's list of critical minerals with emerging potential is included:
 - Antimony
 - Bismuth
 - Gallium
 - Germanium
 - Graphite
 - Tantalum
 - Niobium

The MCA NT suggests that DTF:

1. Consult with the NT Geological Survey to ensure that the table of treatment categories accurately represents all mineral commodities in the Northern Territory with known JORC⁵ resources, or on the NT critical minerals lists. This will provide local relevance and future proof the new legislation.
2. Commission a metallurgist or mineral processing expert, potentially through AusIMM, to ensure the treatment categories are in line with best practice.
3. Embedding the table of treatment categories (and the associated royalty rate) into the Act, not in regulations. This will maximise certainty for royalty payers and mitigate policy changes by future governments without parliamentary scrutiny

⁵ Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves.

Royalty rate

The MDT Final Report states that ‘the royalty system is one of the most effective ways the NT can stimulate any industry’² and the overarching competitiveness of the system will be defined by the mineral royalty rates at each of the four tiers. Once the royalty rates are established, the MCA NT and members will be in a better position to provide feedback.

As previously stated, the MCA NT suggest that to remain competitive, the royalty rate should not exceed that of Western Australia or South Australia and should encourage beneficiation and further downstream processing in line with current NT Government ambitions.

Royalty lodgement and administrative provisions

The proposed royalty regime will be administered under the Taxation Administration Act 2007 with lodgement required quarterly. The MCA NT broadly agree with these provisions. In the minerals industry there can be circumstances where pricing may not be finalised and/or final payment of goods may not be received for up to 60 days. In these circumstances, complete lodgement within 30 days may not be adequate.

The MCA NT encourages the Northern Territory Government to have consideration of the unique markets the minerals industry face and provide discretion for the Minister to waive financial or interest imposed for these exceptional circumstances.

Grandfathering

The proposed ad valorem royalty regime will not apply to existing royalty payers in the foreseeable future. The intent of a delayed transitional arrangement is presumably to soften the short-term royalty change impacts by preserving revenue from existing royalty payers.

It is important to note that current royalty payers have important decisions in relation to existing mines and mine infrastructure, including whether to extend mine life by undertaking a push back, whether to utilise existing infrastructure via development of an adjacent lease etc. The outcome of the decisions will be affected by whether the existing or new royalty regime applies to the proposed project expenditure.

Extensive consultation during the MDT identified concerns from current royalty payers relating to the existing profits-based scheme including complexity in filing a return, the need for maintaining a separate asset register to those already in existence for accounting and income tax purposes and significant delays with audits and royalty assessments taking over 12 months for DTF to complete. An extended grandfathering period and administering two royalty systems will also increase the administrative burden for government.

The MCA NT suggest future dialogue to discuss options to ease the administrative burden for existing royalty payers during any grandfathering period. This could include immediately reducing the complexity and administrative burden for both the royalty payer and the TRO. One example could be by using the audited financial accounts of the proponent.

As further details of grandfathering arrangements are determined, the MCA NT suggests that consideration is given to enabling each existing royalty payer the option to nominate if and then when they will transition to the new scheme to best suit their unique commercial circumstances.

Implementation

Several projects in the Northern Territory are in the final stages of FID, or under construction with the intention of beginning mining operations in mid to late 2024. These projects need certainty on when implementation of the new regime will begin.

The MCA NT suggests TRO provide clarification on the anticipated start date, specifically if 1 July 2024 is a hard start for royalty payments under the new regime, or if the intention for the new regime is to apply from the equivalent start date of 1 January 2025 date for 31 December 2024 Royalty Payers.

The reform of the Northern Territory royalty scheme provides a rare opportunity to increase the competitiveness of the Northern Territory and encourage development of mining projects. This aligns with the Northern Territory's aspirations of a \$40 billion economy by 2030, providing job opportunities and significant investments into the regions. The MCA NT thank you for continuing to consult with us and our members on the development of this policy. Should you need further information please do not hesitate to contact either myself on 0401 222 941, or Dr Amber Jarrett, Principal Policy Adviser MCA NT or 0424 886 662 and Amber.Jarrett@minerals.org.au.

Yours sincerely



Cathryn Tilmouth

Executive Director, Northern Australia

Cc: Ms Anne Tan
Deputy CEO, Mining and Energy
By email: Anne.Tan@nt.gov.au