2 October 2020

Commissioner Lisa Gropp
Inquiry into Resources Sector Regulation
Productivity Commission
LB2, Collins Street East
MELBOURNE VIC 8003

Dear Commissioner Gropp

Comment on resource sector regulation draft report

The Minerals Council of Australia welcomes the opportunity to provide a submission to the draft report of the Productivity Commission inquiry into Resources Sector Regulation (the draft report). This submission primarily focuses on regulation at a national level and should be read in conjunction with recent submissions of state mining chambers.

The MCA is the peak industry organisation representing Australia's exploration, mining and minerals processing industry, nationally and internationally. The MCA's strategic objective is to advocate public policy and operational practice for a world-class industry that is safe, profitable, innovative, environmentally and socially responsible and attuned to community needs and expectations.

The MCA welcomed your draft report, many findings and recommendations of which the industry has supported and advocated over many years. Your clear statement that 'notwithstanding many recent initiatives, there is evidence that regulatory processes remain unduly complex, duplicative, lengthy and uncertain and may be becoming more so' reflects the position of the minerals industry over the past decade.

Please find attached a detailed response to the draft report's findings, recommendations and identified leading practices. The MCA broadly supports the findings of the draft report so additional commentary is provided by exception only. Please refer to our earlier submission for evidence and supporting detail.[1]

The alignment of timing of the 20-year independent review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) with your inquiry provides an important opportunity significant reform. Many of the recommendations and policy directions indicated in Graeme Samuel's interim report reiterate and affirm those in your draft report, further supporting the case for robust and pragmatic reform.

It should also be noted that since the original submission to the inquiry, the MCA has published a Climate Action Plan. The plan outlines the tangible steps the sector will be taking as part of its commitment to the Paris Agreement and its goal of net zero emissions.

Reform to resources sector regulation must also be considered in the context of the unprecedented economic and social impact from the COVID-19 pandemic. The Australian community has looked to its key industrial sectors to help sustain the economy through this crisis. In the national effort to

[1] Minerals Council of Australia, *Productivity Commission study on resources sector regulation*, 31 October 2019

Level 3, 44 Sydney Avenue
Forrest ACT, 2603
PO BOX 4497
Kingston ACT 2604
Telephone: + 61 2 6233 0600
Email: info@minerals.org.au
Web: www.minerals.org.au
ABN: 21 191 309 229

rebuild from the COVID-19 pandemic the minerals industry will continue to deliver on the substantial contribution it has made over the past 20 years and with the right mix of productivity-enhancing reforms do even more to support and sustain the Australian economy.

The minerals industry stands ready in this reform and rebuilding agenda. Australia has over 106 mining projects that have completed feasibility studies. The combined $50 billion investment flowing from these projects could create over 32,000 construction jobs and 22,000 ongoing operating jobs across Australia.

The government has already outlined a series of proposed reforms which will support a faster and broader recovery, including more flexible workplaces, pragmatic environmental reforms and simpler project approvals. Yet further reforms, including many of those recommended in your draft report would enable the minerals industry to play an even bigger role in underpinning a sustainable and enduring recovery.

The Productivity Commission's draft report on resources sector regulation is a positive first step to advance the COAG long term strategic reform agenda for resources, but it needs to result an improved regulatory framework and performance by regulators and governments.

Following the release of the final report of this Productivity Commission inquiry and the 20 year review of the EPBC Act, government must take the opportunity to implement reforms to support a better environment, more jobs and faster economic recovery.

We look forward to continuing to work productively with government to achieve sensible and robust reforms. Should you have any questions regarding this submission, please do not hesitate to contact me or Chris McCombe – General Manager, Sustainability

Yours sincerely

TANIA CONSTABLE PSM
CHIEF EXECUTIVE OFFICER

MINERALS COUNCIL OF AUSTRALIA

SUBMISSION ON THE DRAFT REPORT OF THE PRODUCTIVITY COMMISSION INQUIRY INTO RESOURCES SECTOR REGULATION

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2 OCTOBER 2020

Proposed reform direction		Response
DF 2.1	Global and local factors including emissions policies, technological advances, economic development and population growth make it challenging to predict the future mix and level of resources investment in Australia. However, given Australia's diverse and significant resources deposits, the potential for investment will likely remain substantial.	Supported, noting that the sector's commitment to a net zero emissions future in Australia is consistent with the global climate goals of the Paris Agreement and is expected to provide significant opportunities going forward including: • A growing demand for raw materials for the iron and steel required for renewable energy technologies and hydrogen production • Rare earth metals for batteries which will be critical for stabilising the grid and enable low emission vehicles • Raw materials for 'light metals' to construct light-weight vehicles (including air, sea, and road), building materials • Uranium for small modular reactors (SMRs) for grid and on-site power generation to displace diesel emissions • Meeting the energy requirements of a rising global middle class.
Managing resources development in the interests of the community		
DF 4.1	There is no case for a major reform of the Australian pre-competitive geoscience arrangements given the quality of the information is generally highly regarded. However, the coverage of geoscience databases could be further improved, for instance, by all jurisdictions adopting sunset confidentiality periods for public release of private exploration and production reports prior to the end of the tenure of a project.	Pre-competitive geoscience is a significant source of competitive advantage for Australia, but one that can be replicated by our competitors. Increased government investment in both collecting data and improving the functionality of data systems would yield substantial returns in attracting greenfield exploration investment. This has been demonstrated by the substantial uptake in exploration tenement applications in the Northern Territory following the broad geophysical survey undertaken by Geoscience Australia through its Exploring for the Future program. Each state having a different geological database presents a barrier to greater application of new predictive analysis techniques being developed by geoscientists. Australia would benefit by having all data integrated into a single system that allows researchers to more efficiently apply new analytical tools.
DLP 4.2	To promote data access, confidentiality periods before public release of private exploration and production reports generally should be shorter than the tenure of a project. New South Wales' new regulations are one example of this practice. Many other jurisdictions have similar arrangements in place.	With respect to the New South Wales regulation, the industry does not at this stage consider this leading practice. For further information in this regard, please refer to the submission of the New South Wales Minerals Council. It is important to strike a balance between enhancing publicly available data and respecting the rights of the explorer that has invested in the data collection. The exploration phase of mining projects can last a long time, with some targets taking over 10 years to commercialise. Companies creating new geological data should be given every opportunity to gain a return on investment without a requirement to make research publicly available. Any requirement to publicly release privately funded data collection must also be matched by an automatic option for the company which funded the collection to retain its exploration leases and continue its project. The MCA considers that related data should remain confidential with the government until a tenement is live.
DLP 4.2	Thorough assessments of potential licence holders address the risk of repeated non-compliance. Leading practice involves regulators taking a risk-based approach to due diligence when granting or renewing tenements and considering: • Whether the applicant has previously failed to comply with licence conditions or health, safety and environment legislation (whether in the same jurisdiction, or in other domestic and international jurisdictions) • Past criminal conduct, technical competency and past insolvency. While all jurisdictions undertake some due diligence, none fully follows leading practice.	Supported. The mining industry is committed to high standards of sustainability and ethical behaviour. Regulations that efficiently reinforce these standards equally across all companies are beneficial to the industry, community and economy.
Managing resources activities on private lands		
DF 5.1	Landholders frequently express concern about resources projects, and some have called for a right of veto over resources activity on their land. This would be inconsistent with Crown ownership of resources and would affect the distribution of the benefits of resources significantly. Landholders have a right to full and fair compensation for access to their land, but not for the resources under it.	Supported.
DLP 5.1	Community concerns about mixed land use are best resolved through strategic land use frameworks rather than prohibitions on resources activity on agricultural land. Leading-practice frameworks seek to balance the trade-offs between resources development and other land uses to maximise economic benefits for the community. These frameworks should thoroughly consider the costs and benefits of allowing resources development, and have approval processes proportionate to the risks of resources development on the relevant land. The Council of Australian Governments' Multiple Land Use Framework provides a leading-practice example.	Supported.
DLP 5.2	Where planned activity will be low impact, requiring early personal engagement between resources companies and landholders can ease potential tensions and be less costly than a negotiated agreement. The Queensland Land Access Code's notification requirements provide a leading-practice example of this approach.	The MCA recognises the importance of early engagement. The Queensland Land Access Code and the MCA/Victorian Farmers Federation land access guide provide leading practice guidance appropriate for relevant jurisdictions.

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DF 5.2	Many landholders enter land access negotiations with resources companies with little prior experience or knowledge. This information asymmetry provides a basis for government intervention.	The MCA acknowledges these concerns. These issues can be addressed through leading practice guidance and support. For example, MCA Victoria worked with Victorian Farmers Federation to develop a land access guide detailing the regulatory framework and landholder and explorer rights and obligations.
DLP 5.3	A standard template for land access agreements can reduce information asymmetry and help to set expectations for landholders and resources companies, and improve confidence in the regulatory system. The Queensland Land Access Code, providing a combination of mandatory conditions as well as guidelines, provides a leading-practice model.	MCA recognises that standard templates can support sound engagement and enhance relationships between landholders and resources companies.
DLP 5.4	Low-cost dispute resolution methods that take an investigative approach to resolving problems between parties can reduce tensions between landholders and resources companies. The recently established Queensland Land Access Ombudsman provides an example.	The MCA supports mechanisms that assist parties to resolve tensions that are accessible and low-cost to both parties. The Victorian Mining Warden is another example.
Special access requirements apply to resources activity on traditional lands covered by native title or land rights legislation		
DF 5.3	The *McGlade* decision of the Federal Court in 2017 created concerns in the resources industry about the validity of native title agreements that had only been signed by the majority of the individual members of the applicant. Amendments proposed in the *Native Title Legislation Amendment Bill 2019* (Cth) should address these concerns.	Supported, noting the Senate Committee on Legal and Constitutional Affairs recommended passage of the bill – which includes these reforms – on 19 August 2020.
DF 5.4	The level of compensation paid for resources developments on native title land has typically been a matter for proponents and native title groups. However, the Timber Creek decision of the High Court in 2019 went to the value of native title rights and interests and could affect agreement-making with native title groups. Any uncertainty will likely be resolved as access negotiations occur over time.	Supported, noting that certainty and stability is critical to supporting ongoing minerals investment.
DF 5.5	Exploration activities have differing impacts on native title land. Consequently, a case-by-case approach by States and Territories to assessing whether the expedited procedure under the *Native Title Act 1993* (Cth) applies is necessary to give effect to the intention of the Act.	Supported.
DR 5.1	The National Native Title Tribunal should publish guidance about the circumstances in which the expedited procedure will apply.	Supported.
DF 5.6	Very few projects are going ahead on land protected by the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth). The requirements that agreements must cover both exploration and extraction, and that refusal of consent for one project in an area means that a moratorium is imposed on any other development while the original proponents retain a right to renegotiate, appear to be unnecessarily restrictive.	In August 2020, the MCA Northern Territory Division began participating in a consultation process to consider measures proposed in a 2013 review of the ALR Act.
DF 5.7	South Australia, Victoria and the Northern Territory have implemented alternative regimes to that prescribed under the *Native Title Act 1993* (Cth) for negotiating agreements between resources companies and traditional owners. These approaches have both advantages and disadvantages; a leading-practice approach has not been identified.	Noted.
DLP 5.5	Conjunctive agreements that provide a standard set of terms for resources developments in a particular area can reduce impediments to investment on native title land. South Australia's ILUAs for gas and mineral exploration are a leading-practice example.	The MCA recognises these types of tools can be useful to guide and simplify processes. There is merit in further exploring this approach.
DLP 5.6	High-quality guidance on native title facilitates investment in the resources sector. The Australian Government's *Working with Indigenous Communities* handbook is a leading-practice example.	Supported. The MCA also notes that the Centre for Social Responsibility in Mining has developed the Indigenous Mining Futures e-library to improve access to leading practice guidance, research and tools.
Addressing unnecessary regulatory burdens		
DF 6.1	Unnecessary delays in project commencements can be costly for proponents and the community, and typically dwarf other regulatory costs.	Supported.
DF 6.5	Unpredictable and lengthy delays at the approval stage are a key frustration for project proponents. That frustration is compounded where delays are seen as unnecessary or their cause is unclear.	Supported.
DF 6.2	Environmental impact assessments are often unduly broad in scope and do not focus on the issues that matter most. This comes with costs - the direct costs of undertaking studies and preparing documentation and the more significant cost of delay to project commencement. Disproportionate and unfocused environmental impact assessments are also of questionable value to decision makers and the community.	The MCA supports DF 6.2 and DLP 6.1 and DLP 6.5. The Environmental Impact Assessment (EIA) scoping stage should be comprehensive and risk-based, mapping out exact information requirements and acceptable methodologies, locking in these requirements at the outset of the project and avoiding changes during the assessment. Further details on the MCA position on risk based approaches can be found in the MCA's submission to the Independent

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DLP 6.1	Leading-practice environmental impact assessment involves application of a risk-based approach, where the level and focus of investigations is aligned with the size and likelihood of environmental risks that projects create. In practice this means: • Allocating different projects to different assessment tracks depending on their level of risk, which occurs throughout Australia • Thorough scoping, including community consultation, to identify which matters need to be investigated more or less thoroughly. The ongoing EIA improvement project in New South Wales shows movement in this direction • Terms of reference that focus on projects' biggest and most likely risks • Regulators that are empowered to focus on what matters most, for example through Statements of Expectations as occurs at NOPSEMA.	Review of the EPBC Act.[2] In line with the views of the Chamber of Minerals and Energy Western Australia, the MCA supports the successful assessment scoping model implemented under the *Environmental Protection Act 1986* as leading practice. Draft leading practice 6.1 is aligned with and supported by findings in the interim report of the independent review of the EPBC Act. Reforms should be made to the EPBC Act to establish risk-based EIA processes that enable simpler rapid EIA and assessment pathways for low-risk, well understood activities and environments (e.g. brownfield developments). Although Queensland government guidance may be improving in this regard, an overhaul of the state's overarching environmental legislation is needed to improve efficiency and effectiveness. Recent rehabilitation and closure related legislation was pushed through rapidly to bridge gaps and adds to the inefficient regulatory landscape. Queensland environmental legislation also does not readily accommodate strategic assessment.
DLP 6.5	Clear guidance on regulators' expectations about the content and quality of environmental impact assessments reduces the need for additional information requests. Western Australia and Queensland are examples of leading practice in this area.	
DF 6.6	Project approvals are often conditional on the preparation of management plans that also need to be approved by regulators ('post-approvals'). The process and timelines for securing post-approvals are often unpredictable, and over-reliance on management plans is not a first-best approach to achieving environmental outcomes.	Supported. Matters considered in the post-approval stage can be critical to the overall costs and timeframes which can affect the viability of a minerals project. An option should also be provided to consider post-approval matters in the primary approval stage. Remaining post-approval matters should be supported by a set of assessment rules, setting out procedures, timeframes and internal review rights. The MCA supports statutory timeframes and transparent regulator reporting for EPBC Act assessment, approval and post-approval processes. Regulators should be held accountable for not meeting timeframes. Service delivery (e.g. timely and effective service) should be included in regulator key performance indicators and consideration given to other incentive mechanisms, including 'deemed decisions' as suggested in the draft report at DLP 6.4. The Commonwealth is supporting the Western Australian Environment Protection Agency's development of 'Environment On-line' which is a model for improved transparency of process and decisions, as well as enabling better access to data. A good model for tracking approval processes on-line has been developed by the Chilean Government and would be a good benchmark for the Australian Government.[3]
DLP 6.9	Regulator decisions in the post-approval stage should be subject to timelines — statutory or otherwise — and regulator performance against those timelines should be publicly reported. The New South Wales Department of Planning, Industry and Environment has recently announced its intention to report on performance against timelines for post-approvals.	
DLP 6.2	Timelines, statutory or otherwise, provide proponents with information about how long regulatory processes ought to take, which supports project planning. They also focus regulators' attention, and public reporting of regulator performance in meeting those timelines is a means of keeping them accountable. For example, both Western Australia and South Australia report on the share of mining proposals and other approvals finalised within target timelines.	
DF 6.3	The referral process for the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) and the nuclear and water triggers are creating unnecessary regulatory burden: • Over half of all projects referred under the EPBC Act do not ultimately require Commonwealth approval. • Projects ruled out as nuclear actions in the EPBC Act explanatory memorandum are being treated as nuclear actions requiring Commonwealth environmental approval. • The evidence that the water trigger filled a significant regulatory gap is not compelling.	The MCA supports the finding that the referral process and the nuclear and water triggers are creating an unnecessary regulatory burden. The water trigger is duplicative and should be removed. The MCA submission to the Independent review of the EPBC Act contains further details on why the trigger is unnecessary.[4] If a role for the Commonwealth is maintained, a better risk-based adaptive management approach that looks at the context of the project, potential impacts, existing controls and probability of third party user impacts could be applied without the need for the extensive data-heavy Independent Expert Scientific Committee process. The water trigger reform option provided in the Independent review report – namely, that the trigger should only apply to cross border impacts – would help address these issues. The MCA welcomes the finding that projects ruled out as nuclear actions in the EPBC Act explanatory memorandum are being inappropriately treated as nuclear actions. Uranium and other mining activities should be removed from the definition of nuclear actions. These aspects are appropriately dealt with under national codes set by the Australian Radiation Protection and Nuclear Safety Agency and implemented at a state/territory level to avoid unnecessary and costly duplication. The MCA's joint submission to the Independent Review of the EPBC Act includes a more detailed discussion on the removal of these aspects from the nuclear actions trigger.[5]
DF 6.8	Resources projects typically require a range of assessments and approvals by multiple regulators within a jurisdiction. While regulatory coordination has improved over the past decade, proponents still report difficulties navigating the regulatory landscape. Lack of coordination can cause costly delays and liaising with multiple agencies can also give rise to significant compliance costs.	Supported. A single contact point for proponents and strong coordination between intra-jurisdictional agencies is critical to address regulatory delays at the state/territory level.
DLP 6.6	Cooperation between the Commonwealth and the States and Territories in environmental assessment and approval processes can be supported by: • The Commonwealth out-posting staff with State and Territory regulators, prioritising jurisdictions where more projects	The MCA supports enhanced inter-jurisdictional cooperation, including both out-posting of staff, providing specific EPBC Act training for state/territory regulator staff and a lead agency approach. Efforts to achieve this end need to accommodate the changes required to enable effective EPBC Act reform and devolution to states/territories.

[2] Minerals Council of Australia, *Submission to the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999* <https://minerals.org.au/news/fixing-epbc-act-better-business-and-environmental-outcomes>

[3] The MCA recommends consideration of the project tracking platform implemented by the Chilean Government through its SERNAGEOMIN and SEIA Agencies. The SEIA platform is a public, open system and can be accessed: < www.sea.gob.cl>

[4] Ibid.

[5] Minerals Council of Australia, *Submission to the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999* <https://minerals.org.au/news/fixing-epbc-act-better-business-and-environmental-outcomes>

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	require approval by both levels of government • State and Territory regulators taking up opportunities to have their staff trained in the application of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). New South Wales is an example of leading practice with respect to both initiatives.	A single approvals case manager should be assigned to individual approval processes for controlled actions to provide: • A single point of contact for both state/territory government and proponents (potentially located in the state/territory they support) • A coordinating role for federal assessment and approval processes • Responsibility for process delivery within statutory timeframes • An official who is sufficiently qualified and senior to provide consistent and reliable advice to proponents. Effective coordination between regulatory agencies through the establishment of a 'lead agency' for assessment and approvals, and the implementation of interagency cooperative agreements such as memorandums of understanding and interagency working groups, would also improve regulatory efficiency. Effective coordination within government agencies will lead to improved efficiency and better outcomes.
DLP 6.12	Effective coordination among agencies within a jurisdiction reduces uncertainty, facilitates timely processing and minimises overlaps and inconsistencies. This can occur through: • A lead agency or major project coordination office that provides guidance to proponents and coordinates processes across agencies (without overriding the decision-making capacity of other regulators). The coordination models in Western Australia and South Australia, and the case management system in Northern Territory have been highlighted as leading practice by study participants • Cooperative arrangements between agencies. These include the use of memorandums of understanding, inter-agency working groups or taskforces such as those in Western Australia. South Australia's approach of using costs recovered from resources companies to pay staff in multiple regulatory agencies also supports faster approvals and better inter-agency communication.	
DLP 6.3	Leading-practice use of stop the clock provisions means placing limits on when they can be used — when matters emerge that were not contained in the terms of reference or could not have been reasonably anticipated — and transparency about why the clock is stopped. No examples of leading practice have been identified.	The MCA supports the proposed limitations to stop-the-clock provisions. Delay in the regulatory impact assessment process is often associated with indecision and a default to a very conservative approach of requesting additional information. This is underpinned by lack of policy and clear guidance to inform decision making. As a result, additional information provided is often broad and all encompassing. This is costly, time consuming and detracts from focusing on areas requiring most attention. Using a risk based framework and having clear guidance for decision makers, even time limitations will help to gain significant efficiencies. Combined with good policy and standards, this will result in efficient and effective regulation. Delays currently experienced can be further addressed through a process to agree and lock in requirements for the EIA upfront and limiting information requests to issues that are both material and relevant to the decision. Other safeguards against potentially unnecessary additional information requests should also be considered: • Proponents should have the ability to contest the validity of information requests. One example of how this can be enacted is section 146 of the *Environmental Protection Act 1994* (Qld) which is applicable if certain types of applications have been lodged. This gives the applicant the right to refuse to respond to an information request in full or in part. The government then has to make a decision to assess the application on the information provided or declare that the information not provided was critical. The applicant can either accept the decision of the regulator or alternatively proceed with litigation. The ability to decline to answer irrelevant or immaterial information requests would assist in ensuring only essential information is requested. • Only permitting one information request to be issued by the responsible agency, rather than multiple supplementary requests. • Specifying a timeframe for the responsible agency to provide its information request, which should be an earlier time than the total period allowed for assessing the application. For example, section 89 of the EPBC Act does not set out a timeframe. The only limitation is the total period allowed for deciding the assessment approach under section 88, which means the information request can be deferred until the penultimate day and then the clock is stopped. In this regard, the timeframe should not be too short to enable the agency to review the application properly, but should not be open-ended.
DLP 6.4	The use of deemed decisions, whereby the assessment agency's recommendation to the final decision maker becomes the approval instrument if a decision is not made within statutory timeframes, is a leading-practice approach to reducing delays. At the same time, deemed decisions should be subject to limited merits review. No jurisdiction ticks both boxes — the *Environment Protection Act 2019* (NT) introduced deemed decisions but does not allow them to be subjected to merits review.	The MCA supports the use of deemed decisions as leading practice. The Commission is referred to the Queensland Resources Council submission to this review for a more detailed analysis of the risks associated with deemed decisions.
DLP 6.7	Outcomes-based approval conditions enable companies to choose least-cost ways of achieving defined environmental outcomes. The Commonwealth's *Outcomes-based conditions policy* outlines a leading-practice approach to outcomes-based condition setting.	The MCA strongly supports outcomes-based approval conditioning. It should be noted however, that although the Commonwealth's *Outcomes-based conditions policy* outlines a leading-practice approach to outcomes-based condition setting, the implementation of the policy is not optimal. The recent Auditor-General report into *Referrals, Assessments and Approvals of Controlled Actions under the Environment Protection and Biodiversity Conservation Act 1999* found that 79 per cent of approvals assessed as containing conditions that were non-compliant with procedural guidance (or contained clerical or administrative errors), which includes the outcomes-based conditions policy. [6] The report also found that departmental documentation did not demonstrate that conditions of approval aligned with risk to the environment and with respect to achieving the intended environmental outcome.[7]
DLP 6.8	The use of standard conditions for standard risks can deliver efficiencies to approval processes. Queensland's Model Mining Conditions are leading practice.	The MCA supports Queensland's Model Mining Conditions as leading practice, however notes that the state Government's overarching approach to environmental legislation could be simplified.

[6] Auditor-General (2020) *Report No.47 2019–20, Referrals, Assessments and Approvals of Controlled Actions under the Environment Protection and Biodiversity Conservation Act 1999*, page 10.
[7] Auditor-General (2020) *Report No.47 2019–20, Referrals, Assessments and Approvals of Controlled Actions under the Environment Protection and Biodiversity Conservation Act 1999*, page 10

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DLP 6.10	Clear guidance from regulators on the type and quality of information that post-approval documentation needs to include can help make the process more efficient. An example of such guidance is the Instructions on how to prepare *Environmental Protection Act 1986* Part IV Environmental Management Plans produced by the Western Australian Environmental Protection Authority.	The MCA supports clear guidance on post-approval information requirements.
DF 6.4	Bilateral assessment agreements significantly reduce regulatory burden for projects that require Commonwealth and State or Territory environmental assessment.	Supported, noting that although the regulatory burden for project assessment under bilateral agreements may be significantly reduced, it can still be very high. This is also recognised in the interim report of the independent review of the EPBC Act, which recommends a devolved assessment and decision-making framework to address limitations of the current bilateral arrangements. It should be noted that this will apply where states/territories choose to pursue a bilateral process. Where not, the regulatory framework needs to accommodate to similar outcomes.
DR 6.1	The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) should be amended, in line with the *Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014* (Cth), to enable negotiation of bilateral approval agreements.	Supported.
DR 6.2	When bilateral assessment agreements are renegotiated, State and Territory governments should consider making additional commitments to address inconsistencies and overlap in project approval conditions. These commitments could be modelled on those described in the *EPBC Act 1999 Assessment Bilateral Agreement Draft Conditions Policy*.	Supported.
DF 6.7	Court cases brought by third-party opponents to resources projects may cause delay, but this does not imply that third parties should be excluded from seeking judicial review. Process-driven legislation creates opportunities for regulators to make invalid administrative decisions that open the door for judicial review.	The MCA supports a robust and efficient appeals process, focused on issues material to the environmental outcome.
DLP 6.11	Where approval decisions are made by unelected officials it is a leading-practice accountability measure that they can be subjected to merits review that allows for conditions and approval decisions to change to reflect substantive new information. The *Environment Protection Act 2019* (NT) puts this principle into practice.	
IR 6.1	The topic of Indigenous heritage has not been raised by many participants to this study and it is not clear which jurisdictions, if any, could be described as leading practice. Could interactions between Indigenous heritage and the resources sector be improved? Which jurisdictions manage these interactions well already? How do they do it?	Please see Attachment A for information provided in response to this request.
Delivering sound environmental and safety outcomes		
DF 7.1	Environmental report cards indicate that Australia's resources regulation has been effective in delivering relatively good environmental outcomes. But there have been several incidents and resources activities are one source of pressure on Australia's biodiversity.	Noted.
IR 7.1	Is there evidence of any systematic deficiencies in the compliance monitoring and enforcement effort of regulators overseeing resources projects? In particular: • Are regulators adequately resourced to carry out effective monitoring and enforcement programs? • Do the monitoring and enforcement approaches of regulators represent good risk-based regulation?	The MCA supports recent Australian government commitments to resourcing for the Commonwealth regulator but notes that the majority of the funding for staffing has not supported permanent, long-term positions. Sustained long-term funding is required to support effective monitoring and enforcement programs.
DLP 7.3	Regular public-facing statements describing regulators' compliance activities and lessons learned from them, such as the New South Wales Resource Regulator's *Compliance Priorities Outcomes* reports, or NOPSEMA's *The Regulator* magazine, help to improve community confidence in the sector's regulation. Regulators should also inform the community of any contraventions that may have put the environment or community at significant risk, and any actions they have taken in response. The New South Wales Resource Regulator's investigation information reports, and its publication of enforceable undertakings, are good examples.	The MCA supports transparent approaches to compliance and reporting. In alignment with the position of the New South Wales Minerals Council, the MCA considers that regulators should be focused on delivering good outcomes instead of a strict compliance and enforcement approach that seeks to 'catch companies out'. Documents such as the NSW Resources Regulator's *Compliance Priorities Outcomes* reports go some way to achieving a more transparent approach and provide an indication of their focus for the coming period. The compliance priorities are broad and provide industry a general sense of where the Regulator might focus its attention. It is also important that lessons from incidents and inspections are published and shared across the industry. The NSW Resources Regulator publishes a quarterly report and various inspection, assessment and investigation reports that are useful to assist in sharing such lessons. In particular, the Causal Investigation process and associated reports are extremely beneficial as it allows for the earliest possible sharing of learnings from incidents in an environment that encourages openness rather than protective legal approaches.
DLP 7.4	Public registers of activities with offset obligations and the projects developed to fulfil them provide valuable transparency about the application of offset policies. Information on offset projects should include their biodiversity values, location, date of approval, completion status, and follow-up evaluations of benefits. Where companies fulfil their offset obligations by paying into a fund, the register should include the size of the payment. Western Australia's offset register is a leading-practice example.	This practical application of the proposed approach requires detailed consideration.

Proposed reform direction		Response
DLP 7.5	Schemes that allow companies to meet their offset obligations by paying into a fund can reduce costs for both companies and governments, and can create opportunities for better environmental outcomes. New South Wales, Queensland, South Australia, and Western Australia's Pilbara Fund all offer examples of this. While the principles behind the use of such funds, including on what basis prospective offsets projects should be evaluated, should be set subject to ministerial oversight, the fund's administration and selection of offset projects is best left to a separate body, like the Biodiversity Conservation Trust in New South Wales.	The MCA strongly supports the use of financial-based mechanisms to enable more strategic use of offset funding. Current practice creates a competitive environment for offsets that is piecemeal and unlikely to provide a scalable contribution to biodiversity loss at a national scale. This is likely to worsen if an overhaul is not addressed. As states/territories govern land use planning and management regimes, offsets set by the Commonwealth need to be governed by state/territory agencies. This comes at a cost and if not effectively directed can lead to ineffective use of resources. Offsets should be considered on a bioregional scale across a common framework that applies both at State and Commonwealth levels. Consistent with the approach of the Chamber of Minerals and Energy Western Australia, the MCA considers that models such as the Pilbara Environmental Offsets Fund can be effective and sustainable mechanisms for achieving better strategic environmental outcomes outside of the 'like-for-like' regime. Environmental offsets funds enable collaborative conservation action through strategic, large-scale approaches to researching, managing and improving biodiversity aspects. In regard to the NSW financial offsets model, consistent with the views of the NSW Minerals Council the MCA urges caution in declaring the NSW fund as leading practice. Because the mechanism for pricing offsets produces unrealistically high prices, the NSW fund does not provide a usable alternative to securing and managing offsets. The advantages of an offsetting fund are that it allows for offsetting to be centralised and for strategic regional priorities to be met by the fund. At a national level, key challenges to using environmental offset investment as a source of capital in market-based approaches need to be addressed to achieve desired outcomes. This includes reform to the following areas: • A clear principles-based process for working through the mitigation hierarchy that ultimately defines a specific offset. This needs to be: – Transparent – Consistent across jurisdictions – Consistent methodology to the greatest possible extent across jurisdictions to assess ecosystems – Sufficiently flexible to optimise landscape scale investments • A principles based approach to 'like-for-like' that: – Provides adequate flexibility now and as the needs of environmental management shift over time (e.g. Great Barrier Reef Foundation – Reef Trust) – Is optimally consistent across jurisdictions and across the ecosystem • Regional/landscape approach to development and conservation areas (e.g. California). This process gives confidence in development approvals, which in turn encourages an investment pipeline for offsets that can then leverage impact investors and philanthropic monies to achieve economies of scale at state/territory, regional or bio-regional level, underpinned by a robust state/territory-Commonwealth bilateral framework • Transparency on how investment priorities are determined and individual investments selected • A regime of set ratios established, underpinned by quality and transparent science and with some flexibility so that funds are optimally deployed across priority species/areas. Investments can then target regional priorities for conservation • Integration of offset requirements in ecological rehabilitation • Clear framework for linking offset policy to protection of endangered species.
DLP 7.6	Science-based implementation strategies for the use of offset funds are key to achieving their intended purpose. These should have regard to any existing recovery plans for relevant species, and be publicly available. Queensland's Brigalow Belt offsets tender project is a leading practice example.	
DLP 7.1	Regulators' experiences of monitoring compliance with approval conditions provide useful information about the efficacy of approval conditions in protecting the environment. Leading practice involves regulators employing a 'feedback loop' between the compliance monitoring and condition-setting processes, where any findings of redundant or ineffective approval conditions are communicated to the bodies responsible for setting those conditions. An example has not been identified.	Noted.
DLP 7.2	Effective regulators continually look for ways to improve their methods, and for actions they could take beyond their routine monitoring and enforcement activities that could address specific problems. The New South Wales Environment Protection Authority's involvement with a study examining emissions from coal trains, and the New South Wales Resources Regulator's targeted programs described in its *Compliance Priorities* documents, provide respective examples of these practices.	Documents such as the Resources Regulator's Compliance Priorities go some way to achieving clarity from regulators on ensuring a focus on delivering good outcomes instead of strict compliance and enforcement. The Compliance Priorities also help to provide an indication of their focus for the coming period. The compliance priorities are broad and provide industry a general sense of where the Regulator might focus its attention.
DF 7.2	Limited transparency in most jurisdictions means that evidence about the effectiveness of compliance monitoring and enforcement activity is limited. This situation risks damaging public confidence in the regulation of projects.	Noted.

DF 7.3	There are few examples of large resource extraction sites being rehabilitated or decommissioned in Australia — in part because rehabilitation and decommissioning only became a policy focus for governments in the latter half of the 20th century. As a result, there is a large number of legacy abandoned mines.	The MCA recognises the large number of legacy abandoned mines across Australia. It is important to note, however, that the vast majority of abandoned mines in Australia are historic, single mine features including individual shafts, tunnels or mine workings (e.g. gold-rush era features around Gympie in Queensland, Kalgoorlie-Boulder in Western Australia and central Victoria) with few having material ongoing environmental impacts. The MCA recommends that Draft Finding 7.3 be amended to recognise this important additional context. Modern mining practice and regulatory standards provide sufficient safeguards to avoid this occurring. Please refer to state chamber submissions that provide more detail on these arrangements. Opportunities exist to harness industry expertise in rehabilitation, closure and risk management. These arrangements, agreed to on a case by case basis, could include: • Providing options for companies to link the closure (including rehabilitation and/or repurposing and sites) of abandoned mines within a mining lease to offset requirements, where this results in improved outcomes. • Bundling of closure (rehabilitation) into existing earthmoving contracts to reduce costs • Local partnerships between industry, government and third parties on rehabilitation as part of enhancing social licence to operate • Practical partnerships between industry, government and the community (including traditional owner groups) for regional training and education. MCA supports DLP7.11. Commercial solutions should be considered. Issues of legal liability could be addressed to open up potential exploration, mining and industry led rehabilitation of abandoned mines (including models that enable access to residual resources). Furthermore, innovative approaches to use abandoned mines for economic or community purposes should also be encouraged. It should be noted that closure is a more appropriate term that encompasses rehabilitation, decommissioning and repurposing of mined land. Post mining land use including rehabilitation outcomes should not be constrained to simple revegetation.
DLP 7.11	There is merit in governments working with industry to reopen and rehabilitate legacy abandoned mines, such as through streamlined approval processes (without compromising the intent of regulation) and indemnities against past damages. The Savage River Rehabilitation Project in Tasmania is an example of a successful government–industry partnership.	
DLP 7.8	Having financial assurance arrangements in place to cover rehabilitation, based on the risk the project poses to the taxpayer, provides incentives for companies to undertake rehabilitation and minimises the risk that governments will be left responsible. These arrangements are present in most (but not all) jurisdictions.	Australia's minerals industry is committed to delivering high quality closure outcomes including rehabilitation and fulfilling regulatory requirements. While the industry supports an appropriate mechanism to safeguard governments from incurring financial liability, it is important that these mechanisms are efficient and incentivise good performance at a cost that does not undermine the international competitiveness of industry. With regard to draft leading practice 7.9, the MCA disagrees that bonds to cover the full cost of closure are necessary to provide government assurance that closure will be completed and suggests that other models are considered for leading practice. Furthermore, financial assurance calculators are often prescriptive with per unit rates applicable to all mines in the state regardless of context, risk and operator. As such, the financial assurance amounts may often be materially different to the actual cost to be incurred for closure. Any imposition of full financial assurance must be accompanied with measurable and unambiguous criteria applicable to a specific time scale for return of funds based on progressive closure activities The provision of large cash-based security bonds can impact a company's borrowing capacity and unnecessarily tie up company cash resources that would otherwise be available for growth, rehabilitation work and other improvements. Financial assurance provided as a bank guarantee is not free of cost. Bank guarantees, while generally having relatively low servicing costs – a percentage of the principal – can cost companies tens of millions of dollars each year to maintain. Greater flexibility is needed to reduce the opportunity cost of financial assurance, while providing appropriate protection for government. Assurance should be risk based and incentivise good performance. Please see state chamber submissions for more details on the issues associated with specific state-based closure/rehabilitation bond schemes. This includes Queensland's Financial Provisioning Scheme provided as an example of leading practice.
DF 7.4	Concerns about resources sites being sold to smaller firms that may not have the resources to rehabilitate them are best addressed through effective rehabilitation bonds (draft leading practice 7.9).	
DLP 7.9	Rehabilitation bonds that cover the full cost of providing rehabilitation offer the highest level of financial assurance for governments, and provide companies with full incentives to complete rehabilitation in a timely way. Jurisdictions are heading in this direction, but a leading practice example has not been identified.	
DF 7.5	Rehabilitation pools can reduce incentives for companies to rehabilitate their sites and there are risks that the pool will be insufficient to cover the cost of rehabilitation if a large company does not fulfil their rehabilitation requirements. These pools should be used with caution, and must be paired with effective compliance and enforcement arrangements. State and Territory Governments that use pooled arrangements for rehabilitation surety should ensure that levies reflect the risk of the company passing their liabilities to the government. Larger companies should be separate to the pool, and covered using rehabilitation bonds. Queensland's rehabilitation pool is a good example of this model.	The MCA supports the use of pooled funding models in conjunction with appropriately robust accountability and reporting requirements and reassessment of risk as necessary, where companies are not meeting their progressive rehabilitation and closure obligations. Bonds are only one incentive to sound mine closure. Good performance is critical to current and future approvals for the company where track records should be taken into account. Consistent with the approach taken by Chamber of Minerals and Energy Western Australia, the MCA supports the design and operation of Western Australia's Mining Rehabilitation Fund as an effective pooled fund, with a mandate to fund rehabilitation of legacy sites in WA. Please see state chamber submissions for more details on the issues associated with specific state based closure/rehabilitation pool schemes (including an error in the representation of Queensland's closure/rehabilitation pool model in draft finding 7.5).
DLP 7.7	Resources sites that are placed into care and maintenance can pose risks to the environment, and the operator may be at greater risk of default. These risks can be managed by a requirement to notify the regulator where a site is placed into care and maintenance, and the preparation of care and maintenance plans that identify these additional risks, such as those required in Western Australia.	These considerations are already taken into account as part of existing environmental and other relevant approvals. Sites in care and maintenance must comply with environmental licence requirements

DLP 7.10	Progressive rehabilitation can lead to better understanding of rehabilitation requirements, ensure that funds are made available, reduce the total costs of rehabilitation, improve health and safety outcomes and provide community confidence in the operator's commitment to rehabilitate. Progressive rehabilitation can be encouraged by financial surety requirements being reduced commensurate with ongoing rehabilitation work. Victoria's rehabilitation policy for Latrobe Valley mines represents a good example.	The MCA supports progressive rehabilitation as a way of adapting closure/rehabilitation activities to contemporary circumstances and providing the resources sector with regulatory certainty that rehabilitated areas will not be subject to future changes in requirements or expectations over time. Please see state chamber submissions for a more detailed analysis of advantages and disadvantages of state based regulatory approaches, including Queensland's progressive certification framework authorised under the *Environmental Protection Act 1994*.
IR 7.2	To what extent are post-relinquishment obligations on resources companies a barrier to investment? What are leading-practice ways of managing the residual risk to the Government following the relinquishment of a mining tenement?	In principle, residual risk arrangements for post-relinquishment obligations may provide a suitable pathway to address post-relinquishment obligations, however these arrangements need to be clear, feasible and provide certainty for companies. Only Queensland has progressed residual risk arrangements. Please refer to Queensland Resources Council submission for industry views.
DF 7.5	The major resources states are in the process of reviewing or reforming their workplace health and safety frameworks for resources extraction, making identifying a leading practice in this area difficult. Recent safety incidents raise concerns about the effectiveness of existing frameworks.	Jurisdictions continually review their safety and health frameworks. Linking recent safety incidents to the effectiveness of existing frameworks is questionable without analysis of the cause of each incident and its relationship to the framework. A risk-based regulatory regime with clear responsibilities and accountabilities, sharing of industry practices, competent regulators and a proportionate enforcement regime is a vital part of an effective safety and health framework.
Further information about the effectiveness of health and safety legislation would be appreciated		
IR 7.3	The Commission is seeking further information about the effectiveness of resources health and safety legislation across Australian jurisdictions, including: • Whether there would be benefits in greater consistency across jurisdictions • Approaches that represent leading practice health and safety legislation for resources • How health and safety approaches in each jurisdiction could be improved.	The MCA continues to advocate for uniform national occupational health and safety legislation supported by industry-specific regulation to bring greater certainty and efficiency to the industry. The establishment of the Model WHS regime, adopted by all jurisdictions except for Victoria, failed to include the specific mines chapter in regulations. Mine workers and contractors move between jurisdictions and inconsistent laws result in different requirements around risk management and mean that people entering the site need to learn multiple regimes. Companies that operate across jurisdictions are also required to maintain separate systems and accounting practices. Any legislation should be risk-based and focused on outcomes and enable industry to incorporate best practice at all times. Minimum effective legislation is desirable with strong limits on legislation defining how a company structures its workforce and manages its risks. It should be possible to have a common set of legislative objectives, definitions, competencies and enforcement tools to then enable the operator to comply in a manner that best reflects the operation. There is some scope for standardising risk controls to common non-complex hazards, but legislation that tries to standardise complex and overlapping risks must be avoided. It is also important that legislation imposed on the industry (separate to safety and health frameworks) such as those dealing deals with issues that overlap i.e. dust, noise, ground control, water, do not conflict, duplicate requirements or compromise the ability of an operator to manage risks holistically. Competent and capable regulators that understand modern mine techniques and risk management processes, together with uniform safety metrics with agreed definitions that enable sites to benchmark themselves and track improvements are essential.
Investment is also affected by abrupt policy changes, policy inconsistency and uncertainty		
DF 8.1	Government policies necessarily evolve in response to changing economic conditions, technology development and shifts in broader societal values and priorities. However, abrupt policy changes with inadequate consultation can undermine investor confidence and discourage investment.	Supported, noting that the minerals sector is highly trade-exposed and relies on predictable national policy settings to provide a necessary level of certainty to invest in large-scale, long-lived, capital intensive and energy-intensive assets. For example, predictable energy and climate policy is critical for attracting private capital by providing sustained economic signals on future carbon-related risks and opportunities. These signals provide investors with the confidence to accurately assess and subsequently manage carbon-related investment risks, especially in regard to repaying initial capital and earning acceptable rates of return on investments. Policy settings significantly influence whether investments are financially viable or not. Investment decisions internalise expectations of policy longevity and stability. If investors perceive a high likelihood of change by current or future governments that could undermine their investments (i.e. sovereign risk) then they will likely choose to either delay or pull investments altogether, or invest elsewhere – overseas, in another sector or in less innovative and scalable mitigation technologies. Governments can manage rational investment expectations within a context of a need for policy flexibility (as discussed in Draft Finding 8.2) by giving effect to clear and timely communications of policy priorities and intended outcomes – supported by transparent, practical and inclusive public consultations – designing policy changes with bipartisan support to ensure their endurance, and implementing changes progressively and prospectively to avoid disadvantaging investments previously made in good faith.

DF 8.2	Uncertainty about and inconsistent climate change and energy policies across jurisdictions risk impeding resources sector investment.	Supported, noting that state and territory policy and regulatory initiatives should aim to complement and contribute to the national effort of meeting Australia's emissions reduction pledges and longer-term obligations under the Paris Agreement at the lowest possible economic cost. This means adopting a principle of technology neutrality in relation to all low and zero emissions energy sources. All states and territories have now adopted a net zero emissions by 2050 ambition stating consistency with the Paris Agreement as the prime driver – yet ultimately it is the Australian Government that is responsible for meeting Australia's emissions reduction targets under the Convention, Kyoto Protocol, and Paris Agreement. If targets are not met, it is the Australian Government and not the states or territories, or the private sector, that will need to make good for any emissions shortfall. The Australian Government is internationally legally responsible for the emissions released within its national boundaries, and not for the carbon embedded in its exports. Problems can arise when state and territory regulators decide to factor these emissions (scope 3) into the approval decisions of individual resource projects. Aside from the difficult task of tracking the fate of the embedded carbon to their ultimate release to the atmosphere, it can also lead to an undermining of: • The international rules-based accounting system (double counting of emissions) • The ability of the international community to hold nations responsible for the emissions for which they are legally accountable and are clearly best placed to control. It is also a reality that scope 3 emissions are a factor in all exported goods and services. This type of regulatory approach would adversely impact not just the resources sector but the economy as a whole.
DF 8.3	Lack of clarity in policy objectives can lead to inconsistent and unpredictable application of regulations across resources projects, creating investor uncertainty (such as in relation to approval decisions and conditions on the basis of scope 3 emissions).	Supported, noting the above comments on previous but similar findings as well as observing that environmental project approvals typically involve multiple agencies, regulators and individuals across states and territories and the Commonwealth. Such institutional complexity can easily give rise to investment uncertainty due to protracted approvals timeframes, duplicative administrative requirements, and importantly from a climate change perspective duplication of responsibilities. Climate change is a global issue requiring global action, and recent experience indicates that imposing project-by-project conditions does little to help investors manage their carbon-related risks and can generate prohibitive compliance costs for little to no environmental or atmospheric benefit. Given the multi-factor nature of climate change and greenhouse gases, climate change matters should be addressed through a fit-for-purpose national policy framework, such as the Australian Government's Climate Solutions Fund, Safeguard Mechanism and related policies. Given the multi-factor nature of climate change and greenhouse gases, climate change matters should be addressed through a fit-for-purpose national policy framework, such as the Australian Government's Climate Solutions Fund, Safeguard Mechanism and related policies.
DF 8.4	Not approving proposed resources projects or curtailing their exports on the basis of potential greenhouse emissions in destination markets is an ineffective way of reducing global emissions.	Supported.
DLP 8.1	Early public consultation on new policy proposals, accompanied by clear evidence-based articulation of why a proposed change is the best way of addressing an issue (for example, through regulatory impact assessments), can avoid policy surprises. Clear policy objectives aid consistent and predictable regulatory decision making. Policy-makers can achieve this by avoiding the use of vague language in policy documents and providing clearly articulated guidance on the intention and interpretation of policies and legislation.	The MCA agrees with this leading practice recommendation. As stated previously, governments can manage rational investment expectations within a context of a need for policy flexibility (as discussed in Draft Finding 8.2) by giving effect to clear and timely communications of policy priorities and intended outcomes, supported by transparent, practical and inclusive public consultations, robust and transparent cost-benefit analysis, designing policy changes with bipartisan support to ensure their endurance, and implementing changes progressively and prospectively to avoid disadvantaging investments previously made in good faith. Recent experience in the minerals sector indicates that states and territories imposing project-by-project conditions for scope 3 emissions does little to help investors manage their carbon-related risks and can generate prohibitive compliance costs for little to no environmental/ atmospheric benefit. Energy and climate policy settings should aim to help responsible industries such as the minerals sector manage inevitably increasing levels of carbon-related risks over the short, medium, and longer terms. This will further facilitate the development and deployment of commercially viable and scalable mitigation and adaptation solutions (i.e. cleaner power, electrification, energy efficiency and decarbonisation) as well as a more rapid transformation to net zero emissions by helping to: • Reduce risk premiums often applied to nascent technology solutions • Attract more innovative, competitive, and affordable financing structures • Lower the engineering unit costs of solutions through deepening market penetration • Ensure engineering performance guarantees and insurance services are secured. The minerals sector's ability to continue investing in its transformation to a net zero emissions future will be critically dependent on it remaining internationally competitive (to avoid carbon leakage) and on the availability of innovative and investible technology pathways to reduce emissions and to enhance its resilience to the impacts of climate change.

DF 8.5	Allowing parties to negotiate greenfields enterprise agreements with durations that match the life of a greenfields project would improve investor certainty.	Making improvements to workplace relations rules will be important to attracting new investment and boosting productivity, employment and wages – particularly in the aftermath of the COVID-19 pandemic. The MCA participated in the greenfields agreement stream of the Attorney-General's working group reform process and argued that employers should have the flexibility to negotiate an agreement longer than the current maximum of four years, with the scope and duration of the project being a matter for the parties to determine. Such a reform would encourage investment in new mining projects – and therefore additional construction and operational jobs – because project proponents would be able to demonstrate industrial certainty for the life of the project.[8] To be effective, however, greenfields agreement reform must provide an option that is simple, voluntary and more flexible than the status quo. Other important reforms to the *Fair Work Act* should also be pursued as a matter of priority. The Australian Government should: • Enable employers more easily to terminate expired enterprise agreements (which often contain outdated, irrelevant and restrictive clauses) by instituting a simpler test for the Fair Work Commission to apply • Facilitate more efficient and harmonious workplaces by removing the availability of protected industrial action for matters not directly related to the employment relationship (consistent with the Productivity Commission)[9] • Broaden the scope of agreement-making by permitting workers earning above the high-income threshold for unfair dismissals (currently $148,700) to opt out of an enterprise agreement and enter into individual agreements • Maintain flexibility and choice in employment arrangements, including by maintaining existing regulations for labour hire and service contracting (consistent with the Productivity Commission).[10]
DR 8.1	The Australian Government should amend s. 186(5) of the *Fair Work Act 2009* (Cth) to allow an enterprise agreement to specify a nominal expiry date that matches the life of a greenfields project. The resulting enterprise agreement could exceed four years, but where it does so, the business would have to satisfy the Fair Work Commission that the longer period was justified.	
Community engagement and benefit sharing can help mitigate impacts on local communities		
DF 9.1	The effects of resources extraction, both positive and negative, are amplified for local communities. Resources extraction can stimulate economic activity in the community, but also lead to effects such as house price fluctuations and strains on local infrastructure. It is appropriate that resources companies are required to address significant negative externalities associated with resources extraction, such as noise and dust, and provide or pay for infrastructure that they directly use. However, effects such as fluctuating house prices signal the need for market adjustments and should not be supressed. Approaches such as appropriate planning can moderate price spikes. Companies should not be required to fund or construct infrastructure that is not associated with their project (although they may do this voluntarily).	Supported, noting that minerals companies often voluntarily fund or construct community infrastructure as part of a commitment to supporting local aspirations and priorities. Working collectively with government and local operators and communities is essential to inform planning and maximise beneficial outcomes from minerals development.
DF 9.3	Companies have an incentive to engage and share benefits voluntarily with communities, to obtain a social licence to operate and improve the liveability of local communities for their workers. The appropriate role for government in this area is limited to coordinating resources companies' community-focused investments, providing guidance to companies and efficiently regulating negative externalities borne by communities due to resources extraction.	Supported, noting the importance of strong collaboration and coordination and complementary government investment to maximise outcomes. It is important to note that where resources companies invest in communities, Government should not reduce their level of expenditure in the specific regional location, these financial commitments must be viewed as entirely separate.
DF 9.2	Resources are owned by the Crown on behalf of all Australians. Although negative externalities of resource projects on local communities should be efficiently addressed, these communities should not benefit over and above other regional communities from resources royalties as a matter of right.	The MCA supports the overall finding. However, a range of direct and indirect measures is needed to ensure host communities benefit from minerals development. This will support community acceptance of the sector and maximise the beneficial outcomes of minerals development over the long-term. It should be noted these locations are difficult to attract and retain employees and other essential service such as doctors, teachers and childcare workers. A higher level of investment is required to ensure that the quality of life indicators are commensurate with what the broader Australian community expects.
DF 9.6	It is reasonable that governments provide funding and support for services in regional areas. However, there is no case for hypothecating royalty payments to communities near resource projects — this can weaken governance and encourage money to be spent on projects without fully considering their pay offs. Royalty revenues should be spent wherever community net benefits would be greatest.	Supported.
DLP 9.3	Coordination between local communities and resources companies can improve the effectiveness of benefit sharing activities. Coordination can involve formal partnerships, such as that between Rio Tinto and the City of Karratha, or community consultation, such as that established by Hillgrove Resources in Kanmantoo and Callington.	Supported, noting a range of partnerships were profiled in its 2018 *Sustainability in Action: Australian Mining and the Sustainable Development Goals* report. Government can play an important convening role.
DF 9.4	There is sufficient guidance available to companies from a range of institutions on how to engage with communities and other stakeholders. Most cover similar themes, and there is no one leading practice set of guidelines.	Supported, noting the industry will continue to develop leading practice publications to support industry as required.

[8] See Minerals Council of Australia, *Submission on Attorney-General's discussion paper on project life greenfields agreements*, 1 November 2019, MCA, Canberra.
[9] Cf. the Productivity Commission, *Workplace Relations Framework: Inquiry Report, Volume 2*, Canberra, 21 December 2015, pp. 683, 820.
[10] See the Productivity Commission, *Workplace Relations Framework: Final Report, Volume 1*, Canberra, 21 December 2015, p. 37.

DLP 9.1	Guidance on the social impacts that should be considered in the approvals process, and how they should be considered, helps improve the quality of social impact assessments. For example, the New South Wales Government has issued guidance that outlines: • What social impacts should be considered in the assessment • How to engage with the community on social impacts • How to scope the social impacts and prepare the assessment. The effects identified in social impact assessments should not always be the domain of companies to address. Rather, leading practice suggests that social impact assessments should provide a framework for companies and governments to work together to address these effects, in line with the principles outlined in draft finding 9.1. The Commission has not identified a leading practice jurisdiction in this area.	The MCA supports this finding, and notes there is merit in exploring this further. However, state and Territory context is critical, and any overarching guidance – if deemed appropriate - may need to be high-level and developed in collaboration with governments.
DF 9.5	Fly-in, fly-out workforces provide flexibility for companies, and distribute the benefits of resources development around Australia. The use of fly-in fly-out workforces can also moderate some of the effects of resources extraction on local communities such as higher housing demand and prices, particularly during the construction phase.	Supported, noting that industry works to employ locally first.
DLP 9.2	Local procurement requirements can be a relatively high cost way of meeting development objectives. In contrast, resources companies and governments providing businesses in local communities with the support needed to engage with resources companies, such as BHP's Local Buying Program, is likely to create more enduring benefits for communities.	Supported, noting that local procurement programs, policies and activities are common across industry.
IR 9.1	Is there scope for greater sharing of resources company infrastructure with communities? Are there any examples of where this has been done effectively?	Please see Attachment A for information provided in response to this request.
Specific community engagement and benefit sharing arrangements apply for Aboriginal and Torres Strait Islander communities		
DF 10.1	Regulatory requirements to engage and share benefits with Aboriginal and Torres Strait Islander people, particularly under native title legislation, can mean that only small groups of Indigenous people benefit from resources activity. Voluntary activities offer the potential for larger groups of Aboriginal and Torres Strait Islander people to benefit, including those who reside in the local community but are not native title holders.	Supported, noting that voluntary activities and partnerships to broaden mining-related opportunities are common.
DF 10.2	Effective engagement with Aboriginal and Torres Strait Islander communities regarding the use of their traditional lands for resources development incorporates the principle of free, prior and informed consent (FPIC). FPIC is not a right of veto, but creates a process of genuine engagement where governments, resources proponents and communities aim to come to an agreement that all parties can accept.	Supported, noting that genuine and ongoing engagement should underpin all partnerships.
DF 10.3	The capacity of Prescribed Bodies Corporate to engage meaningfully with resources companies is critical to Aboriginal and Torres Strait Islander people being able to give their free, prior and informed consent to resources development on their traditional lands, and to negotiating effective agreements. However, many Prescribed Bodies Corporate lack this capacity.	Supported on the basis of the MCA's long-standing calls for increased stable, sufficient and tailored funding and support for PBCs to undertake statutory duties and support local aspirations and priorities. The MCA also supports acceleration and extension of the Australian Government's PBC Capacity Building Program. The MCA also notes that companies often fund the cost of quality independent legal advice to ensure fair agreement-making.
IR 10.1	The Commission is seeking more information on government programs that fund Indigenous prescribed bodies corporate, native title representative bodies and native title service providers. In particular: • Have the current funding programs met their objectives? Can you provide examples where funding has made a tangible difference to the native title agreement-making process, or where it has reduced reliance on government funding? • Are there alternative approaches that could improve the capacity of Indigenous organisations, such as training programs?	Please see Attachment A for information provided in response to this request.
DF 10.4	Proposed amendments to the *Native Title Act 1993* (Cth) (NTA) will allow applicants to enter into future act agreements as a majority by default. This could increase the risk of a majority of the applicant entering into a future act agreement that is not consistent with the wishes of the claim group. However, other proposed amendments to the NTA protect claim groups against this risk. They include allowing claim groups to impose limits on the authority of applicants, and clarifying that applicants owe fiduciary duties towards the claim group.	The MCA supports the reforms contained in the Native Title Legislation Amendment Bill 1999 for reasons noted.
DF 10.5	Proposed amendments to the *Native Title Act 1993* (Cth) make it clear that native title applicants owe fiduciary duties to their claim group when entering into native title agreements. However, they do not address questions of whether funds arising from native title agreements entered into before a native title determination belong to the claim group or ultimate native title holding group, and whether applicants and/or claim groups have any duties towards native title holders.	Noted.

DF 10.6	Some Indigenous organisations interpret the requirement for charities to operate for a charitable purpose and for the public benefit as limiting their ability to invest money for long-term economic development. This may be an overly narrow interpretation of the law, but there is legal ambiguity regarding the scope of permissible activities.	Based on advice from charitable trust experts, the MCA agrees there is legal ambiguity regarding the scope of permissible activities.
DR 10.2	The Australian Charities and Not-for-profit Commission should publish plain English guidelines on activities that are likely to be consistent with a charity's charitable purposes and for the public benefit, and those which are likely to be outside this scope. This would reduce the risks associated with any for-profit long-term development or commercial activities that Indigenous charities may wish to undertake.	Supported.
IR 10.4	The Commission is seeking more information on whether there are barriers, unrelated to tax and charity law, to maximising benefits to communities from native title funds, including in relation to benefit management structures and the investment of native title funds. What are potential solutions to these issues?	Please see Attachment A for information provided in response to this request.
Effective governance, conduct, capability and culture are crucial for leading practice regulation		
DF 11.1	Many of the regulatory issues presented to the Commission through the course of this study have been examined previously. Implementing enduring improvement requires that governments ensure the pre-conditions for leading-practice regulatory systems are in place, particularly clear regulatory objectives, adequately resourced institutions and effective governance and accountability arrangements.	Supported.
DF 11.2	The ability for regulators to operate effectively and efficiently is constrained by capability challenges, including limited technical expertise and inadequate use of data and technology. In addition, a lack of clarity and regulator transparency inhibits accountability, leads to unnecessary costs for industry and risks a loss of public confidence in the regulatory system. Not least, regulators collect a wealth of data but relatively little is made available to the public.	Supported.
Good 'regulatory housekeeping' can underpin leading-practice systems		
DLP 11.2	Regular independent review and evaluation of regulatory frameworks and objectives drives continuous improvement and ensures they remain fit for purpose. Victoria, for example, following an inquiry into its Environmental Protection Authority, is clarifying the Authority's objectives, principles and functions and developing a legislative framework that embeds a risk-based regulatory approach. The Independent Review of the New South Wales Regulatory Policy Framework has highlighted that a 'lifecycle' approach for managing regulation over time ensures that frameworks remain fit for purpose.	The MCA supports periodic independent reviews of independent frameworks, but considers a focus on government implementation of recommendations is a critical missing link in the current regulatory review process. Reviews should not be so frequent as to create uncertainty or an unnecessary burden for business. The results of past reviews should be considered before embarking on further assessment.
DR 11.1	Governments in each jurisdiction should assess: • Whether regulators of resources-sector activity are appropriately funded to enable timely processing of applications and effective adoption of a risk-based regulatory system • Opportunities for enhancing regulators' cost recovery processes.	The MCA supports adequate government funding to support administrative processes. Any proposals to expand existing provisions for cost recovery should be equitable, capped, not duplicated and linked to service. The MCA refers the Commission to the Queensland Resources Council submission to this inquiry for detailed recommendations on appropriate qualifications for implementing increased cost recovery.
DLP 11.3	Approaches to improving staff capability and technical expertise include: • Secondments — as have been established in the officer exchange program between the Northern Territory Environment Protection Agency and Western Australia's Department of Water and Environmental Regulation • Training programs — akin to those offered in Tasmania for senior management and in the National Offshore Petroleum Safety and Environmental Management Authority for all staff regarding regulatory practices • Development of strategies to target particular skills gaps, including technical expertise — as has been the case in the Victorian Environment Protection Authority • Communities of practice — as in the case of the Australasian Environmental Law Enforcement and Regulators Network's Better Regulation Working Group, which enables members to share experiences and ideas related to regulatory practice • Site visits — as offered by the Victorian Earth Resources Regulator.	The MCA supports efforts to improve staff capabilities and technical expertise. The suggested approaches should also be supported by appropriate resourcing. The MCA also notes that efficiency in regulation comes with experience. Additional to adequate resourcing, experience and ability to make decisions are important to a mature efficient regulator. Industry has found that with fewer experienced assessing officers, the assessment process has increased due to conservatism and lack of ability to make decisions.
DR 11.2	Regulators in each jurisdiction should consult with industry, including peak bodies (such as the Minerals Council of Australia and the Australian Petroleum Production and Exploration Association), on developing a program of site visits in order to enhance technical expertise. The program should be ongoing and part of induction training provided to new staff.	Supported. The MCA would welcome the opportunity to work with regulators to assist in this regard.

DLP 11.4	Senior management have a key role in fostering a culture that supports ongoing capability development and adoption of modern regulatory practices. Approaches to promoting this type of culture include: • Appointment of a regulatory champion, akin to that established at the then Australian Department of Agriculture • Recognising and incentivising good staff performance, as occurs in Queensland's Department of Natural Resources, Mines and Energy • Working groups to assess and promote cultural change, both internally as occurs at the National Offshore Petroleum Safety and Environmental Management Authority, and externally as with the Australasian Environmental Law Enforcement and Regulators Network's Better Regulation Working Group • Reporting on successes and learnings from failures, as occurs in South Australia's Department for Energy and Mining and Western Australia's Department of Mines, Industry Regulation and Safety.	The MCA welcomes improvements to regulatory culture that support capability and modernise practices. Many of the issues raised in the MCA's submission to this inquiry and the MCA's submission[11] to the Independent review of the EPBC Act could be addressed through a well-resourced, capable national regulator with industry-specific expertise and a constructive engagement and service delivery culture.
DLP 11.5	Strategies for managing information and data help promote routine use of data in regulator decision making. Examples include strategies recently developed by the (then) Australian Department of Environment and Energy, the Department of Environment and Science in Queensland and the Department of Mines, Industry Regulation and Safety in Western Australia.	The MCA supports better management of information and data to improve regulator decision making. Recommendations relating to environmental data and information in the interim report of the independent review of the EPBC Act indicate a positive policy direction for future reforms. The MCA supports the partnership between the Commonwealth and Western Australian governments to develop a single digital environmental approvals process and biodiversity database and associated next steps relating to EIA decision making tools as leading practice. A national regulatory approach to national environmental data should be consolidated, integrate all requirements and sources, be updated regularly and made available to governments, proponents and the community – a central repository of reliable and consistent environmental information. In the development of a national environmental database, protections regarding commercially sensitive information, privacy and intellectual property must be considered, and appropriate controls and security put in place to ensure these matters are not infringed. Government should adequately fund any data improvement initiatives.
DLP 11.6	Digital technology and data management systems have the potential to improve the efficiency and effectiveness of regulatory processes significantly, while also leading to increased transparency and providing the foundations for more informed consultation. Leading-practice approaches include: • Developing a working group to investigate options for technologies to improve the use of data, as has occurred in the Environmental Protection Authority of Western Australia • Developing a strategy for improving the capabilities required to deploy information and technology, as has occurred at the Australian Department of Agriculture, Water and the Environment • Improving the interface between regulators and resources companies through online portals and databases, as will occur in a Commonwealth pilot with Western Australia • Developing modelling capabilities to support analysis and decision making, as has occurred at the Queensland Office of Groundwater Impact Assessment.	
DR 11.3	Ministers, through the Council of Australian Governments, should establish a forum for regulators to share leading-practice initiatives from their jurisdictions, including those implemented to develop the capabilities and expertise of their agencies.	Supported.
DLP 11.7	The provision of publicly accessible information and data by regulators can promote community confidence in the regulatory system and the sector. There are a number of instructive examples, including the National Offshore Petroleum Safety and Environmental Management Authority's website and Western Australia's offsets register. Regulators can be supported by the data and information published by other independent bodies, such as Queensland's GasFields Commission and the Gas Industry Social and Environmental Research Alliance.	The MCA broadly supports this approach.
DLP 11.8	Regulators can improve the public's understanding of regulatory objectives and processes by: • Engaging with local communities on the regulatory process throughout the lifecycle of a resources project, including in the initial scoping stage, as occurs in Canada • Conducting broader consultation on an ongoing basis to understand community expectations and provide this feedback to policy makers and the government, as occurs in New South Wales.	The MCA supports efforts to improve transparency of environmental assessments through appropriate consultation with communities at clearly defined points throughout the process. Community understanding and access to information can also be improved through developing plain English information on assessment processes, access to national environmental data, early regulator engagement and establishing an online platform to track project approvals and clarify opportunities for community engagement. An integrated approach to community consultation would improve transparency of decision making and minimise objections and appeals.

[11] Minerals Council of Australia, *Submission to the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999* <https://minerals.org.au/news/fixing-epbc-act-better-business-and-environmental-outcomes>

ATTACHMENT A

Responses to draft information requests

Information request 6.1

The topic of Indigenous heritage has not been raised by many participants to this study and it is not clear which jurisdictions, if any, could be described as leading practice. Could interactions between Indigenous heritage and the resources sector be improved? Which jurisdictions manage these interactions well already? How do they do it?

Australia's minerals industry respects and values Aboriginal and Torres Strait Islander cultures, recognising the diversity, knowledge and histories of the world's oldest continuing cultures.

Robust cultural heritage management and protection practices underpinned by ongoing engagement demonstrate respect while enabling land-based development to occur.

The MCA supports the Commonwealth's announced national engagement process on the modernisation of Indigenous cultural heritage regimes. While states and territories have responsibility for Indigenous cultural heritage protection, the Commonwealth is in a unique position to support leading practice on transparency, knowledge-sharing and collaboration. This process should respect the current division of state, territory and Commonwealth responsibilities.

This minerals industry supports the Western Australia's comprehensive two-year process to repeal and replace the state's outdated Aboriginal heritage protection regime. It should be completed without delay.

The Commonwealth has important responsibilities regarding heritage. This includes heritage with nationally-significant Indigenous cultural values under the *Environment Protection and Biodiversity Conservation Act 1999.* The MCA continues to actively engage in the ongoing independent review of the EPBC Act.

Another important Commonwealth responsibility is through the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (ATSIPH Act). The Act enables an Indigenous person to make an application to the Minister for the Environment to make a declaration to protect an object or place.

While supporting the ATSIPH Act in its current form, the MCA notes its administration and operation can be unclear.

The MCA also notes the current Joint Standing Committee on Northern Australia inquiry into the destruction of the 46,000 year old caves at Juukan Gorge in the Pilbara region of Western Australia.

The MCA will lead a national work programme to capture, share and embed lessons across industry.

The MCA submission to the JSCNA inquiry includes an overview of the industry's intersection with state, territory and Commonwealth heritage protection legislation and leading practice case studies.

Information request 9.1

Is there scope for greater sharing of resources company infrastructure with communities? Are there any examples of where this has been done effectively?

The minerals industry is a significant contributor to the development and maintenance of host community infrastructure. This includes both shared infrastructure, such as roads and facilities, as well as specific community infrastructure such as childcare, housing and sporting facilities.

Examples include:

- **Rio Tinto's partnership with the Shire of Ashuburton and City of Karratha in Western Australia –** key projects include the Paraburdoo, Wickham and Dampier Community Hubs, which provide central spaces for community members to participate in sporting, youth, early learning and other activities
- **Mandalay Resources' partnership with the Heathcote Community Childcare Association** – the mine worked with the community to gain Victorian Government funding and support for the town's first early childhood and family services hub. The mine supported the prefeasibility study and a project manager to manage local engagement and ownership. In 2019 the centre was opened, providing new services to the town and supporting local employment.

There is an opportunity for government to support coordination between companies and communities and co-invest to maximise collective impact and enduring outcomes from resource development.

Information request 10.1

The Commission is seeking more information on government programs that fund Indigenous prescribed bodies corporate, native title representative bodies and native title service providers. In particular:

- *Have the current funding programs met their objectives? Can you provide examples where funding has made a tangible difference to the native title agreement-making process, or where it has reduced reliance on government funding?*
- *Are there alternative approaches that could improve the capacity of Indigenous organisations, such as training programs?*

Native title holders are required to establish a PBC following a native title determination to manage native title rights and interests. There are currently 221 PBCs, mostly across Northern Australia.[12]

Since around 2010, the MCA has supported calls for adequate and stable funding and support from governments to enable native title representative bodies and Traditional Owner organisations to discharge statutory duties and support local aspirations and priorities.

As these new entities establish foundations, cost effective, tailored and quality governance and management training and ongoing support are also needed to enable personnel to effectively discharge these complex responsibilities.

Most recently, the MCA has supported the continuation, acceleration and expansion of the PBC Capacity Building Program established in accordance with the Northern Australia White Paper.[13]

The MCA has recommended that any extended and expanded program:

- Is widely advertised to encourage and support funding applications
- Ensures training options cover vocational training and teritary education
- Consider alternate delivery options, including online training and support. This may be particularly helpful for PBC personnel located in remote areas.[14]

It is critical that PBC personnel, including directors and employees, are able to easily access up-to-date best practice tools, resources and templates. This would support PBCs to benchmark practice and consider a variety of governance and management options among other benefits.

Accordingly the MCA supports the Native Title website managed by the Australian Institute for Aboriginal and Torres Strait Islander Studies with funding from the Department of Prime Minister and Cabinet. In addition to the above resources, the website publicises funding opportunities, legislative reform and other important information.

The MCA is aware of two leading practice programs:

- A tailored training program developed and delivered by the National Native Title Council in partnership with RMIT University, the University of Melbourne and the Australian Institute of Aboriginal and Torres Strait Islander Studies. The program includes in-person and online training
- The Traditional Owner Governance for Prosperity Program developed through the Queensland Resources Council through a long-term partnership with the Queensland Government. Box 1 includes an overview of the program.

[12] *Australian Institute of Aboriginal and Torres Strait Islander Studies, PBC national snapshot, AIATSIS, viewed 4 September 2020.*
[13] Most recently in Minerals Council of Australia, *2020-21 pre-Budget submission,* MCA, Canberra, 24 August 2020.
[14] Minerals Council of Australia, *Joint Standing Committee on Northern Australia inquiry into opportunities and challenges associated with Traditional Owner participation in Northern Australia development*, MCA, Canberra, 18 March 2019.

Box 1: Case studies

Traditional Owner Governance for Prosperity Program

The Traditional Owner Governance for Prosperity Program is a tailored initiative to support Traditional Owner groups to plan and build capacity to achieve their long-term aspirations.

It specifically assists Traditional Owners with agreements with resources companies in Queensland. In Northern Australia, training has been held in Townsville and is also planned for Mount Isa.

Developed and delivered through the Memorandum of Understanding to Increase Indigenous Participation in the Queensland Resources Sector, the program involves a mix of group work and presentations from expert speakers and Traditional Owners from across Australia.

Key aspects of the program include:

- Developing a shared vision and long-term strategy for the whole Traditional Owner group
- Structuring Traditional Owner corporations
- Options to manage native title payments
- How to obtain good advice and manage advisers and service providers
- Managing agreements with resources companies.

A key feature of the program involves the use of volunteer 'Governance Friends' to provide hands-on support, coaching and facilitation for each Traditional Owner group. Each Traditional Owner group develops a short capacity-building plan for follow up after the program.

Emphasis is placed on enabling participants to learn, share and network with other Traditional Owner groups that have established effective governance mechanisms that balance traditional governance and decision-making structures with the need to operate in a non-Indigenous corporate and legal environment.

The MoU is a partnership between the Queensland Resources Council and Queensland Government. Sponsorship for the program is provided by resources companies with pro bono support from Indigenous Community Volunteers and volunteer 'Governance Friends'.

Information request 10.4

The Commission is seeking more information on whether there are barriers, unrelated to tax and charity law, to maximising benefits to communities from native title funds, including in relation to benefit management structures and the investment of native title funds. What are potential solutions to these issues?

There is a range of actions that could assist to maximise benefits to communities from native title funds. These actions include:

- Increased stable and sufficient funding to enable PBCs to establish strong foundations that are integral to supporting native title holder aspirations and priorities
- Plain English information about various options available to maximise investment and outcomes from native title monies
- An increased focus by government, industry and communities on collective impact approaches to maximise individual contributions for shared outcomes.

Based on advice from charitable trust experts, the MCA also considers that there remains considerable uncertainty regarding charity law that should be addressed, specifically as it relates to trusts for Indigenous economic development activities.

This includes challenges rolling over legacy trusts if a PBC changes form or where legacy trusts may no longer be fit-for-purpose. The MCA also understands that ACNC rulings do not provide sufficient clarity on what economic development activities may be permitted, including around charitable monies investment and private benefit.

The MCA, along with charitable trust and benefits management experts, is currently contributing to further development of the National Native Title Council's PBC Economic Vehicle Status (EVS) proposal to inform the Phase 2 of the review into the Commonwealth *Corporations (Aboriginal and Torres Strait Islander) Act 2006.*

The PBC EVS model aims to provide a simple and optional structure that reduces administrative burden and includes a more streamlined regulatory framework that would also enable PBCs to access concessions available to charitable trusts for the deployment of native title monies for economic development purposes.