



ERA Energy Resources of Australia Ltd

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20 December 2019

NOT FOR DISTRIBUTION OR RELEASE IN THE UNITED STATES

Entitlement Offer – Despatch of Supplementary Statement

Please refer to the attached supplementary statement which supplements the entitlement offer information booklet dated 15 November 2019 (**Supplementary Statement**). The Supplementary Statement is being despatched to eligible shareholders on Monday, 23 December 2019 in accordance with the orders made by the Takeovers Panel on 11 December 2019.

Yours sincerely

James O'Connell
Legal Counsel & Company Secretary
Energy Resources of Australia Ltd

About Energy Resources of Australia Ltd

Energy Resources of Australia Ltd (**ERA**) is one of the nation's largest uranium producers and operates the Ranger mine, Australia's longest continually operating uranium mine.

Together, ERA provides clean energy to the world and cares for people and country.

ERA has an excellent track record of reliably supplying customers. Uranium oxide has been produced at Ranger for more than 35 years. During that time, Ranger has produced in excess of 128,000 tonnes of uranium oxide.

ERA's Ranger mine is located eight kilometres east of Jabiru and 260 kilometres east of Darwin, in Australia's Northern Territory. ERA is a major employer in the Northern Territory and the Alligator Rivers Region.

Important Information

This announcement does not constitute an offer to sell, or a solicitation of an offer to buy, securities in the United States or any other jurisdiction in which such an offer would be illegal. Neither the entitlements nor the New Shares to be offered and sold in the Entitlement Offer have been, or will be, registered under the U.S. Securities Act of 1933 (**U.S. Securities Act**) or the securities laws of any state or other jurisdiction of the United States.



Accordingly, the entitlements may not be exercised or taken up by, and the New Shares may not be offered or sold, directly or indirectly, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the U.S. Securities Act and any other applicable securities law of any state or other jurisdiction of the United States. There will be no public offer of the entitlements or the New Shares in the United States.

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Dear Eligible Shareholder

Entitlement Offer Information Booklet – Supplementary Statement

This Statement supplements the Entitlement Offer Information Booklet dated 15 November 2019 (the **Offer Information Booklet**) sent to you by Energy Resources of Australia Ltd (the **Company** or **ERA**). It is issued in accordance with the Orders (**Orders**) made by the Takeovers Panel (**Panel**) on 11 December 2019 under section 657D of the *Corporations Act 2001* (Cth) (**Corporations Act**).

This Statement also constitutes a notice given by the Company under section 708AA(12) of the *Corporations Act*¹.

Words and expressions defined in the Offer Information Booklet have the same meaning in this Statement, unless defined otherwise in this Statement or the context requires otherwise.

If there is any conflict or inconsistency between this Statement and the Offer Information Booklet, this Statement prevails to the extent of the conflict or inconsistency.

Background

On 15 November 2019, the Company announced a pro-rata renounceable entitlement offer of 6.13 new fully paid ERA ordinary shares (**New Shares**) for each existing ERA ordinary share held as at the Record Date by Shareholders (**Entitlement Offer**). The terms and conditions of the Entitlement Offer are set out in the Offer Information Booklet.

The Entitlement Offer is fully underwritten by North Limited (the **Underwriter** or **North**), a wholly-owned subsidiary of Rio Tinto, pursuant to an Underwriting Agreement dated 15 November 2019 (**Underwriting Agreement**). As at the date of this Statement, Rio Tinto holds relevant interests in 354,078,854 ERA shares representing 68.39% of all ERA shares currently on issue, with the Underwriter directly holding 34.10% of the issued ERA shares and Peko-Wallsend Pty Ltd (**Peko-Wallsend**), another wholly-owned subsidiary of Rio Tinto, holding 34.29% of the issued ERA shares.

On 11 December 2019, the Panel made a Declaration of Unacceptable Circumstances in relation to an application dated 18 November 2019 by Zentree Investments Limited in relation to the affairs of ERA and the Orders. Copies of the Panel's Declaration and Orders are reproduced on the Panel's website at:

http://www.takeovers.gov.au/content/Media_Releases/2019/downloads/MR19-078.pdf.

¹ As modified by ASIC Corporations (Non-Traditional Rights Issues) Instrument 2016/84 (**ASIC Instrument**). All references in this Statement to the *Corporations Act* are references to the *Corporations Act* as notionally modified by the **ASIC Instrument**.



In summary, the effect of the Orders is as follows:

- (a) ERA must postpone the close of the Entitlement Offer and various other relevant dates not less than 20 business days from and including 12 December 2019;
- (b) without the consent of the Panel, the Underwriter cannot rely on any right it may have to terminate or not comply with its obligations under the Underwriting Agreement by reason of or as a consequence of the Orders;
- (c) a clause of the Underwriting Agreement affecting dealings with the Jabiluka Mineral Lease, a major asset of ERA, is void and of no effect;
- (d) Rio Tinto cannot compulsorily acquire shares in ERA in accordance with the statutory procedure set out in Part 6A.2 of the Corporations Act if it becomes a 90% holder as a consequence of the Entitlement Offer and Underwriting Agreement without obtaining minority shareholder approval under item 7 of section 611 of the Corporations Act; and
- (e) ERA must issue a supplementary statement setting out:
 - (i) the effect of the Orders;
 - (ii) details of the possible increase in Rio Tinto's voting power as a result of the Entitlement Offer under different scenarios of take up under the Entitlement Offer (including but not limited to a scenario where no shareholders other than the Rio Tinto entities take up their entitlements); and
 - (iii) Rio Tinto's intentions regarding the continuation of the business of ERA, any major changes to be made to the business of ERA and the future employment of the present employees of ERA.

This Statement is the supplementary statement required by the Orders.

The Panel's decision is currently the subject of a review application from Rio Tinto lodged on Friday, 13 December 2019. No decision has been made by the Panel whether to conduct proceedings. ERA will keep shareholders updated in relation to material developments with respect to the review application.

The effect of the Orders

Timetable

In accordance with the Orders, ERA has adjusted the Entitlement Offer timetable by postponing key dates for 20 business days. The adjusted timetable is now² as follows:

² ERA, in conjunction with the Underwriter, reserves the right, subject to the Corporations Act, ASX Listing Rules and other applicable laws to withdraw or vary the dates of the Entitlement Offer at its discretion and without notice. In particular, ERA reserves the right to extend the closing date of the Entitlement Offer or accept late applications, either generally or in particular cases, without prior notice. The commencement of quotation of New Shares is subject to confirmation from ASX.



EVENT	DATE
Suspension of trading of New Shares under the Entitlement Offer on deferred settlement basis lifted and trading begins	Tuesday, 14 January 2020
Last day to extend the Entitlement Offer closing date	Wednesday, 15 January 2020
Entitlement Offer closes	5pm (AEDT) on Monday, 20 January 2020
Determination of allocation under Shortfall Facility and Shortfall Bookbuild	Wednesday, 22 January 2020
Notification of shortfall to ASX	Thursday, 23 January 2020
Issue of New Shares under the Entitlement Offer	Tuesday, 28 January 2020
New Shares under the Entitlement Offer commence trading on ASX on a normal settlement basis	Wednesday, 29 January 2020
Despatch of holding statements for New Shares under the Entitlement Offer	Wednesday, 29 January 2020

In accordance with the Orders, ERA announced the adjustment to the Entitlement Offer timetable to the ASX on 11 December 2019.

No termination of Underwriting Agreement because of Orders without the Panel's consent

By virtue of the Orders, the Underwriter is not permitted to rely on any right it may have to terminate or not comply with its obligations under the Underwriting Agreement by reason or as a consequence of these Orders, without the consent of the Panel.

Accordingly, the Underwriter remains bound, subject to the terms of the Underwriting Agreement, to take up, and to procure that Peko-Wallsend takes up, their respective entitlements under the Entitlement Offer and to subscribe for any Shortfall Shares remaining after the Shortfall Bookbuild undertaken by Euroz.

Jabiluka

The Underwriting Agreement had included a clause (clause 10.4) the effect of which had been to prohibit ERA dealing with or creating any new economic or legal interest in the Jabiluka Mineral Lease held by the Company (or any interest proceeds, assets or returns generated from it), without the prior written consent of the Underwriter (not to be unreasonably withheld or delayed). The relevant clause was summarised in section 2.4 of the schedule to the Company's announcement of 15 November 2019 to the ASX relating to the Entitlement Offer.

By reason of the Orders, that clause is void and of no effect.

Notwithstanding that the clause no longer applies, ERA confirms that it does not presently have any intention of dealing with Jabiluka. ERA's strategy as described in its announcement about the Entitlement Offer is to progress rehabilitation of the Ranger Project Area, as successful progress on rehabilitation is, in ERA's view, a prerequisite to support future operations and growth beyond Ranger.



Furthermore, development of Jabiluka requires the prior consent of the Traditional Owners of the land the subject of Jabiluka Mineral Lease, by virtue of the Jabiluka Long Term Care and Maintenance Agreement dated 25 February 2005 between ERA, the Northern Land Council and the Traditional Owners (**LTCMA**). ERA has no intention to take any action that would compromise ERA's commitments under the LTCMA. Accordingly, development will not occur without the prior consent of the Traditional Owners.

No compulsory acquisition by Rio Tinto

By virtue of the Orders, Rio Tinto is not permitted to compulsorily acquire shares in ERA in accordance with the statutory procedure set out in Part 6A.2 of the Corporations Act if it becomes a 90% holder as a consequence of the Entitlement Offer and the Underwriting Agreement, unless ERA's minority shareholders³ (prospectively or retrospectively) approve Rio Tinto's acquisition of relevant interests as a result of the Entitlement Offer and Underwriting Agreement in a manner equivalent to the approval required under item 7 of section 611 of the Corporations Act.

If Rio Tinto does not become a 90% holder as a result of the Entitlement Offer and the Underwriting Agreement but subsequently becomes a 90% holder, it is not prohibited by the Orders from exercising its rights to compulsorily acquire shares in ERA in accordance with the statutory procedure set out in Part 6A.2 of the Corporations Act.

The Panel's Declaration of Unacceptable Circumstances and Orders are currently the subject of a review application from Rio Tinto lodged on Friday, 13 December 2019. No decision has been made by the Panel whether to conduct proceedings.

Details of the possible increase in Rio Tinto's voting power

ERA presently has 517,725,062 Shares on issue. Subject to rounding, the total number of New Shares expected to be issued pursuant to the Entitlement Offer will be 3,173,654,630. Accordingly, 3,691,379,692 Shares are expected to be on issue immediately after the conclusion of the Entitlement Offer.

As explained in the Offer Information Booklet, Rio Tinto's voting power in the Company may increase because of its participation in and underwriting of the Entitlement Offer. The extent of any increase will depend on a number of factors including the number of New Shares taken up by Eligible Shareholders (or acquirers of entitlements) other than the Rio Tinto holders⁴, the number of entitlements sold by the foreign holder nominee on behalf of Ineligible Shareholders under the Entitlement Offer, the number of New Shares applied for by Eligible Shareholders under the Shortfall Facility⁵, and the number of New Shares (if any) placed to institutional and/or sophisticated investors under the Shortfall Bookbuild.

The following table sets out the possible increase in Rio Tinto's voting power as a result of the Entitlement Offer under different scenarios of take up under the Entitlement Offer.⁶

³ That is, shareholders other than Rio Tinto and its associates. Under item 7 of section 611 of the Corporations Act, any vote cast in favour of the relevant resolution by Rio Tinto and its associates must be disregarded.

⁴ That is, the Underwriter and Peko-Wallsend, being the wholly-owned subsidiaries through which Rio Tinto holds its ERA shares.

⁵ Rio Tinto is not participating in the Shortfall Facility.

⁶ The final numbers and percentages in the table may vary due to rounding.



<i>If non-Rio Tinto holders take up the percentage below of available entitlements (excluding Rio Tinto entitlements) ...</i>	<i>... the corresponding number of New Shares to be issued to the non-Rio Tinto holders under the Entitlement Offer would be ...</i>	<i>... and the number of New Shares to be issued to Rio Tinto would be ...</i>	<i>... and the total number of shares held by Rio Tinto immediately after the Entitlement Offer (inclusive of the shares already held by it) would be ...</i>	<i>... and the voting power of Rio Tinto immediately after the Entitlement Offer would be ...</i>
100.00%	1,003,151,255	2,170,503,375	2,524,582,229	68.39%
75.68%	759,198,175	2,414,455,915	2,768,534,769	75.00%
75.00%	752,363,441	2,421,291,189	2,775,370,043	75.19%
50.00%	501,575,628	2,672,079,003	3,026,157,857	81.98%
25.00%	250,787,814	2,922,866,816	3,276,945,670	88.77%
20.48%	205,491,761	2,968,162,869	3,322,241,723	90.00%
20.00%	200,630,251	2,973,024,379	3,327,103,233	90.13%
10.00%	100,315,126	3,073,339,505	3,427,418,359	92.85%
Nil	0	3,173,654,630	3,527,733,484	95.57%

As at the close of business on Wednesday, 18 December 2019, ERA had received applications (including applications for Additional New Shares) from non-Rio Tinto holders for 16,442,074 New Shares representing approximately 1.6% of the entitlements of all non-Rio Tinto holders.

For further details in relation to the potential effect the issue of the New Shares under the Entitlement Offer will have on the control of ERA, and the consequences of that effect, please refer to the notice given by the Company to the ASX on 15 November 2019 under section 708AA(2)(f) of the Corporations Act (**Cleansing Statement**). A copy of the Cleansing Statement was reproduced in pages 80-84 of the Offer Information Booklet.

Rio Tinto’s intentions

The Orders require that ERA include in this Supplementary Statement Rio Tinto’s intentions regarding the continuation of the business of ERA, any major changes to be made to the business of ERA and the future employment of the present employees of ERA. Accordingly, this section of this Supplementary Statement sets out Rio Tinto’s intentions in this regard as provided to ERA by Rio Tinto.

The intentions of North and Peko-Wallsend (the **Rio Tinto Parties**) as set out in section 1.13 of the Offer Information Booklet remain unchanged.

(a) General intentions in respect of the future conduct of ERA's business

This section sets out the intentions of the Rio Tinto Parties in relation to the continuation of the business of ERA; any major changes to the business of ERA and any redeployment of ERA resources; and the future employment of the present employees of ERA on completion



of the Entitlement Offer. These intentions are based on the information concerning ERA, its business and the general business environment which is known to Rio Tinto at the time of preparation of this Supplementary Statement. Final decisions regarding these matters will only be made by Rio Tinto in light of material information and circumstances at the relevant time. Accordingly, the statements set out in this section are statements of current intention only, which may change as new information becomes available to Rio Tinto or as circumstances change.

Rio Tinto's present intention is for ERA to continue its business in substantially the same manner as it is presently conducted, with the primary objective of ensuring ERA implements its statutory rehabilitation obligations in respect of the Ranger Project Area. Further details of those intentions are set out below.

(i) Continuation of ERA's business

Rio Tinto intends that ERA will continue with the rehabilitation of the Ranger Project Area, generally in accordance with the terms of the current Ranger Mine Closure Plan (**Closure Plan**) developed by ERA (which is subject to ongoing annual review processes) and applicable Commonwealth and Northern Territory statutory requirements. Rio Tinto intends that ERA would complete all mining and processing operations in line with the timing set out in the current authority granted to ERA pursuant to section 41 of the *Atomic Energy Act 1953* (Cth).

(ii) No major changes to be made to ERA's business

Rio Tinto intends that ERA would continue with the rehabilitation of the Ranger Project Area generally in accordance with the Closure Plan and applicable Commonwealth and Northern Territory statutory requirements. The Closure Plan includes the proposed methods for dealing with the treatment of contaminated water, transfer of tailings to Pit 3 and subsequent capping and bulk backfill, and revegetation of the final landform following decommissioning and demolition of fixed plant and equipment at the Ranger mine and Ranger 3 Deeps exploration decline. Further, Rio Tinto intends that ERA will continue to comply with the terms of the LTCMA in respect of the Jabiluka Mineral Lease.

(iii) Future employment of ERA's present employees

Rio Tinto does not expect that the employment requirements of ERA will change prior to completion of current processing activities, but this will be reviewed from time to time as ERA completes processing of stockpiles in the Ranger Project Area and implementation of the Closure Plan becomes ERA's primary undertaking. These will be matters for the ERA board to consider, with input from the management of ERA. If redundancies do occur, Rio Tinto expects that severance and redundancy terms of all relevant employment contracts and industrial agreements or awards will be recognised and complied with by ERA.

(b) General Compulsory Acquisition

The terms of the Panel Orders require that, in the event Rio Tinto becomes a 90% holder as a result of the Entitlement Offer and Underwriting Agreement, Rio Tinto may not proceed to compulsory acquisition without obtaining the approval of ERA's minority



shareholders for the increase in its relevant interests (prospectively or retrospectively) in a manner equivalent to the approval required under item 7 of section 611 of the Corporations Act. Rio Tinto has sought a review of these Orders by the Panel. No decision has been made by the Panel whether to conduct proceedings.

If, as a result of the Entitlement Offer and Underwriting Agreement, Rio Tinto (through North and Peko-Wallsend) has full beneficial interests in 90% or more of all ERA shares, it will have the right (but not the obligation), subject to obtaining the approval of ERA's minority shareholders for an increase in its relevant interests, to compulsorily acquire all of the remaining ERA shares in accordance with the statutory procedure set out in Part 6A.2 of the Corporations Act (otherwise known as the "general compulsory acquisition procedure").

Rio Tinto has not yet decided whether it will exercise its right of compulsory acquisition if it is entitled to do so, and it does not intend to make that decision until the outcome of the Entitlement Offer is known. The factors which Rio Tinto expects it will take into account in reaching that decision include the following:

- (i) the price that Rio Tinto would be prepared to offer under a general compulsory acquisition and the Rio Tinto Parties' view on what an independent expert may consider to be fair value;
- (ii) the total amount of entitlements applied for by ERA shareholders pursuant to the Entitlement Offer and resulting free-float, number of shareholders in ERA and number of unmarketable parcels (defined as interests in ERA with a market value of less than \$500);
- (iii) the synergies and potential cost-savings from a potential de-listing of ERA (following discussions with ASX and in accordance with any regulatory guidance) and internalising the management of ERA within the Rio Tinto Group;
- (iv) the potential for any adverse reputational consequences of proceeding with compulsory acquisition particularly where ERA has sufficient funds to meet its current estimate of rehabilitation obligations;
- (v) the expenses associated with pursuing compulsory acquisition including regulatory costs, acquisition costs and the costs associated with any court challenge to the process;
- (vi) Rio Tinto's assessment of ERA's future liabilities and any material change in the nature, quantum or scope of those liabilities; and
- (vii) the political, legal and economic circumstances of ERA and Rio Tinto during the six months in which the compulsory acquisition right arises.

Any decision by Rio Tinto to proceed with compulsory acquisition remains at the discretion of Rio Tinto and will be considered on a holistic basis having regard to the prevailing facts and circumstances upon close of the Entitlement Offer and issue of the New Shares in ERA.

(c) Intentions if general compulsory acquisition rights are exercised

If Rio Tinto decides to proceed with compulsory acquisition and it obtains the requisite shareholder approval to be able to do so, then its intentions for the conduct of the ERA business on completion of compulsory acquisition are not expected to change, except as set out below.



Rio Tinto will apply for removal of ERA from the official list of ASX. Rio Tinto will also replace the current independent directors such that the board is comprised entirely of Rio Tinto executives. Rio Tinto has not yet made any decision as to the identity of any additional nominees, although the candidates who are likely to be considered will be executives or officers of the Rio Tinto Group with appropriate experience, qualifications and skills for ERA and its business. Rio Tinto would expect some ongoing cost savings as a result of ERA no longer being a publicly listed entity (primarily, listing fees and non-executive director fees).

Following compulsory acquisition, ERA will become a wholly-owned subsidiary of Rio Tinto Limited (**RTL**) and will be included within the RTL consolidated income tax group. If ERA joins the RTL income tax consolidated group, the tax cost base of ERA's assets will be reset under tax consolidation rules by re-allocating Rio Tinto's historic cost base plus amounts paid to acquire 100% interest in the shares of ERA. Rio Tinto intends that ERA's carry forward tax losses would be cancelled and not available for future utilisation by Rio Tinto. Rio Tinto, as the head company of the income tax consolidated group, expects to be entitled to tax deductions on future rehabilitation expenditure by ERA (under section 40-735 of the *Income Tax Assessment Act 1997* (Cth)) at the Australian corporate income tax rate. Conversely, income tax may become payable by RTL if ERA was to generate a taxable profit in any future income tax year.

Rio Tinto will continue to implement closure and rehabilitation of the Ranger Project Area in accordance with the Closure Plan, including decommissioning of the Ranger 3 Deeps exploration decline. Rio Tinto does not have any present intention to undertake any development activity in respect of the Jabiluka Mineral Lease and will comply with the LTCMA.

Yours sincerely

James O'Connell
Legal Counsel & Company Secretary
Energy Resources of Australia Ltd

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