9 October 2014

The Research Director
Agriculture, Resources and Environment Committee
Parliament House
BRISBANE QLD 4000

By email: AREC@parliament.qld.gov.au

Dear Sir/Madam

Inquiry into the Water Reform and Other Legislation Amendment Bill 2014

Rio Tinto Alcan appreciates the opportunity to make a submission in respect of the Inquiry into Water Reform and Other Legislation Amendment Bill 2014. Our comments relate to the transition of water rights contained in special agreement legislation.

Special Agreement Acts

The property rights and obligations and other rights in respect of the Comalco and Alcan leases were established under special agreements with the State. These agreements are given the force of law under the Commonwealth Aluminium Corporation Pty Limited Agreement Act 1957 (QLD) (Comalco Act) and the Alcan Queensland Pty Limited Agreement Act 1965 (QLD) (Alcan Act) (together, the "Special Agreements").

The rights secured under the Special Agreements are fundamental to Rio Tinto Alcan’s significant investments in Queensland and include many obligations binding both the Queensland Government and Rio Tinto Alcan, including obligations on Rio Tinto Alcan to build downstream processing facilities in Queensland.

In order for the Queensland Government to encourage such development, broad and certain rights in relation to matters such as tenure, development powers and water were included in the Special Agreements. These rights have successfully underpinned significant investments over the past 50 years, including ongoing operations in both the Western Cape and downstream processing facilities in Gladstone.

For mining operations the size and complexity of the Rio Tinto Alcan operations to be undertaken economically and with regard to the significant investment required to continually develop the mineral resource, certainty about essential supplies and operating conditions is of vital importance. These principles have underpinned our investments in Queensland to date. Water is an essential input for Rio Tinto Alcan’s Weipa operations and any change in regulatory approach by the Queensland Government that may impinge upon the certainty, security or reliability of water supply to the mining operations will introduce a new and undesirable risk to operations.

The water rights conferred under the Special Agreements are presently preserved and recognised under s.1037A and Chapter 8, Part 3C of the Water Act 2000 (QLD) (Water Act)...
These rights are crucial to existing operations and future development on the Comalco and Alcan mining leases.

In view of the importance of the rights granted under the Special Agreements and the need for certainty about any proposed changes to those rights, each of the Special Agreements provide that their terms may only be amended by further written agreement between the Queensland Government and the relevant company and under the authority of an Act. This is a foundation principle for Rio Tinto Alcan in its approach to any transition of water rights as now proposed by the Queensland Government.

Pathway for transition of water rights

Given the age of the Special Agreements, the description of the water rights reflects the language and drafting conventions of the time, rather than the current formulation of such rights under the contemporary Water Act. Rio Tinto Alcan nonetheless considers its water rights under the Special Agreements remain clear and fully capable of application and delivery by the Queensland Government and the relevant companies. Rio Tinto Alcan is willing to work with the Queensland Government to support the policy for transition of its water rights, where that ensures those rights are fully protected.

Rio Tinto Alcan has previously demonstrated this willingness and constructive approach, as evidenced by the relatively recent agreements with the Queensland Government. In 2011, following good faith negotiations, Rio Tinto Alcan and the Queensland Government agreed to amendments to the Special Agreements substantially reducing the quantity of water that was previously authorised to be taken from the Wenlock River system. Rio Tinto Alcan and the Queensland Government were able to directly negotiate changes to the Special Agreements in a manner that ensured the necessary certainty of water supply from the Wenlock River for Rio Tinto Alcan to underpin future investment decisions, but which also enabled the Queensland Government to meet its environmental protection objectives for the Wenlock Wild River Basin.

Nature of transitional provisions

We note that both the draft legislation and discussions Rio Tinto Alcan has had to date with the Queensland Government confirm that there will be no obligation upon Rio Tinto Alcan (or any other holder of a special agreement with the Queensland Government) to transition their water rights to the Water Act and that participation by relevant mining companies will remain optional. It is obviously of critical importance to Rio Tinto Alcan that any restatement or alteration of existing rights, and any transition out of Special Agreements is by negotiation between willing parties and replaced with a secure water entitlement, mutually agreed.

Timing for transition

We note that there is not a fixed timeframe for transition and negotiations will occur as required. The Special Agreements have now underpinned in excess of 50 years of Weipa operations, substantial investment in Queensland and employment for thousands of Queenslanders including significant Traditional Owner employment. Rio Tinto Alcan intends for Weipa to remain a key operation for many more generations, and accordingly our view is that any transition of rights needs to be driven by the substance of the existing rights and future needs of the operations subject to the Special Agreements, rather than arbitrary timing milestones.
We provide the following further background information in relation to Rio Tinto Alcan for further context regarding the significance to Rio Tinto Alcan of its water rights and other rights under the Special Agreements:

**Background to Rio Tinto Alcan’s Operations**

Rio Tinto Alcan is one of five product groups operated by Rio Tinto, a leading international mining group. Rio Tinto Alcan’s global bauxite and alumina business unit is headquartered in Brisbane. It operates the Weipa bauxite mine on Western Cape York Peninsula, the Yarwun alumina refinery in Gladstone developed in 2001, and has an 80 per cent interest in the Queensland Alumina Limited refinery in Gladstone. Rio Tinto Alcan also operates and holds a 59.4 per cent interest in the 570,000 tonne per annum Boyne Smelters aluminium smelting operation, and an investment in the Gladstone Power Station. As recently as 2012 Rio Tinto Alcan completed an expansion of the Yarwun refinery and has finalised commissioning of what is now a 3.4 million tonne per annum operation and has recently completed a $700 million upgrade project to Boyne Smelters.

The operations employ approximately three thousand people and are the mainstays of important regional communities. Each year, the Rio Tinto Alcan bauxite and alumina business operations alone contribute hundreds of millions of dollars in salaries and wages, $70 million in royalties and $6.5 million in community investments.

**History of Rio Tinto Alcan in Weipa**

Comalco began mining activities at Weipa, on the Western Cape York Peninsula, in the late 1950s following the discovery of the vast bauxite resource by geologist Harry Evans in 1955 and the entry into a State Agreement, endorsed by the then Premier of the State of Queensland and Comalco. Alcan South Pacific acquired a prospecting and then mining area in the north and east of the Comalco lease in the 1960’s, also pursuant to a State Agreement. Since grant, Rio Tinto Alcan companies have been conducting mining operations in Weipa for over 50 years.

Rio Tinto Alcan supports Native Title rights and undertakes its mining operations in consultation with the Traditional Owners of the region, ensuring that obligations established under our Indigenous agreements are met.

In 1997 Alcan South Pacific also entered into an agreement known as the Ely Bauxite Mining Project Agreement with six Traditional Owner groups, three Aboriginal Councils and the Cape York Land Council. Following the acquisition of Alcan by Rio Tinto in October 2007, Rio Tinto Alcan Weipa is now responsible for the implementation of this agreement.

In 2001, the Western Cape Communities Co-Existence Agreement (WCCCA), was signed by Rio Tinto Alcan (then named Comalco), with eleven Traditional Owner groups, four local Aboriginal Councils, the Cape York Land Council and the Queensland Government.

The main purpose of both agreements is to provide a comprehensive, legally binding structure for Rio Tinto Alcan Weipa’s relationships with the Traditional Owners, on whose traditional lands Rio Tinto Alcan Weipa acknowledges they operate.

Whilst these agreements recognise Native Title rights and interests on Rio Tinto Alcan Weipa mining lease areas, they also seek to assist with the preservation of Traditional Owners’ culture and to provide a range of benefits and initiatives for the communities. Production linked payments are made by Rio Tinto Alcan Weipa to Traditional Owners’ trusts. Local benefits are distributed via these trusts for purposes including education, hardship, cultural activities and business development.
Rio Tinto Alcan Weipa works collaboratively with Traditional Owners, through the relevant agreement structures, to develop comprehensive communities, heritage and environmental management plans. The engagement activities undertaken as part of the implementation of these plans, includes an extensive annual schedule of cultural heritage and environmental studies, surveys and monitoring programmes. In the majority of cases, Traditional Owners are directly engaged to support and provide traditional knowledge input into this work.

**Community Investment and Environmental Performance**

Rio Tinto Alcan plays an important role in the quality of life and future of the Weipa region and Queensland. The operation contributes both funding and resources to local people and organisations in areas such as childcare, education, employment, training, health, safety, environment and recreation, royalties to the Queensland Government and production linked payments and employment support and training for traditional owners.

Community facilities and infrastructure are also managed and partly funded by Rio Tinto Alcan and partly funded through a user pays system. This includes providing electricity to the Weipa town at subsidised rates.

As at the end of 2013, Rio Tinto Alcan Weipa directly employed approximately 1,073 people, 22 per cent of whom identify themselves as Indigenous. Eleven per cent of Rio Tinto Alcan Weipa’s employees consider themselves to be local Aboriginal people, with specific connections to the Traditional Owner groups from across the mining lease areas.

Rio Tinto Alcan values land and water as essential resources from an overall sustainable development perspective. We are strongly committed to managing land and water in a sustainable manner. Rio Tinto Alcan has a long established track record of working with Government to sustainably manage these resources and continually looks for ways to improve land and water management while contributing to the Queensland economy and communities in Cape York. This includes incorporating environmental buffers that are greater than those required by regulation in order to preserve culturally and environmentally sensitive areas after consultation with local Indigenous people. In 2013 Rio Tinto Alcan Weipa met about 31 per cent of its water requirements using recycled water and rehabilitated more than 1,360 hectares of land.

The environmental impacts of the Rio Tinto Alcan Weipa operations in Western Cape York are regulated by a complex and comprehensive set of laws and regulations at both State and Commonwealth Government levels. In 2011, an amended Environmental Authority relating to the operation of ML 7024 (Comalco lease) was approved by the former DERM and in 2012 an amended Environmental Authority relating to ML 7031 (Alcan lease) was approved by DEHP, both following detailed discussions about suitable mining processes, environmental practices, water use and post mining rehabilitation requirements.

**Looking to the future - South of Embley Project**

Execution of the South of Embley Project would extend mining operations within the ML7024 lease areas, accessing high quality reserves south of the Embley River. The mine extension would provide resource availability in place of the depleting East Weipa and Andoom economic reserves. The new mining area has significant bauxite reserves and would extend the life of the Weipa mining activities by at least 40 years (depending on production rates) – ensuring the Weipa operation continues to generate employment and other economic benefits on the Western Cape. Rio Tinto Alcan’s water rights under the Special Agreements are fundamental to this project, and to further development into the future.
Thank you again for the opportunity to make this submission. Enquiries should be directed to Julia Wilkins on 3625 5141 or julia.wilkins@riotinto.com.

Yours sincerely

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