

4 September 2018

Department of the Premier and Cabinet
Aboriginal Policy Unit
Dumas House
2 Havelock Street
West Perth
Western Australia 6005

Dear Sir/Madam

OFFICE FOR ADVOCACY AND ACCOUNTABILITY IN ABORIGINAL AFFAIRS

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia. CME is funded by its member companies who are responsible for most of the State's mineral and energy production and are major employers of the resources sector workforce in the State.

CME welcomes the opportunity to comment on the State's proposal to develop an office for advocacy and accountability in Aboriginal affairs in Western Australia (the Office) as advised by Minister Wyatt in his letter dated 5 June 2018.

As noted in the Discussion Paper, Aboriginal people make up a small proportion of the State's population, and subsequently the voice of Aboriginal people may not always be heard in formal electoral politics or other governmental processes. The establishment of the Office presents an opportunity for the State to ensure this shortfall is addressed and, depending on the final functions, powers and appointment processes, CME supports the concept of the Office as a means to improve this situation, noting Aboriginal people must firstly be supportive of the concept.

CME's members recognise the importance of Aboriginal people's participation and leadership in both the resources sector and in government. However, many of the proposed activities of the Office, such as the interests of vulnerable people, housing, welfare, child protection, and health, are largely outside the scope of the resources industry. Aboriginal people are the most appropriate people to determine the correct course of action in relation to their community's needs. To be successful in advocating on the proposed activities indicated in the Discussion Paper, it will be essential the Office is adequately staffed and resourced to support these objectives.

The share of Aboriginal employees in the resources sector is approximately 4%¹. Considering Aboriginal Australians make up 1.9%² of the State's workforce, the percentage of Aboriginal employees in the WA resources sector's workforce highlights the positive commitment made by the sector. The resources sector is continuing to work with Aboriginal communities to grow employment and economic development opportunities for Aboriginal people.

¹ CME, [Diversity in the Resources Sector](#), 2017

² Australian Bureau of Statistics, [Census Data](#), 2016

In WA, the *Aboriginal Heritage Act 1972* (AH Act) and the administrative functions of the Department of Planning, Lands and Heritage are under review. At a federal level, the *Native Title Act 1993* is also under review. These laws and processes, which underpin Aboriginal heritage management and agreement making processes, are of critical importance to the resources sector as industry uses these to protect heritage, negotiate with Aboriginal communities and gain approvals for resources projects. It is essential the review of the Office does not stall these reforms, in particular, progress on Phase 2 of the review of the AH Act.

It is also important the establishment of the Office does not create a body which will duplicate the advice of entities which are already established to govern pre-existing legislation. There are already significant and lengthy decision making processes that the resources sector works within. It is important that the Office does not create a new decision making forum, or capacity to extend existing processes, or to act as an appeal body for changing government decisions made under statutory processes.

It is noted that the discussion paper specifies that a role of the Office would be to "Look at the information the government is using to make decisions, to see if it should get better information or make a different decision". Such scope could allow the Office to intervene in, and potentially stall, decision making or regulatory processes. In order for the Office to avoid duplicating the work of existing bodies or introduce unnecessary red-tape, it is essential that the Office does not intervene in the decision making processes of other Government departments.

From an industry perspective, key matters to be resolved regarding the new Office include:

- Will the Office be created by a new Act? If yes, what will be its statutory powers?
- How is it intended for the Office to interact with other offices such as the Auditor-General and the Human Rights Commissioner?
- How will the Office's role be distinguished from those in the AH Act and the *Native Title Act 1993* (in particular)?
- The discussion paper specifically states that the proposed Office would not investigate complaints, whereas the community information sheet says that it will run investigations and inquiries. This ambiguity should be clarified, and ensure that any functions do not duplicate the powers of existing offices.

CME looks forward to further dialogue on the establishment of the Office, and reiterates the importance of avoiding the introduction of any new red-tape or duplication of functions of existing governmental departments.

If you would like to discuss this matter further, please contact Lisa Campbell, Policy Adviser – Land Access, on (08) 9220 8527 or L.Campbell@cmewa.com.

Yours sincerely



Paul Everingham
Chief Executive

cc Hon. Ben Wyatt MLA, Treasurer; Minister for Finance; Energy; Aboriginal Affairs