Submission on consultation for designing an ad valorem mineral royalty scheme for the Northern Territory

It is unclear that there is a need to change the NT mining royalty system. Following reforms in 2018, royalty revenue has increased substantially, and mining exploration investment is at a 10-year high. Proposals for change have come from a mining industry aligned taskforce with potential conflicts of interest. The taskforce's recommendations largely ignore the important role of royalty-related payments to indigenous organisations.

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INTRODUCTION

The Northern Territory Government is seeking feedback on a consultation paper regarding the Territory's mining royalty system. The consultation stems from the recommendations of a Mineral Development Taskforce, the establishment of which was an "urgent" recommendation of the Territory Economic Reconstruction Commission (TERC).[1]

The key recommendation of the TERC, which appears to be guiding the current consultation, was that the NT should aim to have an economic output of $40 billion in 2030. This output is measured in terms of gross domestic product (GDP, or sometimes at a state/territory level gross state product, GSP).

[1] TERC (2020) *Territory Economic Reconstruction Commission final report*, https://invest.nt.gov.au/news-and-insights/territory-economic-reconstruction-commission-final-report

This is an unusual recommendation. The $40 billion figure appears to be entirely arbitrary, and more importantly, GSP is a measure of economic output rather than a measure of the welfare of Territorians. GSP includes no consideration of social or environmental values, or that some of the profits that contribute to the figure are repatriated overseas, thus bringing no benefit to the NT community. Achieving this target will not necessarily make the NT community better off, happier, better employed or more equal. As US politician Bobby Kennedy famously said, "GDP measures everything except that which is worthwhile".[2]

Instead of increasing Territorians' wellbeing, the recommendation and related policies seem to be aimed at facilitating major projects that would increase GSP—which could include mining projects. This makes the purpose of the consultation and potential reform unclear. If the purpose is to maximise benefits for the Northern Territory community, then the ideal royalty system might be quite different to one whose purpose is to maximise GSP.

IS CHANGE NECESSARY?

It is not clear that any change to the NT royalty system is necessary or desirable.

The existing Territory royalty system sees mining companies pay the larger of either:

- A minimum royalty of 1% to 2.5% of production value; or
- A profit-based royalty of 20% of the net value of sales less operating costs, capital costs and accumulated losses.

This system was introduced in 2018, replacing a purely profit-based system that had operated since the early 1980s. The changes introduced in 2018 appear to have contributed to a significant increase in royalty revenue paid to the NT government. As highlighted by the Mineral Development Taskforce, annual royalty revenue before 2018 was around $150 million; after the changes it has been over $300 million consistently. More than half of the Territory's mines have gone from contributing zero revenue to Territorians to paying substantial royalties.[3]

One example is Glencore's controversial McArthur River Mine. The mine is famous for its environmental damage, for historically paying zero royalties, and for its particularly

[2] Speech reproduced in Rogers (2012) *Bobby Kennedy on GDP: 'measures everything except that which is worthwhile',* https://www.theguardian.com/news/datablog/2012/may/24/robert-kennedy-gdp

[3] Mineral Development Taskforce (2023) *Final report*, pages 67 and 75, https://resourcingtheterritory.nt.gov.au/minerals/mineral-development-taskforce

absurd economic claims.[4] However, the mine paid $7 million in royalties in 2021, and $23 million in 2022. This suggests that the 2018 changes have been successful in getting some return for the community from projects that otherwise simply extract resources and inflict environmental costs.[5]

Importantly, the NT royalty system sits alongside a parallel system of payments to the Aboriginal Benefit Account, to compensate Traditional Owners and indigenous communities for mining activities on their land. There are also potentially other indigenous-specific royalty and land access arrangements. These payments are extremely important for funding Land Councils and other aspects of remote communities' management.[6]

The Mineral Development Taskforce notes the importance and complexity of these payments, and also that "any changes to the royalty scheme … could affect funding of the Aboriginal Benefit Account." It is imperative that any changes to the royalty system should increase the welfare of Traditional Owners and indigenous communities. It is a major shortcoming of the Mineral Development Taskforce that it did not include any indigenous members or representatives, but consisted largely of representatives of the mining industry and its consultants:

- Tom Seymour is the disgraced former CEO of consulting firm PwC. Seymour resigned from PwC amidst of a conflict-of-interest scandal;
- Taskforce Chair Sean Drabsch is also a former PwC executive. The combination of his role at PwC consulting to the Adani coal mine and his relationship with Queensland Premier Anastasia Palaszczuk was claimed as a potential conflict, leading the Premier to veto a potential federal loan to Adani. Drabsch went on to work for Santos in the NT before being appointed CEO of the Department of Industry, Tourism and Trade, a position that oversees some of Santos' operations. This conflict was widely noted at the time.[7] Drabsch continues to

[4] Campbell (2017) *Wishful zinking – Economics of the McArthur River Mine*, https://australiainstitute.org.au/report/wishful-zinking-economics-of-the-mcarthur-river-mine/

[5] Glencore (2023) Payments to government report 2022; Glencore (2022) Payments to government report 2021, https://www.glencore.com/publications?utm_source=social&utm_medium=twitter_organic&utm_campaign=7&utm_content=people_photo

[6] See submission to this consultation of Altman (2023) *Submission on the Northern Territory Government's Mineral Royalty Scheme Review Consultation Paper by Emeritus Professor Jon Altman*, provided to The Australia Institute by Prof Altman.

[7] Campbell (2023) *PwC and the Adani mine triple dip. A conflict of interest? Surely not*, https://michaelwest.com.au/pwc-and-the-adani-mine-triple-dip-a-conflict-of-interest-surely-not/

attract controversy, for example in relation to a multi-million dollar government grant to the NT Turf Club;[8]

- Tania Constable is the CEO of the Minerals Council of Australia, the main mining lobby group of Australia's mining industry; and
- John Braham, David Carland and Bryan Quin are all senior executives of, or investors in, mining companies, including those that operate mines in the NT.

None of the Taskforce represent indigenous groups, transparency advocacy groups, unions or any other part of the community. They all represent the mining industry, which is now paying hundreds of millions more in royalties than it did prior to 2018.

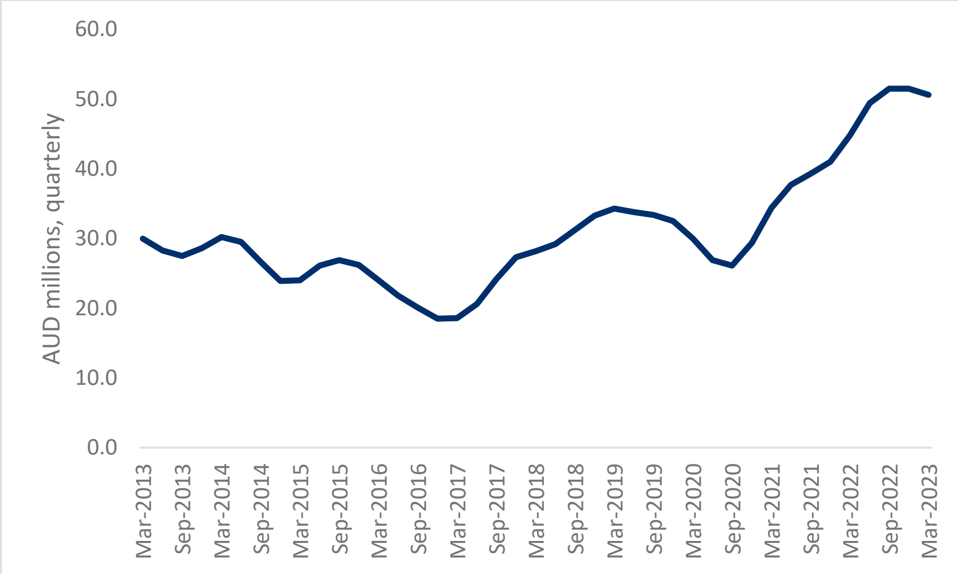
Unsurprisingly, the Mineral Development Taskforce suggests that the current royalty system makes the NT "uncompetitive" and causes "financiers to look at the NT… and … fall off their chairs". The Taskforce provides no evidence to back up these anecdotes. The only effort made to support these claims is a blurry, pasted-in reproduction of charts from a separate report by consultants ACIL Allen entitled *Northern Territory Mineral Royalty Review: Final Report to the Northern Territory Mineral Development Taskforce*. This report is not publicly available and The Australia Institute's request for a copy was refused.

To state the obvious, it is not good practice for public consultations to be based on modelling that is not available to the members of the public being consulted.

Further, data from the Australian Bureau of Statistics (ABS) contradicts the Taskforce's claims. Exploration spending is one measure of the interest of investors in a jurisdiction's mining industry. Exploration spending in the NT has increased substantially since 2018 despite higher royalty revenue, as shown in Figure 1 below:

[8] Gibson (2021) *Senior NT bureaucrat issued formal warning after ICAC Turf Club report, Chief Minister confirms*, https://www.abc.net.au/news/2021-07-19/nt-bureaucrat-issued-formal-warning-icac-turf-club/100303996

Figure 1: Northern Territory mineral exploration expenditure, quarterly, 2013-2023



Source: ABS (2023) 8412.0 Mineral and Petroleum Exploration, Australia

Figure 1 shows that the change in mineral royalty regime in 2018 has had no impact on exploration spending, which is in fact at the highest level in at least ten years. This should not come as a surprise. Royalty payments are just one factor in mining investment decision making, and usually a small one. Geology—including the size, accessibility and quality of deposits—is far more important.

BE LIKE QUEENSLAND

The consultation paper explores the possibility of a variable ad valorem royalty rate. Queensland's recent experience shows that this approach can raise significant extra revenue for the public when prices spike, while leaving miners unaffected during normal price conditions.

Coal prices spiked after Russia's invasion of Ukraine in February 2022. In response, the Queensland Government announced an increase in the coal export royalty rates to commence on 1 July 2022. The existing royalty structure comprised of three progressively higher marginal rates as prices increased. The old maximum rate, 15 percent, applied at prices over $A150/tonne. The announced change added three additional tiers over $A175/tonne, with the new maximum rate, 40%, applying to prices over $A300/tonne (Table 1).

Table 1: Queensland coal royalty rates, new rates from 1 July 2022

Coal price	Old	New
Up to $100/t	7%	7%
Next $50/t (up to $150)	12%	12%
Next $25/t (up to $175)	15%	15%
Next $50/t (up to $225)	15%	20%
Next $75/t (up to $300)	15%	30%
Above $300	15%	40%

Source: Queensland Government, *Budget Paper 2 - Budget Strategy and Outlook 2022–23* (https://budget.qld.gov.au/files/Budget_2022-23_BP2_Revenue_Coal_Royalties.pdf)

An important feature of the Queensland royalty structure is that it functions in a manner similar to Australia's income tax system. At any price, the highest royalty rate applicable applies only to that part of the price above the relevant threshold. For example, with a coal price of $A350/tonne the maximum rate of 40% is applicable. But that rate applies only to the portion of the price above $A300/tonne—40% multiplied by $50/tonne multiplied by the level of coal output/exports. The lower rates apply to the parts of the price below $A300/tonne. This structure means that for prices over $100/tonne the *average* rate of royalty is lower than the published marginal rate. At $350/tonne marginal rate is 40%, but the average rate is only 19.8%, compared to 12.3% under the old policy. Table 2 provides a summary of the average and marginal royalty rates at various prices.

Table 2: Queensland marginal and average royalty rates, old and new policy

	Old Policy			New Policy		
Price, $A/tonne	Royalty/t $A	Marginal Rate	Average Rate	Royalty/t, $A	Marginal Rate	Average Rate
$50	$3.50	7%	7%	$3.50	7%	7%
$100	$7.00	7%	7%	$7.00	7%	7%
$150	$13.00	12%	9%	$13.00	12%	9%
$175	$16.75	15%	9.6%	$16.75	15%	10%
$200	$20.50	15%	10.3%	$21.75	20%	11%
$250	$28.00	15%	11.2%	$34.25	30%	14%
$300	$35.50	15%	11.8%	$49.25	30%	16%
$350	$43.00	15%	12.3%	$69.25	40%	20%
$400	$50.50	15%	12.6%	$89.25	40%	22%
$500	$65.50	15%	13.1%	$129.25	40%	26%
$600	$80.50	15%	13.4%	$169.25	40%	28%

Source: Author's calculations based on Queensland Government, *Budget Paper 2 - Budget Strategy and Outlook 2022–23* (https://budget.Queensland.gov.au/budget-papers/)

Overall, Queensland's royalty rates have not changed for coal prices up to $A175/tonne, and the increase is not overly significant pat higher prices.

Nevertheless, we estimate that this change increased Queensland royalty revenue by up to $4.3 billion in 2022–23.[9] If the Northern Territory is to change its royalty system, the Queensland model should be considered for all commodities.

CONCLUSION

The changes made in 2018 to the NT's royalty system appear to be working: both revenue and exploration investment have increased since the changes were made, and more revenue is raised when mines are more profitable. On this basis it is far from clear that another significant change to the NT's royalty system is either necessary or desirable.

While the system is more complex than those in other states, this reflects the more complex nature of NT land ownership, institutional arrangements and, potentially, the broader range of minerals targeted—Queensland and NSW mining industries are dominated by coal, and WA's dominated by iron ore, while the Territory's mineral developments are more diverse.

If the NT Government is determined to change this regime, a progressive ad valorem system—similar to the system the Queensland Government has implemented for coal—could offer the benefit of relative simplicity with the advantages offered by the NT's current system. It is far from clear, however, what the impact of such a change would be on the Aboriginal Benefit Account, and on the communities and organisations that benefit from it.

[9] Saunders and Campbell (2022) *From Russia with love: Coal profits from war in Ukraine*, https://australiainstitute.org.au/report/from-russia-with-love/