

RET and Energy Section
Clean Energy Regulator
Email submission to: CER-
RETandEnergySection@cleanenergyregulator.gov.au

24 March 2021

Dear Sir/Madam,

Re: Consultation Paper: Corporate Emissions Reduction Transparency Report

Rio Tinto welcomes the opportunity to make a submission to the Clean Energy Regulator (“the Regulator”) on the Corporate Emissions Reduction Transparency Report consultation paper (the “CERT Consultation Paper”) and the Corporate Emissions Reduction Transparency Report guidelines (the ‘CERT Guidelines’). These documents outline the Regulator’s proposed addition of a voluntary reporting mechanism to the existing National Greenhouse and Energy Reporting (NGER) framework.

Rio Tinto actively participates in the development of climate policy. Our most recent dedicated climate change report, published in February 2021, provides detailed information on our approach to climate change and what we are doing to prepare our business for a low-carbon future¹.

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.

Climate risks and opportunities have formed part of our strategic thinking for over two decades. We continue to take steps to manage risks and build resilience to climate change, as well as to position ourselves for new opportunities. Rio Tinto has committed to:

1. Produce the materials for a low carbon future
2. Reduce the carbon footprint of our operations with an ambition to achieve net zero by 2050
3. Enhance our resilience to physical climate risks
4. Partner to advance climate goals across our value chain

Rio Tinto recognises the importance of measurement and reporting transparency. Our annual climate change report is produced consistent with the Taskforce on Climate Related Financial Disclosures (TCFD) framework and we provide detailed information outlining our Scope 1, Scope 2 and Scope 3 emissions. We have set targets for our global portfolio of a 15 per cent reduction in absolute emissions and a 30 per cent reduction in emissions intensity by 2030 against a 2018 baseline with an ambition to achieve net zero across our operations by 2050. These reductions are measured based on Rio Tinto’s equity share of our global portfolio.

With regard to what is set out in the CERT Consultation Paper and the CERT Guidelines, we are strongly supportive of the Regulator developing a mechanism to allow companies to make public their voluntary surrenders in the Registries that the Regulator controls. This includes the voluntary surrender of Australian Carbon Credit Units (ACCUs) and Kyoto-compliant units in the Australian National Registry of Emission Units (ANREU) and the voluntary surrender of Large-Scale Generation Certificates (LGCs) in the Renewable Energy Certificate (REC) Registry. We see this as entirely consistent with the legislative and policy framework which the Clean Energy Regulator administers.

¹<https://www.riotinto.com/sustainability/climate-change>

Beyond these elements the policy rationale for what has been proposed in the CERT Consultation Paper and CERT Guidelines is much less clear and as noted below, in some cases inconsistent with the approach of the Regulator with respect to the relevant guiding legislation and the cited alignment of the proposed CERT with the Climate Active framework.

Corporate Targets

With regard to the inclusion of corporate targets in the CERT, the National Greenhouse and Energy Reporting Scheme (NGERS) has a 'Controlling Corporation' framework for determining which corporate entity is attributed with the reported emissions. This framework was conceived in the context of the now-repealed Clean Energy Future (CEF) scheme as a basis for ensuring that a single entity, the 'Controlling Corporation', based on a *Corporations Act 2001 (Cth)* definition, would be accountable for meeting obligations under the CEF. As a general rule, when companies set targets they typically do so on the basis of the performance of the operations they manage or on the basis of the equity share that they hold in those operations. It is Rio Tinto's experience that the Controlling Corporation approach in NGER does not always align with which operations are managed and reported emissions under NGERS are often very different to the equity share that a company may hold in those operations.

This difference is important because the capital commitment, operation complexity and scale of many Australian operations that report under NGERS require the resources of companies that are global in their scale and reach and in many cases require a joint venture between these companies to manage these risks. The nuance of Controlling Corporation definition then leads to a misalignment between the basis of company reporting of emissions and NGERS reporting.

Further, targets for multinational corporations are typically set at a global level and may take a number of different forms (intensity, absolute) and may also involve coverage of value chain emissions. All of these different approaches are also reasons for potential misalignment between the basis of the numbers reported under NGERS and the numbers and targets reported by Corporations.

There are also more subtle, second-order issues that have the potential to lead to misalignment including:

- timing - many corporations report on a calendar year basis rather than the Australian financial year basis that applies for NGERS
- methodology - the exact methodology for calculation of emissions varies by jurisdiction i.e. the factors and approach set out in the NGER Measurement Determination are not the same as other countries, so when reporting internationally companies need to make choices about which approach to use and this may not align exactly with NGERS
- baseline – targets typically are reported as changes against a baseline period which differs by corporation – to assess a corporate target there also needs to be a recognition of what baseline year the changes are relative to. For example the proposed inclusion of a column in the draft CERT report that measures progress toward emissions targets would need to also need significant additional workings not proposed in the CERT Consultation Paper to determine the baseline against which the progress was being measured.

Considering our own example, Rio Tinto is strongly committed to transparency in our emissions reporting and annually provides detailed emissions information on a calendar year basis regarding the greenhouse footprint of our global operations. When reporting against our targets, we report on an equity share basis, and those targets

are set for our global portfolio. We set both absolute targets and intensity targets, being a 15 per cent reduction in absolute emissions and a 30 per cent reduction in emissions intensity by 2030 against a 2018 baseline with an ambition to achieve net zero across our operations by 2050. These reductions are measured based on Rio Tinto's equity share of our global portfolio. As can be seen, almost all of the issues identified above apply in respect of Rio Tinto targets when compared to the NGERs reporting framework.

All of these are reasons why corporate targets in many cases will not fit the proposed structure set out in the CERT Consultation Paper and reporting them within the same framework as NGERs risks being confusing for stakeholders, including the Australian Government, investors and civil society organisations.

Electricity Accounting

Our other primary concern with what is proposed in the CERT Consultation Paper is that in moving beyond the reporting of voluntary actions in registries and seeking to set up a framework to report on company targets (where they have been set) relating to renewable energy, the Regulator appears to be proposing a whole new framework for connecting the mandatory obligations under the *Renewable Energy (Electricity) Act 2000 (Cth)* (the RET Act) that fall on retailers and market participants in the NEM, and allocating out on an arbitrary basis the impact of that mandatory obligation to electricity customers who voluntarily participate in the CERT by attributing the Renewable Power Percentage (RPP) to those users. This attribution is significant given that it is the Regulator that administers the Renewable Energy Target.

This approach, as proposed in the CERT Consultation Paper is problematic for a number of reasons including:

- 1) The entities that pay the mandatory RET obligation are retailers and market participants. Those entities are not able to make claims in respect of the provision of renewable power to customers arising from the surrender of LGCs to meet their mandatory obligations (calculated by reference to the RPP) under the RET Act. Claims regarding the provision of renewable power by retailers to customers are closely scrutinised by the ACCC, with guidance from the ACCC focused on GreenPower² which is based on the voluntary surrender of LGCs. It is inconsistent that retailers are unable to make claims in respect of their mandatory RET obligations but the CERT Consultation Paper then effectively claims that their customers are receiving renewable power.
- 2) The Regulator has been clear in their engagement with facilities that carry out Emissions Intensive Trade Exposed (EITE) activities that the EITE exemption certificates that they are issued with are "traded" with the liable entity and the degree to which there is a full realisation of the exemption is a matter between the parties. In other words, a one-on-one correspondence between the obligation that falls on the retailer and the effect of that obligation on a customer is not something that the Regulator governs or has a clear line of sight in respect of. This one-on-one correspondence is a core assumption of the attribution of the RPP to customers and is inconsistent with how the Regulator has otherwise administered the RET.
- 3) The RPP is a double count where attributed as the state grid factors used for Scope 2 reporting in NGERs already include the material impact of the mandatory renewable energy target.
- 4) The logic of inclusion of the RPP is noted as being aligned with Climate Active, however the underlying treatment of Scope 2 emissions in the CERT is then fundamentally inconsistent with the Climate Active approach. The inclusion of the RPP in the CERT is based on the 'market-based method' outlined in the Climate Active Technical Guidance³. However, the Scope 2 calculation under NGERs is aligned with the 'location-based' method under Climate Active. These two methods are mutually exclusive in Climate

² <https://www.accc.gov.au/system/files/Your%20consumer%20rights%20environmental%20claims.pdf>

³ <https://www.industry.gov.au/sites/default/files/2020-09/climate-active-technical-guidance-manual.pdf>

Active, however the current CERT proposes to blend them, contrary to the Climate Active methodology. The Climate Active Technical Guidance (p57) is very clear in respect of the 'market-based method' that where there are MWh beyond the RPP not covered by voluntary surrenders of LGCs, the Scope 2 emission associated with those MWh are calculated as = 'the national emissions factor'/(1 – RPP) (note that this approach solves the Scope 2 double count issue noted above). In order to be consistent with the Climate Active methodology, the Scope 2 emissions attributed to a company under NGER would need to be restated based on this formula (which in most states of Australia would lead to a material increase in Scope 2 emissions). This would likely require extensive changes of the NGER framework.

- 5) To the extent that a Climate Active method should be chosen for inclusion in the CERT, a review of Climate Active companies, including participating electricity retailers shows near exclusive use of the 'location based method' i.e. aligned with the standard NGER Scope 2 methodology and the surrender of voluntary carbon units or Certified Emission Reduction units to meet the Climate Active offset obligations rather than LGCs.

It is clear that the proposed approach set out in the CERT Consultation Paper of including the RPP is not consistent either in terms of the Regulators historical governance approach with regard to the RET or with regard to the operation of Climate Active. Accordingly, the RPP should not be included in the CERT.

As noted above, making public companies voluntary LGC surrender is consistent with the Regulators existing governance framework. Connecting that to company renewable energy targets and making a range of choices about what to include and what to exclude is problematic without a clearly outlined policy basis. This will require a detailed engagement with renewable proponents, and offtakers, as well as an extensive review of how this is being worked through in Australia as well as other jurisdictions, particularly those that also use a gross pool model that is the basis of the National Electricity Market. This has not been undertaken or outlined in the CERT Consultation Paper or the CERT Guidelines.

ACCU surrender under ERF contracts

Responsible emitter facilities with safeguard mechanism baselines that have eligible projects that generate Australian carbon credit units (ACCU) may need to enter into a Regulator contract to gain benefit under the Emissions Reduction Fund (ERF) from the ACCU a facility has generated if they are over their baseline as a result of adding on these ACCU to actual emissions under the ERF.

Since there are only 3 auctions in which participation is allowed over a 7-year abatement period under the ERF, there will be situations where the responsible emitter has been conservative in forecasting delivery of abatement and may have to additionally surrender these ERF ACCU to get below the baseline outside of a contract.

In both these situations, it is genuine abatement that has occurred and reduction of CO₂-e under the ERF. Therefore, responsible emitters should be able to claim surrenders both to the Regulator inside and outside of a contract as abatement to reduce their net emissions number included in the CERT.

Pathway Forward

The Regulator should look to progress a pilot program reporting voluntary surrenders in Registries they control as an initial step to implementing the CERT. The broader questions of how renewable electricity should be reported needs further detailed policy development work, consultation and engagement and should not be included in the initial pilot.

The misalignment of corporate targets with the NGERS framework will be problematic for a number of potential users who may separately prefer to participate so there is clarity regarding their voluntary surrender. It is proposed that to the extent that the pilot CERT contains elements, such as corporate targets, beyond the reporting of the voluntary surrender of offsets and LGCs, those additional elements should be able to be opted into separately.

Rio Tinto looks forward to engaging with the Regulator on the content of the CERT Consultation Paper and the CERT Guidelines. 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,



Kellie Parker
Chief Executive, Australia