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The Research Director
Agriculture, Resources and Environment Committee
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24 March 2014

Environmental Offsets Bill and Policy 2014 – Submission to Committee

Rio Tinto Coal Australia (RTCA) makes this submission in relation to the *Environmental Offset Bill 2014* (the Bill) which was referred to the Agriculture, Resources and Environment Committee on 13 February 2014 by the Minister for Environment and Heritage Protection, the Honourable Andrew Powell MP. This submission also considers the recently announced Environmental Offset Policy and concerns regarding the interactions between the Bill and policy. RTCA supports the submission made by the Queensland Resources Council, and is providing this individual submission to reflect the material impact to our business of securing and managing environmental offsets.

Rio Tinto's internal 'Net Positive Impact' policy reflects our company's commitment to avoid, mitigate and/or offset the environmental impacts of our business. However, this is only achievable with sufficient investment certainty and transparency of costs to enable decision-making for projects and operations. RTCA is supportive of the use of environmental offsets as a pathway to deliver both Net Positive Impact and regulatory compliance.

RTCA, headquartered in Brisbane, is one of Australia's leading mining organisations with a highly successful record in developing and managing world-class coal operations. It is a wholly-owned member of the Rio Tinto Group and sits within the Rio Tinto Energy Product Group. RTCA produces both thermal and coking coal from our six operations – in the Hunter Valley in New South Wales and Queensland's Bowen Basin – for international export. In Queensland, the company operates the Hail Creek, Kestrel and Clermont mines.

RTCA views the Bill as a positive step towards streamlining the environmental offsets regime in Queensland, and critically supported by the Queensland Environmental Offsets Policy (the Policy) released on Monday 17 March 2014 and to come into effect when the Bill commences. The following are issues that RTCA would like the Committee to consider with regard to the Bill and Policy:

- RTCA views that there could be inclusion of an 'opt in' mechanism for applicants with undecided applications. This request is considered reasonable given that any future amendment applications which may, or are likely to, result in a significant residual impact on a prescribed environmental matter (as prescribed in regulations) would be subject to the provisions of the Bill.
- The Policy contains transitional provisions which are broader than, and inconsistent with, those contained in the Bill. In certain circumstances, the Policy encourages proponents to negotiate with the Department of Environment and Heritage Protection

for consideration of the new Policy in lieu of superseded offsets policies; however the transitional provisions to do this are unclear.

- The Bill is designed to prevent duplication of offset conditions imposed by various levels of government. While these provisions represent an improvement on the current situation, the Bill makes an assumption that either the approvals are obtained in a particular order or there is a degree of integration in approval processes at the Commonwealth, State and Local levels which does not currently exist.
- The previous issue is evident if, for example, if the Commonwealth decides that a particular project is a controlled action and conditions the project to provide land-based offsets for any significant residual impacts, thereby negating any benefit in selecting the financial settlement option under the Bill.
- Offset conditions deemed under the Bill require an authority holder to agree with the administering agency about the delivery of an offset condition. There are no timeframes in the Bill for the agency to give the authority holder notice that it agrees or disagrees with the proposed delivery method. If there is a dispute, the dispute resolution mechanism will be prescribed in yet-to-be-released regulations. This process has the potential to significantly delay the start of a project.
- Under the Bill, there are limitations on the use of legally secured offset areas for a prescribed activity. The Policy appears to be inconsistent with the Bill on this topic.
- The Bill does not adequately deal with advanced offsets, other than to provide that a regulation may provide for these mechanisms, including their use and trade. The Policy provides limited further information about advanced offsets in Appendix Five. It is clearly difficult to comment on advanced offsets in the absence of draft regulations.
- The Bill does not refer to 'strategic investment corridors' or 'direct benefit management plans'; whereas the Policy makes provision for these so-called shelf-ready products. It is unclear whether the regulations are intended to provide a legal basis for shelf-ready products.
- The Bill contains an appropriate degree of flexibility about the staging of offset delivery by authority holders. However, this flexibility is undermined by the Policy, which provides that relevant conditions in an approval must provide that the activity and delivery of offsets be staged.
- The Policy provides that a legally binding mechanism for an offset must remain in place where a landholder advises in writing that it wishes to retain the legally binding mechanism. This 'veto' power limits the flexibility of the Bill and other legislation.

We would welcome the opportunity to provide any further information or clarification to support our submission. Please contact the undersigned on 07 3625 4781 or stuart.ritchie@riotinto.com in the first instance.

Yours faithfully



Stuart Ritchie
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