



14 February 2025

Mr Tony McAvoy SC
Commissioner
Australian Law Reform Commission
PO Box 209
Flinders Lane
Victoria 8009

By email: nativetitle@alrc.gov.au

Dear Commissioner McAvoy

Minerals Council of Australia submission into the future acts regime, issues paper

The Minerals Council of Australia (MCA) appreciates the opportunity to provide some comments relating to the future acts regime issues paper for the consideration of the Australian Law Reform Commission. Outlined below are the critical areas covered in the issues paper and which the MCA believes warrant significant consideration when producing the discussion paper:

- Provide more flexibility in leveraging income streams into finance for investments in economic advancement of Traditional Custodian communities
- Enable investments with Traditional Custodians by focussing on opportunities in manufacturing, minerals processing facilities, supporting infrastructure and adjacent supply chain industries required to meet emerging industries and the needs of nearby communities and delivering the Future Made in Australia vision
- Ensure any external parties providing advice, including expert opinion relied upon in courts and tribunals, to Aboriginal and Torres Strait Islander communities are held to the highest professional standards of conduct and accuracy
- Government to fulfil their responsibilities in providing sufficient and sustained baseline funding to enable Traditional Custodian organisations to establish foundations and undertake core activities. Fee-for-service and funding arrangements between land users and Traditional Custodian organisations should not, and cannot, replace sustained baseline government funding
- Working in partnership with Aboriginal and Torres Strait Islander communities, industry proponents, heritage specialists and others to document and promote leading practice approaches to co-design, co-management and protection
- Support and ensure Traditional Custodian representative bodies are accountable and transparent in operations, including how they engage with all recognised members of the Traditional Custodian representative group in decision-making processes
- Be transparent about reasons for decisions and conditions relating to projects, including how information, rights, interests, benefits and impacts have been assessed and weighed and the proposed protections to be in place

- Working with the native title sector and industry to develop tailored guidance and protocols related to working with Traditional Custodian organisations.

The Australian minerals industry has long-standing and transformative partnerships with Aboriginal and Torres Strait Islander Traditional Custodians and the communities they represent.

Industry, governments and Aboriginal and Torres Strait Islander people have shown that working together, in partnership, will create opportunities to support closing the gap at the same time allowing for significant wealth sharing opportunities. These opportunities set the foundations for creating intergenerational wealth outcomes amongst Aboriginal and Torres Strait Islander people.

Much of the land on which mining occurs is covered by native title and lands rights regimes. More than 60 per cent of operating mines are also located near Aboriginal and Torres Strait Islander communities. With each community having its own unique history and local cultural, social and economic context.

As a key stakeholder in these communities, the MCA and its member companies are fostering and developing opportunities that create inter-generational health and wealth outcomes by contributing to Closing the Gap in Aboriginal and Torres Strait Islanders disadvantage. The MCA is doing this by:

- Supporting co-design principles
- Developing the next generation of leaders
- Developing the skills and business opportunities required for future operations
- Respecting heritage and culture across the mining lifecycle.

Every Australian has a stake in the success of the Australian minerals industry, Aboriginal and Torres Strait Islander people are partners in this success. Investment outcomes are fostered when Traditional Custodians have greater access and opportunity for genuine financial partnership arrangements in future minerals developments.

To maintain the minerals industry's competitive edge and increase wealth generating opportunities for Aboriginal and Torres Strait Islander Australians, governments and the mining industry must continue to work together to develop appropriate enabling policy frameworks that maintain Australian industry competitiveness.

Working together in genuine partnerships

Strong and equal partnerships are developed and sustained where each party has in place the capability, systems and processes to support effective decision making. A partnerships approach for Indigenous people is that it gives them a say in planning for the future.

Effective local decision-making supports stability, clarity and predictability for both Aboriginal and Torres Strait Islander communities and industry on all matters associated with self-determination, reconciliation and co-design. This most often occurs where Traditional Custodian representative bodies have well developed governance and consultation structures and positive, trusted relationships with native title service providers. Access to advice, systems and capability to jointly implement, monitor and review agreements is another success factor. Clarity and consensus within each community about who speaks for Country is a crucial element.

The MCA is actively supporting capability development to enhance Aboriginal and Torres Strait Islander opportunities that are fit for individual community needs while working with communities to improve governance systems that will strengthen and sustain partnerships.

The MCA strongly advocates for governments having an important role in enabling strong and equal partnerships and support decision making by providing sufficient and sustained baseline funding to Traditional Custodian representative bodies.

As the MCA has worked with governments in the areas of climate, environmental stewardship, critical minerals investment, international trade and innovation policies, we are now embracing the opportunity to working in partnership with government and Traditional Custodians to reinforce the Australian mining industry's role in creating intergenerational wealth opportunities.

Aboriginal and Torres Strait Islander peoples are a core partner in mining and industry is a major stakeholder in transforming economic and health disparity of Traditional Custodians and their communities.

The MCA values supporting the development, implementation and advocacy of policies and programs that enable equitable, trusted and long-term partnerships with Aboriginal and Torres Strait Islander communities, including Traditional Custodians and native title holders.

The MCA supports the review of the future acts regime and will look forward to continued engagement through the future acts advisory panel along with providing the Australian Law Reform Commission with opportunities to collaborate in roundtable discussions with the member companies.

If the Australian Law Reform Commission has any questions, Matthew Denyer, Principal Adviser – Indigenous Partnerships and Communities can be contacted on [REDACTED]
[REDACTED].

Yours sincerely

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TANIA CONSTABLE PSM
CHIEF EXECUTIVE OFFICER