



Rio Tinto Limited
Level 7
360 Collins St
Melbourne VIC 3000
Australia
T +61 (3) 9283 3333

Energy Security Board
Email submission to: info@esb.org.au

18 September 2018

Dear Sir/Madam

Re: National Energy Guarantee – National Electricity (South Australia) (National Energy Guarantee) Amendment Bill 2018

Rio Tinto welcomes the opportunity to make a submission to the Energy Security Board (“the ESB”) on the National Energy Guarantee (the “Guarantee”) draft legislation *National Electricity (South Australia) (National Energy Guarantee) Amendment Bill* (the “Guarantee Amendment Bill”) which sets out the changes to the *National Electricity Law* to give effect to the Guarantee design. This design was presented to the Council of Australian Governments (COAG) Energy Council in the ESB Paper “*National Energy Guarantee Final Detailed Design*” dated 1 August 2018 (the ‘Final Guarantee Design’)..

Our responses in this submission are specific only to the Guarantee Amendment Bill. These responses should be considered alongside the feedback on detailed design that we have already given to the ESB Secretariat. We do not address potential changes in the broader Guarantee design that have recently been canvassed publically by members of the COAG Energy Council, except to note that from a process perspective the current Guarantee design has been developed as a complete and co-ordinated package. Accordingly should the ESB or the COAG Energy Council decide on any material change to the design of the Guarantee, there will need to be an appropriate reset and additional consultation for any changed design to ensure that the modified design elements are fit-for-purpose to minimise the risk of unintended consequences.

As an inherently energy-intensive business, Rio Tinto seeks to produce minerals and metals in the most efficient way possible to both reduce its environmental impact and lower its operating costs. Rio Tinto has interests in three aluminium smelters and two alumina refineries that together use around 10 per cent of the electricity consumed in the National Electricity Market (“NEM”). We support an integrated approach to energy and climate change that delivers a sustainable and durable investment framework.

Rio Tinto sees the role of government, both Federal and State, as creating the right long-term targets and policy to ensure a functioning and effective NEM, one that secures reliable, predictable and internationally competitively-priced energy supplies consistent with Australia’s emissions obligations.

Rio Tinto has raised a number of concerns in our previous submissions and engagement with the ESB Secretariat in respect of the detailed design of the Guarantee. While many of these concerns have been addressed in the Final Guarantee Design and the Guarantee Amendment Bill, a number remain outstanding. These include

- concerns about the disproportionate scale of penalties compared to those already in place in the National Electricity Law.
- particular drafting and policy measures to be put in place to ensure the policy intent of a full exemption for emissions-intensive trade-exposed (EITE) activities is achieved by the design of the Guarantee. This is to ensure that differences in the Guarantee design when compared to the Renewable Energy Target do not prevent the EITE exemption certificate providing a full exemption, as is the clear policy intent. For

example, we have recommended some relatively simple changes in the sequence and operation of scaling factors.

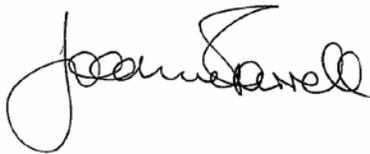
- the need for further consultation on the emissions objective.
- removing the ability to initiate the reliability requirements at T-1 without having first initiated the T-3 reliability requirement.
- technical drafting changes in respect of the reliability requirements including the opt-in provisions and emphasis of what needs to be considered in drafting the grandfathering of pre-existing contracts into the National Electricity Rules

Further to these issues, it is important to recognise that the Guarantee Amendment Bill is only one part of at least three separate pieces of legislation and regulation to give effect to the Final Guarantee Design. Many of the provisions of Guarantee Amendment Bill come into operation (and interface with) the proposed *National Energy Guarantee (Targets) Act 2018 (Cth)* (the 'Commonwealth Guarantee Act'). Similarly many elements of the Final Guarantee Design will be given effect in amendments yet to be made to the *National Electricity Rules*. It is only possible to fully assess the Guarantee Amendment Bill as part of an integrated package with the provisions of both the proposed Commonwealth Guarantee Act and the proposed changes to the National Electricity Rules as well as amendments to other legislation (for example, see the definition of EITE exempt load in Section 14D and the treatment of offsets in proposed Section 14I (1)(a)) of the National Electricity Law. Accordingly the issues raised in this submission should not be seen as a complete response to Guarantee Amendment Bill, but as a preliminary set of issues, with a more complete response only possible to the complete legislative package.

There are elements of our response that are relevant to commercially sensitive issues affecting our operations and our confidential and long term contractual arrangements. Accordingly Attachment 1, which sets out our technical comments on the above issues, is submitted on a confidential basis and is not for public disclosure.

If other elements of the Guarantee change substantially beside those set out in the Final Guarantee Design, it will be important for the ESB to consult with materially impacted parties before the revised design is again presented to COAG for formal consideration. We would welcome the opportunity to discuss this submission or other design elements of the Guarantee further with you. If you have any questions in the interim, please contact Daniel Woodfield (Daniel.Woodfield@riotinto.com).

Yours sincerely



Joanne Farrell
Group executive, Health, Safety & Environment;
MD Australia