



Rio Tinto Services Limited  
120 Collins Street  
Melbourne 3000  
Australia  
Postal Address:  
GPO Box 384D  
Melbourne 3001  
Australia  
T +61 (0) 3 9283 3333  
F +61 (0) 3 9283 3707

**Joanne Farrell**  
Group Executive, Health  
Safety and Environment – (HSE)  
and Managing director  
Australia

27 April 2017

Joint Standing Committee on Foreign Affairs, Defence and Trade  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Submission uploaded via inquiry website  
[http://www.apf.gov.au/Parliamentary\\_Business/Committees/OnlineSubmission](http://www.apf.gov.au/Parliamentary_Business/Committees/OnlineSubmission)

Dear Sir/Madam,

**Re: Inquiry into establishing a Modern Slavery Act in Australia**

Rio Tinto is grateful to have the opportunity to make a submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade (Committee) regarding its inquiry into establishing a Modern Slavery Act in Australia (Inquiry).

Modern slavery is an emerging global issue that businesses need to be alert to and prepared to address. It is also a human rights issue that does not occur in a vacuum. Rio Tinto expects that our employees and suppliers will reject modern slavery and we take steps to ensure that modern slavery is not taking place in our own business and supply chains. The challenge of ensuring we avoid any involvement in modern slavery is significant given our size and geographical reach, but we are committed to continuing to evolve our approach to meet developing risks.

Discussions with peers, investors, civil society and business partners confirm we are not alone in this challenge, and we encourage government efforts to support business to prevent and address involvement in modern slavery through their own activities and supply chains. We believe that the UK Modern Slavery Act's (MSA) "transparency in supply chains etc" provision plays a positive role in this regard and support the Australian Government introducing this type of reporting requirement. For Rio Tinto as a business operating in both the UK and Australia, consistency with the MSA in substance will be important for effective implementation as well as to avoid undue compliance costs and reporting burdens, while also allowing for appropriate evolution based on lessons learned.

Rio Tinto published its first slavery and human trafficking [statement](#) (Statement) in compliance with the MSA in March 2017. The Statement presents the policies and standards that contribute to our control framework to respect human rights and reject modern slavery. It outlines our due diligence processes, including our "Know your supplier" procedure, which helps identify the potential legal, ethical and reputational risks of engaging or renewing a supplier. It also provides

examples of how we assess and mitigate modern slavery risks, how we track our performance, and how we raise awareness and build capacity around these issues. We note that based on the Inquiry's Terms of Reference (TORs) the Committee is gathering information on the prevalence of modern slavery in the domestic and global supply chains of companies operating in Australia; and the identification of international best practice to prevent modern slavery in domestic and global supply chains. We hope that our Statement, reproduced at the end of this submission, contributes to this knowledge base.

In relation to the rest of the Inquiry's TORs our submission focuses on the "provisions in the United Kingdom's legislation which have proven effective in addressing modern slavery, and whether similar or improved measures should be introduced in Australia" (Australian Act). Our comments concentrate on section 54 of the MSA - the "transparency in supply chains etc" provision.

## **1. Provisions in the MSA which have proven effective<sup>1</sup>**

### **(a) Section 54(1) and (4) the requirement to prepare a slavery and human trafficking statement**

We support the MSA's baseline requirement for an included organisation to prepare a slavery and human trafficking statement (MSA statement) for each financial year around the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains and in any part of its own business, or to make a statement that it has taken no such steps.

Publishing MSA statements can assist internal coordination around responsible supply chains and broader social risk management. To ensure a robust and coordinated approach, we drafted our Statement with specialist human rights support as well as input from a wide range of functions, including Corporate Relations, Procurement, Legal, Human Resources, Investor Relations and Ethics & Integrity. While the focus was on reporting, the exercise prompted us to revisit whether there are gaps in our policies and practices and to evolve plans to address them.

Externally, MSA statements provide an important tool to investors, customers, civil society, business partners and governments to compare company performance. They are also useful reference points for us as a mining and metals company to see how our peers and the industry as a whole are addressing key risks.

While the provision is titled "transparency in supply chains etc" section 54(4) clearly states that MSA statements should refer to steps relating to the organisation's own business as well as its supply chains. This is appropriate – a company that focuses only on its business partners when identifying and addressing human rights risks including modern slavery is potentially exposing itself to operational, reputational and legal consequences by failing to take a complete approach. Yet investor and civil society benchmarking of MSA statements suggests many companies are not adequately referring to steps taken in their own business. We recommend that any Australian provision based on section 54 of the MSA covers both the organisation's own business and

---

<sup>1</sup> We have focused on the sub-sections in section 54 of the MSA where we believe we can provide the most helpful commentary. The omission of discussion of other sub-sections should in no way be taken as a comment by us on their effectiveness.

supply chains and that this is clearly articulated in the provision's title and guidance.

The UK Government's guidance notes that for the purposes of the MSA "supply chains" has its everyday meaning. Given differing interpretations of this term we support further clarity around this term in any Australian Act or accompanying guidance. At a baseline we define our suppliers as direct business relationships with which we have a direct payment relationship.

**(b) Section 54(5) information MSA statements may include**

Our Statement included all of the recommended reporting areas in section 54(5). We did so based on meeting the UK Government's recommendations, peer benchmarking and seeking to provide external stakeholders with a clear breakdown of our policies and practices.

These reporting areas were designed to ensure alignment with the UN Guiding Principles on Business and Human Rights (UNGPs), the authoritative global standard for preventing and addressing business-related human rights abuse, and which both the UK and Australian Governments have endorsed. Rio Tinto's human rights approach is consistent with the UNGPs and we support the same commitment to alignment with the UNGPs in any Australian Act. The UNGPs set out a due diligence process which includes assessing human rights impacts, integrating the findings from those impacts into corporate processes including through training, tracking and communicating on human rights performance. The recommended reporting areas in section 54(5) entail some conflation of these issues which could cause confusion for companies seeking to apply the UNGPs in line with external expectations. We recommend that the equivalent sub-section in any Australian Act have closer alignment with the UNGPs while still complementing section 54 of the MSA in substance.

There has been discussion regarding whether the recommended reporting areas in section 54(5) of the MSA should be mandatory. We believe this option could support more effective comparison by a range of stakeholders as well as provide more certainty for drafting. We would not see this option as being inconsistent with the MSA in substance.

**(c) Section 54(6) approval requirements**

Section 54(6) requires body corporates like Rio Tinto to have their MSA statements approved by the board of directors and signed by a director. Our Statement was approved by the full board and signed by our Chief Executive. The MSA's approval requirements have played an important role in raising the awareness of modern slavery in the highest levels of organisations carrying on a business in the UK. For organisations without designated board consideration of human rights these approval requirements may also provide an entry point to discuss broader human rights risks. We support the same requirements in any Australian Act.

**(d) Sections 54(7) and (8) publication requirements**

Our Statement is available from a drop down menu on our home-page in line with section 54(7) of the MSA and the UK Government's accompanying guidance. We support this sub-section, which facilitates further transparency.

Several civil society and investor groups in the UK have requested a public registry of MSA statements for benchmarking and compliance purposes. We

submitted our Statement to the [Modern Slavery Registry](#), a free and public registry which at the time of writing had 1810 MSA statements available. We support the Australian Government establishing a similar registry either itself or through equipping an independent third party to do so.

**(e) Section 54 (9) and (10) Government guidance**

Section 54(9) and (10) of the MSA provide that the UK Secretary of State may issue guidance around implementation of the section. The UK Government's [Transparency in Supply Chains etc. A practical guide](#) is a useful publication for businesses working to unpack section 54 of the MSA. Our Statement highlights that we are not suggesting we have solved all challenges in this complex area. Government guidance on what companies are expected to report as well as how they should manage modern slavery risks is crucial in supporting businesses to do better. We support any Australian Act establishing a similar capability for government guidance and for this guidance to be prepared as soon as possible with multi-stakeholder input.

**(2) Whether a Modern Slavery Act should be introduced in Australia**

We believe there are strong arguments to introduce a Modern Slavery Act in Australia. We support the introduction in Australia of a reporting provision that is consistent with section 54 of the MSA, bearing in mind the suggestions above around evolving some of the elements of section 54. It is important that companies reporting in different jurisdictions are presented with consistent requirements to drive more effective reporting. We believe that the benefits attached to reporting under section 54 of the MSA can be replicated in Australia and do not believe a similar Australian provision would create an undue cost. This situation could change if companies face inconsistent requirements. To this end, in addition to consistency with the MSA we also encourage the Australian Government to participate in broader multi-lateral efforts to drive complementary action in this area. This includes exploring systemic solutions to the root causes of modern slavery including poverty and other development related governance gaps.

We recognise the impact that a reporting provision could have on smaller and medium sized companies even if they are not required to report under any Australian Act. The reality is that these companies may face tougher questions from their business partners without the resources needed to address them effectively in practice. It will be important for the Government as well as business partners and other stakeholders to help build capacity of these companies to manage their modern slavery risks. This could include training and mentoring programs.

Finally we are aware of and support current Australian Government consultations around the implementation of the UNGPs in Australia, including the potential to create a National Action Plan on Business and Human Rights. We encourage the Australian Government to take a coordinated approach to the Inquiry and these consultations, including using both discussions to bring all relevant stakeholders together to drive better practice.

We would welcome the opportunity to further discuss this submission with you. If you have any questions in the interim, please contact

Yours sincerely,

Joanne Farrell  
Group executive Health, Safety, and Environment (HSE)  
and Managing director Australia