

7 October 2016

Mr Rob Hansen  
Research Director  
Agriculture and Environment Committee  
Parliament House  
George Street, Brisbane

via email: [aec@parliament.qld.gov.au](mailto:aec@parliament.qld.gov.au)

Dear Mr Hansen

**Submission - *Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016 (Bill)*.**

Rio Tinto welcomes the opportunity to make this submission to the Agriculture and Environment Committee (**Committee**) in respect of the *Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016 (Bill)*.

The Bill was introduced into Queensland Parliament on 13 September 2016, and has been referred to the Committee for consideration. The Committee has invited written submissions on the Bill by Friday 7 October 2016, and this document constitutes Rio Tinto's written submission in accordance with those requirements.

Rio Tinto's primary concern relates to the Bill's proposed introduction of an "associated water licence" (**AWL**) process for certain mining projects. Under the Bill's current drafting, this process will apply to a range of projects, including well-advanced projects that have already fully assessed potential impacts on the environment, underground water and underground water users, afforded full opportunities for third party submissions and appeals, and have been granted an environmental authority.

Rio Tinto submits that imposing the AWL process on such well-advanced projects:

- (a) renders redundant, the significant environmental assessment work already undertaken by regulatory authorities, communities and project proponents in respect of groundwater;
- (b) will not increase environmental protection outcomes or protection of other groundwater users; and
- (c) will likely add further delays and costs in delivering projects, as the AWL process is used as another avenue to challenge projects.

Rio Tinto submits that it would be appropriate to amend proposed section 1250A so that it does not apply to well-advanced projects that have completed the environmental assessment and public processes described above.

## Background to Rio Tinto

Rio Tinto has been a significant participant in Queensland's resources sector for over 50 years, and continues to be a significant contributor to the State economy.

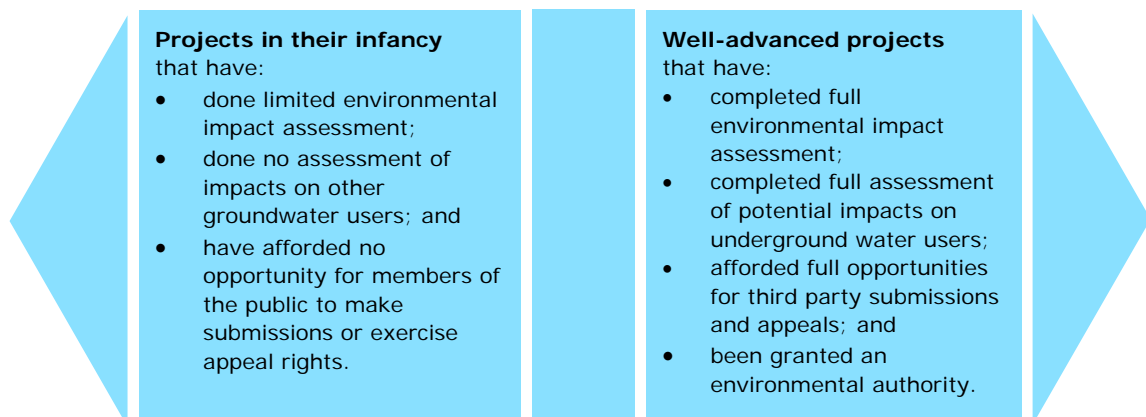
In the 2015/2016 financial year, Rio Tinto employed almost 5,000 Queenslanders and over 600 Queensland-based contractors, with its total spend on Queensland wages exceeding \$840 million. During the same period, Rio Tinto paid \$258 million in royalties, taxes and other government levies in Queensland and spent over \$1.6 billion with 1600 Queensland based suppliers.

## PART 5 OF THE BILL: CREATION OF THE AWL PATHWAY

### Background

The main feature of Part 5 of the Bill is the adjustments it would make to the *Mineral Resources Act 1989* and to the *Water Act 2000* (for the latter, through amendments the Bill would make to the *Water Reform and Other Legislation Amendment Act 2014*), which will require certain projects to seek and obtain an AWL.

The key provision in the Bill which determines which projects will and will not have to face the AWL pathway is clause 36, which would insert a new section 1250A into the *Water Act 2000*. Section 1250A casts a very broad net, capturing a wide spectrum of projects which could have reached any one of a variety of stages in a mining project's approvals processes. The two ends of the spectrum are shown in the diagram below.



Rio Tinto acknowledges that it may be appropriate for projects in their infancy to obtain an AWL. However, imposing the AWL process on well-advanced projects at the other end of the spectrum:

- ignores and devalues the significant work done by regulatory authorities, communities and project proponents in getting them to the stage of the approvals processes they have reached;
- drives "process for process sake" with no commensurate increase in environmental protection or protection of other groundwater users; and
- inevitably adds cost and risk to project proponents at time when industry and the economy can least afford it.

*Proactive engagement with neighbouring landholders whose major concern was groundwater impacts meant that there were no objections requiring determination in the Land Court. Rio Tinto provided on site briefings for concerned neighbours with the consultant who prepared the groundwater study. This allowed the neighbours to scrutinise the study findings in person while walking the site.*

**This means that:**

- ✓ The project's environmental impacts have been **fully assessed**.
- ✓ The project's impacts on other underground water users has been **fully assessed**.
- ✓ **Ample opportunities** have been afforded for public submissions and third party appeals, including to the Land Court.

**Reference material:**

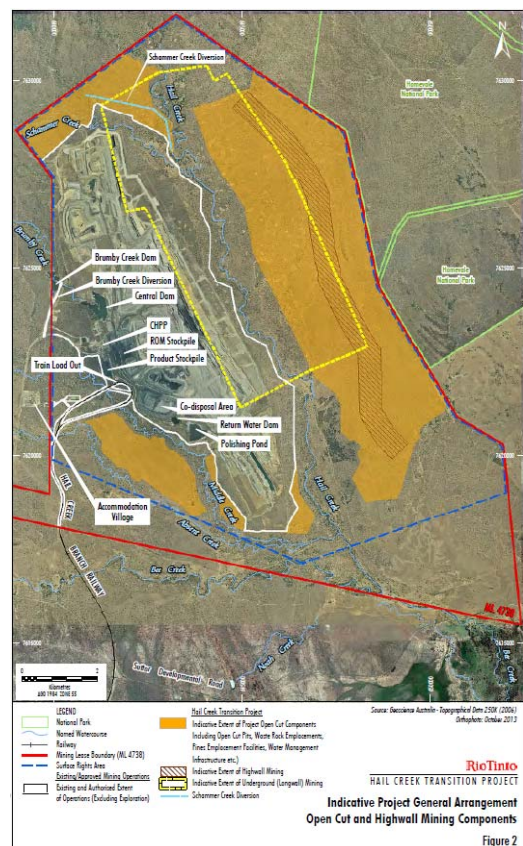
<http://www.riotinto.com/australia/rtca/documents-10401.aspx?tx=117>

**CASE STUDY 2: HAIL CREEK TRANSITION PROJECT**

Hail Creek Mine is one of Queensland's premier coking coal mines, located approximately 120km southwest of Mackay and 35km northwest of Nebo. The open cut mine, which started production in 2003, uses a dragline, truck and shovel method with approval to produce up to 10 Million tonnes per annum (**Mtpa**) of hard coking coal for export. The operation currently employs approximately 1,150 employees and contractors, the majority of which are from Mackay and surrounding areas.

The Hail Creek Transition Project recently gained State and Commonwealth approval for the continuation of open cut mining to the north of the existing mine, a transition to open cut mining to the eastern side of the mining lease, and underground mining between the current west and proposed east open cut pits. Production will remain within the existing limit of 10 million tonnes of product coal per annum, which equates to approximately 20 million tonnes of run of mine coal per annum. Activities will remain within the existing mining lease at Hail Creek Mine.

The site has not historically held an extraction licence for the operation as groundwater is passively extracted from the pit floor, not through active means via a bore and pump.



**Current status of regulatory and public evaluations of project**

- Mining tenure **GRANTED**
- Environmental authority **GRANTED**
- EPBC Act approval **GRANTED**
- Independent Expert Scientific Committee consideration **YES**
- Land Court consideration **NOT REQUIRED – NO OBJECTIONS**

**This means that:**

- ✓ The project's environmental impacts have been **fully assessed**.
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- ✓ **Ample opportunities** have been afforded for public submissions and third party appeals, including to the Land Court.

**Reference material:**

<http://www.riotinto.com/australia/rtca/documents-10401.aspx?tx=116>

**Why we say this is overregulation for the Kestrel Extension No. 4 Project and Hail Creek Transition Project**

Pursuant to clause 31 of the Bill, an AWL will be required where a project:

- (a) has had its environmental authority **granted** before commencement; and
- (b) **did not yet hold**, but would have been required to hold, a water licence in respect of underground water impact.

This means that, despite substantial environmental assessment and opportunity for public submissions and third party appeals, the Kestrel Extension No. 4 Project and the Hail Creek Transition Project would now be:

- (a) subject to a new, additional application and approvals process;
- (b) potentially required to reproduce expensive modelling and associated data to support that process; and
- (c) subject to further public submissions and appeals, despite the opportunities for comment that have already been available.

Environmental impact assessment work for these projects – including in respect of groundwater impacts – has already been completed by Rio Tinto, assessed by the regulator and considered by the public. A requirement to obtain an AWL is an unnecessary additional regulatory layer that carries with it no commensurate environmental benefit.

**Not just overregulation but a real and pointless risk burden**

Clause 36 of the Bill would:

- (a) unnecessarily require publication of the AWL application; and
- (b) repeat submission processes and associated internal and external review and appeal rights if an AWL is granted.

As noted above, the Kestrel Extension No. 4 Project and the Hail Creek Transition Project have already successfully completed the various public submission and third party challenge processes that form part of their statutory approvals pathways. Third parties have been properly afforded opportunity to have submissions on these projects heard. As such, imposing a further public process on the project, at such a late stage in the approvals process, is neither necessary nor reasonable.

Further, it creates a very real risk of increased cost and delay. This is particularly so in the current climate in Queensland. The substantial number of unsuccessful challenges to Adani's Carmichael Mine provide a clear illustration of how this risk can manifest.

**What is the solution?**

In light of the issues described above, Rio Tinto submits that it would be appropriate to amend proposed section 1250A so that it does not apply to well-advanced projects such as the Kestrel Extension No. 4 Project and the Hail Creek Transition Project.

This would acknowledge the detailed assessment work already completed for projects such as these, and will remove additional risks that the AWL process would otherwise create.

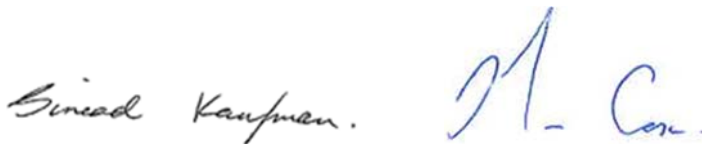
**PARTS 2 AND 4 OF THE BILL**

The Bill also proposes a number of amendments to the *Environmental Protection Act 1994* (in Part 2) and the *Water Act 2000* (in Part 4).

Rio Tinto supports and agrees with the submissions made by the Queensland Resources Council in respect of these proposed amendments.

Please direct any enquiries to Julia Wilkins on 3625 5141 or [julia.wilkins@riotinto.com](mailto:julia.wilkins@riotinto.com).

Yours sincerely

The image shows two handwritten signatures in blue ink. On the left is the signature 'Sinead Kaufman.' and on the right is the signature 'Bruce Cox.'.

**Sinead Kaufman**  
Managing Director  
Rio Tinto Coal Australia

**Bruce Cox**  
Managing Director  
Rio Tinto Aluminium - Pacific Operations,