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SECRETARY MEETING BRIEF

DATE/TIME/VENUE: 27 November 12pm

MEETING WITH: Simon Bennison, Graham Short

ACCOMPANIED BY:

ORGANISATION: The Association of Mining and Exploration Companies (AMEC)

Visitor's issues

Minerals Resource Rent Tax (MRRT)

- We understand that AMEC wishes to:
  - Section 22
  - Give their feedback on the MRRT compliance costs; and
  - Section 22

Treasury's position

Section 22

MRRT compliance costs

- AMEC are likely to claim that the MRRT places an excessive compliance burden on small and mid-tier miners, many of whom may not have an MRRT liability.
  - In past consultations with Treasury they have raised several issues including concerns about transfers of MRRT allowances, the loss of allowances when the Simplified MRRT is used, and the use of OECD pricing guidelines. AMEC has also expressed concerns about the MRRT instalment regime.
- Notably, the MRRT includes a number of design features intended to minimise both the tax and compliance burden imposed on smaller miners while still ensuring the integrity of the regime.
  - Further information is provided in **Attachment**.

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ATTACHMENT

AMEC

- AMEC is the peak national industry representative body for mineral exploration and small to mid-tier mining companies within Australia.

- AMEC was an active participant in the MRRT consultation process. AMEC has previously raised concerns regarding administration and compliance costs in the following submissions:

  – MRRT Policy Transition Group (28 October 2010);

  – MRRT exposure draft and explanatory material (14 July 2011);

  – Senate Economics Committee on the MRRT legislation (December 2011); and

  – AMEC Issues Paper (May 2012).

- AMEC also raised their concerns at a meeting with Treasury and the ATO in June 2012 following the passage of the legislation.

MRRT COMPLEXITY

- The MRRT includes design features to reduce the compliance on industry, particularly for smaller miners. These include:

  – The ability to choose simplified MRRT method; and

  – The alternative valuation method.

- In addition, the MRRT includes the $75 million low profit threshold, meaning that a miner who earns less than $75 million mining profit in a tax year will not be liable for MRRT.

<u>The Simplified MRRT method</u>

- The Simplified MRRT method allows miners who expect to never exceed the $75 million low profit offset threshold, or be below it for a significant period of time, to comply with their MRRT obligations via a prescribed method using normal financial accounting procedures.

  – Under the simplified MRRT method, an entity is not liable for MRRT and will not have to lodge an MRRT return for the MRRT year.

- The consequences of selecting the simplified method is that the miner will not have access to MRRT allowances for that year, and it will not have their starting base allowance extinguished for that project interest in future years.

  – AMEC have previously argued that allowances should not be extinguished where this method is chosen. However, the basis for these restrictions are that, if miners keep their allowances, they will have to work them out, and so compliance costs would not be reduced.

<u>Alternative valuation method</u>

- The Alternative Valuation Method (AVM) is a default method (a netback) for determining the value of the resource at the taxing point, rather than requiring the taxpayer to use some other

OECD transfer pricing method. It can be chosen by miners whose project produces less than 10 million tonnes of taxable resource in a year, or is part of an integrated operation (such as a coal fired power station).

- Choosing to use the AVM for a mining project interest affects the future transferability of allowances, in that allowances for that project are not transferable to other projects.

- AMEC have previously argued that restrictions on the transfer of allowances where the AVM is used should be removed.

  – Using the AVM could potentially result in the resource value at the taxing point being determined as less than the costs of producing the resource.

  – Since the AVM is a default method, allowing project allowances to be applied against assessable receipts generated from other projects may create revenue leakage.

<u>MRRT Instalments</u>

- AMEC have previously argued that smaller entities should be exempt from paying MRRT instalments for the first two years of its operation.

- Under the MRRT, an entity is liable to pay instalments of MRRT on a quarterly basis if it has mining revenue or pre-mining revenue. This system ensures that an entity does not have a significant MRRT payment due on assessment.

  – Exempting smaller entities from paying MRRT for the first two years of its operation could result in some miners being faced with a large MRRT liability at assessment and would cost revenue. Additionally, to exempt certain taxpayers from paying MRRT instalments based on their size, would be discriminatory.

  – Many emerging miners will already be exempt from the MRRT by way of the $75 million low profit offset.

- The Commissioner has, by legislative instrument, determined that a nil rate determination applies to explorers for the first instalment quarter in the 2013 MRRT year and for later instalment quarters in that MRRT year. This legislative instrument also exempts such taxpayers from lodging MRRT instalment liability notices in those instalment quarters.

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