



30 July 2024

██████████
Committee Secretary
Senate Standing Committees on Economics
PO Box 6100, Parliament House
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Sent via email: economics.sen@aph.gov.au

Dear ██████████,

FUTURE MADE IN AUSTRALIA BILL 2024 & FUTURE MADE IN AUSTRALIA (OMNIBUS AMENDMENTS NO. 1) BILL 2024 – PROVISIONS

The Chamber of Minerals and Energy of Western Australia (CME) is the peak representative body for the resources sector in Western Australia. CME is funded by member companies responsible for 20 per cent of Australia's corporate income tax receipts in 2022-23,¹ ranging from mining to manufacturing² and support services across more than a hundred sites from exploration to production and closure.

The WA resources sector is a significant contributor to local, state and Australian economies. In 2022-23, the WA resources sector accounted for 65 per cent of Australia's resources exports,³ half of Australia's resources capital expenditure⁴ and 53 per cent of Australian resources employment.⁵

Overview

The world's digital transformation and clean energy transition provide unique economic opportunities for the WA resources sector to expand and diversify. Currently, the industry is working hard to maintain its ranking as a top 10 global producer for over a dozen commodities in an increasingly competitive and geostrategic market⁶ and progress the \$119.8 billion worth of planned and possible projects in the pipeline in WA.⁷

Since the Prime Minister's announcement on 11 April on a Future Made in Australia (FMA) industrial policy agenda⁸ and the 2024-25 Federal Budget's release of the National Interest Framework supporting paper on 14 May, the introduction of the *Future Made in Australia Bill 2024* (the Bill) and the *Future Made in Australia (Omnibus Amendments No. 1) Bill 2024* (the Omnibus Bill) (Cth) into Parliament on 3 July is the first time the underlying design elements have been made publicly available. We thus welcome the Senate's referral of the Bill's provisions to the Senate Economics Legislation Committee (the Committee) for inquiry and report, noting this represents the first opportunity for interested individuals and organisations to provide formal feedback on the objects and financial and compliance impacts of the Bill. We also acknowledge the Committee's tight timeframe to report on a significant piece of legislation in an election year.

We, in-principle, support the intent of the FMA agenda to strategically unlock private investment at scale in the national interest. However, the underlying policy and regulatory instruments such as the Bill, Omnibus Bill, Minister's rules and accompanying Treasury guidance must be well designed and administered, with reasonable flexibility incorporated, to ensure public investment is targeted in delivering a sustained comparative advantage for Australia at an efficient cost. The National Interest Framework and sector assessments led by the Treasury Secretary **must recognise the strengths and opportunities of our existing and emerging industries, ensuring Australia's pathway to net zero and contribution to a net reduction in global emissions is focused on least cost abatement.**

¹ Includes company tax, fringe benefits tax, petroleum resource rent tax and excise duty. Commonwealth of Australia, [Final Budget Outcome 2022-23](#). The Treasury, 22 September 2023, Note 3: Taxation revenue by type, p 39. CME, [2022-23 Economic Contribution: Australia](#), 17 March 2024.

² Mining includes mineral and petroleum commodities, while manufacturing includes alumina production, basic inorganic chemicals (lithium), basic non-ferrous metals (silicon), concrete and fertiliser explosives.

³ Government of Western Australia, [2022-23 Economic Indicators Resource Data File](#), Department of Energy, Mines, Industry Regulation and Safety (DEMIRS), 9 January 2024. Australian Bureau of Statistics (ABS), [5368 International Trade in Goods](#), Table 32a.

⁴ Investment refers to capital expenditure as measured by gross fixed capital formation, current prices. ABS, [5220 Australian National Accounts: State Accounts](#), Table 25. ABS, [5206 Australian National Accounts: National Income, Expenditure and Product](#), Table 34.

⁵ ABS, [6291 Labour Force, Australia, Detailed](#), Table 5.

⁶ Government of Western Australia, [2023 Major Commodities Resource Data File](#), DEMIRS, 14 May 2024, tab 'WA vs Australia vs the World'.

⁷ Government of Western Australia, [Industry activity indicators: Investment](#), DEMIRS, 14 May 2024.

⁸ Bathgate B, [New industrial policy: A Future Made in Australia](#), Parliamentary Library, 2024-25 Budget Review article, May 2024.

We acknowledge the FMA is the Australian Government's response to attractive investment packages offered elsewhere by the United States, European Union, Canada and Japan. However, a narrow focus on providing financial support is unlikely to shift the dial for Australia's international competitiveness. For example, many of these economies score higher than Australia on both government efficiency (i.e., corporate tax policy, foreign investment and labour regulations) and business efficiency (i.e., entrepreneurship and workforce productivity), while the pace of our energy transition a key cited challenge.⁹ It is our strong view that **coordinated, substantive and long term policy support is needed from all levels of the government** to achieve the Bill's preamble of Australia to '[become and] remain an indispensable part of the global economy'.

It is imperative that **all new and existing policy, regulatory and fiscal settings are consistent with the FMA and do not contribute to a net increase in the cumulative cost and compliance burden of doing business in Australia**. It is unclear whether the multitude of disparate government strategies, plans and legislative instruments will complement or compete with the FMA, including the following:

- Powering Australia plan, inclusive of the Rewiring the Nation program, Capacity Investment Scheme and 82 per cent renewable electricity target;
- Net Zero Plan and the associated technology pathways on emissions abatement, removal and efficiency identified in the six sectoral decarbonisation plans currently under development;
- Safeguard Mechanism, Carbon Leakage Review, mandatory climate-related financial disclosures and the Sustainable Taxonomy Framework;
- Proposed expansion of the Guarantee of Origin Scheme to other sectors;
- Future Gas Strategy;
- Proposed Nature Positive Plan reforms;¹⁰ and
- Australian Critical Minerals Strategy 2023-2030, Australia's Critical Minerals List and upcoming refresh of the National Hydrogen Strategy.

Government settings need to be **designed from the outset with genuine, transparent industry consultation to maintain and attract investment in Australia, while also facilitating efficiency in both the public and private sectors**. They should not be devised in isolation within and between government agencies as this can duplicate existing processes, lengthen approvals and inadvertently lead to suboptimal outcomes across environmental, climate and economic measures, thus undermining the FMA agenda.

The remainder of this submission is centred on the Bill's capacity to unlock business investment in our national interest. It reflects our views and recommendations from recent FMA-related submissions on the green metal and low carbon liquid fuel opportunities, Critical Minerals and Hydrogen Production Tax Incentives.¹¹

Section 3 Objects and 5 Definitions

We provide in-principle support to the objects of the Act as outlined by the three subsections.

We recommend **clarity on the interaction between the net zero transformation stream and economic resilience and security stream** in the Minister's rules and accompanying Treasury guidance. For example, whether elements of subparagraph 3(b)(i) 'a sustained comparative advantage' and 'at an efficient cost' will also apply to 3(b)(ii) 'domestic capability' to an extent. This will help reduce ambiguity on whether the Australian Government is empowered to prioritise projects and pick winners to pursue the latter objective.

We note definitions in section 5 are focused on achieving Australia's greenhouse gas emissions reduction targets and net zero transformation. We believe there is an opportunity for the FMA agenda to better support export-oriented, energy-intensive and value-adding industries in Australia (i.e., magnetite, green metal feedstock inputs, battery and critical minerals and low carbon hydrogen production) and thereby address current shortcomings of the Safeguard Mechanism, which is currently subject to the Carbon Leakage Review. We also note references in the supplementary explanatory memorandum (EM) to 'supporting Australia's net zero transformation and the global net zero transformation' and paragraph 1.17 'capable of substantially reducing its greenhouse gas emissions in Australia or overseas emissions' are implied factors for

⁹ International Institute for Management Development (IMD), [Competitiveness Profile: Australia](#), IMD World Competitiveness Yearbook 2024, June 2024. [Singapore creating best long-term value, says latest IMD research on competitiveness](#), news article, June 2024.

¹⁰ CME, [Nature Positive Stage 2 Bills](#), submission to the Senate Standing Committee on Environment and Communications, 17 July 2024.

¹¹ CME, [Critical Minerals Production Tax Incentive](#), submission to the Treasury, 12 July 2024. [Hydrogen Production Tax Incentive](#), submission to the Treasury. [Green metals consultation paper](#), submission to the Department of Industry, Science and Resources. [Unlocking Australia's low carbon liquid fuel opportunity](#), submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts, 17 July 2024.

consideration. Therefore, we recommend **greater clarity in the Minister's rules and accompanying Treasury guidance that interpreting subparagraph 3(b)(i) will also include 'achieving a net reduction in global value chain emissions' as contributing to Australia's sustained comparative advantage to the extent it relates to subparagraphs 3(c)(i) to (iv)**. For example, where actions that reduce net global value chain emissions result in the onshoring of increased Scope 1 emissions, this should be commensurately weighed with the community benefit principles of secure jobs, skilled workforces, strengthened local supply chains and increased domestic taxes.

Section 6 Sector assessments

We support paragraphs 6(2)(a) and (b) to ensure opportunities analysed by the Treasury Secretary appropriately address barriers to private investment and align with the National Interest Framework. However, subsection 6(5) may lead to duplication of effort if an assessment has previously been conducted for the sector, particularly if the barriers to private investment or Australia's lack of international competitiveness relative to others are fundamentally unchanged. We thus recommend flexibility instead to update and leverage an existing assessment.

Further to paragraph 1.33 of the EM, there is also an opportunity to leverage these sector assessments to inform other decisions to ensure whole-of-government alignment on priority investment areas.

Section 7 The National Interest Framework

We support establishing the National Interest Framework's two streams.

For paragraphs (7)(3)(a) and (b), further to our discussion above, we recommend consideration of Australia's potential to significantly contribute to a net reduction in global emissions as a sustained comparative advantage in a net zero global economy. For example, there is a net reduction in direct emissions if an integrated plant uses magnetite as pellet feedstock under current steelmaking pathways.¹²

The liquefied natural gas (LNG) industry can also support global decarbonisation as a replacement interim fuel source for coal or provide energy security and affordability for our key trading partners. Until other firming and storage technologies with sufficient duration length and least sustainable cost become commercially viable at scale, natural gas can provide firming capacity to support the expansion of renewable power generation and Australia's energy-intensive, value adding opportunities. In the medium to longer term, regional cooperation on carbon capture and storage will also be an opportunity for our LNG trading partners. We thus supported the Future Gas Strategy's acknowledgement of the role of gas in the energy transition under credible net zero scenarios. Over a third of the world's new LNG supply coming online this decade will target premium short-term buyers in Asia.¹³ As the Future Gas Strategy highlights, there is an opportunity for Australia to work with regional LNG trading partners on carbon management solutions to reduce emissions.

For paragraph 7(4)(a), there may be scope to expand consideration of the 'some level of domestic capability' to consider the trade effects of international ally-shoring and friend-shoring partnerships. This opportunity will be more pronounced for specific commodities such as rare earths.¹⁴

Section 8 Conduct of sector assessments

We **strongly support paragraph 8(1)(a)**. A key criterion for considering whether Australia could be competitive is assessing where Australia currently sits in the global value chain. For the WA resources sector, our strength currently lies in the upstream segments of the value chain. With the right policy settings, there are real and present opportunities to embed ourselves in the midstream processing and value-adding segments of the value chain (i.e., feedstock inputs). For example, modelling commissioned by the Department of Industry, Science and Resources (DISR) found faster project development times for critical minerals projects yielded the highest net present value of \$170 billion and additional cumulative 329,000 full-time equivalent jobs out to 2040, more than double our status quo market position.¹⁵

¹² Hooey L, Riesbeck J, Wikstrom JO and Bjorkman B, [Role of ferrous raw materials in the energy efficiency of integrated steelmaking](#), ISIJ International, vol 54, iss 3, March 2014. Larsson M, Grip CE, Ohlsson H, Rutqvist S, Wikström JO and Angström S, [Comprehensive study regarding greenhouse gas emission from iron ore based production at the integrated steel plant SSAB Tunplåt AB](#), International Journal of Green Energy, vol 3, iss 2, February 2007. The Crucible Group, [Greenhouse emissions and magnetite iron ore 'from pit to product'](#), report commissioned by CITIC Pacific, 25 October 2022.

¹³ IEA, [World Energy Outlook 2023](#), 10 October 2023.

¹⁴ DeCarlo S and Perry A, [Why can't we be friends? Friendshoring the REE supply chain](#), US International Trade Commission, Executive Briefings on Trade, April 2023.

¹⁵ PwC, [The economic potential of Australia's critical minerals and energy transition minerals: Economic impact analysis of Australia's critical minerals and energy transition minerals and downstream processing](#), report prepared for the DISR, updated 7 July 2023, pp 20-24.

We support the Bill's non-restrictive paragraph 8(1)(b) of 'whether the sector could contribute to an orderly path to net zero transformation'. However, the added non-essential clause of 'including through the use of renewable energy' may create unnecessary confusion in interpreting eligibility for FMA support, particularly with the Bill's preamble of 'powered by clean energy'. 'Renewable' and 'clean' energy have different definitions. While we note the clause is punctuated to indicate it is an optional consideration, all interchangeable references to renewable, clean, green, net or near zero, low carbon or emissions throughout the Bill, Omnibus Bill, EM and forthcoming Minister's rules will need to be clear to avoid confusion.

We also **strongly support subparagraph 8(1)(e)(i) on recognising the key role of the private sector**. All decision making on FMA-related support should be undertaken in close consultation with the industry. Any Ministerial directions on consultation requirements via subsection 8(3) must be transparent, genuine and provide a reasonable timeframe. While we welcome discretion by the Treasury and DISR to grant extensions on recent FMA-related submissions, not all extensions can be accommodated due to timelines. If a sector assessment lacks robustness and rigour due to limited public consultation, this should be addressed before it is completed and tabled in Parliament. Currently, this is unclear as paragraph 1.30 in the EM suggests public consultation will occur after a sector assessment is tabled, which appears contrary to the intent of paragraphs 1.24 and 1.25.

Section 9 Reporting on sector assessments

We support subparagraphs (9)(3)(b)(i) to (ii) on redacting information for the purposes of the Minister tabling the report before each House of the Parliament. As highlighted by recent cyber attacks on critical minerals,¹⁶ information pertaining to Australia's national interest should not be confidential or commercially sensitive, nor cause damage to the Australia's economic security or international relations.

We note that 'security' itself is not defined despite references to 'economic resilience and security' throughout the Bill and EM. We also note the EM references 'critical' sectors and technologies such as the processing of critical minerals. 'Security' and 'critical' currently have different implications under Australia's foreign investment policy, which should be addressed in the Minister's rules or accompanying Treasury guidance. It is also unclear if the FMA agenda will affect existing and future strategic partnerships with international proponents and investors.

Given public investment is proposed to unlock private investment 'at scale', it is reasonable and transparent for subsection 9(2) to cause a copy of the report to be laid within 30 sitting days. However, this is likely to increase the internal costs of administering FMA support. Requirements to report on sector assessments should be regularly reviewed to ensure it is an effective and efficient use of the Treasury's resources.

Section 10 Community benefit principles

We support the Bill's subsection 10(2) which offers **flexibility in the form of FMA support that may be provided by the Australian Government**, i.e., including a grant, loan, indemnity, guarantee, warranty, investment of money or equity investment. The ability to discuss bespoke and innovative models of commercial support at an asset or project operations level, including public-private partnerships, will help some members reach a final investment decision (FID).

We support the establishment of the five community benefit principles via subparagraphs 10(3)(a)(i) to (v). It is crucial the principles are broad and flexible, rather than prescriptive, to appropriately reflect the inherent heterogeneity of what different people, labour markets, local communities, businesses and value chains want. For example, engagement with First Nations communities is unique and a uniform policy may not be possible.

We note paragraph 10(3)(b) may be an unnecessary catch-all clause at the Minister's discretion. Aside from our comments above on net reductions in global emissions, we believe the preceding subparagraphs 10(3)(a)(i) to (v) are broadly sufficient in encapsulating the community benefit principles. It is important this is read in conjunction with paragraph 9(4)(b) to ensure both assessment and enforcement are conducted independently without influence.

At this stage, however, it is unclear how the community benefit principles will be contractually enforced or have 'regard' to the National Interest Framework and sector assessments. The Bill and EM are ambiguous on whether it will seek to establish new requirements that could duplicate existing requirements of doing business in Australia and those specific to different states and territories. Currently, most of our members report to the Payment Times Reporting Scheme (PTRS), Workplace Gender Equality Agency (WGEA), Modern Slavery

¹⁶ ABC News, [Rare earths miner targeted in cyber attack prior to removal of Chinese investors](#), 4 June 2024. The West Australian, [Iluka Resources fends off cyberattack after CEO Tom O'Leary called out China's rare earths 'weaponisation'](#), 12 June 2024.

Statements Register, Australian Industry Participation Plan, Corporate Tax Transparency Register and State Agreement Acts. Our multinational members will also report a breakdown of payments to local councils, WA, and Australian Government agencies by operation. Given this, we do not agree with the EM's assertion the 'Bill does not have any impact on compliance costs'.

The EM suggests discretion will lie with the relevant decision-makers, which will be subject to consultation. **We strongly recommend the Committee consider whether the Bill will create a net increase in compliance costs for applicants and recipients.** As part of this consideration, the Committee should consider whether the above existing requirements can be adopted to satisfy compliance. Please see our discussion below for further details on our views and recommendations.

Section 11 FMA plans

We support the flexibility suggested in the 'have in effect a plan (a Future Made in Australia plan)' wording in subsection 11(1). In operationalising this wording, the Minister's rules or accompanying Treasury guidance should **clarify whether an FMA plan can reference an applicant's existing reporting requirements or achievement of industry best practice standards.** For example, some of our members are WGEA Employer of Choice for Gender Equality or may become a PTRS fast small business payer under recent reforms. This should help prevent duplication of reporting and encourage best practices within and between industries.

As described above on demonstrating community benefit principles, we do not support creating new reporting requirements that may duplicate or disregard existing efforts. For medium sized entities that do not have centralised corporate resources to manage compliance and administrative reporting on an ongoing basis, there is a risk a standalone requirement to produce an FMA plan could inadvertently create a barrier to accessing FMA support.

Section 12 Rules relating to provision of FMA support

For legislative flexibility, we support delegation of the compliance, method and criteria requirements to the Minister's rules. However, we note that consultation on a Minister's rules generally takes place under compressed timeframes and therefore recommend paragraph 9(3)(b) requirements for consultation periods is consistently applied to the Minister's rules as well.

Omnibus Bill amendments

We support the use of grants to support research and development (R&D) such as those currently under the Australian Renewable Energy Agency (ARENA). Our members engage directly with ARENA on the Iron and Steel R&D Funding Rounds, Advancing Renewables Program, Hydrogen Headstart Program and Powering the Regions Fund. At a high level, **we therefore support the Omnibus Bill's broadening of ARENA's functions to administer the proposed FMA Innovation Fund.**

We also support the use of financing through the Export Finance Australia (EFA). For example, the \$1.25 non-recourse loan to Iluka Resources under the Critical Minerals Facility appropriately shares the technical, operating and commercial risks of investing in a downstream critical minerals industry.¹⁷

Conclusion

We support the FMA agenda. Australia has a significant opportunity to diversify and entrench itself in the world's transformation to net zero. However, more information is required on the policy's design and administration to reduce the risk of poor effectiveness in delivering 'genuine value for money' and minimise unintended compliance impacts on the private sector.

Should you have questions regarding this submission, please contact Aaron Walker, Manager – Industry Competitiveness and Economics, on [REDACTED] or at [REDACTED].

Yours sincerely,



Rebecca Tomkinson
Chief Executive Officer

¹⁷ Iluka Resources, [Eneabba Rare Earths Refinery: Final Investment Decision](#), ASX notice, 3 April 2022.