



21 August 2023

Mineral Royalty Scheme Review Consultation Paper submission

1. Introduction

The Arid Lands Environment Centre (ALEC) is Central Australia's peak community environmental organisation that has been advocating for the protection of nature and growing sustainable communities in the arid lands since 1980. ALEC actively contributes to the development of mining law and policy reform through engagement with Regulation of mining activities: environmental regulatory reform (2020), *Environment Protection Legislation Amendment (Chain of Responsibility) Bill 2022*, and the just released *Environment Protection Legislation Amendment (Mining) Bill 2023*. ALEC also engages extensively with mining developments across the arid and semi-arid lands.

ALEC welcomes the opportunity to provide comment on the Mineral Royalty Scheme Review Consultation Paper (Consultation Paper) which emerged as a result of recommendations by the industry-led Mineral Development Taskforce (MDT) in their December 2022 MDT Final Report.

ALEC's submission considers the Territory's changing political economy, the important role royalties play, its focus on a step change to win investment and a lack of evidence to demonstrate the Territory as uncompetitive for investment. Then, ALEC provides comments on the consultation paper, around transparency, consultation and engagement, the ad valorem royalty scheme and deductions.

2. A significant change to the Northern Territory's political economy

a. Importance of mining royalties to the Northern Territory

Changes to the *Mineral Royalty Act 1982* (NT) (Mineral Royalty Act) has significant implications for the political economy of the Northern Territory, in its contribution to Northern Territory Government revenue, to the environment and also for affected communities and the compensation they receive for the extraction of a finite resource.

Mining royalties represent a major share of the Territory's Own Source Revenue, at approximately 15% per annum over the last 6 years.¹ Currently, 97% of Northern Territory mining royalties occur on Aboriginal land as administered under the Aboriginal Land Rights Act 1976 (ALRA).²

There is a multiplier effect for mining royalties that occur on Aboriginal land. Royalties as determined by the Mineral Royalty Act are matched by the Commonwealth Government which provides funding to the Aboriginal Benefit Account (ABA). Changes to the royalty scheme will have significant implications to the potential revenue base of the Northern Territory, as well as to the ABA

¹ Mineral Development Taskforce Final Report: December 2022, p.67.

² Mineral Royalty Scheme Review - Consultation Paper Designing a new scheme for the Territory: p.7.

which is administered in large part by the newly formed Northern Territory Aboriginal Investment Corporation (NTAIC).

A change in the Territory's royalty scheme is a big deal. Reform must be based out of widespread engagement.

b. A changing political economy: a step change to win investment

Late 2020 saw major changes to Territory policy. The Northern Territory Government scrapped the parliamentary policy scrutiny committees,³ and then, on the 1st December 2020, then Chief Minister, Michael Gunner adopted all recommendations of the Territory Economic Reconstruction Commission Final Report (TERC). A report that stated 'it is time to take the red carpet to the investor'⁴ and 'prioritis[e] actions to make the Territory the easiest place to do business and invest'⁵. Key to this future and its new aim of a \$40 billion economy by 2030, was the extraction of minerals, as well as the extraction of gas, and accessing water for big agribusiness.

Key recommendations from the TERC around turbo charging mining included:⁶

- 'urgently stand up a Territory Mineral Development Taskforce to accelerated mining development'
- 'Increase and target exploration activity'
- 'Work with the mining industry to be future ready'
- 'Assess and then develop low-emissions minerals processing opportunities'

In November 2021, the Mineral Development taskforce was created. It was an industry-led taskforce. Membership included:

- Ms Tania Constanble, CEO of the Minerals Council of Australia
- Mr Tom Seymour, CEO of Pricewaterhouse Coopers
- Mr Bryan Quinn, Growth Executive, Oz Minerals Ltd (Former President BHP)
- Mr John Braham, Castile Resources
- Dr David Carland, Burnvior Corporate Finance
- Dr Phil Gorey, Deputy General, Resources and Project Facilitation, Department of Jobs, Tourism, Science and Innovation.
- Mr Shaun Drabsch, CEO, Department of Industry, Tourism and Trade (Chair).

An industry-led taskforce with no involvement from land councils, the NTAIC, affected communities or any representative with consideration of Aboriginal cultural heritage. There was no one in the room with expertise of ALRA or *Native Title Act* 1993. There was no stakeholder which represented the environment. There was no-one in the room that was not advocating for the interests of industry.

³ K, Ashton, 2020. Labor Government scraps policy scrutiny committees from NT Parliament . ABC.

⁴ Territory Economic Reconstruction Commission Final Report, p.11

⁵ Territory Economic Reconstruction Commission Final Report, p.29

⁶ Territory Economic Reconstruction Commission Final Report, p.61

A key recommendation was to 'fundamentally reform the Territory royalty scheme - replace with an ad valorem scheme which is simple, competitive, delivers appropriate returns for non-renewable resources and delivers investment certainty'.⁷

In April 2023, the Mineral Development Taskforce Final Report was publicly released.

Whilst understanding the need to update the royalty scheme in the Territory, ALEC holds significant concern for the reasons driving these changes in 2023, namely that the interests of industry appear to be fast-tracking decision making that centre their interests, ahead of the interests of affected communities, the environment, or Territorians. It is important to re-emphasise that 'a royalty is not a tax but rather compensation to the community for the removal of its non-renewable resources'.⁸

c. The promotion of the Territory as uncompetitive for investors is contested

The MDT Final Report consistently mentions the need for major reform as the Territory is uncompetitive, 'The taskforce received widespread feedback that the Territory's royalty scheme is uncompetitive and a significant deterrent to private investment.'⁹ The MDT Final Report is key to why the consultation paper is currently out for public comment.

In the MDT Final Report, no evidence is provided except the opinions of unknown industry stakeholders. The failure to share the ACIL Allen Report, meant that these industry opinions appear to be the key reasons driving major mining reform.

However, these opinions are in contrast with the Fraser Institute's Annual Survey of Mining Companies, 2022, where the Northern Territory is the sixth most attractive jurisdiction in the world for mining investment.¹⁰ It sits behind only Western Australia as the most attractive place to invest in mining across Australia. This survey 'is a composite index that combines both the Policy Perception Index (PPI) and results from the Best Practices Mineral Potential Index'.¹¹ Further, the Territory was ranked first in the world for 'best practices mineral potential index'.¹²

It is important to note that this report was a measure of success of the TERC to 'lift [the NT's] ranking to within top 10 mining jurisdictions of Fraser Institute International survey'.¹³ This is not a random survey, but is what the Northern Territory Government is judging itself on 'what does success look like' in its fully adopted economic blueprint.¹⁴

Changes to the royalty scheme should be based on an evidence base that is publicly available after widespread consultation and engagement.

⁷ Mineral Development Taskforce Final Report, p.16

⁸ p.7.

⁹ Mineral Development Taskforce Final Report, p.66.

¹⁰ Mejía, J, & Aliakbari, E, 2023, p.9. Fraser Institute Annual Survey of Mining Companies 2022.

¹¹ Mejía, J, & Aliakbari, E, 2023, p.8. Fraser Institute Annual Survey of Mining Companies 2022.

¹² Mejía, J, & Aliakbari, E, 2023, p.18. Fraser Institute Annual Survey of Mining Companies 2022.

¹³ Territory Economic Reconstruction Commission Final Report, p.62.

¹⁴ Ibid.

3. Comments on the Consultation Paper

a. A lack of transparency

The MDT Final Report relies heavily on the modelling completed by ACIL Allen - *Northern Territory Mineral Royalty Review: Final Report to the Mineral Development Taskforce (2022)* (ACIL Allen Report). However, this report was not made publicly available. Without this report being publicly available, it is very difficult to respond to the core questions that are asked in the consultation paper. Further, it is important that the assumptions in the ACIL Allen modelling are scrutinised.

The consultation paper does not outline the different economic outcomes that are modelled. Without evidence, it is not possible to have an informed position on the proposed changes.

b. A lack of consultation and engagement with key stakeholders

Any review of the royalty schemes should be co-designed by the Territory's land councils and affected communities. The industry-led approach is condemned.

It is important that the next steps consider the impacts of changes to the royalty review holistically and take time for key stakeholders to be engaged and consulted. Royalty reform requires proactive engagement with affected communities, instead of the passive approach that requires people engaging the Department directly. Proper consultation and engagement requires publicly available data on what the different modelled outcomes of the ACIL Allen report show.

c. Ad valorem royalty scheme

Whilst generally supportive of the Northern Territory moving towards a regime that is consistent with other states and territories, ALEC cannot have a meaningful position on the scheme without access to the modelling, data and its assumptions.

ALEC believes an ad valorem royalty scheme should be progressive in nature, and that there should be consideration of the step-rate scheme that has been adopted in Queensland.

d. Deductions

ALEC does not support a new royalties model that includes deductions.

Kind regards,



Alex Vaughan

Policy Officer