

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

19 October 2018

Dear Sir/Madam

Re: ESB Consultation Papers: OTC Transparency in the NEM + Market Making Requirements in the NEM

Rio Tinto welcomes the opportunity to make a submission to the Energy Security Board (“the ESB”) on the Consultation Paper - OTC Transparency in the NEM (the “OTC Transparency Paper”) and the Consultation Paper – Market Making Requirements in the NEM (the “Market Making Paper”). These papers deal with the overlap of recent recommendations from the Australian Competition and Consumer Commission (the “ACCC”) in their report ‘Restoring electricity affordability & Australia’s competitive advantage’ (“the ACCC report”) and the Reliability Requirement proposed by the ESB in the final detailed design of the National Energy Guarantee (“the Guarantee”). As outlined below, it is our view that any trade repository should not require disclosure of price information for large longer-life transactions. Separately we outline that market making obligations should not apply where electricity is generated or purchased by large electricity users to meet their own needs i.e. the obligation should only apply to entities that hold a generator licence, a retailer licence and an Australian Financial Services licence to trade electricity derivatives, and whose primary business is the purchase or sale of electricity or electricity contracts.

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.

Our responses in this submission are specific only to the questions set out in the OTC Transparency Paper and the Market Making Paper and do address broader energy policy issues. These responses should be considered alongside the feedback on the detailed design of the National Energy Guarantee (“the Guarantee”) that we have already given to the ESB Secretariat.

OTC Transparency Paper

In putting in place a trade repository as part of the Reliability Requirement of the Guarantee or in response to Recommendation 6 in the ACCC report, it is important to us exactly what details of new contracts (i.e. those that are not already in place at its inception) are required to be entered in a trade repository. Any requirement that new contracts are centrally cleared or entered into some form of trade repository will be problematic for the large, longer-life contracts that aluminium smelters or alumina refineries typically enter – in particular neither party will want to disclose key terms, as electricity supply terms, including price are a major differentiator of smelter competitiveness and therefore very commercially sensitive.

Rio Tinto is of the view that for the purposes of the Guarantee a trade repository should only require data essential for recording the qualifying positions, for example, the period covered, and volumes in MW adjusted for firmness. We are of the view that it is not necessary to record contract prices in the repository for the purposes of assessing compliance with the Guarantee. The strike price does not affect the firmness of a swap contract. The strike price of a cap contract is relevant to the calculation of its firmness, but the premium (which represents the price paid for the contract) is not.

With regard to price information, the ASX markets (which are deep and liquid) play an important role in disclosing price information. There is also OTC market information available through information services such as that provided by ICAP and as noted in the OTC Transparency Paper, the OTC market represents only 23% of traded volumes. Accordingly we do not see that there is an information gap that warrants the disclosure or publication of price information.

To extent that it is decided that publishing prices is necessary to increase transparency and foster market liquidity, this should be restricted to prices for new contracts (since historical prices are not an indication of the current market price) and prices should only be published where it will not compromise the commercial position of a party, that is, prices for large contracts and also for long-term contracts should be excluded.

Market Making Requirements Paper

Should the Reliability Requirement for the Guarantee be triggered, it is likely that large customers will need to procure significant volumes of electricity at a time when demand for contracts is likely to out-strip supply. The ability to procure electricity contracts at all may be problematic. Therefore, we can see the merit of the Market Liquidity Obligation.

It is important that the only parties required to meet the Market Liquidity Obligation are the largest gentailers, whose core business generally involves trading in the electricity market. Large users may also have vertically integrated generation but with the very particular purpose of underpinning their own load to support a core business, rather than for the primary purpose of trading electricity. Large users will need to support their own loads and will not have the capabilities to meet the requirements of a centrally cleared Market Liquidity Obligation. We therefore support a requirement set out in the Market Making Paper that this obligation would only apply to entities that hold both a retailer and a generator licence (section 3.1) as well as an Australian Financial Services licence to trade electricity derivatives, and whose primary business is the purchase or sale of electricity or electricity contracts.

We would welcome the opportunity to discuss this submission 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