MINERAL RESOURCES

26 April 2016

Hon Robyn McSweeney MLC
Chair
Standing Committee on Legislation
Parliament House, Perth Western Australia

By email: **council@parliament.wa.gov.au**

Dear Madam

Inquiry into *Pilbara Assets (Disposal) Bill 2015*

Thank you for your letter dated 24 March 2016 inviting a written submission on the purpose, effect and policy of the abovementioned Bill.

Please find *attached* a written submission on behalf of Mineral Resources Limited.

I take this opportunity to request that the Committee hold a hearing in respect of the Bill and, if it does hold such a hearing, to further request that I be invited to appear before the Committee on behalf of Mineral Resources Limited.

Please do not hesitate to contact me should you wish to discuss any aspect of this letter or the attached written submission.

Yours sincerely
Mineral Resources Limited

Chris Ellison
Managing Director

Attachment – Written Submission on behalf of Mineral Resources Limited (8 pages)

Submission to the Standing Committee on Legislation

Pilbara Ports Assets (Disposal) Bill 2015

26 April 2016

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1. INTRODUCTION

Mineral Resources Limited (**MRL**) refers to the letter from the Hon Robyn McSweeney MLC dated 24 March 2016, Chair of the Standing Committee on Legislation, inviting MRL to provide written submissions regarding the purpose, effect and policy of the *Pilbara Ports Assets (Disposal) Bill 2015* (**Bill**).

MRL thanks the Standing Committee on Legislation for extending the opportunity to provide these submissions.

MRL, along with Atlas Iron Limited and Consolidated Minerals Pty Ltd (together, the **Existing Users**), are the three remaining foundation proponents of the Utah Point Bulk Handling Facility in Port Hedland (**Utah Point**) that continue to utilise the facility to export bulk commodities produced from mines they respectively operate in the Pilbara region of Western Australia.

As a consequence of the Bill being introduced into Parliament in November 2015, the lack of prior consultation, and the grave concerns the Existing Users have in respect of:

(a) the regulatory framework that Treasury has outlined will govern privatisation of Utah Point and its operation post privatisation (**Proposed Regulatory Framework**); and

(b) the adverse impact the Existing Users fear the Proposed Regulatory Framework will have on the Western Australian junior mining industry as well as the State itself,

the Existing Users sought and attended a number of high level Ministerial and political party meetings over the last few months to discuss their concerns.

2. EXECUTIVE SUMMARY

Utah Point is the only bulk export facility that is available for use by the junior / emerging junior mining industry in the Pilbara region. This industry generates material social and economic benefits for the State of Western Australia (some of which are summarised in Annexure 1 to these submissions).

MRL supports the privatisation of Utah Point in principle. However, while we consider that the Existing Users and AMEC should be consulted and have meaningful input on all terms and conditions that will govern the sale process (**Sale T&Cs**) as well as the regulations to be adhered to by the Operator post privatisation, we submit that amendments must be made to the Proposed Regulatory Framework to give effect to the following three Key Terms ***prior to passage of the Bill*** if unintended adverse consequences to the State are to be avoided:

(1) Utah Point must remain exclusively reserved for junior miners with ***no*** ability for the private Operator to grant access to non-juniors;

(2) The Sale T&Cs as well as the regulations that will govern the manner in which the Operator manages and operates Utah Point post privatisation must protect all users against

unaffordable increases in (or introduction of new) fees and charges levied for the use of Utah Point; and

(3) The temporary $2.50/tonne Cost Relief Package (due to expire 30 June 2016) must become a permanent component of the Utah Point pricing structure, apply to all exporters of bulk commodities from Utah Point and form part of the Sale T&Cs to be adhered to by the private Operator post privatisation of Utah Point.

If Utah Point is sold without the Sale T&Cs and regulatory framework post privatisation giving effect to the Key Terms described in these submissions, it is possible that Government may (but is by no means guaranteed to) realise a moderately increased financial benefit today via a slightly inflated sales price for Utah Point however any such benefit will be at the sacrifice of the <u>***much greater and ongoing***</u> economic and social benefits that the Pilbara based junior mining industry delivers to the State of Western Australia every year by having affordable and guaranteed access to Utah Point.

In short, as with the proposed sale of the Fremantle Port, the legislation must provide certainty around the pricing and access regimes post privatisation of Utah Point.

3. KEY TERMS EXPLAINED

The three Key Terms (and context to their necessity) that must be addressed are:

Key Term 1: Utah Point to remain exclusive to Junior Miners

- Utah Point was co-funded & co-founded by Government and the foundation proponent junior miners (including the Existing Users) to provide an export facility **exclusively** for the junior miners.

- The Existing Users contributed in excess of A$50M to co-fund Utah Point and have also invested $100'sM developing greenfields mine sites on the basis that Utah Point was and would always remain exclusively a junior export facility.

- The existing regime of "use it or lose it" protects against warehousing by junior miners who have allocation at Utah Point.

- The Sale T&Cs and the regulatory framework governing the management and operation of Utah Point post privatisation must be amended so that the Operator is only authorised to grant access to Utah Point exclusively to the junior mining industry.

- There must be no ability for the Operator to grant access to non-juniors post privatisation because otherwise potential purchasers will offer a higher purchase price for Utah Point. Post privatisation, the successful bidder/Operator will have to increase the fees and charges levied for use of Utah Point in order to recover the increased purchase price paid.

- Such increases will result in Utah Point becoming unaffordable for the junior miners using Utah Point and they will be forced to cease production and exporting. Unless the access regime prevents non-juniors gaining access to Utah Point, the Operator will then be free to grant access to non-juniors who can afford the higher fees and charges.

- If non-juniors gain access to Utah Point it will permanently lock out the juniors and without access to an affordable export facility the junior mining industry will cease to exist.

- The loss of this sector of the junior mining industry will significantly reduce innovation in the mining industry; it is the juniors that must innovate to survive.

- The junior miners develop mineral deposits that are deemed uneconomic to non-junior miners; these deposits will not be developed without the junior mining industry; junior production produces *incremental revenue for WA*.

- The death of the junior mining industry will spell the end to the material financial and social benefits the juniors deliver to the State of Western Australia

Key Term 2: Input on terms governing the sale of Utah Point

- The Existing Users understand the commercial risks of terms governing the management and operation of Utah Point.

- Government must provide the Existing Users with an opportunity to have input on the Sale T&Cs and the regulations that govern the Operator's management of Utah Point post privatisation to ensure the junior mining industry access to Utah Point is properly protected and preserved. Anything less will encourage potential purchasers to pay a higher sale price to, ultimately, sacrifice the junior mining industry.

- Potential purchasers must bid on Utah Point based upon the current access regime (ie Utah Point being exclusively for junior miners) and the current pricing regime (ie with defined rise and fall mechanisms for adjusting charges and the $2.50/tonne Cost Relief Package referred to in Key Item 3 being included as a permanent part of the pricing structure).

- The Sale T&Cs and the post privatization regulatory framework must prohibit the arbitrary increase of existing, or the introduction of new, fees and charges levied for the use of Utah Point by the Operator post privatisation.

- Instead, the Operator must only be permitted to adjust fees and charges levied for the use of Utah Point to the extent required to address ***actual*** increases ***and*** decreases in the costs of operating and maintaining Utah Point (ie the charges must rise and fall with actual costs of operation).

Key Term 3: $2.50/tonne Cost Relief Package to become permanent

- Junior miners are at a distinct disadvantage compared to major miners because they do not own their own mine to port railways or port facilities.

- Low commodity prices forced Existing Users to achieve material cost savings across every facet of their operations (over which they have control) to survive.

- The Existing Users drove efficiencies at Utah Point and have increased annual throughput year on year; this has reduced the costs, on a per tonne basis, of Pilbara Ports Authority (**PPA**) operating Utah Point.

- Despite throughput increasing and the costs of operating deceasing since the commissioning of Utah Point in 2010, PPA has been excessively charging users at Utah Point since 2012/13 when the PPA unilaterally increased Port charges:
  - originally contracted Utah Point charges were fixed for the term at less than \$3.60/t and ground rent in stockpile areas was \$3.50m^2.
  - in 2012/13, PPA unilaterally increased Utah Point charges to over \$5.80/t and ground rent in stockpile areas to \$12m^2 and also mandated that all charges became subject to rise and fall.

- There is no existing mechanism (that actually works) for juniors to challenge the excessive charges levied at Government owned, monopoly assets like Utah Point. During boom times, these increased charges were able to (reluctantly) be absorbed by the Existing Users.

- In early 2015, the Existing Users that exported iron ore successfully demonstrated to Government that the Utah Point charges needed to be reduced for them to survive.

- For FY15/16, Government instructed PPA to provide the Existing Users that export iron ore over Utah Point with a reduction on fees and charges payable at Utah Point of \$2.50/tonne when global iron ore prices are below A\$80/tonne.

- The \$2.50/tonne reduction introduced in FY15/16 is ***not*** a handout; it merely winds back the unjustified 2012/13 increases to Utah Point charges and brings them back in line with the originally contracted charges which formed the original business case for Utah Point in 2009/10 and which are more commercially in line with non-monopoly infrastructure.

- PPA and Government still realises a ***more than reasonable*** return on its investment at Utah Point even with the \$2.50/tonne cost reduction in effect.

- Most importantly, the balance of the State benefits that are derived every year from the ongoing operation of the Existing Users more than outweighs the cost to Government of the \$2.50/tonne reduction.

- This arrangement, which is absolutely critical to the survival of the junior miners in an environment of significantly depressed global iron ore prices, is currently due to expire on 30 June 2016.

- In addition, MRL submits that the application of the \$2.50/tonne Cost Relief Package should be expanded to all bulk commodities exported by junior miners from Utah Point where such commodities have the same production and mine or port transport cost base as iron ore (such as manganese). This can easily be accomplished by Government deciding an appropriate global pricing benchmark index and a price/tonne ceiling above which the $2.50/tonne reduction will not apply to such bulk commodities.

- The widening of the application of the $2.50/tonne Cost Relief Package is justified for the same reasons described above. Importantly, the social and economic benefits that the junior producers of other such bulk commodities deliver to the State are directly comparable to those that the junior miners producing iron ore deliver.

4. ECONOMIC AND SOCIAL BENEFITS CURRENTLY DERIVED

As demonstrated in **Appendix 1**, the Existing Users generate material economic and social benefits to the State of Western Australia every year. These include:

- At current export rates of 21Mtpa from Utah Point alone, Atlas Iron, Consolidated Minerals and Mineral Resources generate in excess of:
  - **A$1 billion in revenue**, and on average **$5 billion in economic activity** for the State of Western Australia each year[1]
  - Nearly **A$100 million in State royalties** each year[2]

  and employ on average of around **2,500 people directly, and 10,000 overall**.

- If the appropriate protection that will be afforded by the key terms outlined in this submission are built into the Sale T&Cs, these material benefits to the State of Western Australia will be enjoyed every year for at least the next 10 to 15 years.

- If Utah Point is sold without the Sale T&Cs including the key terms raised in this submission, the Government may (but it is by no means guaranteed to) realise a financial benefit today via a slightly inflated sales price for Utah Point but such benefit will be at the sacrifice of the ***much greater and ongoing*** financial and social benefits that the junior mining industry delivers to the State of Western Australia every year by having affordable and guaranteed access to Utah Point.

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[1] On the basis that at least A$50/t in iron ore operational expenditure is in Australia
[2] 21Mtpa at an Achieved Sales Price of A$67/wmt

APPENDIX 1

Material Benefits that the Existing Users generate for Western Australia

- Tonnes exported and forecast to be exported by junior miners (M wmt)

Year	2014	2015	2016	2017	2018	Totals
Utah	19.2	19.0	21.8	20.1	20.5	100.6

- Port Charges paid and forecast to be paid by junior miners[3] (A$m)

Year	2014	2015	2016	2017	2018	Totals
Utah	133.3	119.5	86.0	80.1	83.3	502.2

- State Royalties paid and forecast to be paid by junior miners[4](A$m)

Year	2014	2015	2016	2017	2018	Totals
Utah	130.7	88.8	77.1	89.1	95.7	481.4

- Employment (past and forecast) (FTE)

Year	2014	2015	2016	2017	2018	Average
Direct	2,822	2,339	2,263	2,465	2,770	2,532
Indirect[5]	8,466	7,017	6,789	7,395	8,310	7,595
Totals	**11,288**	**9,356**	**9,052**	**9,860**	**11,080**	**10,127**

- Total Revenue to State / Economic activity (from past and forecast exports) (A$m)

	2014	2015	2016	2017	2018	Average
Direct	1,300	1,265	1,297	1,288	1,373	1,305
Indirect	3,900	3,795	3,891	3,864	4,119	3,914
Totals	**5,200**	**5,060**	**5,188**	**5,152**	**5,492**	**5,218**

[3] Assumes $2.50 cost relief package remains in effect
[4] Assumed Fe price '14: A$87.3/wmt, '15: A$67.5/wmt, '16: A$54.0/wmt, '17: A$67.0/wmt, '18: A$67.0/wmt
Assumed Mn price '14: A$185/wmt, '15: A$166/wmt, '16: A$150/wmt, '17: A$180/wmt, '18: A$200/wmt
[5] AECOM research in Dec 2014 – Economic Impact Assessment for WA Mid Tier Iron Ore Producers – commissioned through AMEC established that every direct mining industry employee is supported by approximately 3 indirect employees and a multiplier of 3 in economic output