MINERALS COUNCIL OF AUSTRALIA

IMMEDIATE REFORM PRIORITIES TO ACCELERATE ECONOMIC RECOVERY

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TABLE OF CONTENTS

EXECUTIVE SUMMARY

The mining industry, in partnership with the oil and gas sector, has continued to support the Australian economy and regional jobs during the COVID-19 pandemic by keeping its workforce, families and communities safe and healthy.

As the post-COVID era dawns, the government has a unique opportunity to implement pragmatic and targeted reforms so the minerals industry can play an even bigger role in underpinning a sustainable and enduring recovery.

Industry protocols based on official advice with the support of national resources ministers have enabled the industry to continue to operate safely and responsibly.

The mining industry recognises that the COVID-19 pandemic, which has required companies to relocate employees, minimise the number of workers on site and institute longer shift cycles, has placed pressure on workers' relationships and mental health.

This reinforces the importance of existing industry initiatives to preserve mental health, including the MCA's leading *Blueprint for Mental Health and Wellbeing Industry guide* and MATES in Mining, an independent charity that offers help to workers who can be reluctant to seek it. The MCA makes significant financial and in-kind contributions to MATES in Mining, which is also supported by site-specific company funding. The MCA encourages the Australian Government to extend funding to crucial initiatives that promote mental health and wellbeing, including MATES in Mining.

The minerals sector has underpinned Australia's economic prosperity for decades, with company taxes and royalties paid by the industry increasing by $8 billion in 2018-19 to a record $39.3 billion, benefiting all taxpayers through better services and infrastructure.

The Treasurer has recently reinforced the importance of supporting a business-led recovery through competitive tax settings, workplace relations reform, deregulation and new infrastructure.

Lower taxes, faster project approvals, modern skills and flexible workplaces will help the minerals sector make an even bigger contribution to both the national economy and regional jobs as Australia emerges from COVID-19.

The industry is able to maintain its substantial economic and social contribution to Australia with strong support from government.

The resources sector has a strong track record in creating highly paid, highly skilled jobs – mostly in regional areas.

Average earnings in resources are $141,000 a year, 58 per cent higher than the average for all industries, and the industry employs more than 8,600 apprentices and trainees and more than 6,600 Indigenous Australians, including in remote areas of the Northern Territory, Queensland and Western Australia.

The skills and training needs of both the industry and the future minerals workforce needs will require a particular focus, including retraining and reskilling entrants from other industries affected by COVID-19. This includes a more responsive and flexible vocational education and training (VET) system, building on the recently established Mining Skills Organisation Pilot. The minerals industry will accelerate 1,000 new apprenticeships through the pilot, in partnership with the Australian Government and in cooperation with the states and the Northern Territory.

Together with the mining equipment, technology and services (METS) sector, mining accounts for approximately 15 per cent of Australia's gross domestic product and supports 1.1 million jobs – around 10 per cent of Australia's total workforce.

This job growth has been accompanied by a high level of capital investment, with the minerals sector increasing net capital stock by more than threefold between 2000 and 2019.

While the mining industry overall has been able to keep operating and maintain jobs throughout the COVID-19 crisis, sustained and broad national economic recovery will come from pro-growth strategies which encourage investment and boost productivity and jobs.

During Australia's remarkable recovery from the global financial crisis a decade ago, the mining industry played a fundamental role in bolstering economic and fiscal stocks through investment and production growth.

While world economic growth is expected to contract sharply in 2020, China's stimulus policy should support demand for Australia's resources exports. The industry's ability to keep operating through the COVID-19 crisis has positioned it strongly to take advantage of the global recovery and the ongoing resources demand of developing economies.

Aside from the Chinese market, world demand for metals and minerals is likely to continue growing in the future. Over time, the growing economies of highly populated nations such as India and south-east Asia will recover and continue to grow with their expanding housing, infrastructure and manufacturing needs supporting higher demand for industrial metals such as steel, copper and aluminium.

In 2019, the resources sector generated $289 billion of export revenue (59 per cent of total export revenue) and invested $34 billion in new capital expenditure.

The Department of Industry, Science, Energy and Resources has identified a potential mining investment pipeline of up to $100 billion of coal, iron ore, base metal, critical mineral and gold projects as well as tens of billions of spending to sustain the Australian mining industry.

This investment cannot be taken for granted. While Australian minerals companies have continued to operate – recruiting staff, paying company tax and royalties and supporting regional communities – other mining nations have been significantly hampered by the COVID-19 pandemic.

Australia's competitors will waste no time in attempting to increase their share of the recovery.

In this context, Australia's company tax rate of 30 per cent is too high and not internationally competitive. Future mining investment should not be put at risk by any move to increase the already high burden on the sector.

In particular, the fuel tax credit scheme, which operates to avoid taxing a vital business input, should remain in its current form.

Meanwhile, our world-leading minerals companies are hampered by regulatory duplication and overlap, while projects take too long to be approved – denying regional communities jobs and investment.

The policy and regulatory improvements outlined in this submission will help ensure that the Australian minerals industry both maximises its contribution to Australia's economic recovery and remains the world's leading exporter of minerals and metals in the long term.

Recommendations

Enhancing and adapting the skills of the future minerals workforce

- The Australian Government should continue, in partnership with industry, to refocus skills curricula to meet future needs along the full mining and METS value chain, so as to incorporate contemporary skill sets and qualifications linked to technology for the modern mining sector (such as automation and data analytics), transferable to the METS and allied sectors
- The minerals industry will accelerate 1,000 new apprenticeships through the Mining Skills Organisation Pilot, in partnership with the Australian government and in cooperation with the states and the Northern Territory.

Encouraging investment in new and expanded minerals projects

- Australia's business tax system should be made more globally competitive and conducive to investment by:
  - Reducing the headline company tax rate, or
  - Introducing accelerated depreciation or an investment allowance
- Greenfields agreements should be made more useful and attractive by:
  - Extending their duration to cover the life of projects, as agreed by the parties
  - Improving the approval test for single-enterprise agreements
  - Restoring the option of establishing an agreement without a union, limited to 12 months
- Multilateral trade rules and trade agreements that expand Australia's export markets should continue to be supported
- Policies and processes to encourage international investment – both inward and outbound – should be refined
  - As part of the restoration of routine regulatory settings for the Foreign Investment Review Board, the government should consider implementing a single process for assessing international investments into Australia against a clear set of criteria that balances the government's objectives of attracting international capital, expanding local projects and operations and protecting sovereignty and national security
- Opportunities to accelerate technological innovation in mining, mining equipment, technology and services and low emissions energy should be fast-tracked by:
  - Ensuring that the METS sector is fully integrated into manufacturing industry policy, programs and related plans and funding for manufacturing technology and innovation
  - Supporting public-private minerals and resources research vehicles in low emissions technology projects such as the Carbon Transport & Storage Co project in Queensland
  - Allowing for Carbon Capture and Storage to be funded by the Clean Energy Finance Corporation. Similarly, expanding the remit of the Australian Renewable Energy Agency so it can support clean energy and hydrogen production from Australia's minerals resources and on-site energy sources such as bioenergy coupled with carbon capture and storage.
- The government should adopt the recommendations of the House of Representatives Standing Committee on Environment and Energy inquiry into the prerequisites for nuclear energy in Australia. This would provide an important statement of the government's intent to develop a genuinely technology neutral energy policy and encourage increased focus on Australia from key international nuclear technology providers.

Reducing project delays while retaining environmental protections

A range of non-legislative improvements can be urgently implemented, including:

- Integrating Commonwealth and state/territory environmental assessment and approval processes to avoid duplication through:
  - Coordinating state/Commonwealth processes through joint scoping of environmental assessments, embedding Commonwealth officers in state agencies and allocating tasks based on expertise, supported by service charters and Commonwealth officers embedded in relevant state agencies
  - Enhancing existing assessment bilateral agreements to ensure greater alignment in assessment, approvals and conditioning, with governments continuing to ensure the effective operation of these agreements in line with their objectives
  - Accrediting state/territory approval processes under bilateral agreements. These can be established with willing state/territory government partners and supported by robust assurance and standards.
- Adopting a risk-based approach to environmental assessment and approval processes, including simpler pathways and model conditions for low-risk, well-understood activities and environments (e.g. brownfield projects) and making full use of existing provisions in the Environment Protection and Biodiversity Conservation Act (e.g. particular manner decisions)
- Establishing a simple risk-based process to consider and vary an approval, avoiding the need for referral and full assessment where changes are not material to the environmental outcome
- Enhancing regulator performance through industry-specific training, site visits and hiring staff with industry experience or expertise to address the backlog of existing projects and ensure timely future assessments
- Developing improved policy and guidance to support clear, consistent and accountable decision-making with effective service delivery as a key performance indicator
- Projects should be case managed by senior departmental officers to ensure effective service delivery and continuity of assessment processes. A senior referrals manager to provide formal referral advice would assist in improving consistency in decision making
- Bringing post-approval matters into the primary approval stage wherever practical and supporting remaining post-approval with clear assessment rules and timeframes
- Improved guidance in policy implementation for greater consistency in regulator decision making, bringing forward these decisions into the primary approval phase or at a minimum, setting the boundaries or key requirements for the offset in primary approval to avoid moving the goal posts in the post-approval phase
- Mutual recognition between Commonwealth and state/territory offsets consolidated into a single requirement for proponents
- Completing the Productivity Commission review of resource sector regulation and working through National Cabinet to encourage and coordinate reforms within all jurisdictions.

Maximising gains from partnerships with Indigenous Australians

- Extend and accelerate the Australian Government's Prescribed Bodies Corporate (PBC) capacity-building program to ensure Traditional Owners can realise the full economic development opportunities arising from native title, including tailored training, services and expertise (e.g. strategic planning, governance and operational support)
- Provide modest government funding and administrative support to extend the Indigenous Partnerships Community of Practice, an industry and native title-sector led initiative to advance outcomes from mining related agreements and partnerships, including advancing mining-related employment, business and supply chain participation

- Continuation of the government's Indigenous business support programs, modified to assist businesses to recover from the COVID-19 crisis.

Promoting exploration and minerals development

- Encourage exploration for strategically important minerals in priority greenfield areas by:
  - Extending and expanding the collection of pre-competitive geophysical data under Geoscience Australia's *Exploring for the Future* program to $100 million per annum and continue its Traditional Owner land-access program
  - Developing a single national geological database that integrates the data from different state geological surveys to improve user access and facilitate the application of advanced analytical methods for identifying exploration targets
  - Considering a new but temporary federal program (similar to existing state schemes) that would provide grants to companies to offset exploration program costs in priority areas:
    - This measure would help companies including those who do not have sufficiently large incomes to offset an immediate deduction of exploration expenditure develop a pipeline of projects for the benefit of all Australians.

1. ENHANCING AND ADAPTING MINERALS WORKFORCE SKILLS

- The success of Australia's resources sector depends on a highly skilled, highly paid workforce that covers a range of scientific fields, professional occupations and trades
- An industry-led education and training system has the potential to enhance and redesign mining jobs and secure the workforce of the future. The Australian Government should:
  - Provide ongoing support for spending on mental health and suicide prevention programs, including working with industry, union and community initiatives such as MATES in Mining
  - Continue to refocus skills curricula to meet future technology needs along the full mining and mining equipment, technology and services value chain
- The minerals industry will accelerate 1,000 new apprenticeships through the Mining Skills Organisation Pilot, in partnership with the Australian government and in cooperation with the states and the Northern Territory.

Australian mining requires a highly skilled workforce

For many years the Australian mining industry has been a global leader in the development and deployment of new technology and techniques, including data analytics, automation, robotics and artificial intelligence. This leadership will continue in the post-pandemic era.

Mining's large export income ($289 billion in 2019) was achieved by an operational workforce of 240,000, about 2 per cent of Australia's total workforce. Two-thirds of these jobs are located in regional and remote Australia and form part of the wider 1.1 million jobs (10 per cent of Australia's total workforce) supported in conjunction with the METS sector.[1]

While the mix of locations where employees live, work and study will shift, the significant regional contribution will continue. This will include mining's ongoing role in driving broader economy opportunities through skills development.

In the past, workers might embark on a specific career, acquiring their expertise either from higher education or the vocational stream. In the future, workers will have a mix of skills acquired at different types of educational institutions throughout their life.

Increasingly, mining workplaces will see workers operating in dynamic teams which often come together for tasks and use different mixes of skills – technical and social – and experience to get the best out of the operation. These skills are already being developed and implemented as a COVID-19 response.

Industry-led education and training is essential

The nation's pressing economic challenge is creating the education and training framework that maintains Australia's competitive advantage and the minerals industry's contribution to prosperity.

Through the Mining Skills Organisation Pilot, the MCA together with the Australian Government and state governments, is ready to work with the broader industry in preparing the current and future workforce in innovative and response ways – including retraining and reskilling Australians whose employment has been affected by COVID-19.

This will include a refocus of skills curricula to meet future technology needs along the full mining and METS value chain. The minerals industry will accelerate 1,000 new apprenticeships through the Mining Skills Organisation Pilot, in partnership with the Australian Government and in cooperation with the states and the Northern Territory.

[1] Australian Bureau of Statistics, *International Trade in Goods and Services, Australia, Mar 2020,* cat. no. 5368.0, released 7 May 2020, *Labour Force, Australia, Detailed, Quarterly, Nov 2019*, cat. no. 6291.0.55.003, released 23 December 2019; Deloitte Access Economics, *Mining and METS: engines of economic growth and prosperity for Australians*, 29 March 2017.

New and innovative skill sets and qualifications linked to technology adoption in the modern mining sector (such as automation and data analytics) will be fast-tracked through the Mining Skills Organisation Pilot and designed to be transferable to the METS and allied sectors.

2. ENCOURAGING NEW AND EXPANDED MINERALS INVESTMENT

- Additional and ongoing investment in Australian mining is essential to supporting $289 billion in resources exports, a highly skilled, highly paid mining workforce, a successful mining supply chain, regional economic growth and significant tax and royalty contributions
- Australia has a comparative advantage in resources exports because the mining industry is a global technology leader and one of the most productive industries in the world – an advantage which will only be retained through more competitive tax and regulatory settings
- The Australian Government should encourage investment in new and expanded minerals projects and mining equipment, technology and services activities by:
  - Maintaining stable settings for minerals taxation and considering ways of making Australia's business tax system more efficient and internationally competitive
  - Reforming greenfields agreements to increase certainty over labour costs and conditions
  - Continuing to help expand Australia's markets and encouraging international investment
  - Supporting the acceleration of technological innovation in mining, mining equipment, technology and services and low emissions energy.

Improving the competitiveness of Australia's tax system will stimulate investment and jobs

The tax regime that applies to the mining industry ensures that the community obtains an adequate and appropriate share of the benefits of developing mineral resources. Deloitte Access Economics estimates that the Australian minerals industry paid $39.3 billion in company tax and royalties in 2018-19, an increase of $8 billion from 2017-18. It is estimated that over the last 14 years, the minerals industry paid $281 billion in royalties and company tax – enough to build 11,000 schools or 390 hospitals.[2]

The minerals industry accounted for approximately 30 per cent of all company tax in 2018-19. The payment of consistently high company tax and royalty receipts throughout the business cycle demonstrates the reliability of the minerals industry's contribution.

Along with tax reports from a number of MCA member companies, the Deloitte Access Economics report also shows that the minerals sector reports its contributions regularly and transparently to show Australians that the industry can be trusted to pay its fair share of tax and royalties. Conversely, the Productivity Commission has affirmed that government assistance to the industry is 'disproportionately small'.[3]

To stimulate new investment in mining – and therefore future flows of income and tax revenue – Australia needs a more competitive tax system through reducing the rate of company tax and considering accelerated depreciation, which would reduce the effective company tax rate for capital-intensive industries and encourage new investment.

It is important that there are limited exclusions from accelerated depreciation (typically only passenger motor vehicles and office buildings) and that it be consistent with current depreciation tax treatment, which would reduce complexity and compliance costs.

Reforming greenfields agreements will help bring forward new minerals projects

A greenfields agreement is a unique industrial instrument because it is only available for new projects and it is established with no workforce on site. A greenfields agreement provides investors with certainty about employment conditions and projected labour costs.

[2] Deloitte Access Economics, *Estimates of royalties and company tax accrued in 2018-19,* report prepared for Minerals Council of Australia (forthcoming).
[3] Productivity Commission, *Trade and Assistance Review 2018-19*, Canberra, 29 April 2020.

However, employers must negotiate with one or more trade unions who are able to represent the majority of employees to be covered by the agreement and all parties must sign the agreement before it can be submitted to the Fair Work Commission for approval. An employer can unilaterally apply for the approval of a single-enterprise greenfields agreement where negotiations have proceeded without conclusion for at least six months.

As with all enterprise agreements, the duration of greenfields agreements is limited to four years from the time of approval by the Fair Work Commission. This is out of step with the realities of major project work in the resources sector, which can extend beyond four years. After a greenfields agreement has passed its nominal expiry date, industrial action may be taken – potentially exposing employers to significant uncertainty and additional costs at a critical stage of the project.

The MCA supports the government's proposal to extend greenfields agreements from the current maximum of four years to a period that covers the life of projects. The definition of project completion should not be prescribed by government, but should be a compulsory matter for the parties to a greenfields agreement to negotiate. Parties should also be required to consider likely future conditions in the labour market and agree to a schedule of wage increases.

The Fair Work Act removed options previously available to employers seeking a greenfields agreement, notably the ability to negotiate employer-only agreements or to offer individual statutory agreements at greenfield sites. The trade-off for not having to negotiate with unions was that the greenfields agreement had a limited duration of 12 months.

Under the current regulatory framework, a greenfields agreement can only be made prior to project commencement with one or more trade unions which are able to represent the majority of employees to be covered by the agreement.

The Australian experience shows that mining companies generally prefer to acquire existing mines and undertake brownfields expansion than to pursue greenfields agreements. The power wielded by unions in negotiating greenfields agreements (as well as replacement enterprise agreements) makes mining companies, particularly smaller players, wary of entering into such agreements.

To encourage greater take-up of greenfields agreements, the government should restore the option of allowing an employer to make a greenfields agreement of 12 months' duration without union involvement. The CFMEU has in fact made a similar recommendation, albeit for different reasons.[4]

Further, the Fair Work Commission should be provided with a more precise and balanced test for approving a single-enterprise greenfields agreement, as the breadth of the current test focuses attention at the top end of the payment range. The requirement that:

> [T]he FWC must be satisfied that the agreement, considered on an overall basis, provides for pay and conditions that are consistent with the prevailing pay and conditions within the relevant industry for equivalent work

should be amended to:

> [T]he FWC must be satisfied that the agreement, considered on an overall basis, provides for pay and conditions that are at least at the level of similar work currently performed at another enterprise covered by an enterprise agreement.

International trade and investment are vital to economic recovery and job creation

Australia's openness to trade and investment underpins its prosperity. One in five Australian jobs are trade-related and exporting firms generally employ more people and pay higher wages than firms that focus on domestic markets.[5]

The government should continue to support trade agreements that expand Australia's export markets and refine policies and processes to encourage international investment. To be effective, trade agreements must be supported by a global rules-based order underpinned by multilateral trade rules and dispute resolution mechanisms.

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[4] Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU), *Submission to the Attorney General's Department's Discussion Paper: Attracting major infrastructure, resources and energy projects to increase employment – Project life greenfields agreements*, 1 November 2019, p. 12.
[5] Commonwealth of Australia, *2017 Foreign Policy White Paper*, p. 14.

Australia is usually a net importer of capital, requiring international investment to fill the gap between domestic saving and investment. This capital shortfall has been on average about 4 per cent of GDP over the last decade.[6] Without international investment, Australia would need to take on additional debt or forgo inflows of finance and technology.

International investment has long provided the capital that helps make Australia a global minerals powerhouse. The value of foreign direct investment in Australia's resources sector increased nearly ten-fold between 2001 and 2018, from $36.8 billion to $365.5 billion.[7] However, in recent years the processes for screening and approving foreign investment have become duplicative and less clear.

In particular, the introduction of a national interest test in addition to the existing assessment process by the Foreign Investment Review Board and the Australian Competition and Consumer Commission's tests for mergers and acquisitions has had the unintended consequence of generating complexity, confusion and uncertainty for international parties seeking to invest in Australia.

While sovereign governments cannot reasonably be expected to guarantee that certain foreign investments will proceed, they can ensure that the screening and approvals process is consistent and timely.

The Treasurer announced on 30 March that for the duration of the COVID-19 crisis all proposed foreign investments into Australia will require approval by the Foreign Investment Review Board, regardless of their monetary value or the nature of the foreign investor.

As part of the restoration of routine regulatory settings for the Foreign Investment Review Board, the government should consider implementing a single process for assessing international investments into Australia against a clear set of criteria that balances the government's objectives of attracting international capital, expanding local projects and operations and protecting sovereignty and national security.

Supporting technological innovation will secure long-term opportunities in mining and METS

Australia's resources sector is a global technology leader and one of the most productive industries in the world, according to the Productivity Commission.[8]

Innovation enables Australian mining companies to extract and process ores at a competitive cost and to extract deposits that are deeper or more remote. Innovation also supports improved safety, social and environmental outcomes by allowing impacts to be eliminated, better mitigated or managed.

In addition, Australian mining supports advanced and competitive manufacturing jobs through the METS sector. The mining and METS sector account for approximately 15 per cent of Australia's gross domestic product and support 1.1 million jobs.[9] METS businesses are concentrated in metropolitan areas, enabling them to supply to non-mining markets and to transfer technology and skills.

The success of the METS sector proves that manufacturing in Australia can and should be efficient, commercially competitive and technologically advanced. The METS sector should be fully integrated into manufacturing industry policy, programs and related plans and funding for manufacturing technology and innovation.

The government should also consider refocusing existing public support for low emissions technology to accelerate Australia's transformation to a low-carbon economy more efficiently and effectively.

This includes support for public-private minerals and resources research vehicles in low emissions technology projects such as the Carbon Transport & Storage Co's (CTSCo) Queensland project. CTSCo has the potential to unlock Australia's first carbon hub, allowing the central storage of CO_2 from multiple sites and activities.

[6] Adam McKissack and Jessica Xu, *Foreign investment into Australia*, Treasury Working Paper, January 2016.
[7] Australian Bureau of Statistics, *International Investment Position, Australia: Supplementary Statistics, 2018*, ABS cat. no. 5352.0 released 8 May 2019.
[8] Productivity Commission, *Shifting the Dial: 5 Year Productivity Review: Supporting Paper No. 1: Productivity and Income – The Australian Story*, Canberra, 3 August 2017, released on 24 October 2017, pp. 24, 26.
[9] Deloitte Access Economics, *Mining and METS: engines of economic growth and prosperity for Australians*, 29 March 2017.

The Clean Energy Finance Corporation (CEFC) should be allowed to invest in carbon capture and storage (CCS). Similarly, the remit for the Australian Renewable Energy Agency (ARENA) should be expanded to support clean energy and hydrogen production from Australia's minerals resources and on-site energy sources such as bioenergy coupled with carbon capture and storage CCS.

The House of Representatives Standing Committee on the Environment and Energy inquiry into prerequisites for nuclear energy in Australia (which reported in December 2019) provides a series of sensible recommendations which the government should adopt.

Focused on developing greater understanding of the prospects for advanced nuclear technologies in Australia, the inquiry's recommendations address the sensitivities involved in the nuclear energy debate, and provide a way forward for nuclear energy to be considered in the Australian context.

By seeking to improve our understanding of advanced technologies like small modular reactors, the government would send an important signal about developing a genuinely technology neutral energy policy which can meet the needs of Australian industry and households while also reducing greenhouse gas emissions. This would attract significant attention from international advanced nuclear technology providers.

Measures to assist minerals processing

The availability of internationally competitive and reliable energy supplies underpins the viability of the Australian minerals processing sector.

This needs to be developed in conjunction with Australia's commitments under the Paris Agreement, along with the creation of a genuinely technology-neutral energy policy embracing renewables, hydrogen, coal and gas with carbon capture and storage, advanced nuclear technologies and energy efficiency along with digitisation, automation and electrification.

3. REDUCING PROJECT DELAYS

- Regulatory inefficiency and delays discourage investment, impede job creation, increase costs to business and prevent the full benefits of mining flowing to regional communities and the Australian economy
- A range of simple reforms to the operation of national environmental law will, if implemented early, help reduce delays, facilitating investment and bringing forward minerals projects
- Reforms that could be rapidly implemented include enhanced integration of federal/state processes, targeted and risk-based assessment and approvals and a range of administrative improvements. There is also an urgent need to address the backlog of outstanding assessments.

The independent review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) gives government an important reform opportunity for a better environment, more jobs and faster economic recovery.

Reforms to the operation of the EPBC Act are needed to address unnecessary duplication and complexity, providing greater certainty for businesses and the community while achieving sound environmental outcomes.

Australia’s world-leading minerals sector is committed to the protection of the country’s unique environment, including upholding leading practice environmental protection based on sound science and robust risk-based approaches.

The following changes to the operation of the EPBC Act will help address regulatory inefficiencies, reduce delays and provide greater certainty for business to invest.

This will facilitate an earlier start to projects and bring forward jobs in regional and source communities and support businesses across the minerals industry supply chain.

Central to these reforms is ensuring that Commonwealth regulation is targeted and avoids unnecessary duplication by recognising state/territory-based regulation and seeking only to address gaps in the management of matters of national environmental significance (MNES).

The following proposed actions can be rapidly implemented using existing provisions and changes to administrative practices and/or policy and guidelines.

Improved integration and consistency between Commonwealth and state/territory regulation

Commonwealth and state/territory environmental approval processes often overlap and are rarely synchronised. Different triggers, timeframes, reviews, requests for further information and a lack of efficient inter-agency coordination create unnecessary complexity, costs and delays.

These processes should be integrated and/or harmonised as far as possible through the following existing mechanisms, in order of time required for implementation:

- Coordination of Commonwealth/state processes through joint scoping of environmental assessments, including requirements, timelines and assigning assessment tasks to regulators with relevant expertise. Commonwealth officers should be embedded in state agencies and the process supported by a service charter established between the party governments.
- Enhancing existing assessment bilateral agreements to ensure greater alignment in assessment, approvals and conditioning. Party governments should recommit to ensure the effective operation of these agreements in line with their objectives.
- Accrediting state/territory approval processes under bilateral agreements. These can be established with willing state/territory government partners and supported by robust assurance arrangements and standards.

Targeted, risk-based environmental impact assessment (EIA) and approvals

A risk-based approach to environmental assessment and approval processes will ensure time and resources are dedicated to matters with the greatest bearing on proposed mining activity, avoiding unnecessarily complex assessment and delays. The following reforms to guidance, policy and regulator practice will help achieve this:

- The EIA process should be preceded by a comprehensive, risk-based scoping stage to map and lock in exact information requirements and acceptable methodologies. Follow-up engagement between proponents and regulators can avoid re-assessment time and increased costs caused by moving the goal posts for the assessment
- Assessment pathways, including referrals, for EIA processes should be risk-based, providing simpler rapid pathways for low risk and well-understood activities and environments (e.g. brownfield developments). Commonwealth regulation should be avoided unless a clear gap in the management of risk to MNES is identified. Existing rapid decision-making mechanisms (e.g. particular manner and approval on referral information provisions) should be fully used
- Approval conditions should be risk-based and outcomes focused, with model conditions for low risk or well understood activities/environments and tailored conditions for complex or site-specific risks, or where the understanding of the impacts/environment is low. Consistency between Commonwealth and state/territory and conditions is critical
- A simple risk-based process to consider and vary an approval should be established, avoiding the need for referral and full assessment where changes are not material to the environmental outcome (including minor or administrative changes).

Addressing uncertainty and misalignment of environmental offsets

Uncertainty in the application of the EPBC environmental offsets policy is a major cause of delay. Improved guidance in the implementation of the policy would enable greater consistency in regulator decision making, bringing forward these decisions into the primary approval phase.

Where this does not occur, boundaries and key requirements for the offset should be set in the primary approval to avoid moving the goal posts in the post-approval phase.

There should be mutual recognition between Commonwealth and state/territory offsets wherever practical, consolidated into a single requirement for proponents.

Avoiding lengthy and uncertain post-approval processes

Matters considered in the post-approval stage (e.g. through management plans) can be critical to the timely start of minerals projects. Post approval processes are often unnecessary and the matter can often be better dealt with as part of the primary approval.

An option should be provided to consider post-approval matters in the primary approval stage wherever practical. Clear timeframes for post-approval matters (e.g. water management plans) should be agreed to at the outset supported by enhanced regulator accountability to meet these timeframes.

Enhancing regulator service delivery

Effective service delivery is critical to timely approvals. Continued appropriate resourcing and investment in supporting systems will be important to enhance regulator performance.

The capacity of regulators should be bolstered by industry-specific training, site visits and hiring experts with industry experience to address the backlog of existing projects and ensure timely future assessments. This should be supported by the development of improved policy and guidance to support clear, consistent and accountable decision-making.

Regulator accountability should be further enhanced by embedding timely and effective service delivery in key performance indicators.

Projects should be case managed by senior Departmental officers to ensure effective service delivery and continuity of assessment processes. A senior Commonwealth EPBC referrals manager to provide formal advice to proponents on whether their projects need to be referred under the Act would also assist in improving consistency in decision making.

Finalising outstanding and overdue EPBC Act assessments

There is an urgent need to address the backlog of assessments and approvals, many of which are becoming critically delayed.

For example, at least one MCA member company is awaiting overdue advice on matters under the EPBC Act, which if resolved would support the creation of hundreds of jobs through a brownfields expansion.

EPBC approval was issued to New Acland Coal Pty Ltd in January 2017 for the proposed action of the Stage 3 expansion of the New Acland Coal Mine (NAC), requiring a Groundwater Management and Monitoring Plan (GMMP) – the final EPBC management plan requiring approval in order for mining activities to commence.

The GMMP has been subject to three detailed reviews by multiple officers, referred to Geoscience Australia by the department and peer reviewed twice. On 19 April 2020, over one year since submission of the GMMP, the Department of Agriculture, Water and the Environment provided further feedback, raising 51 issues including new issues not previously identified.

The company expects to resubmit another revision of the GMMP to DAWE around the end of May 2020.

In addition, an oversight on the department’s behalf in the grant of the EPBC approval in 2017 has resulted in the need to clarify that the EPBC approval includes the Jondaryan-Muldu Road Diversion which is a key part of the Project.

The company submitted a variation request to remedy this issue on 7 May 2020.

The NAC Stage 3 Project is shovel ready and can create 187 new jobs within six months of approval, ramping up from the current 150 existing jobs at the site to a total of 760 jobs being supported at the peak of construction. The project will create more than $7 billion in economic activity for Queensland over its projected 15-year life.

Completing the Productivity Commission’s inquiry into resource sector regulation

State and territory processes can also be a significant factor in the unnecessary delay of minerals development.

The Australian Government should complete the Productivity Commission inquiry into resource sector regulation without delay, as its findings will be instructive for all levels of government and strengthen the case for regulatory reform.

Draft findings for state and territory based requirements reflect Commonwealth reform opportunities including improved regulator capability and accountability and risk-based assessment and approvals.

The Productivity Commission’s finding that greater cooperation, coordination and concurrence of processes across different agencies and assessment bodies is required (e.g. through lead agencies) provides timely reinforcement about the need for action as part of the post-COVID recovery.

4. MAXIMISING GAINS FROM PARTNERSHIPS WITH INDIGENOUS AUSTRALIANS

- Recognition that the minerals industry is uniquely placed to support Aboriginal and Torres Strait Islander groups to achieve economic aspirations has driven a long-term shared focus on realising mining-related enterprise, employment and development opportunities
- Tailored policy and programs would help unlock further economic and employment gains.
- The following targeted measures should be prioritised:
  - Expanding and accelerating the PBC Capacity Building program so more Traditional Owner organisations can access tailored training, services and expertise
  - Support extension of the Industry and Indigenous Partnerships Community of Practice, an industry and native title-sector led initiative to advance outcomes from mining-related agreements and partnerships
  - Tailor Indigenous business support programs to assist the growing sector to recover from the COVID-19-related impacts. Supporting the sector to recover is an industry focus.

A long-term commitment to partnering for economic empowerment

Economic empowerment and enhancing social, cultural and spiritual strength of current and future generations is a priority for many Indigenous Australians with whom the industry partners. These aspirations have guided industry partnerships – including land use agreements under native title and Aboriginal land rights regimes – for more than two decades.

More than 6,600 Indigenous Australians, mostly in remote and regional areas, are now directly employed in the minerals industry.[10] The industry is a proud major customer of the Indigenous business sector. Income from mining agreements and related commitments also supports social and physical infrastructure and a range of locally-led health initiatives in partner communities.

Immediate measures to drive and expand opportunity

Maximising the benefits of minerals-related opportunities relies on policy and programs that equip native title holders to unlock and drive sustainable community and economic development and support the Indigenous business sector to recover from the COVID-19 pandemic.

The PBC Capacity Building program should be extended and accelerated to assist Traditional Owners realise economic development opportunities arising from native title. PBCs manage native title rights and are a key interface with industry regarding land access. An expanded program should assist PBCs to develop staff and access specialist services and expertise (e.g. strategic planning, governance and operational support).

Following an industry and native-title sector led pilot, modest funding and administrative support should be provided for the Industry and Indigenous Partnerships Community of Practice. The forum brings together industry, Indigenous organisations, government and other stakeholders to advance mining-related employment and supply chain participation and other beneficial outcomes.

Appointing the Department of Industry, Science, Resources and Energy as lead agency would support links with Geoscience Australia and CSIRO and support policy development consistent with the National Resources Statement.

Tailored support to sustain the recent growth of the Indigenous business sector should continue, however the type of support provided should be recalibrated to support businesses through and beyond the COVID-19 crisis. Any changes should be informed through engagement with local and national Indigenous business representatives and key customers, including the minerals sector.

[10] Australian Bureau of Statistics, *2016 Census – Employment, Income and Education, Indigenous Status (INGP) by industry of employment (INDP)*.

5. PROMOTING EXPLORATION AND MINERALS DEVELOPMENT

- With commodity prices falling substantially in response to the COVID 19 pandemic, Australia's exploration investment is likely to decrease and may take some time to recover
- Exploration is the foundation of Australia's mining industry, which generates $289 billion in export revenue, directly and indirectly supports 1.1 million jobs and contributes $39 billion in royalties and taxes to Australian governments
- To support growth in Australia's mining industry the Government should consider extending Geoscience Australia's Exploring for the Future program, developing a single national geological database and introducing a federal exploration incentive scheme similar to state drilling programs.

The importance of exploration investment

In the last decade, Australian companies have invested nearly $24 billion on exploration. Exploration is the mining equivalent of research and development. While it can provide an avenue to new business opportunities, there is no guarantee of success. Australia's geoscience experts are world leaders; however, there is a constant challenge to fund exploration.

With commodity prices decreasing substantially in response to the COVID-19 pandemic, Australia's exploration investment is likely to decrease and may take some time to recover.

During periods of low commodity prices, junior miners have difficulty raising funds from risk-averse capital markets to conduct exploration programs and existing producers' focus on reducing operating expenses often target exploration spending – particularly in greenfield areas.

State governments have reduced or deferred exploration license fees and offered exemptions to minimum expenditure conditions for companies unable to conduct drilling programs because of COVID-19. However, these support measures will be insufficient to boost exploration in Australia during the current economic downturn.

Options for federal government investment in exploration

Australian governments can invest in our nation's economic prosperity by supporting greater exploration activity.

As a first step, the federal government should extend Geoscience Australia's *Exploring for the Future* program, that has produced highly valuable precompetitive data sets on parts of northern Australia, with funding of $100 million per annum to survey other highly prospective greenfield regions in Australia.

The program should also be used to develop a new single national geological database that integrates the data collected through *Exploring for the Future* with data held by state geological surveys to improve user access and facilitate the application of advanced analytical methods for identifying new exploration targets.

This public good – available to all explorers and geoscientists – can help to narrow down exploration targets for the private sector and support greater investment in surveyed areas.

In addition, continuing the successful Aboriginal and Torres Strait Islander community outreach component of *Exploring for the Future* would enhance understanding and support for precompetitive exploration.

To maximise the private sector exploration investment arising from this precompetitive data, the Australian Government could also consider introducing a temporary exploration incentive scheme similar to state drilling programs that provide mining companies with grants to partially offset exploration costs when priority commodities and greenfield regions are targeted.

This measure would help companies – including those who do not have sufficiently large incomes to offset an immediate deduction of exploration expenditure – develop a pipeline of projects for the benefit of all Australians.

Exploration incentive programs deliver significant benefits. Independent reviews of government incentive programs in Western Australia and South Australia show that every $1 million of program investment attracts $20 million of private sector exploration expenditure.[11]

As the peak mining industry association in Australia, the MCA stands ready to work with the government to develop the details of an effective federal exploration incentive program along with helping to implement other recommendations outlined in this submission.

[11] ACIL Allen Consulting 2015, *Exploration Incentive Scheme Economic Impact Study*: Geological Survey of Western Australia; Government of South Australia, PACE 2004-13: evaluation, Department for Energy and Mining website, viewed 14 April 2020.