

31 October 2019

Resources Sector Regulation
Productivity Commission
Locked Bag 2, Collins Street East
Melbourne Vic 8003

Dear Commission members,

TRANSPARENCY INTERNATIONAL AUSTRALIA SUBMISSION TO RESOURCES SECTOR REGULATION PRODUCTIVITY COMMISSION

Transparency International Australia is pleased to submit some brief comments to the Resources Sector Regulation Productivity Commission.

TRANSPARENCY INTERNATIONAL AUSTRALIA

[Transparency International \(TI\)](#) works together with governments, businesses and citizens to stop the abuse of power, bribery and secret deals. As a global movement with one vision, we want a world free of corruption. Through chapters in more than 100 countries and an International Secretariat in Berlin, we are leading the fight against corruption to turn this vision into reality.

[TI Australia \(TIA\)](#) is the national chapter of TI, and fully supports TI's [Vision, Objectives and Guiding Principles](#) and [Mission and Strategy](#).

TIA is registered with the Australian Charities and Not-for-Profits Commission (ACNC).

TRANSPARENCY INTERNATIONAL'S MINING FOR SUSTAINABLE DEVELOPMENT GLOBAL PROGRAMME

Transparency International's [Mining for Sustainable Development \(M4SD\)](#) programme aims to enhance transparency and accountability in mining sector licensing processes. The programme is coordinated globally by TIA and led in-country by local partners (TI Chapters) in 20 resource-rich countries, including Australia. This work is funded by the BHP Foundation and DFAT.

To combat corruption risks, the programme leads evidence-based, multi-stakeholder engagement at the national, regional and global levels to create change in laws, policy and the practices of key stakeholders and institutions in government, industry, civil society and communities.

M4SD is focused on strengthening and improving systems to prevent and reduce corruption risks in the licence and approvals processes.

The [global report](#) and a [global snapshot](#) (including case studies) provides an overview of the research conducted by TI to identify and assess corruption vulnerabilities.



MINING FOR SUSTAINABLE DEVELOPMENT AUSTRALIA

As part of the global M4SD program, in 2017, TIA completed a corruption risk assessment of the mining licensing processes in Western Australia (WA) and Queensland (Qld). TIA is now implementing our locally-developed national action plan to tackle the priority corruption risks identified through this research. The results from this research, including several case studies, are outlined in a full report and executive summary, and can be downloaded [here](#). The full report contains an appendix with detailed flow charts mapping the approvals process on pages 68-76.

While Australia is a mature mining jurisdiction, the corruption risk assessment uncovered several corruption vulnerabilities in the mining approvals processes of WA and Qld. A summary table of the corruption risks identified in the research can be found in the [full report](#) on pages 54-55.

Of particular note, I draw your attention to the following corruption risks that the research identified:

- In both WA and Qld, there is a high risk that there is **inadequate due diligence on applicants' integrity** (such as past unlawful conduct and compliance) and the applicants' beneficial owners. More details about this corruption risk can be found in the full report, specifically:
 - For WA pages 20-21
 - For Qld Mining Leases page 28, and Coordinated Projects page 30
 - As a cross cutting issue across both WA and Qld pages 50-52
- For Coordinated Projects in Qld, there is a risk that there is **no verification of the accuracy of environmental impact statements**. More details about this risk can be found in the full report on pages 33-35; and
- For Coordinated Projects in Qld, there are **concerns about the independence and discretionary power of the Coordinator General**, creating a risk of external influence in the Coordinator General's recommendations, evaluations and imposition of conditions. More detail about this risk can be found in the full report on pages 31-33.

In addition, the research noted the following risks:

- Inconsistent transparency in agreement-making, particularly with State Agreements in WA and between native title parties and mining companies;
- Inadequate protection of whistleblowers in the broader State and Commonwealth regulatory framework for mining approvals;
- State capture and cumulative risks including inadequate regulation of political donations and lobbyists, the movement of staff between government and industry (revolving doors), and the culture of mateship that can enable inappropriate influence to occur and is a corruption vulnerability; and
- High risk that those negotiating with a mining company on behalf of a Native Title Party will not represent community members' interests.

TI AUSTRALIA POSITION

Whilst Australia is a mature mining jurisdiction, as discussed above, our research found that several corruption risks exist within the mining approvals processes of WA and Qld. If corruption occurs in the Australian mining sector, the potential costs to the sector are significant. Therefore, it is necessary that the mining approvals processes across Australia have mechanisms in place in order to prevent corruption from occurring and ensure that the Australian mining sector is productive and trusted.

I draw the Commissions attention to a tool developed by TI – The Mining Approvals Corruption Risk Assessment Tool ([MACRA](#)). This tool identifies approximately 80 known corruption vulnerabilities in the mining approvals process globally. We have also developed [factsheets](#) related to this work that I urge the Commission to consider as part of this submission.



TIA SUBMISSION TO RESOURCES SECTOR REGULATION PRODUCTIVITY COMMISSION

I would be happy to discuss further and appear as a witness for the Resources Sector Regulation Productivity Commission.

Serena Lillywhite

CEO, Transparency International Australia