



17 September 2021

Senate Finance and Public Administration Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: fpa.sen@aph.gov.au

Dear Chair

Thank you for inviting the MCA to contribute to the Senate Committee on Finance and Public Administration Legislation Committee's inquiry into the Corporations (Aboriginal and Torres Strait Islander) Amendment Bill 2021 [Provisions].

The MCA is the leading advocate for Australia's minerals industry, with its member companies accounting for the majority of Australia's minerals production. Australia's minerals industry is innovative, technologically advanced and socially and environmentally responsible. MCA member companies share a common commitment to operating in a safe and responsible manner.

The minerals industry deeply values its relationships with diverse Aboriginal and Torres Strait Islander landholders and communities with which it partners. Industry is working to strengthen these partnerships, protect heritage and further support the near and long-term cultural, social and economic aspirations, prosperity and wellbeing of Indigenous Australian partners.¹

Minerals industry interactions with the CATSI Act regime

The minerals industry regularly engages with corporations incorporated under the CATSI Act, the specialist regulatory regime for Indigenous corporations.

Native title has been recognised over much of the lands on which the minerals industry operates. Following a determination native title holders must establish a Prescribed Body Corporation (PBC) to hold native title on their behalf. PBCs are required to incorporate under the CATSI regime. PBC's are an important interface between minerals companies and native title holders regarding land uses.

The minerals industry is also proud to partner with diverse Indigenous corporations delivering cultural, social, economic and environmental services and support to Aboriginal and Torres Strait Islander people and communities. Many are incorporated under the CATSI Act.

MCA engagement in CATSI Act modernisation

The MCA has provided the perspective of a major partner of Indigenous corporations throughout the 18 month CATSI Act review process.

Underpinning the MCA's contributions is respect for the rights of Indigenous peoples to autonomy in local affairs and develop their own cultural, social and economic development strategies.² Accordingly the MCA has not commented on proposals regarding internal governance (such as membership applications and special administration) throughout the review process.

¹ Minerals Council of Australia, [Minerals Industry Statement on First Nations Partnerships](#), MCA, viewed 15 September 2021.

² Minerals Council of Australia, [Advantage Australia](#), MCA, Canberra, 2021, p. 21.

Five elements guided the MCA's contributions to Phases [1](#) and [2](#) of the review, including as a member of a stakeholder reference group, and providing comment on the [Draft Exposure Bill](#). These are:

- Governments have a responsibility to support a practical, stable and equitable native title system by providing sufficient and consistent baseline funding for PBCs to undertake statutory duties and establish foundations. The additional \$36.7 million over four years allocated for PBC Capacity Building in the 2021-22 Commonwealth Budget is an important step, noting funding should be ongoing.³
- The regime should support native title holders and communities to maximise socio-economic benefits from native title monies and opportunities associated with use of their lands. Minerals-related land use agreements provide significant financial and non-financial benefits. Broadening awareness, as well as the range of, asset management structures available could assist to support Indigenous-led economic development.
- Industry should be able to have confidence that the CATSI Act provides a modern regulatory regime that supports good governance and stability
- Regulation should be proportionate and targeted to the issue being addressed, and not applied where guidance or additional support would suffice
- Transparency measures should be meaningful and appropriate, focusing on providing timely, relevant and non-commercially sensitive information to those with a legitimate interest. This includes in regards to benefit management structures.

CATSI Amendment Bill

The MCA notes most measures in the Bill aim to simplify processes, strengthen governance, provide improved dispute resolution pathways and strengthen the role of the Office of the Registrar of Indigenous Corporations (ORIC).

Consistent with its approach throughout the review process, the MCA has elected not to comment on the specific measures proposed. However, the MCA does wish to note the importance of an effective and appropriate governance framework, dispute resolution pathways and oversight and support arrangements. For industry, an enhanced framework will reinforce confidence and support effective industry engagement.

It is important that improvements are complemented by additional support and guidance. The MCA supports plans by NIAA to develop guidance material on best practice management structure governance. The MCA also recommends NIAA work with ORIC, Indigenous corporations and industry to develop good practice PBC engagement guidance for proponents and reporting on benefits management structures.⁴

Yours sincerely

TANIA CONSTABLE PSM
CHIEF EXECUTIVE OFFICER

³ The MCA has advocated for increased government for funding for PBCs for at least a decade.

⁴ National Indigenous Australians Agency, [Guide to the Exposure Draft CATSI Act Amendment Bill](#), Australian Government, Canberra, 2021, p. 6.