



## ATTORNEY GENERAL; MINISTER FOR COMMERCE

Our Ref: 67-21196

Ms Lisa Gropp  
Commissioner  
Resources Sector Regulation study  
Productivity Commission  
LB2, Collins Street East  
Melbourne Vic 8003

Online submission:

<https://www.pc.gov.au/inquiries/current/resources/make-submission#lodge>

Dear Ms Gropp

### RESOURCES SECTOR REGULATION – PUBLIC BENEFIT TEST FOR CHARITABLE TRUSTS

The Productivity Commission contacted my office to request that I make a submission to this study, in relation to an issue that has arisen in your consultations. I understand that Aboriginal stakeholders have raised a concern that there is a lack of clarity about whether trusts that hold native title benefits satisfy the requirement of benefiting a sufficient section of the public, in order to be a charitable trust.

The State Solicitor's Office has advised me that the issue raised has not been argued in any of the matters to which the Attorney General for Western Australia has been a party. The public benefit test has not prevented the Court from concluding that a trust that holds native title benefits was a charitable trust in any of these matters.

If a trust:

- (a) was otherwise a charitable trust; and
- (b) was intended to benefit a native title group (whether as a claim group or, following a determination by the Federal Court, the holders of native title),

I would be satisfied that it was a charitable trust. The public benefit test would not be an obstacle to this conclusion.

The Australian Charities and Not-for-Profits Commission has published a statement to similar effect. It is available from their website, as follows:

<https://www.acnc.gov.au/tools/guidance/commissioners-interpretation-statements/indigenous-charities> ]

I trust this assists you in the preparation of your report.

Yours sincerely

Hon. John Quigley ~~MLA~~  
**ATTORNEY GENERAL; MINISTER FOR COMMERCE**

28 OCT 2020