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To whom it may concern

LOCAL GOVERNMENT REFORMS

The Chamber of Minerals and Energy of Western Australia (CME) is the peak representative body for the resources sector in WA. CME is funded by member companies responsible for more than 89 per cent of the State's mineral and energy workforce employment,¹ ranging from mining (mineral and petroleum commodities), manufacturing (alumina, basic inorganic chemicals and explosives) and other support services (electricity, gas and professional services).

Embargoed preliminary results from our recent 2020-21 Economic Contribution survey shows a sample of 62 CME member companies directly supported more than 60,000 full-time employees with over \$10 billion in wages. These companies also supported 14,000 businesses, 900 community organisations and 80 local governments with a combined supply chain spend of over \$30 billion across WA.²

Overview

With almost 200 mining and resources sites across WA, CME's members often interact with more than one local government either as ratepayers, developers, users of local and state roads, supporters of local community service providers and/or as voluntary partners to fund social infrastructure and COVID-19 recovery in their host communities.³ The operation and regulation of local governments can thus influence, to a significant extent, individual operations and projects. Equally, resources sector operations and their workforce can provide significant flow-on benefits to the communities they operate and live. Therefore, the sector is a relevant stakeholder in the review of governance, financial management, and decision-making processes across local councils.

With most regional and remote local governments in WA measuring a Financial Health Indicator below what is considered sound⁴ and some dependent on imposing higher differential rates on mining for 85 to 95 per cent of their rating base,⁵ **financial sustainability and efficiency in local governments is a key priority for the benefit of current and future ratepayers.**

CME therefore welcomes the McGowan Government's renewed focus on improving local government performance and the proposed legislative reforms to the outdated *Local Government Act 1995*. CME members have long raised concerns about the **lack of transparency, accountability, availability of information and rate-setting methodologies** in local governments.

Building on findings from previous consultations, the government's commitment and approach to local government reform is broadly supported. Most relevantly, CME welcomes the proposed reforms to the Rates and Revenue Policy and would like to take this opportunity to recommend a further review of rate-setting practices as outlined in the section below.

¹ Government of Western Australia, [2020-21 Economic indicators resources data](#), onsite employment under State legislation, Department of Mines, Industry Regulation and Safety, 10 October 2021.

² CME, *2020-21 preliminary member survey of direct expenditure*, provisional draft figures prepared by an economic consultancy as of 17 February 2022.

³ Findings of past CME member surveys on payments to local governments; 2017 to 2021.

⁴ Government of Western Australia, [Compare all councils – Financial ratios](#), Department of Local Government, Sport and Cultural Industries, 2019-20 data.

⁵ Shire of Meekatharra, [Annual report 2020-2021](#), 10 January 2022; Shire of Sandstone, [Municipal budget 2021/2022](#), 26 August 2021; Shire of Cue, [Annual budget for the year ended 30 June 2022](#), 5 November 2021; Shire of Laverton, [Annual budget for year ended 30 June 2022](#), 26 July 2021.

Consultation document – Item 6.3 Rates and Revenue Policy

CME strongly supports a new Rates and Revenue Policy to transparently link rates to operating costs and minimum costs for maintaining essential infrastructure and services and provide a forecast of unavoidable future costs in providing core local government services.

CME does not support including non-essential or unproductive infrastructure in minimum maintenance costs. Due to the public interest component and noting many local governments, particularly regionally, have chronic infrastructure backlogs to address, significant increases in budgeted capital expenditure for social infrastructure may be better funded through other mechanisms such as grants, capital contributions or voluntary partnerships. Should this not be an option, and rates need to be materially increased to cover the expenditure, it should be accompanied by a thorough evidence-based consultation with both community and ratepayers. As it stands now, the requirement to engage with the community does not necessarily extend to business and industry.

CME supports updating rates policies at least every four years. We also recommend that it be reviewed on a high level at least every two years to ensure it reflects contemporary economic conditions. Please see further suggestions below on interstate practices.

In the past, our member companies experience is that the annual imposition of rates as part of local government budget setting processes has led to significant year-on-year variability. For example, following the three-year gross rental valuation (GRV) trial period, the state median for GRV rates on transient workforce accommodation (TWA) materially increased from 13.7 to 27.0 cents in one year. Please see Figure 1 for these GRV TWA rates, which highlights outliers outside quartile medians for a small sample of local governments who make use of this category.

It is important to note immediately following the 2014-15 financial year, the observed variability (inconsistency) of GRV rate-setting practices diminished. This material reduction in variability is likely a result of the post-implementation feedback CME and members provided to the government on the lack of consultation local governments undertook in their discretionary rate-setting practices following the conclusion of the GRV trials. However, it appears there is an uptick proposed for the 2021-22 financial year as more regional local governments seek to adopt this differential rating category. Therefore, **CME supports mechanisms to improve regulatory oversight and transparency to ensure financial governance remains predictable and justifiable**, with clear escalation pathways to bring issues to the attention of a Monitor, Director General or Minister.

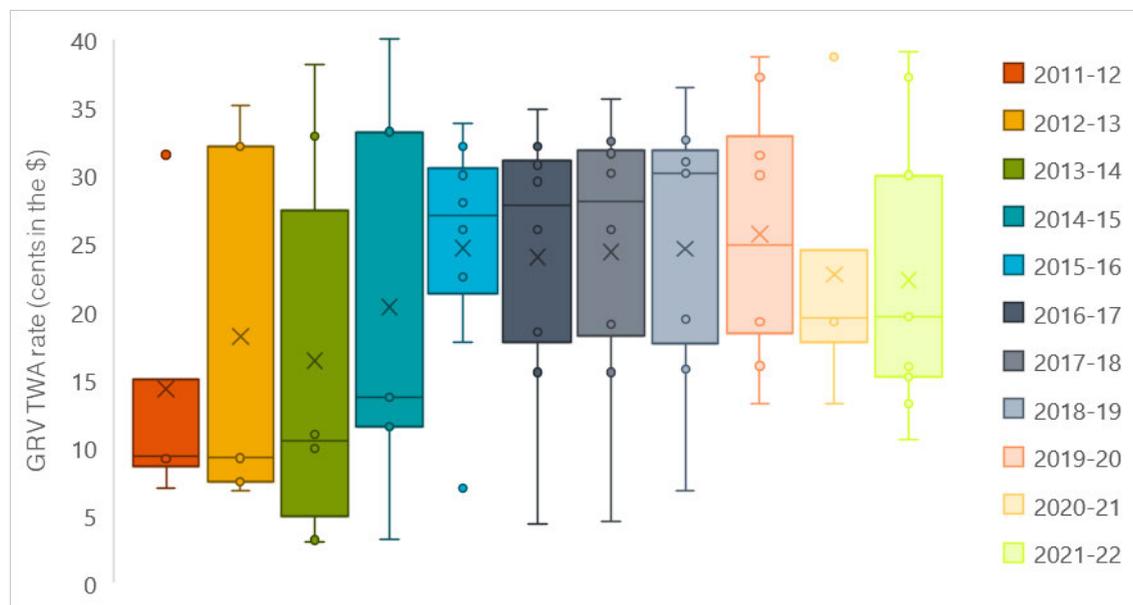


Figure 1. Significant variability between and within local governments in imposing a higher differential rate for the GRV TWA category. The 2020-21 dataset is incomplete as not all local governments have publicly released their audited annual reports.

In addition to year-on-year variability, the data reinforces that there is significant variability between local governments. Please see Figure 2 for unimproved valuation (UV) mining rates, which highlights variability outside quartile medians for a sample of 26 to 42 local governments. The median has steadily increased from 15.09 to 22.2 cents; however, the standard of error (i.e. a measure of spread) has not lessened but increased from a low of 1.69 to a high of 2.52 across the sample size.

One regional local government has proposed an increased UV mining rate from 17.18 to 28.29 cents under the guise of restating it as UV other instead. Whilst another regional local government has previously peaked their UV mining rate at 42.8 and has since lowered to a proposed 20.15 cents for 2021-22.



Figure 2. Variability year-to-year and between local governments in imposing a differential rate for the UV Mining category This figure does not include rates where mining may be combined under 'General', 'Industrial', 'Exploration' or 'Prospecting'.

Unlike other jurisdictions, WA has hundreds of zoning categories⁶ contributing to local government discretion in inconsistently setting rates. Since 2011, CME has seen local governments introduce, combine, abolish or reinstate multiple iterations of rating categories as they see fit to cover budgeted expenditure every year, including but not limited to:

- Residential, community or general
- Tourism, holiday homes or short stay
- Commercial or mixed business
- Townsite, town centre, shire, shopping centre, urban or general
- Pastoral, agricultural, horticulture, farming, rural or urban farmland
- Industrial or industry (with general, light or strategic variations)
- Mining, mining operations, mine sites or intensive mining
- Prospecting, exploration, non-pastoral, tenements or other
- Transient workforce, mass accommodation or single person quarters
- Location-specific categories (separate to specified area rates)
- Variations to mining by combining with rural or pastoral
- Variations to industrial by combining with commercial
- Variations to any of the above with vacant or improved
- Variations to any of the above with non-residential, non-rural, non-pastoral, urban or rural
- Variations to any of the above with GRV, UV and minimum payment categories.

For example, over three years, one regional local government has restated the same category 'GRV Residential' as 'GRV General' and 'GRV Other', while also restating up to another six rating categories during

⁶ Productivity Commission, [Plan to identify planning and zoning reforms](#) information paper, 9 March 2021, p 12.

this same period. This lack of accountability and comparability is made even more complex by the inconsistent disclosure of year-end financial balances in annual reports and statutory budgets.

Almost all regional and remote local governments levy a higher differential general rate on the resources sector for the objects and reasons of maintaining perceived heavy vehicle impacts on road infrastructure, increased administration of tenements or leases or increased environmental monitoring costs. However, it is unclear whether most of this expenditure raised for road funding is then cross-subsidised by the following:

- State Road Funds to Local Government Agreement to 2022-23 (Regional Road Groups and Road Project Grant funds)
- Funding through the State Government's Royalties for Regions or Commodity Routes Fund Program
- Local roads component of Commonwealth Financial Assistance Grants
- Funding through the Commonwealth Government's Local Roads and Community Infrastructure Program, Black Spot Program or Roads to Recovery Program
- Other untied funding, grants or contributions.

Like in the state of Victoria,⁷ more guidance could be introduced to require WA local governments to report on evidence and engage stakeholders in justifying these higher differential rating decisions as well as identify the high, inequitable and disproportionate dependence of such a rating strategy on a narrow subset of ratepayers as a key financial risk.

Where proposed differential rate increases far exceed a reasonable price index, to promote best engagement practice in local governments, the requirement to consult affected ratepayers should not be restricted to rating categories with fewer than thirty ratepayers. In circumstances where the local government is required to provide such notification in writing, it is our member experience that there can be insufficient due diligence to ensure the correspondence is appropriately addressed and received within the 21 days the recipient is given to submit a response. Local government requirements for proper notice and engagement with significant contributing ratepayers could be better improved in future.

CME would also like to highlight how the Queensland guidelines specifically remind local governments not to consider capacity-to-pay in their rating policies, citing judgement from *Xstrata Coal Queensland v Council of the Shire of Bowen* [2010] QCA 170.⁸ For example, in the 2021-22 statutory budget adopted by one regional local government in WA, the reasons cited for a higher GRV mining rate is 'to reasonably proportion the balance of who will bear the burden of the rate revenue required with their capacity to pay.'

CME also notes South Australia has recently introduced reforms to establish a rate monitoring system requiring all local governments to receive and consider periodic advice from the Essential Services Commission of South Australia, their equivalent of the Economic Regulation Authority.⁹ In the past, CME has recommended additional oversight of local government revenue decision making processes and would welcome trialling of a similar independent review mechanism in WA.

CME understands Landgate completed a review of rating base options in 2020 to underpin strategic decision making on WA's rating and taxing in future. In line with **improving consistency and transparency of rating across WA**, CME recommends the findings of this review are transparently published beyond government.

Under the 2021 New South Wales reforms, local governments will apply a new kind of special rate for jointly funded infrastructure.¹⁰ In remote and regional WA, where resource sector companies often contribute to developing and maintaining physical and social infrastructure, such flexibility and fairness in WA would be welcome. It is also a recommendation to add a fifth rating category, 'environmental land', which will be in addition to the standardised rating categories of residential, farmland, mining and business. There may be merit in considering a similarly standardised category in WA to reflect land with low impact uses such as human-induced regeneration carbon farming, environmental offsets and rehabilitation.

⁷ Victoria State Government, [Local government revenue and rating plan guide](#), supplement, Department of Jobs, Precincts and Regions, 25 February 2021.

⁸ Queensland Government, [Guideline on equity and fairness in rating for Queensland local governments](#), State Development, Infrastructure, Local Government and Planning, 17 December 2021.

⁹ Government of South Australia, [Statutes Amendment \(Local Government Review\) Act 2021](#), Office of Local Government, Attorney-General's Department, December 2021.

¹⁰ NSW Government, [Local Government Amendment Act 2021 – rating reform](#), frequently asked questions, Office of Local Government, 15 July 2021.

Consultation document – Response to other proposed recommendations

The opportunity to comment on this package of reforms is appreciated. CME has consulted broadly with members across our committees, regional councils, and interest groups in compiling this response.¹¹

CME's views concerning the remaining recommendations across the consultation paper's six reform themes are outlined in Table 1 below. Recommendations of less relevance to the membership with no specific view or comment are not included. We have also enclosed in Appendix A further background information relevant to this reform agenda.

CME looks forward to participating in any further opportunities for consultation on the draft legislation and supporting regulations. Earlier intervention, effective regulation, stronger penalties, improved financial management and reporting will help reduce the likelihood of council dysfunction, costly escalation to authorised inquiries into misconduct and issuing of Show Cause Notices.

Should you wish to discuss the details of this submission further, please contact Adrienne LaBombard, Manager – Industry Competitiveness, on 0400 912 525 or at A.LaBombard@cmewa.com.

Yours faithfully



Robert Carruthers
Director – Policy & Advocacy

¹¹ Economics and Productivity Committee, Local Government Interest Group, Exploration Committee, Land Access Committee, South West Regional Council, Goldfields Regional Council, Kimberley Regional Council and Pilbara Regional Council.

Table 1 – Responses to proposed reforms as per the summary document

Proposed reform	CME response and comments
Theme 1: Early intervention, effective regulation and stronger penalties	
1.1 Early intervention powers	CME strongly supports the introduction of an Inspector that will have powers of a standing inquiry to investigate and intervene in any local government where potential issues are identified, including complaints on local government CEOs and ordering local governments to address non-compliance with the Act or regulations. This will help address issues which are not considered significant enough for the Director General or Minister to intervene.
1.2 Monitors	CME supports the purpose of Monitors to proactively fix problems and support a requirement for them to be qualified specialists in areas such as dispute resolution, financial management, reporting and legal governance.
1.7 Minor other reforms	In addition to Ministerial Circulars, CME supports the issuing of sector-wide guidance notices and Inspector notices. This will help proactively address gaps in issuing of circulars if it does not warrant the attention of the Director General.
Theme 2: Reducing red tape, increasing consistency and simplicity	
2.1 Resource sharing	CME strongly supports sharing of resources such as CEOs and senior employees. Attracting and retaining suitably qualified and experienced staff to reside and work in regional WA is challenging for both the public and private sector.
2.4 Streamline local laws	CME provides qualified support to increase the consistency of local laws through model adoption, requiring a review every 15 years. However, thorough consultation of what is considered 'standard' will need to be undertaken because a one size fits all approach will reduce flexibility to cater for local circumstances. As part of this exercise, it would be useful to highlight circumstances which are not considered to be standard and therefore require the local government to conduct a risk-based assessment process to customise the local law. When in doubt, local laws and local planning schemes should encourage best practice consideration and alignment with existing State-based position statements and planning policies. Please see Appendix A for a link to our recent planning reforms submission.
2.6 Standardised meeting procedures	CME supports standardising meeting procedures and standing orders for all local government meetings. This increased clarity and consistency should help improve the quality of minutes.
2.7 Regional subsidiaries	CME provides qualified support to the establishment of regional subsidiaries, especially if it facilitates flexibility and innovation in the efficient use of ratepayer funds. For example, if it encourages an economy of scale and coordinated approach to optimise allocation of resources between local governments such as:

	<ul style="list-style-type: none"> • Where to locate and how to finance childcare centres and other social infrastructure to best meet demand at least cost. The Planning Bulletin 72/2009 Child Care Centres (August 2009) specifies a 'proponent does not have to demonstrate there is sufficient demand for the activity' which can lead to inefficient allocation and poor labour market outcomes. Regional subsidiaries will be able to aggregate demand and ensure the proximity of services in one local government does not negatively affect the level of service in the other. • Amount stronger business cases for physical infrastructure that span multiple local governments. • Reduce duplication of time and effort in applying for government grants or regulatory exemptions for multiple local governments. For example, granting of the interim authorisation to the WA Local Government Association to allow it to jointly acquire electricity on the South West Interconnected System provides transaction cost savings and promotes increased competition for energy supply.¹² <p>The quality and scrutiny of financial reporting under the regional subsidiary should also not be any less than a local government. There is a risk the regional subsidiary could be used for suboptimal initiatives if less transparency is required.</p>
Theme 3: Greater transparency and accountability	
<p>3.3 Clearer guidance for meeting items that may be confidential</p>	<p>CME strongly supports improved openness and transparency in decision making, with the presumption that confidential meetings and items to be used only in limited, specific prescribed circumstances. If the Inspector is suitably qualified like the Monitors (item 1.2 above), we also support their discretion to treat non-prescribed items as confidential.</p> <p>Decisions made on modelling and scenario testing the differential rates to be imposed on a narrow, subset of ratepayers is typically undisclosed, despite requesting this class of ratepayers to disproportionately bear the cost burden of maintaining local government services and infrastructure.</p>
<p>3.4 Additional online registers</p>	<p>CME provides qualified support to the reporting of specific prescribed information in online registers and caution quarterly updating of these registers may be onerous. The benefit of increased transparency should be weighed against the cost of adequately capturing and reporting this information regularly.</p> <p>Should there be no issues of commercial confidentiality, we would also recommend the voluntary capture of information on operating and non-operating grants, funding and other contributions the local government may have received from non-government sources. Currently, there is significant discrepancy in how local governments choose to disclose these amounts or not as part of their revenue stream. Some local governments for example will allocate the funds to a cash backed reserve with specified purposes or grant contributions with specified conditions, while others may not.</p> <p>Like in Queensland, we would support mechanisms to discourage discreet donations to elected members, mayors or senior staff from property developers. Instead, these amounts should be transparently disclosed as made towards the local government under developer contributions or voluntary partnership agreements.</p>

¹² Australian Competition and Consumer Commission, [Determination Application for authorisation AA1000562](#), lodged by WALGA, 26 August 2021.

Theme 4: Stronger local democracy and community engagement

4.1 Community and stakeholder engagement charters	CME supports the requirement for a local government to set out how they will communicate processes and decisions. For example, the communication of rate increases can be inconsistent year-on-year with no accountability if a class of stakeholders is not duly notified in a timely manner.
4.2 Ratepayer satisfaction surveys	CME supports the introduction of a requirement for an independently managed ratepayer satisfaction survey to be conducted at least once every four years. This will help provide a positive feedback loop to decision-making processes on significant items such as expenditure on social and physical infrastructure.
4.5 Tiered limits on the number of councillors	CME provides qualified support to limiting the number of councillors based on population of the entire local government, with a minimum of five to ensure diversity in representation in smaller local governments. This reform may require a post-implementation review to ensure it does not reduce the quality of council decisions.

Theme 5: Clear roles and responsibilities

5.1 Introduce principles	<p>CME provides qualified support to the inclusion of new principles in the Act, including recognition of Aboriginal Western Australians, community engagement and financial management. However, a Native Title may not yet be determined in some local government areas and this may complicate the wording to introduce recognition of Aboriginal Western Australians and engagement thereof. We strongly recommend government entities are appropriately resourced to allow for informed and timely consultation with groups of Aboriginal peoples to reduce any unintended consequences.</p> <p>Financial management principles should at a minimum include fiscal sustainability as a key criterion for balancing expenditure and revenue across current and future generations of ratepayers.</p>
5.2 Greater role clarity	<p>CME strongly supports strengthening the distinction of roles and responsibilities for elected members, mayors, CEOs <u>and</u> senior staff to promote democracy and prevent the likelihood of council dysfunction.</p> <p>We support each councillor being required to consider and represent fairly and without bias the current and future interests of all people who live, work and visit the district. In regional and remote local governments where interests can be vested in the current generation at the expense of future generations, this requirement will help address this imbalance.</p>
5.8 CEO recruitment	CME strongly supports establishing a panel of approved members to perform the role of independent person on CEO recruitment panels.

Theme 6: Improved financial management and reporting

6.1 Model financial statements and tiered financial reporting	CME supports standardised templates for local governments based on tiers of size and complexity.
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	<p>However, we recommend these templates also include optional best practice reporting requirements to allow local governments who wish to voluntarily go above and beyond in demonstrating transparency and accountability to their ratepayers. For example, some local governments will provide a spending breakdown of non-government grants and contributions (i.e. voluntary partnership agreements with private sector proponents).</p>
6.2 Simplify strategic and financial planning	<p>CME supports adoption of a standardised set of plans to provide more consistency and clarity across the state, especially the requirement for Long Term Financial Plans to be reviewed in detail at least every four years.</p> <p>However, we recommend the Asset Management Plans integrate key elements of financial sustainability from the:</p> <ul style="list-style-type: none"> a. Department of Transport's Strategic Airport Assets and Financial Management Framework b. Department of Treasury's Strategic Asset Management Framework c. Align with regional development strategic frameworks (Department of Primary Industries and Regional Development), regional service and infrastructure frameworks (Department of Premier and Cabinet) and integrated regional plans (WA Planning Commission) as recommended by Infrastructure WA in their draft strategy. Coordination with these state level frameworks and land use plans will prevent the need for ad hoc statutory intervention. <p>In relation to strategic planning, CME would like to take the opportunity to reinforce its previously stated position that local governments should be held to closer account on adoption and delivery of State Planning Policies and relevant directions by the WA Planning Commission. For example, local government compliance with <i>State Planning Policy 4.1: Industrial Interfaces</i> should be regularly assessed to ensure that strategic industries of State significance are not encroached upon by poor planning decisions and incompatible sensitive land uses.</p>
6.5 Amended financial ratios	<p>CME supports amending of financial ratios to ensure results are accurate and useful.</p>
6.8 Cost of waste service to be specified on rates notices	<p>CME strongly supports the separation of waste charges on rate notices.</p>

Appendix A – Previous CME policy submissions on local government matters

- [*Foundations for a Stronger Tomorrow: Draft State Infrastructure Strategy*](#), submission to Infrastructure WA, 17 September 2021. Relevant because it highlights the role of local government in place-based decision making processes.
- [*Planning Reform Phase 2*](#), submission to the Department of Planning, Lands and Heritage, 31 August 2021. Relevant because it shows disconnect between current and future ratepayers in land use decision making processes.
- [*Regional Strengths & Gaps Project Survey*](#), submission to Infrastructure Australia, April 2021. Relevant because local governments are key stakeholders to Regional Development Australia committees and regional development commissions.
- [*State Infrastructure Strategy: Discussion Paper*](#), submission to Infrastructure WA, 31 August 2020. Relevant because greater intra- and inter-agency coordination is needed for the developing northern Australia agenda.
- [*Inquiry into local government*](#), submission to the Select Committee into Local Government, 13 September 2019.
- [*Remote area tax concessions and payments: Issues paper*](#), submission to the Productivity Commission, May 2019. Relevant because addressing regional amenity needs coordinated economic development across all tiers of government.
- [*Phase 2 Review: Local Government Act 1995 \(WA\)*](#), submission to the Department of Local Government, Sport and Cultural Industries, March 2019.
- [*Phase 1: Local Government Act 1995 Review*](#), submission to the Department of Local Government, Sport and Cultural Industries, March 2018.
- [*Draft State Planning Policy 4.1: Industrial Interface*](#), submission to the WA Planning Commission, February 2018.
- [*Draft State Planning Policy 5.4: Road and Rail Noise*](#), submission to the WA Planning Commission, December 2017.
- [*Supplementary submission: Inquiry into regional airfares in WA*](#), submission to the Economics and Industry Standing Committee, 13 October 2017.
- *Local government rating policies review*, submission to the Department of Local Government and Communities, February 2016. Not publicly available as it was a closed consultation, but a copy can be made available upon request by the Department.
- *Local government rating process*, submission to the Minister for Local Government, July 2015. Not publicly available as it was a closed consultation, but a copy can be made available upon request by the Department.
- *Gross rental valuation trial application to resources sector interests*, submission to the Department of State Development, June 2015. Not publicly available as it was a closed consultation, but a copy can be made available upon request by the Department.