



MINERALS COUNCIL OF AUSTRALIA

SUBMISSION TO THE VICTORIAN GOVERNMENT'S LOCAL GOVERNMENT RATING SYSTEM REVIEW

OCTOBER 2019

EXECUTIVE SUMMARY

The Minerals Council of Australia Victorian Division supports the aim of the Local Government Rating System Review (the Review) to ensure the sustainability of regional and remote local governments through an equitable rating system.

The Review discussion paper points to rates exemptions in Victoria, including for mining leases.

Where mining operators own land, rates are paid. Where companies lease land from private owners, rates are paid by the landowner. Mining also pays a wide range of special mining specific fees, levies, charges and taxes that flow to the state government.

The legal basis of the mining lease exemption is that in the normal course of exploration or mining activity, mining companies are often not the owners of the underlying land. Mineral tenements are only 'access rights' and not 'land'. They are not property rights and they have limited tenure.

The policy rationale for the exemption from rates is in recognition of the fact that minerals are owned by the Crown (the Victorian community), not the holder of a mining license. Mining pays royalties, mining land rents and licence fees to the State for the use land.

Many mining sites are unable or do not use some common council services such as waste disposal. Mining is a heavily regulated industry contributing directly to broader common use community infrastructure as part of licence approval processes, including infrastructure.

Rates should align with the user pays principle. The valuation process should treat mining land consistently with farm land on the basis that non-residential land outside metropolitan areas have low service use.

The potential introduction of local government rates on mining should be considered in the context of the broader policy settings under which mining operates in Victoria and the fees and taxes mining contributes to general revenues of the state government. As a resource owned by the community, it is in the public interest that resources are developed for the benefit of the community.

There is a broader issue around revenue sharing between the state government and local government. As a tax on regional Victoria, the government's new gold royalty should be returned to regional and rural communities if it is implemented as planned on 1 January 2020.

The proposed gold royalty comes on top of other taxes and charges that flow to the state government, not local government, which is not fair or sustainable. The MCA has made a detailed submission to the state government outlining the changes required to improve the equity and effectiveness of the royalty.

ISSUES

The framework for reform

MCA Victoria supports reforming the Victorian local rates system to increase transparency and the sustainability of local government.

Key principles for rates include fairness, predictability and transparency. Applying these principles to all ratepayers will help promote best practice in Victoria and greater consistency of local rate practices across local governments.

Principles to inform the review should be:

- **Equity for like properties** – there should not be unfair burdens on certain classes or ratepayers and rates should reflect service use to avoid unfairly singling out or shifting responsibility for revenue-raising to certain ratepayers
- **Predictability** - there should be a reasonable level of predictability in the amount of rates levied on land; and
- **Transparency** – concessions and differential rates must be transparent and user pays charges should be aligned to service use.

The review appropriately focuses equity as a key consideration. Equity in rates must encompass the incentive principle and benefit (user pays) principle. A local government rates framework that is aligned with incentive and user pays principles will serve Victorians as a fair and sustainable way to raise revenue to fund essential facilities, services and infrastructure communities and visitors rely on.

Mining land exemption from rates

The exemption of land used exclusively for mining purposes under the *Local Government Act* is longstanding. The basis for the exemption is that mining companies are often not the owner of the land.

Where mining operators own land, rates are paid. Where companies lease land from private owners, rates are also paid by the landowner.

In contrast to other industries, mining companies hold a license to use the land to extract a mineral owned by the community. As licence holders, mining companies pay various fees, special minerals rents and charges specific to mining to access the land consistent with mining licence conditions.

Mining companies do not own the land being mined and pay government rents

Under the *Local Government Act*, the owner of the land is liable to pay council rates.

The exemption for mining licence holders under the *Mineral Resources (Sustainable Development) Act 1990* is based on the fact that in the normal course of exploration activity and often in mining activity, mining companies are not land owners and operate on Crown Land.

In addition to the legal basis for the exemption, the policy rationale for the exemption from rates is most likely to have been in recognition of the fact that minerals underground are owned by the Crown (the Victorian community), not the holder of a mining license.

Crown land may be subject to different types of tenure and exploration, retention and mining licences which simply allow a person or organisation to occupy an area of Crown land with specific requirements and conditions. Mining companies apply to the state for a license from the owner of the resource and of the land (the Victorian government) to use their expertise, capital and the risk of developing the resource for the government.

Mining companies pay rates like any other landowner where they own land mined or surrounding mine sites. Mining companies can own some or all of the land on which they operate, and typically own land surrounding a mine site on which a mine licence is held ('buffer land') which is leased to farmers or left vacant. This land is liable for rates paid by mining companies.

Mining companies hold a license from the state government to use to use the land within the licence requirements and pay fees, special land rental charges for mining and royalties to conduct the relevant mining or exploration activity on a tenement.

Crown Land used for mining purposes pays rent to the state for the use of this land under the *Mineral Resources (Sustainable Development) (Mineral Industries) Regulations*. Rents are payable to the state by exploration licence holders, retention licenses and mining licences. Exploration rents vary from a minimum cost of over \$5,000 scaling up to around \$90,000 over five years depending on the licence area size. Rental fees for mining licences range from \$48,000 to in excess of \$350,000 over 10 years depending on the land size of the licence.

These rents come in addition to various other user pays fees and charges imposed on mining to regulate the industry and also come on top of state royalties for most minerals (a gold royalty is due to commence from 1 January 2020 estimated to cost between \$16 and \$30 million per annum). The gold royalty is a tax on the regions and comes in addition to state user pays charges, other royalties, payroll tax and stamp duties already flowing to the state government.

Minerals license fees, land rentals and royalties totalled \$101.6 million in 2017-18.¹ Fees and charges comprise \$800,000, rents comprise \$1.7 million and \$99.1 million in royalties. Mining is estimated to pay \$110 million in royalties alone in 2019-20 including potential new gold royalties.²

While these charges flow to the state government and not local councils, more of these fees should be returned to regional Victorian communities where the mining activity takes place. Victoria should return gold royalties to the regions to support sustainable infrastructure development. The gold royalty design is flawed (due to the lack of consultation with industry, communities and councils) and needs reform and is only supported on the basis of an exploration incentive to remove unintended consequences and the return of revenues to the regions. A broader consideration of revenue sharing should take place.

Mining does not use some council services

The resources industry recognises that Local Government needs to recover the costs associated with its impact on local infrastructure and services. However, most resources sector companies have minimal requirement to access local government services or infrastructure. Mining is a heavily regulated industry with stringent licence, environmental controls and approval processes which contribute directly to community infrastructure.

To receive a licence to mine under the *Mineral Resources (Sustainable Development) Act 1990*, the *Environment Effects Act 1978* provides a comprehensive process for project approval and imposes requirements to engage with relevant agencies, including councils, to consult on measures to avoid, minimise or manage environmental and other impacts. Measures to mitigate these impacts must be approved as part of the planning process at the expense of the mining company.

Mining sites typically build, at their own expense, road, water and electricity infrastructure to support the mining operation.

Mining companies partner with local communities to support services to improve long term community liveability. For example, Mandalay Resources' community investment program supported development of the Bunbunarik Children's Hub – the Heathcote community's first childcare centre. The Hub offers integrated services including childcare, early learning services, family support, literacy and language programs, parenting and family violence support.

Many mining sites are unable to, or do not, utilise common council services such as waste disposal. Mining companies build and maintain tailings dams and other waster infrastructure which is heavily regulated and at the cost of the mining company.

¹ [Earth Resources Regulation, 2017-18 Statistical Report](#), p. 16.

² 2019-2020 Victorian State Budget, Budget Paper No.5, p. 182

Mining companies are required to lodge significant bonds with the state government and currently around \$812 billion is lodged in bonds with the Victorian Government.³ Rehabilitation of the land is the responsibility of the mine operator and the bonds held by the state government cover the full cost of rehabilitation. Post Closure Bonds are also being implemented in Victoria to meet the ongoing costs of managing declared mine land after a mine closes.

There is a strong equity and policy argument for mining's historical exemption. If rates were to be imposed on mining land, the rates imposed on land temporarily used for mining should reflect the fact that mining does not utilise council services as much as others, pays directly to community infrastructure, and pays special rents and royalties that do not apply to other industries.

Reduced rates for certain property types

There are various concessions and different rate charges based on property type across local councils based on zoning and land use with varying rates for land used for residential, farm, tourism purposes in some states, vacant land and industrial properties. There must be clear and transparent reasons for different categories and it must be balanced with the need to reduce complexity of rates applying over many rating categories.

Differential rates and waivers based on land use can help ensure equity and reflect the user benefits principle. Many concessions help improve equity in the rates system, such as those to provide discounts to lower income earners, pensioners and concession card holders.

Discounts based on lower service utilisation help ensure a more equitable rates system. Rating categories allow councils to distinguish between lower densities of residential populations in rural and urban areas to reflect the cost to local government in servicing the specific land use, thereby allowing a fairer redistribution of the rates burden. A more accurate price signal is delivered in this way to ratepayers on the consumption of services.

Consistent with farm rates on pastoral leases, local governments should consider remoteness of sites (and low demand on facilities and services by some ratepayers) and the substantial local community contributions the resources sector already make across the life of their projects which can span decades.

Differential rate categories based on the opportunity to raise revenue by singling out property owners and their capacity to pay does not align with the user pays principle.

In line with the user pays principle, there will be instances where specific users of services and facilities should be levied to offset the costs of a service rather than funding it through general rates.

Methods for valuing land for rating purposes

Local government should implement the taxation principle of benefits-received in setting rates. Differential rates should allow local governments to impose charges that reflect the services provided. Consistent with this principle, the state government should require local government levy lower rates on classes of property which have a lower use of local government facilities.

If the exemption for mining is removed, it should apply to the Site Value, otherwise known as Unimproved Value (UV) of land.

The value of the land should exclude the value of any minerals in or on the land from the capital improved value and the site value of the land. It would not be fair to include plant and equipment in the valuation process for rates on mining licences because mining is a temporary activity (albeit long term in some cases).

Mining land is returned to its previous condition, or into community and other facilities as defined by the community and in line with a post closure plan. Including the value of equipment, buildings etc. would be inappropriate and unfair since they do not add permanent value to the land.

³ Earth Resources Regulation, 2017-18 Statistical Report, p. 18.

In line with the benefits principle, UV rates on mining and mineral exploration tenements should be rated fairly and consistent with similar land uses such as pastoral leases where local councils have a 'farm rate'. Local governments should apply a uniform UV rate to pastoral and Mining Leases on the basis they have a similar impact on the services and facilities provided by local government.

If a council does not have a 'farm rate' for pastoral leases, the unimproved value of the land occupied by mining activity should be the basis of the valuation.

In addition to the use of UV and consistency with farm rates, rates should apply only when a mining site is operational. Other than in Western Australia (controversially), no state imposes rates on exploration licences. Low intensity land uses such as exploration and rehabilitation should be exempt. Land owned by the Crown should be exempt from rates where the predominant activity on the land is exploration.

These principles would be the most accurate way to value land used for mining and more closely align to service delivery.

Other considerations specific to mining would have to be dealt with if rates are imposed include:

- Valuation of revegetation and rehabilitation leases which impose lower costs on local governments and ceases to generate an income, and otherwise have no alternative use.
- Transitional arrangements for sites with existing negotiated arrangements for payments in lieu of rates with relevant local councils would need to be introduced.
- Arrangements for how rates would be applied where a larger mine site sits across council boundaries would need to be considered. For example, there is one potential mine development in Western Victoria where the footprint of the mine and buffer land will sit across three councils.

In setting valuations and rates, it is also important to consider the economic and social impacts of Victoria levying rates on land used for mining which would come in addition to various other fees, charges and taxes imposed uniquely on mining in regional areas.

Economic impacts

As with any policy change, the government must consider the flow-on impacts of policy decisions to impose new costs on business and citizens on its broader socio-economic agenda.

As a regional industry, minerals projects play an important role in regional development in Victoria. Mining creates high paying jobs for regional Australians, supports a large supply chain of small and medium sized business and provides valuable opportunities for local communities.

Turning Victoria's mineral endowment into new investment and jobs creates economic opportunities in regional Victoria. The development must be sustainable by balancing environmental, social and economic issues and modern mineral resource development which can co-exist with other land uses and conservation objectives to create diverse regional economies.

The impact of rates should be considered against the full suite of other costs on the industry which influences Victoria's relative attractiveness and the costs of investing in mining. The imposition of rates would come in addition to a new royalty on gold which is a substantial and sudden tax increase on Victoria's gold mining operations in the Northern Grampians Shire Council, Greater Bendigo and Ballarat.

Victoria needs to bear in mind the perception and cost issues associated with imposition of new hurdles to investment in our regions, and not single out the minerals industry.

The Commissioner for Better Regulation recommended in a major 2017 report 'Getting the Groundwork Right', that the Government should review the cost recovery arrangements and fees charged to industry by 2020. The Department of Jobs, Precincts and regions has indicated that this will take place next year.

Reform to land tenure should also take place in 2020 to consider overall costs and address inefficiencies and distortions in the regulatory regimes applying to resources in Victoria. Rates should, therefore, be considered as part of the larger reform and competitiveness picture. A more stable and certain policy environment that supports investment in mining must be the outcome.

CONCLUSION

The MCA supports the review's objective to ensure Victoria's local rates system is sustainable and fair. This support is based on the key tax principles of equity, predictability and transparency.

An equitable system treats like properties consistently and reflects the user pays principle.

The state government should require councils to set rates for mining that reflect use of council services, mining's direct contribution to community infrastructure and payment of special rents and royalties.

Mining should be treated consistently with farm land where unimproved value of pastoral leases applies to reflect lower utilisation of council services and more self-sufficient remote operations outside urban areas. Imposing rates without a consistent and fair valuation methodology that reflects this would not deliver a sustainable revenue base for local councils in prospective mining regions.

Victoria should adopt caution in removing existing long standing exemptions without careful analysis of the broader impacts on industries such as mining and mining communities. The cumulative impacts of rates and charges need to be considered in the broader context of the wide range of special fees, levies, charges and taxes imposed on mining. The new gold royalty announced in the 2019 State Budget comes in addition to the potential introduction of local government rates on mining.

The unbalanced sharing of revenues between state and local government needs to be addressed. The state government's new royalty on gold mining (estimated between \$16-30 million per annum) should be returned to regional communities and councils to support local infrastructure and services.