



*the coal industry's research program*

*Managed by:*

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16 October 2009

General Manager  
Business Tax Division  
The Treasury  
Langdon Crescent  
PARKES ACT 2600

**Submission – The New Research And Development Tax Incentive Consultation Paper**

Dear Sir/Madam

I would like to provide a submission regarding "The new research and development tax incentive Consultation paper" for your consideration.

ACRL is a Registered Research Agency and manages the Australian Coal Association Research Program on behalf of the Australian black coal industry. Under special arrangement with Ausindustry its RRA status is renewed only every five years, and ACARP's published Annual Research Priorities are accepted as its R&D Plan on behalf of producers, and we hope there is no need for that arrangement to change.

ACRL does not conduct research in its own right but contracts the required research out to many of Australia's most prestigious research organisations such as CSIRO, universities, CRCs etc. Its average annual research expenditure is in the range of \$12 - \$15 million. For example, ACRL is the single biggest client of CSIRO outside of government.

ACRL has received two Class Rulings (CR2005/9 and CR 2009/45), both of which allow contributions paid to the ACARP program to claim a deduction under subsection 73B(13) for levies/contributions paid to ACR and applied in return for the performance of research and development activities (as defined in subsection 73B(1)) on their behalf by ACRL. ACRL is an income tax exempt entity.

ACRL and black coal producers have been participants in the R and D Tax Concession arrangement since its beginning, and I would like to think, are seen as stakeholders in any changes being considered with the introduction of the R and D Tax Credit system.

Therefore, ACRL has a keen interest in the new tax incentive system and would like to ensure by its active participation that:

1. The transition go as smoothly as possible;
2. If possible, the new arrangement be simpler to administer, and lastly,
3. ACARP and coal producers not be disadvantaged by changes to the current arrangement.

I would like to provide the details of my submission in the same order in which they appear in the Consultation paper:

#### Principle 1, Question 1 – paragraph 23

I believe the limited exceptions under the current scheme should be retained. ACRL sometimes collaborates and conducts joint research with prestigious international research agencies in order to access skills and infrastructure not available in this country, to build capability in the Australian research community, and to provide the best possible research for uptake by Australian black coal producers. The usual arrangement employed is that ACRL conducts that part of the research here in Australia in which local researchers have the most expertise or capability at our cost, and our international collaborator conduct their component at their cost. The two sets of outcomes are then brought together to create the complete research and development outcome.

This could result in significant value for Australian producers in terms of productivity increases, safety or environmental management outcomes, etc. However, it also comes at a cost that that I believe should continue to be recognised under the new scheme so long as that there is a value added benefit to Australian industry, and the international component remains in the minority, in the order of not more than 20-25% of the overall project cost.

An example of this is some new explosive suppression technology we were researching. To validate it required us to test it in the only facility available in the world at CSIR's explosion test facility at Kloppersbos in South Africa. Without the international component our research could not be useful to industry.

#### Question 1 – paragraph 31 and 32

Class Rulings CR2005/9 and CR 2009/45 were applied for and granted to allow ACRL to conduct eligible R&D activities on behalf of all participating producers. As the proposed new arrangements as they stand, ACRL will have to apply for a new Class Ruling under the R&D Tax Credit system to ensure this requirement is met. This is an eight month exercise on the last experience. I believe this creates an unnecessary uncertainty, an additional compliance burden and cost that could otherwise be used for additional research.

I believe that the Class Rulings would be unnecessary if the new arrangement recognises industry research programs like ACARP that meet defined criteria such as:

1. Operate under a Commonwealth or State MOU or similar arrangements that have legislative backing;
2. Have the written support of the relevant industry peak body;
3. Operate for the clear benefit of an industry sector;
4. Have a track record over time of compliance with subsection 73B(13); and
5. Have Registered Research Agency status.

#### Principle 5 – paragraph 51 and Principle 7 – Paragraphs 60, 61 and 64

Some producers are concerned that a tighter definition of R&D may lead to activities that are currently included to become excluded, especially if overseas experience is repeated here. There are concerns over such activities as administration, publication, technology diffusion etc, which are all crucial to converting valuable research into real world outcomes such as reduced injury rates and productivity improvements.

ACARP is funded through a voluntary five cents per tonne levy on all saleable coal and is based on an MOU with the Commonwealth. Producers participate on the basis that all levy contributions are eligible

for the 125% R&D Tax Concession. Our ATO Class Rulings also state that all levy-funded expenditure must qualify for the 125% R&D Tax Concession. Any more restrictive definition of R&D that excludes activities currently accepted could put ACRL in breach of the MOU and its Class Rulings, (on which producers depend), as ACRL has very limited means to fund non-eligible R&D.

ACRL's main concern in this area is about administration, without which the research cannot occur. Without publication and technology diffusion there is no point in doing the research.

I therefore submit that the reasonable and verifiable costs of administration, publication and technology diffusion continue to be recognised as a core activity under the new arrangement. Without them the R&D itself remains impotent to bring about change.

#### Question 4 – Paragraphs 59 and 60.

ACRL submits that supporting activities be capped as a proportion of expenditure on core R&D, at a proportion of 1:1, but also that supporting activities should attract the same rate of assistance as core activities. This will act to reduce compliance and administrative burdens on R&D companies so that the maximum amount can be spent on research. ACRL would also support a stepped arrangement where users of the R&D Tax Credit could choose a proportion of 1:1 at the same rate, or a higher proportion (e.g., 2:1 supporting to core), but at a lower rate compared to the core activities.

#### Question 5 – Paragraphs 71 and 72

I submit that some research activities that may be currently outside the definition of core R&D activities (according to our current understanding) be included under the new arrangement or allowed as capped supporting activities where they can be demonstrated to have a real and measureable impact on the industry.

Currently "social research" is excluded, as is routine collection of information. However, collection of information which is then presented to become a valuable and "mineable" industry-wide research tool and data source should be considered eligible if it has a measurable impact on behaviour or real world outcomes or adds to the technology diffusion process.

Examples of relevant research/activities include:

- Research into mining communities attitudes and expectations that allow producers to better attract and retain staff in remote mining communities thereby enhancing their productivity and viability;
- Research into the cumulative impacts of mining on communities that better allows the industry, government and the community to manage existing mines and plan for new developments in a sustainable manner; and
- Establishment and maintenance of whole-of-industry on line safety incident databases and state of the art technology information portals that allow producers to develop and implement best practice to improve productivity, reduce injury or environmental impacts as part of a technology diffusion process.

#### Conclusion

It is not by accident Australia is among the safest, cleanest and most productive coal producers in the world. The industry's foresight in establishing ACARP in 1993 has been a significant factor in the performance of the Australian coal industry.

I believe these suggestions have the ability to improve the new tax system in a way that will positively impact the industry's potential to continue to enhance its productivity, its safety record, its environmental performance and its long term sustainability and allow it to continue to be a significant contributor to employment and GDP in this country.

ACRL and Australian black coal producers are keen to support any move to increasing the incentive for the funding and overall amount of R&D undertaken in Australia provided it reduces the complexity of definition and does not result in differing levels of tax support within any legitimate R&D program such as ACARP.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Mark Bennetts', with a stylized flourish at the end.

Mark Bennetts  
Executive Director