



9 August 2021

CATSI Act Review Team  
National Indigenous Australians Agency  
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Via email: [CATSIActReview@niaa.gov.au](mailto:CATSIActReview@niaa.gov.au)

Dear CATSI Act Review Team

The Minerals Council of Australia appreciates the opportunity to provide comment on the Exposure Draft for the Corporations (Aboriginal and Torres Strait Islander) Amendment Bill 2021 (CATSI Bill). The CATSI Bill is relevant to the minerals industry due to the sector's relationships with Aboriginal and Torres Strait Islander organisations incorporated under the CATSI Act

In providing comment, the MCA notes measures to support Prescribed Body Corporate (PBC) oversight, governance and consultation in the Native Title Legislation Amendment Act 2021. The MCA also notes the Australia Government's allocation of an additional \$36.7 million over four years to support PBC Capacity Building in its 2021-22 Budget. Both complement the CATSI Bill.

### **Minerals industry interactions with the CATSI Act**

The MCA represents Australia's minerals exploration, development, mining and minerals processing industry with its members accounting for the majority of national minerals production. MCA members share a commitment to operating in a way that supports sustainable development for current and future generations.

As minerals activity occurs in remote and regional Australia, native title covers much of the land on which the industry operates. PBCs are established to hold or manage native title on behalf of native title holders and required to incorporate under the CATSI Act. PBCs are therefore a key interface between industry and native title holders regarding land use, heritage protection, land use agreement implementation and other matters.

Minerals companies often engage with Indigenous organisations, including those incorporated under the CATSI Act, to support First Nations-led initiatives. These can include the provision of cultural, community and essential services to Aboriginal and Torres Strait Islander people and communities.

In its engagement, the minerals industry recognises the importance of local autonomy and self-determination to Aboriginal and Torres Strait Islander peoples.<sup>1</sup> Consistent with the [Minerals Industry Statement on First Nations Partnerships](#), the industry recognises its role in supporting strong Aboriginal and Torres Strait Islander corporations.<sup>2</sup>

<sup>1</sup> Minerals Council of Australia, [Advantage Australia](#), MCA, Canberra, 2021, p. 20.

<sup>2</sup> Minerals Council of Australia, [Minerals Industry Statement on First Nations Partnerships](#), MCA, 6 July 2021.

## **Purpose of the minerals industry's submission**

Throughout the CATSI Act review process, the MCA has focused on matters relating to the interface between industry and Aboriginal and Torres Strait Islander corporations. The following aims have guided the MCA's contributions:

- Governments have a responsibility to support a practical, stable and equitable native title system by providing sufficient and consistent baseline funding for PBCs to undertake their statutory duties. Sufficient funding and support is particularly important as PBCs establish fee-for-service and other income streams. The additional \$36.7 million over four years in the Australian Government's 2021-22 Budget is an important step, noting funding should be ongoing.
- The CATSI Act should support communities and native title holders to maximise the benefits from native title monies and other opportunities associated with use of their lands.
  - Minerals-related land use agreements provide significant financial and non-financial benefits. Providing services to industry, including the identification, mapping and protection of heritage, may also be important income sources.
  - There is estimated to billions of dollars in community trusts and other asset management vehicles from minerals-related land use agreements. A broader range of asset management structures and increased information about options should be available to support local priorities.
- The minerals industry should be able to have confidence in the stability and governance of the native title and other organisations with which it engages.
- Regulation should be proportionate and targeted to the issue addressed, and not applied where guidance or support would be sufficient.
- Transparency measures should be meaningful and appropriate, focused on providing timely, relevant and non-commercially sensitive to those with a legitimate interest in this information.

## **Exposure bill – comments**

The MCA notes the majority of measures in the CATSI Bill relate to strengthening corporation governance, providing improved dispute resolution pathways for native title holders and enabling the Office of the Registrar of Indigenous Corporations to support corporations where required.

Throughout the CATSI Act review process, the MCA has elected not to comment on proposals regarding these matters, respecting that Aboriginal and Torres Strait Islander people, organisations and directors were best-placed to provide input.

However the MCA does wish to note the importance of effective and appropriate governance, dispute resolution and support arrangements, particularly for PBCs. While consensus is not always possible in any group, effective and appropriate measures can assist to resolve differences within a native title group. This will also give confidence to industry, and support industry and PBC partnerships.

The MCA also notes various recommendations in the CATSI Act Review Report are being progressed through non-legislative measures. This includes the recommendation to require reporting to common law holders on monetary and non-monetary benefits arising from land use agreements. Stakeholder consultation should inform this consideration to avoid unintended consequences, such as the inadvertent disclosure of commercially sensitive information.

Finally, the Guide to the Exposure Draft noted work underway by the National Indigenous Australians Agency to consider benefit management structure options to identify and address impediments to supporting economic development for common law holders, including the PBC Economic Vehicle Status proposal. The MCA supports this work.

**Good practice guidance**

Should the bill be passed, the MCA would welcome the opportunity to work with NIAA and other stakeholders to develop tailored resources for industry on the CATSI Act. This would support effective engagement with PBCs.

**More information**

The MCA looks forward to continuing to engage with NIAA, ORIC and other stakeholders to support strong Indigenous corporations. Please do not hesitate to contact Jillian D'Urso, Principal Adviser Social Policy, at [jillian.durso@minerals.org.au](mailto:jillian.durso@minerals.org.au) or 03 8614 1805 for more information.

Yours sincerely



**TANIA CONSTABLE PSM  
CHIEF EXECUTIVE OFFICER**