

4 July 2012

Business Regulation Benchmarking
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Dear Sir/Madam

**CME SUBMISSION TO THE PRODUCTIVITY COMMISSION
PERFORMANCE BENCHMARKING OF AUSTRALIAN BUSINESS REGULATION: THE ROLE
OF LOCAL GOVERNMENT AS REGULATOR**

I write to bring to your attention the actions being taken by Local Government in Western Australia applying extraordinary charges (required contributions) on resource companies. Practices such as these are one of the ways that Local Government interacts with the resources sector in WA.

CME Background

The Chamber of Minerals and Energy of WA (CME) is the peak resources sector representative body in Western Australia funded by its member companies who generate more than 95 per cent of all mineral and energy production and employ 80 per cent of the resources sector workforce in the State.

The Western Australian resources sector is diverse and complex covering exploration, processing, downstream value adding and refining of over 40 different types of mineral and energy resources and also includes power generation.

Western Australian exports of both minerals and oil and gas were worth around \$107 billion in 2011. The resources sector is also the largest private employer in regional and remote Western Australia, and the largest private sector employer of Aboriginal Australians.

Local Government Rating (GRV)

In November 2011 the WA State Cabinet approved a policy for the application of Gross Rental Valuation (GRV) of resource projects for a three year trial period from 1 July 2012. This policy was developed through extensive discussion between CME, the Western Australian Local Government Association (WALGA), Association of Mining and Exploration Companies (AMEC) and the departments of State Development (DSD) and Local Government (DLG), and your office.

This new policy applies to all new mining, petroleum and resource interests and demonstrates a willingness from resource companies to contribute a fair share to local governments within a transparent and accountable framework. The resource sector remains committed to working with Local Government to monitor the implementation of the policy.

Despite this longstanding issue being resolved, and an increased rating commitment being agreed, individual local governments are continuing to expand their requests of resource companies, in the form of required contributions, which are effectively further charges.

CME Concerns

The charges of which I speak are charges beyond what would be ordinarily applied to other applicants, and for purposes for which there are already established and regular forms of funding.

These charges take the form of:

- Monetary contributions attached to a development of planning approvals for worker accommodation camps (often based on a per head rate). These often take the form of non specific one-off payments for physical or community infrastructure, required as a part of a development approval.
- Development of physical or community infrastructure, such as parks, or sporting facilities
- New road charging policies, being implemented on local roads, to provide for maintenance and asset management.

These contributions have a very low level of transparency, and can take the form of one of payments for non-specific purposes. These contributions are sought from Local Government, through negotiations around the provision of approvals.

The connection between approvals and required contributions raises some serious legal and ethical questions, both for Local Governments and for resource companies. Currently, there is not a clear legislative framework to guide these discussions. The ability to withhold a planning or development approval, or deny a right of access to a local road, is being used by some Local Governments as a bargaining tool to illicit contributions.

This is of particular concern to our members as these requests appear to only be directed at the resource sector, and are not applied equally to all other applicants.

Resource companies already make substantial voluntary community contributions and will continue to do so. CME considers that Local Governments should not be requiring contributions outside of formal processes, which are clearly supported and made transparent by legislation or regulation.

CME is also aware that Local Government is being encouraged by the WA Local Government Association (WALGA) to pursue these types of policies particularly in connection with concessional road permits on local roads. This is despite record State and Commonwealth funding to Local Governments to support the repair and maintenance of the local road network.

CME has also noticed an increase in these practices by Local Governments, particularly focused on the Resource sector. It is noted, that similar charges do not appear to have been applied to other industry sectors, such as the Agricultural sector.

In summary, CME concerns regarding these required contributions are that:

- It is closely connected with the granting of a development or planning approval, or right of access;
- The process is not transparent;
- There is no clear legislative or regulatory framework to guide negotiations;
- The purposes for which the funds are sought are often not transparent, and are in many cases for purposes for which specific streams of funding already exist;
- This practice is focused on the resources sector and are not equitably applied to other applicants, and other industry sectors;
- Local Governments are becoming dependent on these type of funding streams;
- The existences of these extraordinary charges and the negotiated process to agree on the charges as part of development approvals can lead to additional and untimely delays in the granting of development approvals or rights of access; and
- These types of charges are becoming increasingly widespread across local governments.

In our view, looking for the resources sector to provide ongoing financial support to underpin the day to day operations of local governments operations through required contributions is not reasonable, nor in our view sustainable.

If you have any questions regarding our submission, please do not hesitate to contact Warren Pearce, Manager – North West

Yours sincerely

Reg Howard-Smith
Chief Executive