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Senate Standing Committee on Economics
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FUTURE MADE IN AUSTRALIA (PRODUCTION TAX CREDITS AND OTHER MEASURES) BILL 2024

The Chamber of Minerals and Energy of Western Australia (CME) is the peak representative body for the resources sector in Western Australia (WA). CME is funded by member companies responsible for 20 per cent of Australia's corporate income tax receipts in 2022-23.[1]

In 2022-23, the WA resources sector accounted for 65 per cent of Australia's resources exports,[2] half of Australia's resources capital expenditure[3] and 53 per cent of Australian resources employment.[4]

CME welcomes the introduction of the *Future Made in Australia* (*Production Tax Credit and Other Measures) Bill 2024* (the Bill) and the ability to provide our feedback to the Standing Committee's Inquiry.

Overview

Global competition in the battery and critical minerals market has intensified. At the same time, Australian resource projects are facing rising operating and capital costs arising from lengthy and duplicated federal-state approvals processes, productivity-damaging industrial relations reforms, rising energy and labour costs and labour shortages. Global market interventions have left Australia at a significant cost disadvantage in the processing segments for battery and critical minerals, leaving potential Australian jobs and investment at risk. The United States (US), Canada, the European Union and China have all adopted targeted industrial policies to improve their cost competitiveness in the battery and critical minerals industry. The US Defense Production Act also has significant funds dedicated to building sovereign capability, with a focus on the supply of critical minerals essential to national security.

A Production Tax Credit (PTC), in combination with other measures, can help lower Australian production costs and support our ambitions to host a globally competitive, sustainable and value-adding battery and critical minerals sector. Australia's Critical Minerals Strategy 2023-2030[5] emphasises the importance of our critical minerals sector to meet our decarbonisation needs, secure domestic supply chains that are vital to our strategic interests, and create jobs and national wealth. The strategy also outlines that intensifying global competition is shifting the international landscape rapidly as governments around the world compete to incentivise investment in diversifying and expanding critical minerals supply chains.

Similarly, hydrogen is a potentially significant contributor to Australia's net zero transition and almost a quarter of Australia's planned and operating hydrogen projects are in WA. Hydrogen could also create economic diversification opportunities, including through its potential use in the production of lower carbon iron and other commodities, as well as for export markets.

In the 2024-25 Federal Budget, the Australian Government announced the Future Made in Australia (FMA) package which included support for investment in critical minerals processing through the Critical Minerals Production Tax Incentive (CMPTI) valued at $7 billion over the decade. This incentive is consistent with the Australian Government's 2023-2030 Critical Minerals Strategy to build sovereign capability in critical minerals processing, diversify supply chains and support low emissions technologies. The Federal Budget also announced a Hydrogen Production Tax Incentive (HPTI) under the umbrella of the FMA plan. This is also

[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.
[2] 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.
[3] 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.
[4] ABS, 6291 Labour Force, Australia, Detailed, Table 5.
[5] Critical Minerals Strategy 2023-2030.

supported by the Government's updated National Hydrogen Strategy 2024[6] which aims to guide Australia's production, use and export of hydrogen.

CME welcomes both the CMPTI and HPTI as positive measures that, as part of holistic federal industry policy, can help support Australia's competitiveness in these strategic industries. Our detailed comments and recommended adjustments to the legislation are provided below.

1. CMPTI commencement timeframe should be brought forward

The *Future Made in Australia (Production Tax Credit and Other Measures) Bill 2024* was introduced to Parliament on 25 November 2024, following an initial public consultation in July.

CME appreciates the engagement with Treasury and the Department of Industry, Science and Resources (DISR) to date on the CMPTI. It is pleasing to see our previous advocacy result in the requirement for projects to have achieved FID by 30 June 2030 being removed, as well as the inclusion of intellectual property costs (capped at 10% of eligible expenditures) and waste products with no value as eligible expenditures. We note that the commencement time has not been brought forward as we recommended previously. Given intense international competition, industry needs support sooner rather later so **we recommend bringing forward the CMPTI commencement date to on or before 1 July 2026** instead of 1 July 2027.

2. CMPTI eligible expenditures should be expanded to compete with other jurisdictions

In earlier submissions, CME highlighted the importance of supporting the upstream segment of critical minerals production chains, and ensuring the definition of eligible outputs/activities was broad enough to include all midstream products. We are therefore pleased to see the eligible output criteria based on the undertaking of processing activities rather than specific chemical purities. However, we note that no support will be provided to the upstream segments, where market conditions for nickel and lithium in particular are very challenging.[7] Downstream processing will not occur without sustainable upstream mining.

CME also highlighted the importance of a broad and inclusive definition of eligible expenditures to maximise the impact of the CMPTI, and believe further adjustments are needed.

- We note that depreciation, financing and capital costs remain ineligible expenditures despite the Final Rule of the US Advanced Manufacturing Production Credit (AMPC) including depreciation as an eligible production cost.[8] While we acknowledge the Australian Government has introduced other measures to support up-front capital and finance costs for critical minerals projects, including the Critical Minerals Facility, Export Finance Australia and the Northern Australia Infrastructure Facility (NAIF), these measures are awarded on an individual basis and will not apply to all projects or facilities eligible for the CMPTI. Sustaining capital costs also appear to be excluded in the Bill despite these costs differing to the one-off nature of up-front capital investment and being critical to the ongoing and scalable processing activities the CMPTI seeks to support.
- Similarly, feedstock costs are explicitly excluded from eligible expenditures under the Bill, despite the US AMPC including the cost of extracting or acquiring raw materials as eligible production costs if the taxpayer claiming the credit processes the raw product to an eligible product.[9]

CME recommends adjusting the Bill to include depreciation and finance costs as eligible expenditures, apportioned appropriately to the value-adding part of the facility, to provide some offset to the high capital costs for value-adding processing infrastructure in Australia. At a minimum, sustaining capital expenditures required to support ongoing operations should be included. We also recommend the inclusion of feedstock or raw material costs. Combined, these changes would help to avoid the CMPTI providing substantially lower support to Australia's critical minerals processing sector than the US AMPC, reducing Australia's relative competitiveness. Clarity on the inclusion of the costs of transporting feedstock and reagents to the production facility would also be welcome.

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[6] National Hydrogen Strategy 2024
[7] Seven operating WA nickel mines have been put into care and maintenance since mid 2023: Panoramic's Savannah, IGO's Flying Fox and Forrestania, First Quantum's Ravensthorpe, Wylie's Kambalda and northern mines, and BHP's Mt Keith and Leinster. Two projects under construction were also put into care and maintenance: IGO's Cosmos and BHP's West Musgrave. WA's remaining two operating nickel projects are IGO's Nova and Glencore's Murrin Murrin. Arcadium Lithium announced Mt Cattlin would transition to care and maintenance by mid-2025, 5 September. Albemarle announced its Kemerton train 2 would enter care and maintenance and cancelled construction of approved trains 3 and 4, 1 August. Mineral Resources announced its Bald Hill mine operations will be temporarily suspended.
[8] US Federal Register, Advanced Manufacturing Production Credit, Internal Revenue Service Final Rule, 28 October 2024.
[9] US Federal Register, Advanced Manufacturing Production Credit, Internal Revenue Service Final Rule, 28 October 2024.

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3. Administration of the CMPTI must deliver efficient, non-duplicative processes

CME understands that the CMPTI will be co-administered by DISR and the Australian Taxation Office (ATO) with mineral sample testing to be conducted by the National Association of Testing Authorities (NATA). It is important for the CMPTI's administrative arrangement to be efficient for both industry and government and attain a reasonable balance between regulatory assurance and consistency of actual production.

The Bill indicates that the amount of CMPTI tax offset provided to an eligible company for a given income year will be made public by the Commissioner for Taxation to maintain the integrity of the measure. However, releasing this information could serve as a proxy for a production facility's expenses and therefore result in the release of commercially sensitive information. Similarly, there is reference to potentially needing to provide detail on commercial offtake agreements within annual reporting to the Industry Secretary.

CME recommends that information released publicly by the Commissioner is limited to Company Name and ABN, with other information kept commercial in confidence. The reporting company should also have the right to refuse the provision of commercial in confidence information related to commercial offtake agreements, such as pricing formulas, under annual reporting requirements. Depending on the level of detail required for annual reporting, consideration should be given to extending the proposed 30-day minimum annual reporting period. CMPTI application processes should include clear processing timeframes.

4. CMPTI must be accompanied by reform to broader industry policy settings

It is important to highlight that the introduction of a CMPTI by itself is unlikely to shift the dial for Australia's competitiveness against other jurisdictions. It should be part of holistic reform to industry policy. In our view the CMPTI must be accompanied by complementary measures including:

- Streamlined federal-state approvals processes to provide certainty over processes and timeframes.
- The provision of shared infrastructure, including well-located, turnkey strategic industrial areas to achieve economies of scale and reduce costs.
- Working with our key trading partners to support the development of price, environmental, social and governance transparency in critical and battery minerals markets.
- Ensuring access to the required skills through appropriate migration and domestic training settings.
- The timely delivery of a low emission, reliable and cost-competitive energy system. Energy prices are an important determinant of the industry's international competitiveness, especially for value-adding manufacturing activities, including lithium hydroxide, nickel sulphate, silicon and pigments from mineral sands. Modelling commissioned by CME found that the decarbonisation of WA's South West Interconnected System alone could require six times current wind generation capacity and double current solar and gas-fired generation capacity by 2030.[10]

To further enhance the effectiveness of the CMPTI, **CME recommends the Australian Government allows all minerals on Australia's Critical Minerals List and Strategic Materials List to have access to the CMPTI, and expands the Critical Minerals List to include copper, bauxite-alumina (aluminium), zinc and uranium to align with our key trading partners.**

5. HPTI commencement, FID and cut off dates should be adjusted to maximise uptake

CME supports the proposed HPTI to stimulate investment in the growth of the supply of renewable hydrogen. We welcome the legislation's intent to allow the HPTI to be awarded for hydrogen production regardless of end use, including for export to other markets. This will help establish new, long-term trading opportunities for Australian hydrogen as the global market matures.

CME notes the proposed cut-off for final investment decisions (FID) set at 30 June 2030. However, like all energy projects, hydrogen will require comprehensive infrastructure planning and timely approval processes across different levels of government. Many projects are likely to be conditional on the build-out of renewable generation capacity, and in WA in particular, the build-out of transmission infrastructure by the State. There is therefore a risk that most projects will be unable to reach FID before 30 June 2030. For large-scale projects, even those that do reach FID by the 2030 cutoff, may not be able to commence production until the mid-2030s.

[10] CME, Energy Costs in Transition: Decarbonising Western Australia's South West Interconnected System (SWIS), September 2024.

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Ending the incentive period on 30 June 2040, means the incentive would be available for significantly less than the intended ten-year window. We therefore strongly **recommend that the Treasury considers extending the 2030 FID and 2040 incentive cut-off dates and actively review the pipeline of projects on which the $6.7 billion Budget allocation was made to ensure that that HPTI is meeting its intent and projects are not disadvantaged, particularly where there are delays outside proponents' control**. **For those projects that are advanced, we would recommend bringing the scheme commencement date of 1 July 2027 forward.**

6. HPTI must be indexed to inflation

CME welcomes the proposed HPTI and while we are of the view that the HPTI of $2/kg alone will not in itself close the competitiveness gap and lead to large-scale growth of the hydrogen industry, a simple, targeted tax incentive will play an important role in unlocking investment. Coupled with a range of other forms of public support, the HPTI will play an important role for projects as they compete for international capital, particularly against other markets where significant incentives are already being made available.

However, CME remains concerned that the $2/kg incentive is not proposed to be indexed for inflation. Not only is the $2/kg rate substantially less than the equivalent US Section 45V tax credit of US$3/kg[11] (approximately AU$4.8/kg in today's dollars), but failing to index the rate over time will reduce the quantum of support provided by the HPTI in both absolute and relative terms. **CME therefore recommends that the HPTI be indexed to inflation.**

7. HPTI support should target a range of hydrogen production techniques

Whilst the HPTI focuses on electrolytic hydrogen only, other jurisdictions are providing government support to unlock opportunities for at-scale low-carbon hydrogen production from other production pathways, with the intention to bring forward demand and stimulate global market expansion. Notably, the US has a sliding scale to support other forms of low carbon hydrogen production with a higher emissions intensity than electrolytic hydrogen. Similarly, other markets provide incentives for low emission hydrogen across a range of intensities including hydrogen below 2.4kg of carbon dioxide per kg of hydrogen (United Kingdom) and below 3.4 kg of carbon dioxide (EU and Japan on a full life-cycle approach). To ensure that Australia is well-placed to gain early mover advantage in the global hydrogen economy, **CME recommends that government should consider support for other low-carbon production pathways including CCUS-enabled production.**

8. HPTI support should include projects above a threshold of 1MW

The HPTI design currently limits eligibility to projects that are above 10MW equivalent nameplate capacity, verified by the Guarantee of Origin scheme. While we agree with the HPTI's objective of growing at-scale production of hydrogen, the proposed threshold would prevent small-scale hydrogen production, for instance, for distributed passenger or heavy-duty transport, or energy storage and generation on microgrids. Our members believe projects above 1MW should be eligible for support, especially since they will be particularly important to support localised, off-grid projects in regional WA. We therefore **recommend that Treasury open the scheme to projects above a minimum threshold of 1MW**. We agree that there should be no capacity cap for the incentive.

9. HPTI must be supported by a range of complementary measures

Sustained investment will be required across the full hydrogen value chain to stimulate production, storage and distribution, demand, supply chain growth, and capability development. A basket of measures, including those announced in the FMA package and the extension to the Hydrogen Headstart program, should continue to work to address these issues, in tandem with state government support. Complementary measures to be implemented alongside the HPTI should include:

- Federal and state governments working with industry to accurately assess the scale of electricity infrastructure requirements to unlock carbon reductions, including in the hydrogen sector.
- Supporting the hydrogen hub model as a way of improving the bankability of projects, increasing innovation and information sharing, and decreasing costs and waste.
- The provision of shared infrastructure, including well-located, turnkey strategic industrial areas to achieve economies of scale and reduce costs.

[11] Incentive for the lowest-emission tier of hydrogen production in the US.

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- Streamlining of federal-state approvals processes to provide certainty over approvals processes and timeframes, reduce complexity, reduce costs, and improve efficiency.
- Working with our key trading partners to support the development of resilient supply chains and foster demand in new hydrogen markets from which Australia will be well-placed to benefit in the medium to long term.

10. Administration of FMA Community Benefit Principles must be designed to maximise efficiency for both regulator and proponent

The *Future Made in Australia Bill 2024 (Cth)* introduces five Community Benefit Principles (CBPs) that outline the types of community benefits expected to flow from the provision of FMA support, and that decision makers must consider when deciding whether to provide that support under both the CMPTI and HPTI.

The WA resources sector is committed to high environmental, social and governance (ESG) standards and our industry's operations are embedded into the socioeconomic fabric of our host communities, particularly in regional and remote WA. There are numerous examples of the industry's success underpinning thriving regional towns and cities through partnerships that support the unique cultural, social and economic foundations of localised communities. These partnerships are stronger across mature operations in traditional commodities that have leveraged the right settings to absorb cyclical, volatile markets and where the workforce is an integral and informed part of the community. Appendix A provides evidence indicating that the WA resources sector is already meeting the intent of the CBPs.

There are a range of existing reporting mechanisms used by the sector. Introducing CBPs with separate reporting requirements under the FMA will introduce additional compliance burden and duplication without enhancing the benefits to Australian communities. Several existing reporting requirements could be used to assess compliance with the CBPs and minimise the cost and burden to access FMA support. As such, **we recommend that FMA reporting mechanisms should utilise existing mechanisms to avoid duplication with existing reporting requirements**, including those under relevant State Agreement Acts (SAAs) and Australian Industry Participation Plans (AIPs).

Further, **we recommend that guidance regarding the CBPs specify that compliance with, or provision of, an existing reporting measure relevant to the CBP in question should be sufficient to satisfy FMA decision-makers**. Administrative arrangements should also be efficient for the government (in deciding on and providing FMA support) and industry (in applying and receiving), and effective in achieving desired outcomes for the wider community and economy.

Lastly there must be flexibility in the assessment of CBP's to recognise that the benefits sought by local communities differ significantly across Australia, reflecting different community needs. **We recommend that design avoids overly prescriptive criteria** to avoid unintended consequences. For example prescriptive CBPs may result in benefits of limited utility for local communities or may inadvertently limit the applicant's access to FMA support as local workforce, supply chain, or other constraints mean the criteria cannot be met.

Conclusion

In conclusion, the FMA Bill (2024) is a welcome measure to support value-adding critical minerals processing and hydrogen production in Australia. However, a CMPTI and HPTI alone is unlikely to be sufficient to close Australia's competitiveness gap and stimulate the investment required to develop sustainable, value-adding and job-creating hydrogen and battery and critical minerals industries. Achieving these opportunities will require the introduction of complementary measures as part of holistic industrial policy reform, and intense global competition it is vital to act with urgency. We therefore support legislating the *Future Made in Australia Bill 2024* as a priority ahead of the 2025 Federal election.

For further information, please contact Aaron Walker, Manager – Industry Competitiveness and Economics, on [redacted] or via email at [redacted].

Yours sincerely

[redacted]

Rebecca Tomkinson
CEO

Appendix A – Examples of how the WA resources sector meets the CBPs

The publicly available data below outlines how the WA resources sector supports and delivers on the five CBPs.

(i) Promoting safe and secure jobs that are well paid and have good conditions

CME survey data indicates that the WA resources sector supports 3 in 10 jobs in our state.[12]

This significant contribution to employment also extends to the regions, with our sector supporting:

- 1 in 2 jobs in the Pilbara;
- Around 1 in 3 jobs in the Goldfields-Esperance and Peel regions; and
- 1 in 6 jobs in the South West.

Average weekly earnings for full-time adults in the Australian mining sector are $3,015, the highest of any industry and 57 per cent higher than the national average of $1,923.[13] With the resources sector having only a 10 per cent workforce unionisation rate,[14] high wages are delivered without a highly unionised workforce. As such, a unionised workforce should not be a requirement for FMA support, as some stakeholders suggest.[15]

(ii) Developing more skilled and inclusive workforces, including by investing in training and skills development and broadening opportunities for workforce participation

CME diversity and inclusion (D&I) survey data indicates women account for 24 per cent of the WA resources sector workforce, higher than the 22 per cent share for the national resources sector.[16] 76 per cent of CME members have a specific policy that recognises and seeks to address gender D&I, while the remainder are embedded in broader workforce policies or under development as part of the sector's commitment to continuous improvement.

Regarding training, the WA resources sector contributed 42 per cent to the WA Construction Training Fund's (CTF) levy revenue in 2023-24.[17] This is in addition to employer-provided training (e.g. apprenticeships and traineeships, etc.) and pre-employment opportunities (e.g. internships, scholarships and supporting not-for-profits such as the Waalitj Foundation that empower jobseekers).

(iii) Engaging collaboratively with and achieving positive outcomes for local communities, such as First Nations communities and communities directly affected by the transition to net zero; and supporting First Nations communities and Traditional Owners to participate in, and share in the benefits of, the transition to net zero

CME D&I survey data indicates that the WA resources sector's 5 per cent employment share for Indigenous peoples in 2021 was around three times higher than the Aboriginal and Torres Strait Islander share of total WA employment as of the 2021 Census.[18] In addition, the 2021 Census indicated iron ore mining had the highest share of Aboriginal and Torres Strait Islander employment in WA at 9 per cent. 69 per cent of CME members also have a specific policy to address Indigenous D&I.

CME members supported 1,396 community organisations across Australia in 2022-23, with the majority of this contribution towards initiatives that benefit First Nations communities, followed by community wellbeing, health and education. Of the top 50 corporate givers across Australia in 2023, 9 were CME member companies in the mining and resources sector.[19]

(iv) Strengthening domestic industrial capabilities, including through stronger local supply chains

In 2022-23, CME members supported 18,712 local businesses across Australia. Our members support fairer, faster payment terms, times and practices for small, local and Indigenous-owned or Indigenous-run businesses. CME also supported passing the 'fast small business payer' amendment to the *Payment Times Reporting Amendment Act 2024* (Cth), which will recognise companies who pay small businesses with a qualifying time of 20 days or less.

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[12] CME, 2022-23 Economic Contribution: WA, 17 March 2024.
[13] ABS, Average weekly earnings, Australia – May 2024, August 2024 release.
[14] ABS, Trade union membership, August 2022.
[15] The Australian Manufacturers Workers' Union's and the Maritime Union of Australia's submissions to the Senate Inquiry into the FMA Bill.
[16] CME, Diversity and Inclusion in the Western Australian Resources Sector, report, September 2024.
[17] Through 185 payments. CTF, Annual report for the year ended 30 June 2024, 7 August 2024.
[18] Census data indicates 24,863 Aboriginal and Torres Strait Islander peoples were employed as of August 2021, equivalent to a 1.6 per cent share of total WA employment (1.510 million). ABS, 2021 Rest of WA, Census Aboriginal and/or Torres Strait Islander people QuickStats, 6202 Labour Force, table 8.
[19] Santoreneos A, Australia's top 50 corporate givers, Forbes Australia, iss 12, 19 August 2024.

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(v) Demonstrating transparency and compliance in relation to the management of tax affairs, including benefits received under FMA supports

CME members contributed 20 per cent of Australia's corporate income tax receipts,[20] and of the top 50 corporate entities by tax payable, they contributed 56 per cent.[21]

[20] Includes company tax, fringe benefits tax, petroleum resource rent tax and excise duty. Commonwealth of Australia, Final Budget Outcome 2022-23, TSY, 22 September 2023, Note 3: Taxation revenue by type, p 39. CME, 2022-23 Economic Contribution: Australia, 17 March 2024.
[21] Includes joint venture interests in WA projects. Australian Taxation Office, 2022-23 Report of entity tax information, 31 October 2024.

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