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Mr Duggan: [...] In July and August 2012 the department conducted extensive targeted consultations on the reform proposed with a wide range of stakeholders. On 21 September, the exposure draft of the legislation was released for a four-week consultation period. That closed on 19 October. The department then held further meetings with key stakeholders to discuss comments on the exposure draft made during the consultation period.

Of course, not all stakeholders agree, but all views have been carefully considered and the government believes a sensible compromise or balance has been struck. That does not necessarily apply to AMEC, as I indicated in the House inquiry. I think we failed in relation to our need to consult closely with AMEC. That is a concession that we need to make and that I think is appropriate. With the exception of AMEC, we have undertaken an extensive process. Could it have been more extensive? Of course, but consultation does not necessarily mean consensus. The day the minister made her announcement, the Minerals Council of Australia said the following:

Reforms to the Native Title Act announced today will improve the operability of the Act without diminishing Indigenous rights.

The proposed changes are broadly consistent with proposals to enhance the Act put forward by the MCA.

Significantly, the changes announced today formalise industry-leading practice on good faith negotiations over native title.

MCA member companies already negotiate in good faith—

and I particularly emphasise this point—

but we are not confident our approach is universally adopted across the industry.

ACTING CHAIR: Do you interpret that as an approval or endorsement of the legislation?

Mr Duggan: No, I do not. I indicate that the Minerals Council suggests that these were amendments in this direction that they would support.

Senator CASH: Perhaps, Acting Chair, we will put that statement of Mr Duggan's to the Minerals Council and give them an opportunity to respond to what he has put on the table by way of his evidence.

Response from Minerals Council of Australia

The Minerals Council of Australia indicated that it was supportive of the ‘intent’ of the proposed Native Title Act Amendments at the time of the announcement in its media release dated 6th June 2012. At that time MCA advised the Attorney General that it would be interested in providing input into the drafting of the content of the amendments. The MCA did have the opportunity to provide feedback on three reform proposals (including the Bill) and has been consistent about the critical issues of concern and our views as to how they could be addressed more appropriately to achieve the initially proposed ‘intent’ of the reforms.

Melanie Stutsel is quoted in the Hansard Report the Senate Legal and Constitutional Affairs Committee’s hearing as saying:

“Certainly, our argument has not been in terms of our engagement around the intent of the reforms. There have been ongoing discussions among a number of different groups around the reforms as proposed in this piece. However, as a number of my colleagues have raised, as a result of the exposure bill this industry raised a number of concerns which we consider were not then appropriately dealt with nor responded to in the amendment bill. It is specifically the detail of those reforms that we have concerns with rather than the objective, which we consider is a shared one—and that is to improve the efficiency and operability of the act.”