20 August 2020

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

Sent via email: resources@pc.gov.au

Dear Ms Gropp,

RE: RESOURCES SECTOR REGULATION – DRAFT REPORT

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia. CME is funded by member companies responsible for more than 85 per cent of the State's mineral and energy production and workforce employment.

In 2018-19, the Western Australia's (WA) mineral and petroleum industry reported a record value of $145 billion.[1] Iron ore is currently the State's most valuable commodity at $78 billion. Petroleum products (including crude oil, condensate, liquefied natural gas, liquefied petroleum gas and natural gas) followed at $38 billion, with gold third at $12 billion.

The value of royalties received from the sector totalled $6.8 billion in 2018-19, accounting for 21 per cent of general government revenue.[2,3] In addition to contributing 40 per cent of the State's total industry Gross Value Added,[4] the sector is a significant contributor to growth of the local, State and Australian economies.

CME welcomes the opportunity to provide a submission to the Productivity Commission on the Resources Sector Regulation Draft Report (the Draft Report), released 24 March 2020.

This submission is structured around the key aspects of the study in alignment with the Draft Report. Responses to key draft findings, leading practice and recommendations, and information requests, are detailed in **Table 1** below. In preparing this submission, CME has sought feedback from member companies.

Table 1: Responses to key draft findings (DF), recommendations (DR) and leading practice (DLP), and information requests (IR).

DF / DR / DLP / IR #	Position	Response
Chapter 4: Resource management		
DF 4.1	Support	**Government provision of pre-competitive geoscience information encourages exploration investment** The availability of robust, detailed pre-competitive data and associated core is critical to ensuring the attractiveness of WA as a destination of choice for exploration. Complete pre-competitive data increases the chances of technical success in future drilling, while expanding the collective knowledge base of the Geological Survey of WA (GSWA). CME support an ongoing focus on Government provision of quality pre-competitive geoscience information to encourage exploration investment.

[1] Government of Western Australia, *Latest statistics release: Mineral sector highlights*, Department of Mines, Industry Regulation and Safety, September 2019: http://dmp.wa.gov.au/About-Us-Careers/Latest-Statistics-Release-4081.aspx

[2] Government of Western Australia, *Annual report 2018-19*, Department of Mines, Industry Regulation and Safety, 2019, p. 77.

[3] Government of Western Australia, *2018-19 Annual report on State finances*, Department of Treasury, 2019, p. 8.

[4] Duncan, A. and Kiely, D., *BCEC Briefing note: WA Economic update*, Bankwest Curtin Economics Centre, 2019, p. 4.

DF / DR / DLP / IR #	Position	Response
		Adequate Government funding is critical to ensure pre-competitive data is fit-for-purpose, accessible and maintained properly. Issues with 'dirty data' can negate any potential benefits derived by access to good quality geoscience information. CME support allocation of funding to address known issues with pre-competitive data in Western Australia
DF 4.2	Do not oppose	Where can resources developments take place? Every regulatory regime has positive and negative implications for proponents. In general, the WA regime of regulation tends to be viewed as prescriptive when compared to counterpart jurisdictions. This can mean that there is clarity in the operation of the legislation and regulation, which is seen as being easier to navigate. However, such prescription can lead to unintended consequences. These can include excessive penalties for minor non-compliance, a lack of flexibility in approach, and a heavy approvals burden. Highly prescriptive regimes also require intensive resourcing from Government to meet set timeframes. CME supports a licensing system which seeks to proactively balance a need for transparency and clear decision making with the need for timely grant of tenure to access land for exploration.
DF 4.4 DR 4.1	Support	Bans and moratoria can prohibit activity of potential value to the community Unconventional onshore gas development in WA has been subject to several inquiries, most recently the Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia led by Dr Tom Hatton[5] in 2018. The findings of the Inquiry resulted in the removal of the moratorium on unconventional gas development in specific areas of the State already subject to existing petroleum exploration licences, while recommending that bans remain in place for 98 per cent of the State. Whilst community sentiment towards unconventional gas development in WA should be given due consideration, it is the role of Government to carefully consider how the risks may best be managed, with a view to enabling balanced regulation based on scientific evidence. In the case of unconventional gas exploration, the potential impacts are well understood and can be adequately and safely managed through good regulation. CME support the removal of bans and moratoria where scientific evidence indicates that risks can be managed effectively through a regulatory framework. CME acknowledges community interest from specific sections of the population in unconventional petroleum activities continues to increase. General community interest is, however, different to and distinct from the interests of project specific stakeholders such as underlying tenure holders and relevant Traditional Owners. Stakeholder engagement with these parties is a critical part of project development. There is a clear role for the Government to communicate with the broader community on the technical aspects of the petroleum industry, the robust regulatory framework, and the safeguarding that the WA Government administers in order to build broad community understanding and allay misconceptions. CME supports the role of Government as a trusted source of information to assist in allaying community concerns and building confidence in a regulatory framework. Nuclear energy projects should be assessed on their merits as any other industry project. Nuclear energy currently supplies 10 per cent of the global electricity market

[5] Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia, *Final Report to the Western Australian Government*, September 2018; https://frackinginquiry.wa.gov.au/sites/default/files/final_report.pdf

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DF / DR / DLP / IR #	Position	Response
		with 24/7, low cost, zero emission power.[6] With 30 per cent of the world's known uranium reserves,[7] nuclear energy can play an important role in Australia's low carbon future. CME do not support the prohibition on nuclear power, enacted under the current *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act).
Chapter 5: Land access		
DF 5.1 DLP 5.1	Support	**The process for obtaining access to private land** CME supports the finding that the right of veto is inconsistent with Crown ownership of resources and would affect the distribution of the benefits of resources significantly. In practice, a right of veto has the effect of turning a public good – resource wealth – into a private asset whereby the private land holder can extract the full economic rent from the asset and deliver nothing to the public. This is contrary to the principles which govern mineral wealth in Australia. It is not unreasonable for land holders to expect and receive just and fair compensation for the surface aspects of resource extraction, including any inconvenience associated. Managed well, this can lead to a mutually beneficial, long-term relationship which provides the land holder with a stable alternative source of income and gives a proponent necessary certainty. CME supports the COAG Energy Council Multiple Land Use Framework[8] as a principles-based document to guide policy, planning and development to achieve multiple and sequential land use outcomes. At a high level, strategic land use planning frameworks are best placed to determine priority land uses and take into account competing public and private interests.
DF 5.3 DR 5.1 DLP 5.6	Support	**Resources development on Indigenous land** CME support the amendments proposed in the Native Title Legislation Amendment Bill 2019 (Cth) to confirm the validity of certain existing Section 31 agreements. Section 31 agreements are widely used for exploration and minerals activities. They contain provisions to agree elements of land access, including cultural heritage management, as well as financial and non-financial benefits between proponents and Traditional Owners. The granting of mining leases and other related interests can be dependent on these agreements. Therefore, any uncertainty surrounding their validity is a substantial risk for industry and other parties to these agreements. CME support the provision of guidance by the National Native Title Tribunal as to the application of the expedited procedure to improve clarity for all stakeholders. Further uncertainty was created in Western Australia following the High Court decision in Forrest & Forrest Pty Ltd v Wilson & Ors [2017]. This ruling has created significant uncertainty within the resources sector as to the validity of tenure in specific circumstances. Priority resolution is required to restore surety for industry in WA. The WA Government has progressed drafting of amendments to the *Mining Act 1978* (WA) (Mining Act) to retrospectively validate any tenure incorrectly granted. Complementary amendments to the *Native Title Act 1993* (Cth) are required to avoid triggering a "Future Act". State and Commonwealth Government representatives have been meeting to progress this matter, and it is hoped this will feature in upcoming amendments to the *Native Title Act 1993* (Cth).

[6] International Energy Agency, Nuclear Power in a Clean Energy System, Fuel Report – May 2019, 2019, <https://www.iea.org/reports/nuclear-power-in-a-clean-energy-system>, accessed 14 April 2020.
[7] Minerals Council of Australia, *Untapped potential*, 2019, p. 4.
[8] COAG Energy Council, *Multiple Land Use Framework,* Standing Council on Energy Resources, December 2013; http://www.coagenergycouncil.gov.au/publications/multiple-land-use-framework-december-2013

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DF / DR / DLP / IR #	Position	Response
		CME strongly support the progression of complementary amendments to the *Native Title Act 1993 to* resolve uncertainty created by the High Court decision in Forrest & Forrest Ltd v Wilson & Ors [2017].
Chapter 6: Approval process		
DF 6.2 DLP 6.1 DLP 6.5 DLP 6.7	Strongly support	**Environmental impact assessments (EIAs)** Under the EPBC Act, EIAs are not risk-based and focused on material issues with conditions commensurate to the risk. Since inception of the EPBC Act, the number of conditions required for mining and petroleum projects have increased, with inconsistencies between, and duplication of, conditions set by the Commonwealth and States. Inconsistent, overly prescriptive and non-risk-based conditions make it difficult for companies to implement project approvals. CME strongly support risk-based EIAs and outcomes-focussed approval conditions commensurate to the risks identified in the EIA process. Lack of clarity in the EPBC Act regarding what information is to be considered relevant to the assessment process has resulted in obscure papers being considered in the Department of Agriculture, Water and the Environment's (DAWE's) review of EIAs, and requests for information outside of the remit of the Act. Companies have also been requested to provide environmental history of international companies, a consideration which is not within the remit of the EPBC Act. CME support amendments to the EPBC Act to more clearly articulate what information is to be considered relevant to the EIA process. CME support the development of a scoping document for assessments under the EPBC Act, to specify the focus of EIAs and therefore relevant information requests, as has been successfully implemented under the *Environmental Protection Act 1986* (WA) (EP Act).
DF 6.3	Strongly support	**Duplication of Commonwealth and State regulation** The water trigger duplicates State-based regulation, including but not limited to the EP Act and *Rights in Water and Irrigation Act 1914* (WA), and overlaps with State-based water reform. Current WA legislation requires thorough assessment of water resource risks and impacts through detailed environmental impact assessments, and robust water resource management through abstraction, discharge and reinjection licensing, compliance and enforcement. CME strongly support removal of the water trigger to eliminate duplication with existing State-based regulation. The nuclear trigger is also duplicative and inconsistent with State and Federal Government deregulation and streamlining objectives. Under sections 22(1)(e), (f) and (g) of the EPBC Act, mineral sands and rare earths extraction projects (amongst others) are being inadvertently captured, requiring a whole-of-environment assessment due to, for example, the presence of naturally occurring radioactive material (NORM) in legacy dams to be remediated, product stockpiles and process waste. Projects involving NORM should not be required to be referred under the nuclear trigger. Such referrals are inconsistent with the intent of the nuclear trigger as described in the EPBC Bill 1998 Explanatory Memorandum.[9] Furthermore, radiation safety is already heavily regulated under existing Commonwealth and State-based radiation legislation, both of which are based on the same national and international standards. CME strongly support amendment of the nuclear trigger to exclude projects involving NORM and eliminate unnecessary duplication of State-based regulation of uranium mining and milling activities.

[9] The Parliament of the Commonwealth of Australia, Environment Protection and Biodiversity Conservation Bill Explanatory Memorandum, Senate, 1998, p. 31.

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		In addition to the unnecessary duplication afforded by the water and nuclear triggers, a high number of precautionary referrals are submitted, with 60 per cent of WA projects referred in 2018-19 determined not to be a 'Controlled Action'.[10] These precautionary referrals are the result of: • Unnecessary listing of species and ecological communities due to inconsistencies between eligibility criteria under the EPBC Act and *Environment Protection and Biodiversity Conservation Regulations 2000* (Cth); • Very low trigger levels set in Referral Guidelines; and • Lack of adequate guidance and consistent approach by DAWE on what constitutes a 'significant impact'. These unnecessary referrals incur significant costs and delays to WA projects and consume significant Commonwealth Government resources. Due to issues with guidance materials and implementation of the EPBC Act however, proponents are unable to avoid completing these unnecessary referrals as proponents must obtain a determination that they are not a 'Controlled Action'.
DF 6.4 DR 6.1 DR 6.2	Strongly support	**Bilateral agreements** Bilateral agreements for assessments and approvals are an existing and under-utilised mechanism provided for under the EPBC Act to achieve State and Commonwealth regulatory streamlining objectives and effective environmental outcomes. An approval bilateral agreement can facilitate a single environmental impact assessment process and a single resultant environmental approval that would address all relevant matters of National Environmental Significance requirements as well as State environmental requirements. In turn, this agreement would streamline the impact assessment process for industry, governments, and the community, and results in a more administratively efficient environmental management moving forward. CME strongly supports the joint commitment by the WA and Commonwealth Governments to enter into an environmental approvals bilateral agreement, following the release of Professor Graeme Samuel AC's Interim Report on the Independent Review of the EPBC Act.[11] Establishment of the WA-Commonwealth bilateral approvals agreement should proceed without delay.
DF 6.5 DLP 6.2 DLP 6.3 DLP 6.4 DLP 6.12	Strongly support	**Delays at the approval stage** The unconstrained use of 'stop-the-clock' mechanisms, such as information requests, unfairly imposes additional cost and delays to project approvals. Member experience indicates these requests are often immaterial to the matters of national environmental significance and do not influence the environmental outcome or ultimate decision. The lack of process, communication and statutory timeframes for interagency referrals further frustrates and complicates assessment processes, and unnecessarily extends approval timelines. Upon referral to another agency, the assessment clock is 'stopped' and while there exists no statutory timeframe for interagency responses, proponents are not notified of the referral inhibiting proactive engagement. Further, with no identified 'lead agency' driving the proposal and little to no communication of progress, proponents are consigned to continually pursuing agency representatives to keep informed and ensure their proposals are progressed. CME strongly support greater use of statutory timeframes for assessments and post-approvals. CME strongly support constrained use of stop-the-clock mechanisms, and a whole-of-government approach to assessments to prevent interagency referrals driving perverse outcomes through targets and incentives within government.

[10] Commonwealth of Australia, Annual Report 2018-19, Department of the Environment and Energy, 2019, p. 251.
[11] Department of Agriculture, Water and the Environment, *Independent Review of the EPBC Act—Interim Report,* Samuel G, June 2020; https://epbcactreview.environment.gov.au/resources/interim-report

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DF / DR / DLP / IR #	Position	Response
		CME strongly support the use of deemed decisions for primary and post-approvals to reduce unnecessary delays to approval timeframes. CME support 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.
DF 6.6 DLP 6.9 DLP 6.10	Strongly support	**Post-approvals** The delivery of primary approvals conditional on secondary approvals (e.g. approved management plans) unduly exposes proponents to risk of further delay, additional cost and investment risk. Subject to an opaque post-approvals process, secondary approvals are handled by unacquainted assessment officers, with no assessment framework and no mechanism to break an approvals stalemate. Where matters deferred for future consideration are fundamental to the approval such matters should be included in the primary approval and subject to the same assessment rules, procedures and timeframes. Furthermore, approval conditions should allow for management plans to be developed to meet specific outcomes, rather than prescribing the content of the plans. Primary and secondary approvals should be used as technically appropriate to the administration of the EPBC Act, with sufficient flexibility to allow proponents and assessment officers to pursue the most suitable approach. CME strongly support timelines for post-approvals, and the monitoring and public reporting of regulator performance against set and appropriately consistent timelines. CME strongly support the publication of clear guidance on the type and quality of information required in post-approval documentation.
DF 6.7	Strongly support	**Appeals** Industry opponents, often removed from the local community, are increasingly using the EPBC Act appeals process to halt or delay projects based on administrative error. Appeals should be limited to aspects of the referral / approval likely to have a material effect and should only be available to those with a specific interest in the activities. Appeals and legal challenges resulting from administrative issues do not add value or result in better environmental outcomes. Such appeals simply drain Government and Court resources and create uncertainty and delay for industry. CME strongly supports amendment of the appeals process to remove vulnerability to no-value administrative appeals and include provisions to ensure there are gates which once passed, cannot be re-entered.
DF 6.8	Strongly support	**Regulatory coordination** The role of the Commonwealth in assessing and managing environmental matters has become increasingly unclear. Contrary to the intent of the EPBC Act,[12] duplication of State environmental assessment and approval processes by the Commonwealth is undermining State authority, prolonging approval timeframes, and increasing project costs without environmental benefit. Duplication and inconsistency in Commonwealth and State environmental assessment and approval processes include: • Independent Commonwealth and State assessment and approval requirements and timeframes; • Inconsistent information requirements; and • Duplicative and/or contradictory approval conditions, including monitoring and reporting timeframes and requirements.

[12] Commonwealth of Australia, *Environment Protection and Biodiversity Conservation Bill 1999: Second Reading Speech*, House of Representatives, 1999, p. 7770-7773.

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DF / DR / DLP / IR #	Position	Response
		Due to this duplication, inconsistency and lack of coordination, proponents are required to liaise with multiple agencies often resulting in costly delays to projects and substantial compliance costs. CME support the primacy of State in relation to environmental assessments and approvals on non-Commonwealth land and amendments to the EPBC Act to clarify the role of the Commonwealth. Current guidance documents are not fit-for-purpose and do not support efficient or effective referral assessment and approval processes, or consistent environmental standards across Commonwealth and State Governments. Lack of accurate and up-to-date guidance undermines the efficient administration of the EPBC Act for all stakeholders. Up to date, plain English guidance material with a clear and logical document hierarchy would help support proponents, regulatory agencies, and the community to understand and engage with the EPBC Act more effectively. The Australian Government's Major Projects online help tool[13] is a good example of a useful online tool to support proponents and the community to understand project approval requirements. CME support the publication of up to date, plain English guidance material to assist all stakeholders to understand and engage with the EPBC Act.
DF 6.9	Conditionally support	Strategic assessments CME support greater use of strategic assessments under the EPBC Act in a more practical way that improves their accessibility. Strategic assessments are good in theory, however difficult in practice. Inherently more complex, strategic assessments take longer and require greater care in their application to ensure resilience and avoid inaccuracies. Supported by robust, effective and collaborative administrative processes, well-implemented strategic assessments present an opportunity for more cost effective and efficient project approvals. Furthermore, strategic assessments and approvals can provide an effective platform for the long-term management of landscape-scale environmental values. Insufficient guidance, ineffective collaboration between regulators, lack of clarity on the effect of newly listed species on approved programs, and lack of provisions in the EPBC Act to amend a program, all contribute to the unwieldy, high-risk and expensive strategic assessment process currently unfavoured by proponents. CME support further investigation into making strategic assessments more practical and accessible for proponents.
IR 6.1	Information provided	Indigenous heritage in Western Australia Traditional Owners, industry and the State Government are the key stakeholders in the management of Aboriginal heritage in WA. It is important that Aboriginal heritage legislation functions in a way that gives confidence and certainty to all. The WA Government is currently undertaking an extensive repeal and replace process of the existing *Aboriginal Heritage Act 1972* (WA). The drafting of proposals for new legislation has been further informed by contemporary approaches in other jurisdictions, domestically and internationally, and best-practice heritage outcomes delivered by leading proponents through agreement-making. It is the responsibility of each State to ensure that their Aboriginal cultural heritage legislation is fit-for-purpose, provides certainty for affected stakeholders whilst meets community expectations, and keeps pace with modern heritage management standards. The WA Government reform has acknowledged the importance of this responsibility and continues to be supported by industry in WA as it progresses to the final phase of consultation in late 2020.

[13] Accessed via http://majorprojectshelp.business.gov.au/.

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DF / DR / DLP / IR #	Position	Response
Chapter 7: Managing environmental and safety outcomes		
DLP 7.1	Strongly support	**Compliance monitoring and enforcement** CME strongly support compliance monitoring and feedback loop for approval conditions to ensure effective and relevant environmental regulation. Outcomes-based approval conditions can support the efficient use of Department compliance monitoring resources and delivery of sound environmental outcomes through demonstrably effective and streamlined regulation.
DF 7.2 DLP 7.3	Support	**Regulator transparency** CME support regular, transparent and effective environmental performance reporting. Transparent environmental performance reporting is fundamental to building and maintaining community confidence in regulators and the resources sector. Environmental compliance monitoring reporting in WA is transparent and broadly effective. WA maintains an open data policy under which environmental performance data across the resources sector is reportable and publicly available. Compliance reporting requirements administered by the Department of Water and Environmental Regulation (DWER), Department of Mines, Industry Regulation and Safety (DMIRS), and Department of Jobs, Tourism, Science and Innovation (DJTSI) ensures the publication of resources sector activity and environmental performance under: • Part IV of the EP Act – Environmental Impact Assessments. • Part V of the EP Act – Annual Audit Compliance Reports, Annual Environmental Repots. • Mining Act – Mineral Titles Online reporting. • *Mining Rehabilitation Fund Act 2012* (WA) (MRF Act) – MRF reporting. • State Agreements – Annual Environmental Repots. • DWER, DMIRS and DJTSI Annual Reports.
DLP 7.4 DLP 7.5 DLP 7.6	Strongly support	**Offsets** Offsets should be based on significant residual impact, calculated using robust scientific and financial models, and incorporate diverse and sustainable offset options. Financial-based offset 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. CME strongly supports financial-based offset models and recommends a review and update of the Commonwealth environmental offsets calculator, with greater flexibility for more sustainable environmental offsets beyond 'like-for-like' land-based options. CME looks forward to reviewing the results of the WA Government's recent review of the Environmental Offsets Framework and the ongoing improvement of the WA Offsets Register to further enhance transparency and usefulness.
DF 7.3	Do not oppose	**Abandoned mines** Following the release of the WA Government's Abandoned Mines Policy in January 2016, the Department of Mines and Petroleum (now DMIRS) established the Abandoned Mines Program. Under this Program, a comprehensive inventory of abandoned mine features was made publicly available. Of the recorded features, more than half are classified as 'shallow workings', nearly 10 per cent are considered rehabilitated, whilst just 0.1 per cent are open cut areas with a depth greater than 20 metres. This highlights the high level of detail available for historic mining activities in WA and demonstrates that the vast majority of historic abandoned mine features are minor in nature, posing low environmental risk.

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DF / DR / DLP / IR #	Position	Response
DF 7.4	Do not support	**Cost of rehabilitation** The sale of resources assets to smaller firms can be a legitimate business decision for divestment of assets which no longer fit the broader investment portfolio or are no longer capable of delivering the rate of returns required for shareholders. It is however recognised that processes are necessary to ensure it is a beneficial sale. CME do not oppose the beneficial sale of assets to smaller firms as a legitimate business practice.
DF 7.5	Strongly oppose	**Rehabilitation funds** Enacted in 2012 under the MRF Act, DMIRS's MRF operates as a pooled levy system. All tenement holders operating on Mining Act tenure, except long-life tenements covered by State Agreements, are required to contribute to the MRF. Unlike a bonded system, the fund is able to accrue interest earned on fund contributions, and there exists no link between the fund contribution and the project which required the contribution. This enables the funds from the MRF to be used to undertake rehabilitation work on legacy abandoned mine sites throughout the State. Funding the rehabilitation of legacy sites is the purpose of the MRF, not as financial assurance for rehabilitation of existing or proposed sites. The MRF does not absolve operators from their legal obligation to carry out rehabilitation. Under the MRF Act, monies owed for the rehabilitation of abandoned sites is able to be recovered through the Courts from responsible operators. CME supports the design and operation of the MRF as an effective pooled fund, with a mandate to fund rehabilitation of legacy sites in WA. The implementation of robust title transfer procedures and effective environmental regulation and compliance monitoring processes are fundamental to sound environmental management, and successful rehabilitation and relinquishment. Rehabilitation funds, levies or bond systems do not provide for good environmental performance or quality rehabilitation practices. CME do not support a fully bonded system for rehabilitation financial assurance.
IR 7.2	-	**Need for pathway to relinquishment** The current method for relinquishment in WA is poorly defined and in practice requires the proponent to identify all applicable legislation, approvals and stakeholders, and then separately negotiate with all parties to confirm requirements have been fulfilled and obtain associated sign-off. In some instances, the process for sign-off is unclear, untested, impractical or does not exist. There are examples where sign-off has been obtained from one agency only to be negated subsequently by a different agency requiring a conflicting outcome. This can potentially occur after company resources have been expended to meet these requirements. The lack of an established relinquishment process in WA presents a notable barrier to resource sector investment. CME strongly support the development of a relinquishment pathway process in WA.
Chapter 8: Other factors affecting investment		
DF 8.4	Strongly support	**Policy and regulatory uncertainty** CME strongly supports this draft finding – it is not the role of environmental approvals to regulate export or trade.
Chapter 9: Community engagement and benefit sharing		
DF 9.2	Support	CME agree the appropriate role of the Government in regulating negative externalities borne by communities due to resources extraction, however, balancing expectations of

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DF / DR / DLP / IR #	Position	Response
IR 9.1		resource and State responsibilities for community investment is crucial. While resources companies may, by agreement, provide for and/or support community services and infrastructure as a community good exercise, this is fundamentally the responsibility of the State. There are many examples of resources companies contributing to community infrastructure within WA, including: • Sunrise Dam Gold Mine (AngloGold Ashanti Australia) and Granny Smith Gold Mine (Gold Fields Australia) contributed to the bitumen sealing of the Mt Weld Road as provision of in-principle support following a request from the Shire of Laverton. • St Ives Gold Mine (Gold Fields Australia) contributed to the Shire of Coolgardie for the Kambalda Aquatic Facility upgrade.
Chapter 10: Indigenous community engagement and benefit sharing		
DF 10.4 DF 10.5	Support	**Effective Indigenous benefit sharing** CME support proposed amendments to the *Native Title Act 1993* (Cth) which provide necessary flexibility for claim groups. There are a range of measures within the Native Title Legislation Amendment Bill 2019 (Cth) aimed at improving the practical operation of the Native Title framework. An Act which operates efficiently benefits all stakeholders. Several proposed amendments have arisen from specific cases where the inflexible drafting of the *Native Title Act 1993* (Cth) has proven unable to accommodate the needs of claim groups. Addressing known issues through amendments is supported by industry to give ongoing certainty.
Chapter 11: Improving regulator governance, conduct and performance		
DF 11.1	Strongly support	**Governments are responsible for the foundations of robust regulatory systems** CME strongly support this draft finding. Many of the aforementioned issues and opportunities for improvement have previously been raised across various reviews and forums. As such, it appears to be less an issue of understanding of these issues and more a question of effective implementation for enduring improvement.

CME thanks the Productivity Commission for the opportunity to comment on the Draft Report and looks forward to continuing to work with the Productivity Commission throughout the study.

Should you have questions regarding this submission, please contact:

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Yours sincerely,

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