

12 October 2007

Mr Mike Woods
Commissioner
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

via: regulatoryburdens@pc.gov.au

Dear Mr Woods,

QRC welcomes the opportunity to contribute further to the Productivity Commission's study of the regulatory burdens on primary sector business – in particular, the minerals processing, mining and energy related aspects addressed within the draft research report titled, *Annual Review of Regulatory Burdens on Business: Primary Sector* (Draft Report).

The Queensland Resource Council acknowledges the Commission's efforts in identifying specific areas of regulation that are unnecessarily burdensome, complex or redundant, including the duplication of regulations, or the role of regulatory bodies, throughout Australia.

The purpose of this letter is to broadly offer QRC's support for the approach presented in the Draft Report; to reaffirm QRC's initial response to the Commission's issues paper (8 June 2007); and to provide some additional comments on issues raised in the Draft Report, which were not specifically identified in the Council's initial response.

QRC was pleased that the Commission's Draft Report addresses a number of the principles raised within the initial submission provided to the Commission on 8 June 2007, particularly:

- ***Unnecessary duplication in reporting requirements, particularly where these duplications are inconsistent*** – such as the proposed inclusion of greenhouse gas reporting requirements within the National Pollution Inventory framework (Draft Response 4.16) and harmonisation of environmental assessments through bilateral agreements (Draft Response 4.10).
- ***Excessive reporting requirements, where the burdens of reporting and compliance are not consistent to the extent necessary with complementary programmes*** – such as the multiple reporting programmes which cover energy or greenhouse gas, either currently in operation or being considered (Draft Response 4.16).

However, QRC requests the Commission reconsider QRC's earlier suggestions which seem not to have been explicitly addressed in the Draft Report – specifically in relation to the regulatory burdens which arise from:

→ ***Unnecessarily complex regulation and regulatory decisions, which are effectively made in isolation, that provide consequential impacts on actual commercial operations of integrated supply chains*** – there is a need for decisions regarding the economic regulation of certain parts of export supply chains (regulated port and regulated below-rail infrastructure) not to be made in isolation. That is, the legitimate interests of infrastructure providers and related economic regulatory decisions should be aligned with the interests of, and consideration to, the resulting impacts to the entire supply chain.

The recent O'Donnell review of the Goonyella supply chain is attached to outline the benefits and opportunities of addressing the commercial operations of integrated supply chains.

→ ***Poorly administered or under-resourced regulation imposes substantial costs on the Queensland resources and energy sectors*** – which causes uncertainty, delays and cost increases. While legislated regulatory regimes may provide an excellent framework, this good work is effectively lost if the implementation and operational aspects are not afforded the appropriate level of resourcing or bureaucratic priority. QRC remains concerned that this is a key issue in many jurisdictions, including Queensland.

In regards to the Draft Report, the QRC has identified the following matters which were not directly addressed within the Council's initial response – specifically;

- i. Review of the *Native Title Act* and capabilities,
- ii. Addressing skills shortages; and
- iii. Occupational health and safety.

i. Review of Native Title Act

QRC supports the Commission's proposal for a review of recent amendments to the *Native Title Act* within five years of their implementation (Draft Response 4.8). This proposal would provide an appropriate basis for assessing the implementation and operational policy framework of the amendments to ensure an efficient and stable native title system without diminishing Indigenous rights.

However, QRC does not believe that the proposed response (Draft Response 4.8) adequately addresses the long-standing issues of the need for appropriate resourcing support from the Federal Government (both financial and capacity building) for Native Title Representative Bodies (NTRBs) and Prescribed Bodies Corporate (PBCs). This support is essential to ensure the obligations of the *Native Title Act* provide an enabling framework for the recognition of native title rights and interests, and the negotiation of future acts.

Industry has argued consistently that NTRBs are chronically under-resourced in fulfilling their legislative functions representing indigenous interests. This has delayed the negotiation of mutually beneficial agreements with industry and the resolution of native title claims.

In supporting increased resources, industry clearly differentiates between the government's responsibilities for core funding to fulfil legislative obligations, functional and capacity building requirements, and from minerals companies' responsibilities to fund indigenous engagement in specific commercial negotiations.

Consistent with QRC's initial submission, there remain a number of concerns with resourcing and capabilities of agencies charged with implementing and administering these policy frameworks – including Native Title Representative Bodies and Prescribed Bodies Corporate. QRC supports appropriate institutional arrangements (including appropriate Federal Government funding) to facilitate timely negotiations while building sustainable indigenous communities.

In addition, QRC supports the national industry position put by the Minerals Council of Australia that the lack of appropriate resourcing, both financially and in terms of capacity, for NTRBs and PBCs is emerging as a business critical issue for the minerals industry.

ii. Addressing the skills shortage

QRC shares the Commission's views relating to the need to accelerate appropriate reforms in the vocational education and training arena which may assist in alleviating the skills shortages (Draft Response 4.18).

Skills shortages are imposing severe constraints on future expansion of the resources sector. QRC notes that the findings of the recent Minerals Council of Australia report, *Staffing the Supercycle: Labour Force Outlook in the Minerals Sector*, which found that by 2015, the minerals sector will need to employ an additional 70,000 employees to achieve predicted increases in output. Of particular concern is that these increases being are forecast to be in trades (26,983 additional employees required) and semi-skilled employees (22,059 additional employees required).

Labour shortages, both skilled and trade related, in areas directly and indirectly (provision of infrastructure and construction services) relating to mining and minerals processing, are of particular concern to QRC.

National policies for vocational education and training (VET) in schools are required to build on and sustain successful existing industry, state government and education provider partnerships.

A proven concept is the Queensland Minerals and Energy Academy (QMEA), which is building career pathways for students from 18 government and private high schools with geographical and mentor links to resource sector industries.

Generally, VET policy and investment reforms need to be more closely aligned to state priorities of national economic significance. For example, a focus on exploration skills could deliver a substantial windfall to the Australian economy by laying the foundations for a global training specialty.

QRC supports accelerating reforms to address national interest priorities such as the skills shortage in the resources sector and encourage contributions to innovative VET service delivery models.

iii. Occupational health and safety

The National Mine Safety Framework (NMSF) is an important initiative for improving health and safety through legislation under a national regulatory framework based on agreed key principles, improved regulator competency, greater consistency in regulator practice and a greater level of independence for regulators.

QRC is of the view that the NMSF should not be about creating a single piece of national mine safety and health regulation and a single national mine safety and health regulator. Rather, QRC supports consistent regulatory principles across Australia and consistent regulatory practice on the ground.

There are a number of industry concerns with the inconsistent approach to the increasing use of prosecution as a first response enforcement measure to breaches of OH&S laws. Moreover, current inconsistencies across jurisdictions including penalties, length of jail terms, the nature of an offence subject to prosecution, the availability of defences and the basic rights of appeal.

Again, the QRC acknowledges the efforts of the Productivity Commission to identify specific areas of regulation that are unnecessarily burdensome, complex or redundant, including the duplications of regulations, or the role of regulatory bodies, throughout Australia. Thank you for the opportunity to provide comments on this draft report

Should you wish to discuss any of the issues raised in this submission, please do not hesitate to contact Russell Silver-Thomas, Industry Policy Advisor, on (07) 3295 9560.

Yours sincerely

Andrew Barger
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ENCL: O'Donnell Review of the Goonyella System

[http://www.qrc.org.au/01_cms/details.asp?ID=1046]