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# Gasfields Commission Bill 2012

## Amendments agreed to during Consideration

### 1 After clause 1

Page 4, after line 4—

*insert—*

### ‘1A Commencement

‘This Act commences on 1 July 2013.’.

### 2 Clause 17 (Disclosure of interests)

Page 9, lines 21 to 31 and page 10, lines 1 to 6—

*omit, insert—*

### ‘17 Register of interests

- ‘(1) The commission must keep a register of each commissioner’s pecuniary interests.
- ‘(2) The person appointed as chairperson must give the Minister and integrity commissioner—
  - (a) as soon as practicable after the person’s appointment—a written summary of the person’s pecuniary interests at the time of the person’s appointment; and
  - (b) within 30 days after any substantial change in the person’s pecuniary interests—notice of the change and an updated written summary of the person’s pecuniary interests.
- ‘(3) Each person appointed as a part-time commissioner must give the chairperson—
  - (a) as soon as practicable after the person’s appointment—a written summary of the person’s pecuniary interests at the time of the person’s appointment; and
  - (b) within 30 days after any substantial change in the person’s pecuniary interests—notice of the change and

an updated written summary of the person's pecuniary interests.

- '(4) The register kept under subsection (1) must be updated at least once during each 12 month period of a commissioner's term of office.
- '(5) In this section—  
*integrity commissioner* means the Queensland Integrity Commissioner appointed under the *Integrity Act 2009*, section 6.

#### **'17A Disclosure of interests at commission board meetings**

- '(1) This section applies to a commissioner if—
  - (a) the commissioner or a close relative of the commissioner has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, at a commission board meeting; and
  - (b) the interest could conflict with the proper performance of the commissioner's functions for the matter.
- '(2) As soon as practicable after the relevant facts come to the commissioner's knowledge, the commissioner must disclose the nature of the interest to the other commissioners at the meeting.
- '(3) The commissioner may further participate in the meeting only if a majority of the other commissioners at the meeting vote in favour of the commissioner's further participation in the meeting.
- '(4) However, the commissioner can not participate in any vote on the matter at the meeting.
- '(5) A disclosure under subsection (2) must be recorded in the meeting's minutes.
- '(6) A failure to make a disclosure under subsection (2) does not, of itself, invalidate a commission decision.
- '(7) In this section—

*close relative*, of a commissioner, means the commissioner's—

- (a) spouse; or
- (b) parent or grandparent; or
- (c) brother or sister; or
- (d) child or grandchild.'

**3 Clause 21 (Power to require particular information from government entities)**

Page 12, lines 1 to 4—

*omit, insert—*

- '(4) If an exemption under subsection (3) applies to a request made of a government entity under subsection (1), the entity must inform the chairperson in writing that the exemption applies in relation to the request.'

**4 Clause 22 (Power to require advice)**

Page 12, after line 21—

*insert—*

- '(3) If an exemption under subsection (2) applies to a request made of a chief executive under subsection (1), the chief executive must inform the chairperson in writing that the exemption applies in relation to the request.'

**5 Clause 24 (Power to require particular information from prescribed entities)**

Page 14, after line 4—

*insert—*

- '(4) If an exemption under subsection (3) applies to a requirement made of a prescribed entity under subsection (1), the entity must inform the chairperson in writing that the exemption applies in relation to the requirement.'

**6 Clause 28 (General manager)**

Page 15, lines 13 to 27 and page 16, line 1—

*omit, insert—*

- ‘(5) The chairperson may direct the general manager about helping the commissioners perform the commission’s functions.
- ‘(6) The chairperson may appoint a person, other than a’.

**7 Clause 30 (Alternative staffing arrangements)**

Page 16, lines 14 to 16—

*omit, insert—*

- ‘(1) The commission may, with the agreement of the chief executive of a department, a local government, a government entity or a government owned corporation, arrange for the services of officers or’.

**8 Clause 30 (Alternative staffing arrangements)**

Page 16, after line 30—

*insert—*

- ‘(3) Nothing in subsection (1) requires a chief executive to enter into an arrangement with the commission for the services of officers or employees.’.

**9 Clause 32 (Annual budgets)**

Page 17, lines 6 to 31 and page 18, lines 1 to 8—

*omit, insert—*

**‘32 Annual budgets and financial management policies**

- ‘(1) Before each 31 March—
  - (a) the commission must prepare a budget—
    - (i) of estimated costs of the commission for the next financial year; and

- (ii) consistent with the strategic priorities of the commission; and
  - (b) the commissioners must approve giving the budget and the commission's financial management policies to the Minister; and
  - (c) the commission must give the approved budget and financial management policies to the Minister.
- '(2) The Minister must approve, or refuse to approve, the budget and financial management policies by each 30 April.
- '(3) However, a failure by the Minister to act under subsection (2) does not prevent the Minister approving, or refusing to approve, a budget or financial management policy at a later time.
- '(4) A budget or financial management policy has no effect until it has been approved by the Minister.
- '(5) During a financial year the commission may prepare amendments to the budget for that year.
- '(6) An amendment of a budget has no effect until it has been approved by—
  - (a) for a minor amendment—the chairperson in consultation with the part-time commissioners; or
  - (b) otherwise—the Minister on the recommendation of the chairperson in consultation with the part-time commissioners.
- '(7) If the chairperson and the part-time commissioners differ about what should be recommended to the Minister for an approval under this section, the Minister may still give the approval.
- '(8) In this section—

***financial management policies*** means the policies to be observed in financial and performance management by the commission.

*Note—*

Under the *Financial Accountability Act 2009*, section 57 the commission must comply with a provision of a financial and

performance standard that applies to the commission as a statutory body.

*minor amendment*, of an annual budget, means an amendment of a minor nature that does not change the total of the estimated costs mentioned in the budget.’.

**10 Clause 33 (Annual report)**

Page 18, lines 10 and 20, ‘general manager’—  
*omit, insert*—  
‘commission’.

**11 Clause 34 (Delegation)**

Page 19, line 6—  
*omit, insert*—  
(2) The commission may delegate any function of the commission to the general manager or other staff of the commission.  
(3) In this section—’.

**12 After clause 44**

Page 22, after line 11—  
*insert*—

**‘Part 7 Amendment of Acts**

**‘Division 1 Amendment of this Act**

**‘45 Act amended**

‘This division amends this Act.

**‘46 Amendment of long title**

‘Long title, from ‘and to’—

*omit.*

**‘Division 2                    Amendments of Commonwealth  
Aluminium Corporation Pty. Limited  
Agreement Act 1957**

**‘47    Act amended**

‘This division amends the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*.

**‘48    Insertion of new s 4D**

‘Before section 5—

*insert—*

**‘4D    Authorisation of variation by further agreement**

‘The agreement may be varied by further agreement corresponding to the proposed further agreement set out in schedule 4.’.

**‘49    Insertion of new sch 4**

‘After schedule 3—

*insert—*

## **‘Schedule 4 Proposed further agreement**

section 4D

**THIS AGREEMENT** is made

**BETWEEN: STATE OF QUEENSLAND**, acting through the Department  
of Natural Resources and Mines

(**‘the State’**)

**AND: RTA WEIPA PTY LTD** ACN 137 266 285, Level 2, 443  
Queen Street, Brisbane in the State of Queensland

(**‘RTA Weipa’**)

**AND: RIO TINTO ALUMINIUM LIMITED** ACN 009 679 127,  
Level 2, 443 Queen Street, Brisbane in the State of  
Queensland

(**‘RTAL’**)

### **BACKGROUND**

- A. Under section 2 of the Act, the State and RTAL entered into the Principal Agreement.
- B. The State, RTA Weipa and RTAL have agreed to amend the Principal Agreement in accordance with the Act to include specific provisions about RTA Weipa constructing a new port in the vicinity of Boyd Point.

### **AGREED TERMS**

#### **1. DEFINITIONS & INTERPRETATION**

1.1 In this Agreement the following definitions apply:

**‘Act’** means the *Commonwealth Aluminium Corporation Pty Limited Agreement Act 1957*; and



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**‘Principal Agreement’** means the agreement entered into between the State and RTAL dated 16 December 1957, as set out in Schedule 1 to the Act, which agreement has been amended from time to time.

## 2. AMENDMENT OF PRINCIPAL AGREEMENT

2.1 The Principal Agreement is amended as follows:

### *New definitions*

- (a) The following definitions are inserted into clause 1 of the Principal Agreement:

**‘Ancillary Services’** means services ancillary to the provision of Port Services, including services appropriate for complementing or enhancing the provision of Port Services;

**‘Boyd Area’** means the area bounded by the lines joining Points 1 – 2 – 3 – 4 – 1, the coordinates of which are:

Point	Easting	Northing
1	558826.250	8577068.082
2	571446.778	8570357.629
3	569333.359	8566382.866
4	558939.896	8571909.169

which coordinates are on the MGA 94 map projection Zone 54 based on the GDA 94 geodetic reference framework, as defined in Section 13 of the *Survey and Mapping Infrastructure Regulation 2004*.

**‘Boyd Port’** means a port in the Boyd Area;

**‘Boyd Port Facilities’** means the facilities relating to the Boyd Port or used or occupied or which may at any time be used or occupied in connection with the Boyd Port, including the following:

- (a) wharf and port marine operational areas and shipping channels within the Boyd Area;
- (b) marine and port structures;
- (c) berths and berth pockets;

- (d) ship building facilities and dry docks;
- (e) offshore structures used for shipping purposes;
- (f) wharf protection devices;
- (g) hydraulic structures;
- (h) bulk loading and unloading facilities;
- (i) boat harbours and boat ramps;
- (j) oil and liquid product terminals and other terminals within the Boyd Area;
- (k) access roads and rail corridors;
- (l) conveyors;
- (m) pipelines;
- (n) weighbridges;
- (o) monitoring facilities;
- (p) security facilities;
- (q) communication facilities;
- (r) material handling and disposal areas;
- (s) vehicle parking facilities;
- (t) public, community and visitor facilities;
- (u) beacons and navigation aids;
- (v) tug berths; and
- (w) partially completed port facilities;

**‘Marine Safety Act’** means the provisions of the *Transport Operations (Marine Safety) Act 1994*;

**‘Marine Pollution Act’** means the provisions of the *Transport Operations (Marine Pollution) Act 1995*;

**‘Port Services’** means:

- (a) services relating to the establishment, operation or administration of Boyd Port;
- (b) dredging services;

- (c) monitoring and management of the movement of vessels, vehicles, goods and people in the Boyd Area;
- (d) security services and security monitoring services in the Boyd Area;
- (e) traffic control services; and
- (f) emergency services; and

‘TIA’ means the *Transport Infrastructure Act 1994* (Qld).

*New clause 37A*

- (b) A new clause 37A is inserted as follows:

**37A.** (1) The rights conferred on the Company under this Agreement include the rights to:

- (a) survey, construct, maintain, manage, operate, use and regulate the use of the Boyd Port and the Boyd Port Facilities; and
  - (b) use and occupy such part of the bauxite field or Special Bauxite Mining Lease, designated ML7024, or of the foreshore, or of any tidal land or tidal water, or the unallocated State land or any other land or waters within the Boyd Area as may be necessary for the purposes of subclause 37A(1)(a) above.
- (2) Without limiting the Company's rights under clause 37A(1), the Company may do any of the following in respect of Boyd Port and the Boyd Port Facilities:
- (a) establish, manage, and operate effective and efficient Boyd Port Facilities and services in Boyd Port;
  - (b) provide or arrange for the provision of Ancillary Services or works necessary or convenient for the effective and efficient operations of Boyd Port and the Boyd Port Facilities;
  - (c) keep appropriate levels of safety and security in the provision and operation of the Boyd Port Facilities and Boyd Port;

- (d) control and manage activities and conduct by ships relating to the Boyd Port, including the commercial scheduling of the movement of ships within Boyd Port or at the Boyd Port Facilities;
- (e) provide other services incidental to the performance of its other functions or likely to enhance the Company's usage of Boyd Port and the Boyd Port Facilities;
- (f) provide Port Services and Ancillary Services;
- (g) dredge or otherwise maintain and improve navigational channels in the Boyd Area;
- (h) reduce or remove a shoal, bank or accumulation in the Boyd Area that, in the Company's opinion, impedes navigation in Boyd Port;
- (i) impose charges for the use of the Boyd Port and the Boyd Port Facilities, by reference to, for example:
  - (i) a ship using Boyd Port; or
  - (ii) goods or passengers loaded, unloaded or transhipped to or from a ship using Boyd Port;
- (j) impose charges in relation to Port Services and the Boyd Port Facilities, including in relation to:
  - (i) the acquisition, establishment, construction, improvement, operation and maintenance of the Boyd Port Facilities; or
  - (ii) works relating to the Boyd Port Facilities, including dredging and the disposal of dredged material;
- (k) determine the time within which a charge must be paid and the default interest rate if the charge is not paid before it is due;
- (l) recover the reasonable cost of moving, or taking steps to move, a ship, a vehicle or goods within Boyd Port;

- (m) recover the reasonable costs of rectifying damage to the Boyd Port Facilities caused by:
  - (i) a ship; or
  - (ii) floating or submerged material (if the damage happened because of the intentional, reckless or negligent act of the owner of the material);
- (n) decide the amount of, and require a person to give, a security deposit as security for a liability or debt incurred in relation to:
  - (i) the payment of a charge; or
  - (ii) damage caused, or that may be caused, to the Boyd Port Facilities;
- (o) appropriate or partly appropriate a security deposit to meet a liability or debt owed to the Company in relation to:
  - (i) the payment of a charge; or
  - (ii) damage caused, or that may be caused, to the Boyd Port Facilities;
- (p) issue port notices for the Boyd Area to control activities and conduct including, for example:
  - (i) the movement or mooring of ships at the Boyd Port Facilities;
  - (ii) the movement or mooring of ships if the movement or mooring may affect the operation of Boyd Port;
  - (iii) activities by ships moored at the Boyd Port Facilities if the activities may affect the operation of Boyd Port;
  - (iv) the movement, handling or storage of goods loaded, unloaded or transhipped to or from ships at the Boyd Port Facilities; or
  - (v) the movement of persons at the Boyd Port Facilities;

- (q) display or publish notices requiring the production of information relevant to:
    - (i) the provision or use of Port Services;
    - (ii) the calculation of charges;
    - (iii) the provision, use or preservation of the Boyd Port Facilities;
    - (iv) the management, operation, safety and efficiency of Boyd Port; or
    - (v) information requested by a Commonwealth or State entity; and
  - (r) deal with, including disposing of, abandoned property.
- (3) The Company's rights under clause 37A(1) apply despite Chapter 8 of the TIA.
  - (4) A port authority will not be established under Chapter 8 of the TIA in relation to the Boyd Port.
  - (5) The rights of the Company in relation to the Boyd Port must be exercised subject to the powers of:
    - (a) the general manager under part 14A of the Marine Safety Act and under the Marine Pollution Act; and
    - (b) a harbour master under the Marine Safety Act about marine safety and navigation within the Boyd Port.
  - (6) Before any powers are exercised under the Marine Safety Act or Marine Pollution Act within the Boyd Area that may affect the rights of the Company, the person entitled to exercise the power will consult with the Company to the extent reasonably practicable. Failure to comply with this clause 37A(6) does not affect the validity of the exercise of the power.
  - (7) Pilotage areas and compulsory pilotage areas covering, wholly or in part, the Boyd Area or any offshore area described in subclause 37A(1)(b) above, may be declared under the Marine Safety Act.

- (8) Following a declaration referred to in clause 37A(7) above, the provisions in the Marine Safety Act and associated regulations relating to pilotage areas or compulsory pilotage areas will apply.
- (9) A harbour master may be appointed over the Boyd Area.
- (10) Port procedures or information for shipping manuals (or the like) relating to any pilotage area or compulsory pilotage area covering, wholly or in part, the Boyd Area or any offshore area described in subclause 37A(1)(b) above and issued pursuant to the powers of direction under the Marine Safety Act must be issued on the basis that the control and management of the commercial scheduling of the movement of ships using the Boyd Port or the Boyd Port Facilities remains the responsibility of the Company.
- (11) Notwithstanding section 102A of the Marine Safety Act, the Company may provide and use the pilotage services of persons licensed under a regulation as pilots and employed or contracted or authorised by the Company or a contractor of the Company in any pilotage area or compulsory pilotage area declared in connection with the Boyd Area or any offshore area described in subclause 37A(1)(b) above, and to that extent:
  - (a) such persons are deemed to be pilots for the purposes of the Marine Safety Act; and
  - (b) the Company and its contractor (as applicable) are deemed to be the general employer of such persons for the purposes of section 101 of the Marine Safety Act.
- (12) The Company may exercise its rights under clauses 37A(1) at any time during the term of the Special Bauxite Mining Lease, designated ML7024, including any extension or renewal of it.
- (13) The Company must provide quarterly tonnage details of each commodity type shipped through the Boyd Port (both inwards or as imports and outwards or as exports) as follows:

- (a) publish in a format or manner as agreed with the State the above details for each financial quarter within the month following the publication by the Company of its quarterly operations report for the relevant financial quarter; and
  - (b) submit to the State the above details aggregated for each financial year, by 31 August of each year.
- (14) In exercising the rights under clause 37A(1), the Company will not be required to obtain a lease under the *Land Act 1994* for land within the Boyd Area but not within the area of the Special Bauxite Mining Lease, designated ML7024.
- (15) The Company will not be liable to pay royalties or similar charges for extractive material removed for the purposes of exercising the Company rights under clause 37A(2)(g) or (h) if the extractive material is:
  - (a) disposed of in the Boyd Area or another area approved by the Minister;
  - (b) disposed of under relevant statutory environmental controls; and
  - (c) not sold by the Company to a third party for commercial benefit.
- (16) Clauses 37 and 39 to 42B do not apply to the Boyd Port or the Boyd Port Facilities established pursuant to the Company's rights under clause 37A(1).
- (17) Without limiting the rights conferred by clause 37(a) of this Agreement, the Company may sublease an area within the boundary of the Special Bauxite Mining Lease, designated ML 7024, as agreed between the Company and the State, for the purposes of the construction and operation of a port and port facilities, in addition to Boyd Port, for the shipment of bauxite, provided that nothing in this clause 37A(17) is to be construed as:
  - (a) the State approving or agreeing to the basis on which the sublessee will be permitted to construct, manage or operate the port or port facilities; and



- (b) limiting or affecting any obligation or requirement for the Company to seek or obtain approval or consent to the grant of the sublease, including under section 300 of the *Mineral Resources Act 1989* or as constituting any such approval or consent.

### 3. EFFECTIVE DATE

- 3.1 This Agreement comes into effect on and from the date notified by the Minister (being the Minister for the State of Queensland responsible for the administration of the Act) in the Government Gazette or, if no date is specified, on the date of the gazettal.

### 4. GENERAL

- 4.1 **Costs:** Each party will bear its own legal costs in relation to the preparation, execution and performance of this Agreement.
- 4.2 **No Variation:** This Agreement will only be varied by written agreement signed by both parties.
- 4.3 **Compliance with laws:** In performing their respective obligations and exercising their respective rights, the parties will comply with all applicable laws and regulations.
- 4.4 **Further assistance:** Each party will do all things reasonably required or requested by the other party to give effect to this Agreement and to enable that other party to enjoy the rights and benefits conferred on it by this Agreement.
- 4.5 **Governing law:** This Agreement is governed by the laws of Queensland and the parties submit to the jurisdiction of the courts of Queensland.
- 4.6 **Counterparts:** This Agreement may be executed in one or more counterparts, and any such counterparts taken together form one instrument. Execution by fax counterparts is acceptable.

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## EXECUTED AS AN AGREEMENT

**SIGNED** for and on behalf of the **STATE OF** )  
**QUEENSLAND**, acting through the ) .....  
Department of Natural Resources and Mines ) (*signature*)  
by ..... (name)  
..... (title,)  
a duly authorised person, in the presence of: ) ..... / ..... / 2013  
(*date*)

.....  
(signature of witness)

.....  
(full name of witness)

**SIGNED** for and on behalf of **RTA WEIPA** ) .....  
**PTY LTD** ACN 137 266 285 ) (*director*)  
in accordance with s 127 of the *Corporations* )  
*Act 2001* (Cth) by )  
..... (*name*) .....  
and ..... (*name*) (*director/secretary*)  
..... / ..... / 2013  
(*date*)

**SIGNED** for and on behalf of **RIO TINTO** ) .....  
**ALUMINIUM PTY LTD** ACN 009 679 127 ) (*director*)  
in accordance with s 127 of the *Corporations* )  
*Act 2001* (Cth) by )  
..... (*name*) .....  
and ..... (*name*) (*director/secretary*)

in the presence of:

)

..... / ..... / 2013

(date)'.:

**13 Schedule 1 (Dictionary)**

Page 23, line 7, '19'—

*omit, insert—*

'18'.

**14 Schedule 1 (Dictionary)**

Page 23, line 24, '29'—

*omit, insert—*

'28'.

**15 Long title**

Long title, after 'Commission'—

*insert—*

**'and to amend this and another Act for particular purposes'.**