Chapter 7

Resources Joint Ventures

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[7.1] Introduction

[7.1.1] The rationale for resources joint ventures

The vast majority of resources projects in Australia, whether in the exploration, development or production phase, and whether concerned with minerals or petroleum, are carried on through a joint venture structure.

The joint venture structure has proven to be the vehicle of choice for Australian resources projects, as it is particularly suited to the physical, commercial and regulatory environment in which such projects operate. Joint ventures are commonly considered the optimal ownership structure for Australian resources projects due to:

(a) the involvement of multiple participants allowing:
  (i) the sharing of high costs and high risks associated with resources projects; and
  (ii) diverse experience, talent and resources to be pooled to allow the venture to pursue developments the individual participants could not pursue on their own;

(b) the unincorporated joint venture structure (discussed further below) giving participants freedom and flexibility to set the majority of their rights and obligations by contract (without statutory or other legal constraints which would apply to other ownership structures, such as incorporated vehicles or partnerships);

(c) an undertaking to generate a product to be shared among the participants (as opposed to sharing profits) generally precluding the characterisation of the venture as a partnership for legal and taxation purposes, and generally allowing the offsetting of deductions from one project against income from other projects; and

(d) providing the ability for each participant separately to finance its share of the costs of development of the project.[1]

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1 These reasons have been long recognised in the resources industry. For recent restatements of the rationale for adopting joint venture structures in the resources