

Submissions
Climate Change Authority
GPO Box 787
Canberra ACT 2600

Via email: submissions@climatechangeauthority.gov.au

11 September 2018

Dear Sir / Madam

Re: *Review of the National Greenhouse and Energy Reporting Legislation - Consultation Paper*

Rio Tinto Limited ('Rio Tinto') welcomes the opportunity to make a submission on the Climate Change Authority's ('the Authority's') *Review of the National Greenhouse and Energy Reporting Legislation Consultation Paper* ('the Review Paper'), which seeks views on changes to the existing National Greenhouse and Energy Reporting ('NGER') legislation, including the Safeguard Mechanism Rule.

Rio Tinto actively participates in the development of climate policy and we have a strong interest in the Review. We have had a published position on climate change since 2005. Our statement¹, which was updated in March 2017, recognises the science of climate change, supports the goal to limit global temperature rise below 2°C, and outlines the role of our company in responding to that goal. In 2017 we published a dedicated climate change report, which provides detailed information on our approach to climate change and what we are doing to prepare our business for a low-carbon future².

In joining with businesses across the world in signing the Paris Pledge for Action, Rio Tinto supported the outcome agreed by 195 governments at the international climate negotiations at COP21. Since 2008, we have reduced our greenhouse emissions intensity by 27 per cent and our absolute emissions by 35 per cent.

The metals and minerals produced by Rio Tinto have an essential role to play in the transition to, and development of, a low-carbon economy. For example, our low-emissions aluminium helps reduce our customers' emissions footprints. Copper, borates, lithium and iron ore contribute to the electrification of transportation, smart technologies, and the construction of the renewable energy sector.

Within Australia, Rio Tinto sees the role of government, both Federal and State, as creating the right long-term targets and policy to ensure Australia's international competitiveness is consistent with national environmental and climate change objectives. We support an integrated approach to energy and climate change that delivers a sustainable and durable investment framework.

¹ http://www.riotinto.com/documents/RT_Climate_change_position_statement.pdf

² http://www.riotinto.com/documents/RT_Climate_change_report.pdf;

Rio Tinto is a large user of energy in Australia, in particular electricity, gas and diesel. Many of our operations are in remote locations and generate electricity both for our own use and also for surrounding communities. All of our operations are trade exposed, with our aluminium smelting and alumina refining assets also highly electricity and emissions intensive. As a result, any effects of Australian policy on the international competitiveness of business are of significant importance to us.

Rio Tinto supports this review of the existing NGER legislation by the Authority. The primary question for the Review is whether substantive change to the structure and operation of the NGER legislation is required. While there are a number of changes that we suggest, these are incremental rather than substantive change to the current NGER regime. In Rio Tinto's view, the NGER legislation (noting the currently proposed changes to the Safeguard Mechanism Rule) does not require substantive change.

In particular, we consider that the Safeguard Mechanism (inclusive of proposed changes) is expected to deliver on its objectives and is fit for purpose. The Safeguard Mechanism ensures that emissions reductions purchased through the Emissions Reduction Fund are not displaced by a significant rise in emissions above business-as-usual levels elsewhere in the economy. The substantive changes to the Safeguard Mechanism canvassed in Section 3.6 of the Review would give effect to an entirely different policy, one that does not "accommodate business growth and allow business to continue normal operations"³. We have not set out a detailed response to all the matters in Section 3.6, as we expect that should any substantive change be proposed, it would need to be consulted on extensively, as has been the case with previous substantive climate policy legislation, given the significance of such change to Australian business. The Government's 2017 Review of Climate Change Policies makes the case that substantive change is not currently required, in particular that Australia remains on track to meet our 2020 and 2030 emissions targets, having met our 2008 to 2012 Kyoto targets⁴.

Attachment 1 sets out our response to a selection of individual consultation questions. Matters for which we recommend for incremental change or where we think change unnecessary include:

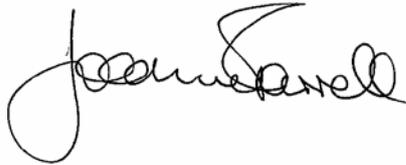
- We recommend changes to the Safeguard Mechanism including extending the provision allowing baseline variations in response to a change in global warming potentials in the measurement determination to other changes in methodology that may occur, and also amending the approach for facilities that are closing.
- We recommend changes to those aspects of NGER reporting which consume substantial time and effort with limited contribution to the outcome, for example the reporting of non-combusted fuels such as oils and greases and the requirements regarding the reporting of small facilities.
- We don't see the need to add in agriculture or land use emissions to NGERs.
- With regard to what is published, Rio Tinto doesn't support the public release of production data or data down to a facility level as this will lead to disclosure of commercially sensitive performance and benchmarking data.

³ *Emissions Reduction Fund: Safeguard Mechanism Consultation Paper*, Commonwealth of Australia 2018

⁴ *2017 Review of Climate Change Policies*, Commonwealth of Australia 2017

We would welcome the opportunity to discuss this further with you. If you have any questions in the interim, please contact Daniel Woodfield (Daniel.Woodfield@riotinto.com) or Zoe McIntyre (Zoe.McIntyre@riotinto.com).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Joanne Farrell'. The signature is fluid and cursive, with a large initial 'J'.

Joanne Farrell
Group Executive Health, Safety and Environment (HSE)
and Managing Director Australia

Attachment 1: Response to Individual Questions:

Q. 1 Do the National Greenhouse and Energy Reporting scheme reporting thresholds balance coverage with administrative costs? Should thresholds be increased, decreased or kept as is?

Rio Tinto considers the current thresholds could be improved including the treatment of small facilities reporting. We have been actively engaging with the Clean Energy Regulator and the Department of Environment seeking to amend the treatment of small facilities. As noted below in response to Q2, the requirement to report small facilities could be removed entirely as the total emissions attributed to these facilities are not material relative to the resource and effort required to report them. This removal would depend on which Government departments are using the small facility data and for what purpose. To the extent that small facilities reporting is retained, there are a number of improvements that could be made.

Reporting of small facilities is mostly in regard to scope 2 emissions. Increasing the reporting threshold higher than 20kWh per year (s2.68 (b) (v) NGER Measurement Determination) would help reduce the administrative and reporting burden. For our remote sites, in instances where non-grid electricity is used, scope 2 electricity for these small facilities is effectively double counting of emissions since scope 1 is often already reported by the generating facility.

NGER Regulations s4.26 allows for the controlling corporation to report small facilities as a percentage. It would streamline reporting for s19 and s22x reporting members and reduce reporting burden if this provision could be extended to group members when they have had 22X applied and reporting obligations have been transferred to the group member.

In addition to the highlighted issues with small facilities, as set out in Q2 below, we see significant opportunity to improve the reporting of non-combusted fuels and greases. At a minimum, it would be helpful to increase the reporting thresholds for all combusted and non-combusted sources (for example non-combusted liquid fuels from 5kL to 20kL, combusted liquids from 1kL to 5kL) and allow businesses to only update fuel estimates every three years if below a threshold and the activity doesn't change.

Q. 2 Should the scope of reporting under the National Greenhouse and Energy Reporting scheme be expanded or reduced e.g. to include or exclude certain greenhouse gases, emissions sources, inventory sectors or types of entities who report?

The Authority is interested in stakeholders' views on agricultural emissions and emissions from soil or vegetation resulting from land management. With significant land management and some agriculture within our portfolio associated with re-vegetation and also pastoral stations, we do not see a need to extend NGERs to these areas. As the Authority has pointed out, Australia already has in place a reporting scheme for land management and any agriculture emissions reported would not meaningfully capture the Australian agriculture sector given most farms are below the reporting threshold.

Rather than expanding the scope of the NGER scheme, our view is that the Authority should instead look for opportunities to reduce the reporting burden. Further to Q1 above, our view is that:

- non-combusted fuels such as oils and greases should be excluded. It is a time consuming and resource intensive process to allocate oils, lubricants and greases by purchasing documents to standardise reporting units and to determine which will trigger and which will not. The quantities add minimal additional energy to the totals captured in the reported statistics.
- The requirement to report small facilities could be removed entirely as the total emissions attributed to these facilities are not material relative to the resource and effort required to report them. This removal would depend on which Government departments are using the small facility data and for what purpose.

Q. 3 Do you have any feedback on the annual policy and consultation process to update the measurement determination?

Rio Tinto considers that the current annual review and consultation process is appropriate in circumstances where there are only minor changes to the measurement determination.

Q. 4 Are the methods for reporting emissions and energy in the measurement determination fit for purpose?

The current methods for reporting emissions and energy in the measurement determination are mostly fit for purpose. However in some cases there is significant detail to be assembled and tested in being compliant to AA and AAA and some method 2 requirements which add material extra costs outside of normal business practice for limited additional information quality. Some particular examples where this is a significant cost or time problem, include:

- bulk density testing requirements for solid fuels using AA. (s2.15 NGER Measurement Determination). Possible approaches to improve this include reducing the frequency of survey's required, removing the requirement for a survey, if the source of coal remains unchanged, and looking at alternative methods to establish density beside core sample drilling (for example drone surveys of known stockpiles);
- additional time and cost in audit - AAA for gaseous fuels. (s2.31 NGER Measurement Determination);
- testing ash percentage for carbon cores for method 2 anode consumption, rather than being able to use default like the sulphur percentage (s4.77 NGER Measurement Determination);
- Time consuming collection of information from suppliers to satisfy audit requirements on the bias testing of coal load out samplers.

We would welcome the opportunity to discuss alternative approaches to those noted in respect of each of these issues that has been highlighted.

There is also an opportunity to review whether the uncertainty calculation delivers meaningful value to the Clean Energy Regulator, as removing it would provide a streamlining improvement opportunity for companies that report.

Q. 5 Does the frequency and timing for reporting cause any particular issues for companies?

At this point, our business has built internal systems in order to manage the frequency and timing of reporting. The current level appears to us to be appropriate.

Q. 6 Is the Emissions and Energy Reporting System tool easy to use and fit for purpose?

After initial "teething problems", the on-going consultation and efforts of the Clean Energy Regulator means that the Emissions and Energy Reporting System tool ('EERS') is now relatively user friendly. There are some improvements that could be made to improve the process including better prompting and layout with regard to checking facility details and small facilities reporting.

We think there are meaningful opportunities to improve the interface for recording and extract data from EERS. In particular, an ability to download data into Microsoft-Excel for checking purposes would be a very useful improvement, as would a way of uploading data automatically from Microsoft-Excel spreadsheets.

There are also some obscure data entry requirements in EERS for aluminium emissions and an associated requirement to enter aluminium production in four separate places (that is, when entering emissions from anode consumption, then also emissions from production of baked anodes which is required to be recorded twice, and also when entering the emissions of tetrafluoromethane and hexafluoroethane in aluminium production) We see an opportunity to review the data required for

aluminium production to streamline this. These are based on the “matters to be identified” with the NGER Regulation.

Q. 7 Are there emissions and energy data that companies would like to report through the Emissions and Energy Reporting System but are currently unable to? Would the development of a voluntary tool be useful for this information?

Rio Tinto does not see any particular need to report additional data through EERS and accordingly does not see the usefulness of developing a voluntary tool to do so.

Q. 8 Are there opportunities to streamline emissions and energy reporting obligations under the National Greenhouse and Energy Reporting scheme and other programs?

There is some duplication between National Pollutant Inventory ('NPI') reporting for fuel combustion and waste water / landfill, however there is no standardisation in units of reporting and measurement rules so streamlining of the reporting systems may be difficult to do. Further, as the Safeguard Mechanism only covers scope 1 greenhouse gas emissions, it might add confusion to the process and add audit costs.

Q. 9 How does the National Greenhouse and Energy Reporting scheme contribute to providing useful information for climate-related risk disclosure or other data users and are any enhancements to the reporting scheme desirable?

Prior to the implementation of NGERs, Rio Tinto had in place a global system of sustainable development reporting. The requirements of NGERs differ in some of the detailed specifics from those in other jurisdictions and to Rio Tinto's own reporting methodology which is managed consistently across the global business in order to ensure consistency of data consolidated up into whole-of-company totals.

Q. 10 Is reporting of emissions and energy data meeting the needs of data users and inducing change in business operations? If so, how?

The requirements of NGERs has ensured standardised methods and controls are applied across Rio Tinto's Australian sites. However, in our experience, the discipline of reporting does not in itself lead to lower emission outcomes.

Q. 11 Are there learnings from international emissions and energy reporting schemes that could be applied in Australia?

Our experience in comparison with other jurisdictions is that the Australian scheme is designed in a way that is arguably overly bureaucratic. In particular the emphasis on the submission of very large amounts of data, formal external audit requirements (including requirements for reasonable assurance rather than limited assurance) adds considerably to the audit burden and audit and associated management cost. Other jurisdictions, for example New Zealand, focus on capturing the dominant majority of emissions and focus on less detailed administration supported by self-assessment rather than formal assurance. Consideration should be given to reducing the frequency of audit requirements, or even moving to a self-assessment regime such as is applied in New Zealand.

Q. 12 Is the safeguard mechanism delivering on its objectives and fit for purpose?

The Safeguard Mechanism was put in place to work alongside the Emission Reduction Fund (ERF) to “impose penalties on rogue emitters”⁵. In discussing changes to the design of the Safeguard Mechanism during recent consultations, one of the objectives outlined for changes to the Safeguard Mechanism was to ensure that they can “...accommodate business growth and allow business to continue normal operations”⁶. In Rio Tinto’s view the Safeguard Mechanism as proposed to be amended will be fit for purpose as part of a broader policy framework to reduce emissions. .

The capital intensive nature of Rio Tinto’s operations means that we are typically working to increase production so that each site is more economic. We support the design of the scheme continuing to mean that business-as-usual operation is not penalised as it seeks to grow and become more efficient with increasing scale, provided it does not increase emissions intensity. Sites in our business are consistently close to their baselines and business as usual variation or changes in operating or production plans can cause sites to exceed their baseline. This continues to provide incentive for these assets to reduce emissions where it is economic to do so.

Q. 13 Are the emissions thresholds under the safeguard mechanism efficient and effective or should they be changed so more or fewer emissions are covered?

The current thresholds are acceptable.

Q. 14 Should the scope of the safeguard mechanism be expanded or reduced if changes are made to the emissions and energy reporting scheme?

Expanding the scope of the Safeguard Mechanism will incur additional audit costs and increase the compliance burden for what appears to be little, if any, informational or other benefit.

Q. 15 Should the provision allowing baseline variations in response to a change in global warming potentials be extended to other changes that may occur in the measurement determination?

Rio Tinto sees this as an important and necessary change. This should be expanded to include changes to default oxidation factors, method 1 defaults such as Net Carbon Ratio (‘NAC in s.4.76 NGER Measurement Determination’) and changes or addition of methods for example, for the treatment of Perfluorocarbons (‘PFC’s’). In the case of PFCs for Methods 2 and 3, the NGER Measurement Determination (s.4.86, 4.87, 4.90, 4.91) directly references an international calculation protocol that includes industry specific defaults for calculating emissions. The baseline provision should allow baseline variance where these changes and updates to these factors and the international methodology occur as any resultant change in emissions for the facility will be unrelated to changes in facility operational performance.

Q. 17 Should facilities be able to use the same emission reductions to meet safeguard mechanism and Emissions Reduction Fund contract obligations?

Yes, this provides incentives for emissions reduction fund projects at facilities. Fewer abatement projects would be completed without this specific financial incentive.

We also note that it is our experience that the incentives for reduction in scope 2 emissions through ERF projects are significantly offset by the double counting rule for ERF Australian Carbon Credit Units (‘ACCUs’).

⁵ <https://www.theaustralian.com.au/national-affairs/climate/direct-action-to-cut-emissions-for-30-years-greg-hunt-says/news-story/8732f58686118a7a8973aeef1244ea72>

⁶ *Emissions Reduction Fund: Safeguard Mechanism Consultation Paper*, Commonwealth of Australia 2018

Q. 19 Are the publication thresholds set at the right level?

In our view the current publication thresholds do not require changes.

Q. 20 Are any changes required to the data reported, when it is published or how it is published?

We suggest that differentiation be made to 'ACCUs surrendered due to an ERF project in the safeguard facility reported emissions tables. This will mean that reported covered emissions exceeding the baseline and surrendering ACCUs (ACCUs gained plus actual emissions exceeding baseline)' can be compared to ACCUs surrendered due to having exceeded the baseline due to combustion or process emissions.

Q. 21 Do the rules for data publication and sharing balance the public interest with commercial or other interests or should they be changed?

Rio Tinto does not support the public release of production data or data down to a facility level, as this has the potential to lead to disclosure of commercially sensitive performance and benchmarking data. Such publication would be of significant concern to Rio Tinto.

Q. 22 Are the processes in place for accessing National Greenhouse and Energy Reporting data efficient and user-friendly?

There are no concerns (the data provided is in a list and able to be downloaded into Microsoft - Excel).

Q. 23 How do you access and use emissions and energy data published or shared under the National Greenhouse and Energy Reporting legislation and are any improvements required?

Access is via the Clean Energy Regulator website with no particular concerns or changes required.

Q. 24 How should the National Greenhouse and Energy Reporting scheme evolve over time to support changing data needs?

As noted above, we are cautious about any substantial change to NGERs and keen to ensure an appropriate level of information is publically available from the NGERs database so as not to commercially prejudice Australian business by the disclosure of commercially sensitive operational data. We would be concerned if it was proposed to include and release data and information by facility level in the context of our commercial and trade relationships..

Q. 25 Is the audit framework in the National Greenhouse and Energy Reporting legislation effective and efficient at ensuring compliance?

In our view, the current audit framework is effective at ensuring compliance. As set out in our answer to Q12, we see an opportunity to move to a regime more focussed on self-assessment, recognising this would require a meaningful shift in the current compliance approach formalised in the legislation.

Q. 29 Are there enough quality auditors available?

In our experience, there are enough quality auditors available.

Q. 30 Is the guidance provided by the Clean Energy Regulator on its website, and through other channels such as by phone or email helpful in complying with National Greenhouse and Energy Reporting legislation obligations? How (if at all) could it be improved?

The guidance provided by the Clean Energy Regulator is helpful.

Q. 31 Does the timing of obligations for National Greenhouse and Energy Reporting and the safeguard mechanism allow sufficient time to meet the obligations?

Yes – we have consistently been able to meet our obligations in the time available.

Q. 32 Does the Clean Energy Regulator have sufficient powers to encourage compliance with the National Greenhouse and Energy Reporting legislation?

In our view, yes. There are no further changes required to the Clean Energy Regulator's powers.

Q. 35 Are there any other matters relevant to this review you wish to raise?

When it comes to incremental change to the Safeguard Mechanism, other than allowing baseline variations when there are changes to the underlying methodology (see Q15), we also think that further consideration is necessary as to how to properly manage the obligations of facilities that are in the process of closure, as the process of transition to zero production fundamentally changes the emissions profile of a facility, and is likely to require a customised approach. The Clean Energy Regulator should have discretion in this area to work with the facility to manage obligations during the closure process, where a facility has formally committed to closure.