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CRITICAL MINERALS PRODUCTION TAX INCENTIVE

Dear Mr Gebers

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

In 2022-23, the WA resources sector accounted for 65 per cent of Australia's resources exports,² half of Australia's resources capital expenditure³ and 53 per cent of Australian resources employment.⁴

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.

In the 2024-25 Federal Budget, the Australian Government announced the *Future Made in Australia* 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.

Issues for Discussion

CME welcomed the CMPTI announced in the Budget which we advocated for on behalf of our members. CME appreciates the engagement with Treasury to date on the CMPTI and appreciates the opportunity to provide this public submission and our sector's insights regarding eligibility criteria, eligibility processing expenditure, eligible outputs, administrative arrangements and community benefit principles. In line with our previous comments, it is important to highlight that the introduction of a CMPTI is necessary, but needs to be supported by other measures such as streamlined federal-state approvals, skilled labour force, strategic industrial areas and low emission, reliable and cost-competitive energy.

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.

Eligibility Criteria

Eligible Entities and FID

CME supports the eligibility criteria for the CMPTI to be available for corporations that are subject to Australian income tax and incur expenditure from value adding at the processing and refining facilities located in Australia. We agree with the principles laid out in the consultation document relating to eligibility, and with the observation that international experience has shown that complex eligibility and compliance rules can mean that early-stage projects can be placed at a disadvantage.

CME notes the proposed cut-off for Final Investment Decisions (FID) is set for 30 June 2030. However, like all projects, critical mineral projects will also require comprehensive infrastructure planning and certainty over approvals processes across all levels of government to meet the FID deadline. Further, as many projects are likely to be conditional on the build-out of renewable capacity, transmission, and relevant environmental approvals, there is a risk that all but the most advanced projects might be unable to reach FID before 30 June 2030. We therefore recommend that the Treasury consider extending the current deadline by 12 to 18 months and keep the date under active review. This will help to ensure that the pipeline of projects on which the \$7 billion allocation was based remains eligible for the incentive where there are delays for reasons outside of companies' control.

We also recommend serious consideration be given to bringing forward the commencement of the CMPTI by one year to 1 July 2026. For eligible entities who have already reached FID on an eligible project the bringing forward of the commencement would come at an important juncture for the growth of this part of the sector and would allow a financial benefit in the crucial early years of a project's operations.

The timeframe of ten years is a substantial period of time and will support new projects in the key early years of production. However, capital investment in downstream refining (lithium hydroxide, for example) is substantial and the intended plant life for these investments is multiple decades (e.g. 50 years) with ongoing sustaining capex and depreciation. In order to incentivise investment within Australia and ensure the region is competitive for downstream activities an open-ended timeframe to match the US Advanced Manufacturing Production Tax Credit (AMPTC) would be more effective. As such, consideration should be given to extending or reviewing the ten-year timeframe.

Critical Minerals

The generally accepted definition of a critical mineral is any metal or non-metal required as raw material for the manufacture of technology-oriented products such as batteries, magnets, semiconductors, circuitry and other advanced manufactured products that exhibit the following characteristics:

- Their use as an input to the manufacture of a product cannot be easily or cost-effectively substituted; and
- Their supply is concentrated in or constrained by a small number of jurisdictions from either a primary production or downstream supply chain perspective.

Australia's Critical Minerals List includes 31 minerals⁵ that are essential to modern technologies, economies or national security, specifically the priority technologies set out in the Critical Minerals Strategy for which Australia has geological potential for resources and that are in demand from our strategic international partners that are vulnerable to supply chain disruption. A separate Strategic Materials List was created in December 2023 and contains minerals that are important for the global transition to net zero and broader strategic applications. The Strategic Materials List comprises aluminium, copper, phosphorus, tin and zinc.

CME has advocated for all minerals on Australia's Critical Minerals List and Strategic Materials List to have access to the CMPTI to drive the achievement of Australia's Critical Minerals Strategy. CME believes that new minerals added to Australia's Critical Minerals List should be able to access the CMPTI. It will also be important to identify the parts of the value chain (i.e. eligible outputs) that the CMPTI applies to. This is discussed further below and we note it will be the subject of subsequent consultation by the Department of Industry, Science and Resources (DISR).

⁵ The Critical Minerals List currently includes high purity alumina, arsenic, cobalt, lithium, chromium, magnesium, antimony, beryllium, bismuth, gallium, germanium, fluorine, molybdenum, graphite, hafnium, indium, manganese, niobium, platinum-group elements, rare-earth elements, rhenium, scandium, selenium, silicon, tantalum, tellurium, titanium, tungsten, vanadium, and zirconium. Nickel was added on 16 February 2024.

Eligibility Processing Expenditure

The CMPTI is intended to apply to input costs directly related to the value-add processing of the mineral. This includes labour, utilities, consumables and reagents, logistics and transport but excludes raw materials or feedstock (mined materials). CME supports the 10 per cent credit amount which is aligned with the US Inflation Reduction Act of 2022 (IRA). We support the development of integrity rules to ensure activity between related entities is priced on an arm's length and commercial basis.

We support the five stated cost categories, noting that transport costs should include transport from the upstream minegate up to the point where the eligible output is produced. Transportation costs should include all modes, including road, rail, shipping and conveyors where relevant. With regards to utilities, we recommend utility costs are eligible expenditures regardless of the source of the utility (e.g. facilities producing their own water or electricity). The calculation of capital costs for own-sourced electricity generation could be aligned with the method used for regulated energy providers, which allows cost-recovery of capital costs plus a reasonable return on capital. Labour costs should include apprenticeship and trainee costs, noting these activities support Community Benefit Principles and are also costs involved in value-adding activities.

We recommend including all overhead or shared services costs, including IT, finance, human resources, intellectual property, and licensing costs applicable to the value-adding activities.

We also recommend the inclusion of by-product disposal and/or recycling, including associated transport costs. Value-adding manufacturing typically involves greater by-product or waste generation and these costs should therefore be recognised as part of the CMPTI. We note potential concerns that applying the CMPTI to waste costs could unintentionally de-incentivise efforts to produce saleable by-products. However, we do not believe a 10 per cent credit on waste disposal and transportation costs is likely to outweigh the financial impetus and ESG commitments driving companies to minimise waste and generate by-product revenue streams.

We note that the CMPTI is not intended to apply to depreciation and finance costs, despite the US Internal Revenue Service considering the inclusion of depreciation as eligible production costs. While we acknowledge the Australian Government has introduced other measures to support 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.

Including depreciation and finance costs as eligible expenditures, apportioned appropriately to the value-adding part of the facility, would provide some offset to the high capital costs for value-adding processing infrastructure in Australia. For example, member feedback indicates capital costs for lithium hydroxide plants in Australia are around 4 times those for equivalent plants in China. High capital costs are a key barrier to investment into downstream value-adding, and if the CMPTI is aimed to drive investment and build a competitive industry, depreciation and finance costs should be included, following precedence from the US.

The importance of the upstream segment

It is important to remember that there is no ability for Australia to move into downstream processing without a sustainable and scalable upstream segment, which the announced CMPTI is not intended to support. As highlighted early in this submission, the introduction of a CMPTI must both be appropriately targeted and be accompanied by complementary measures including:

- Streamlining federal-state approvals processes to provide certainty over processes and timeframes.
- The provision of shared infrastructure, including well-located, turnkey strategic industrial areas is critical.
- 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.

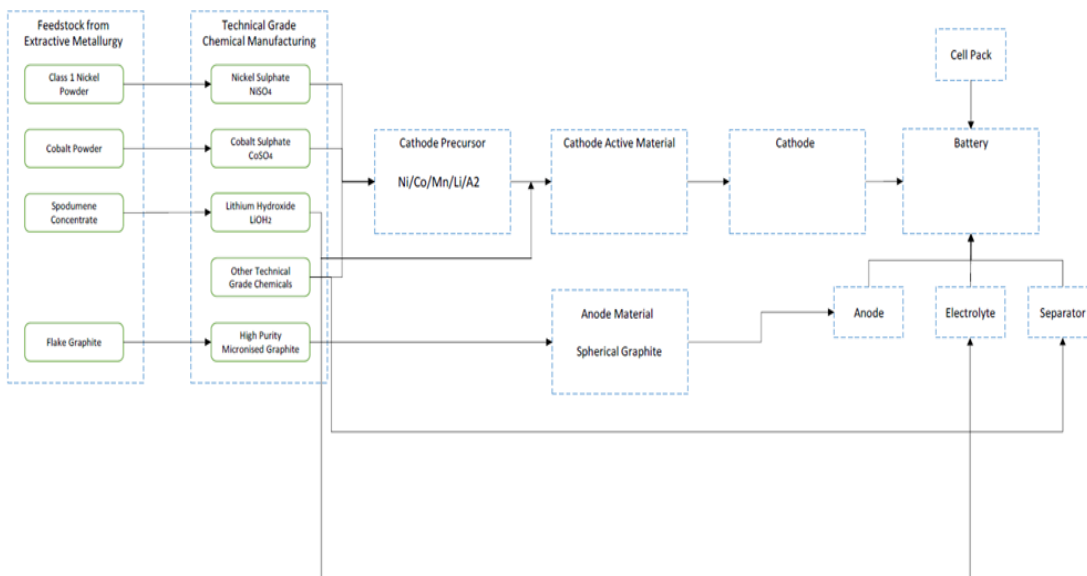
Eligible Outputs

CME understands that DISR will conduct a separate consultation to develop a list of specific outputs resulting from the refinement and processing of the 31 relevant minerals within the scope of the CMPTI. This is to ensure their appropriateness for users and producers of Australian processed critical minerals. It is likely that the determination of eligible outputs will need to be made on an individual mineral basis given the different production processes and value chains involved.

Figure 1 below shows a stylised battery value chain for a lithium-ion nickel-manganese-cobalt (NMC) battery to provide an example of the process of converting the raw critical minerals to the end product. In simple terms, raw nickel, lithium and cobalt ores are processed into nickel sulphate, lithium hydroxide and cobalt sulphate before further manufacturing to create the cathode and then the battery and finally the cell pack. It is important to note that the battery-grade lithium hydroxide operations that have recently commenced or are ramping up in Western Australia are producing lithium hydroxide monohydrate (LHM), with the chemical formula $\text{LiOH}\cdot\text{H}_2\text{O}$. The lithium hydroxide (LiOH) is chemically bound with a water molecule (H_2O) and LHM is ~56.5% lithium hydroxide. To be considered 'battery grade' a lithium hydroxide monohydrate product must be 98.9-99.9% pure LHM.⁶

Other Western Australian lithium producers are exploring a lithium phosphate battery chemical product to supply the lithium iron phosphate (LFP) battery supply chain.

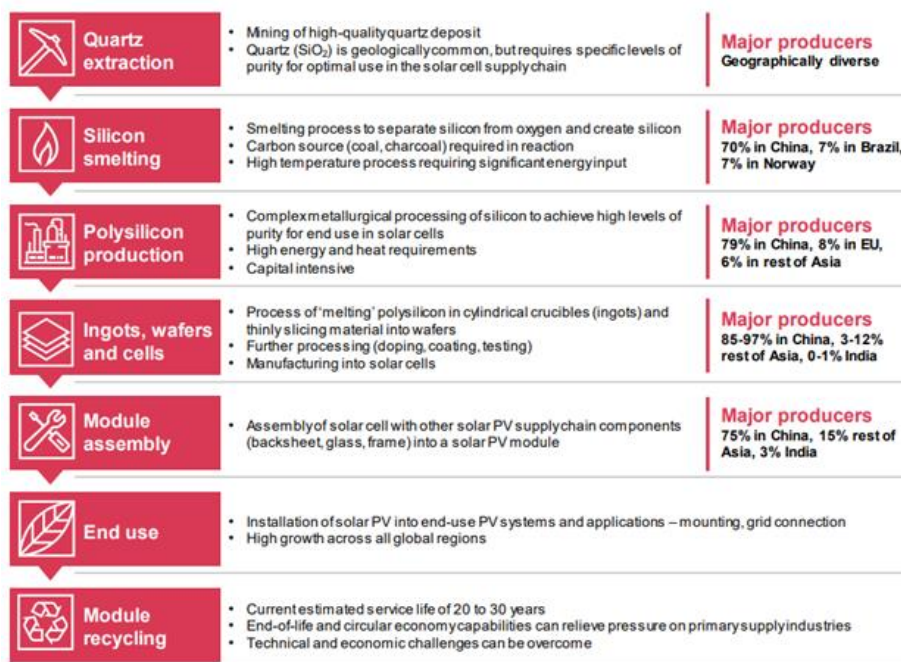
Figure 1: Lithium battery value chain (Source: Australian Venture Consultants, [WA's future in the lithium battery value chain](#), report commissioned by CCIWA, November 2018).



⁶ As per Chemical Abstracts Service (CAS) number 1310-66-3.

Figure 2 outlines a solar PV supply chain. This involves the process of quartz extraction and silicon smelting followed by polysilicon production used to make ingots, wafer and cells.

Figure 2: Solar PV supply chain (Source: CSIRO, [Australian Silicon Action Plan](#), report prepared by PwC, November 2022).



The rare earths value chain is outlined below, with numbers 1 to 7 showing the steps to magnet production. Separate from the magnet production value chain are rare earth specialty chemicals (number 8). These are chemicals derived from rare earths used in a myriad of other applications from metal alloying, electronics, catalysis, fuel cells, lasers and water treatment.

1. Rare earth ores
2. Rare earth mineral concentrates
3. Mixed rare earth chemicals (carbonate, oxalate or chloride), rare earth carbonates are typically 45% rare earth oxide (REO)
4. Mixed and separated rare earth oxides. Separated REO are typically >99.9% REO (consistent with the US AMPTC)
5. Mixed and separated rare earth metals and alloys
6. Rare earth magnets
7. Recycled rare earth magnets and their separated constituents.
8. Rare earth specialty chemicals.

Western Australian has just recently commenced production of rare earth carbonate and is looking to commence rare earth oxide production from 2026.

Further examples of commodity supply chains are available from the [Raw Material Outlook](#) platform.⁷

Administrative Arrangements and Community Benefit Principle

⁷ Raw Material Outlook Platform, <https://www.rawmaterialoutlook.org/>, Accessed on 11 July 2024

The WA resources sector directly supported 18,712 local businesses, 1,396 community organisations and 78 local governments across Australia⁸. In terms of diversity and inclusion⁹, in 2021, the WA resources sector women's workforce representation was at 21.5 per cent, while Aboriginal and Torres Strait Islander peoples' representation was 5.2 per cent. The participation of Aboriginal and Torres Strait Islander people in the WA resources sector was significantly above the 3.3 per cent population share as of the 2021 Census.

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 Geoscience Australia. It is important for the CMPTI's administrative arrangement to be efficient for both industry and government departments and attain a reasonable balance between regulatory assurance and consistency of actual production.

It is reasonable for the Australian Government to consider that CMPTI recipients should meet certain minimum conditions, subject to certain thresholds. However, the need for annual reporting against those must be balanced to ensure the administrative costs of access does not outweigh the benefits. The scheme should also accept the existing stringent quality control and product qualification processes for commodities such as lithium that are already standard within the industry to avoid duplication. Also, if production is already assessed as renewable by the government, there should not be a need to create further complexity as the community benefit is already significant.

CME recommends that reporting requirements should not duplicate existing reporting requirements (e.g. for Workplace Gender Equality Agency reporting, Payment Times Reporting Scheme and Modern Slavery Statements) and that the timing, frequency and content of company reporting should be aligned wherever possible. Also, any minimum conditions should apply at the taxpayer level rather than the facility level. This recognises that individual facilities may face challenges meeting certain criteria, such as minimum trainee, female and First Nations employment, due to their geographical location and the associated availability of housing, transport and labour.

Community Benefits Principles should avoid duplication with existing requirements under any relevant State Agreements and Australian Industry Participation Plans and reporting.

Conclusion

In conclusion, a CMPTI is a welcome measure to support value-adding critical minerals processing in Australia. However, a CMPTI alone is unlikely to be sufficient to close Australia's competitiveness gap and stimulate the investment required to develop a sustainable, value-adding and job-creating battery and critical minerals industry. It also needs to be administratively efficient.

We thank the Treasury for the opportunity to provide our sector's insights on the issues for discussion and look forward to ongoing engagement on the CMPTI. For further information, please contact Aaron Walker, Manager – Industry Competitiveness and Economics, on 0477 679 195 or via email at a.walker@cmewa.com.

Yours sincerely



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⁸ CME Economic Factsheet 2022-23, <https://www.cmewa.com.au/media/economic-contribution-factsheets/>, Accessed on 11 July 2024

⁹ Diversity and Inclusion in the Western Australian Resources Sector, <https://www.cmewa.com.au/reports/diversity-in-the-western-australian-resources-sector-report/>, Accessed on 11 July 2024.