



**ERA** Energy Resources of Australia Ltd

ABN 71 008 550 865  
A member of the Rio Tinto Group

Head office Level 3, Energy House,  
18-20 Cavenagh St, Darwin NT 0800  
GPO Box 2394, Darwin NT 0801, Australia  
T +61 8 8924 3500 F +61 8 8924 3555

Ranger mine Locked Bag 1,  
Jabiru NT 0886 Australia  
T +61 8 8938 1211 F +61 8 8938 1203

[www.energyres.com.au](http://www.energyres.com.au)

24 January 2020

**NOT FOR DISTRIBUTION OR RELEASE IN THE UNITED STATES**

## **Entitlement Offer – Despatch of Additional Supplementary Statement**

Please refer to the attached additional supplementary statement which supplements the Entitlement Offer Information Booklet dated 15 November 2019 and the Supplementary Statement dated 20 December 2019 (**Additional Supplementary Statement**). The Additional Supplementary Statement is being despatched to eligible shareholders on Tuesday, 28 January 2020 in accordance with orders made by the Takeovers Panel.

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**) 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 has been mined at Ranger for more than 35 years. During that time, Ranger has produced in excess of 130,000 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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24 January 2020

## **NOT FOR DISTRIBUTION OR RELEASE IN THE UNITED STATES**

Dear Eligible Shareholder

### **Entitlement Offer Information Booklet – Additional Supplementary Statement**

This Statement supplements the Entitlement Offer Information Booklet dated 15 November 2019 (the **Offer Information Booklet**) and the Supplementary Statement dated 20 December 2019 (the **Supplementary Statement**) sent to you by Energy Resources of Australia Ltd (the **Company** or **ERA**). It is issued in accordance with orders made by the Takeovers Panel (**Panel**) as varied on 20 January 2020 under sections 657EA(4) and 657D(3) 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*.<sup>1</sup>

Words and expressions defined in the Offer Information Booklet (or, where applicable, the Supplementary Statement) 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 or the Supplementary Statement, 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.

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<sup>1</sup> 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**.



On 11 December 2019, the initial Panel (**Initial Panel**) made a declaration of unacceptable circumstances and orders in relation to an application dated 18 November 2019 by Zentree Investments Limited in relation to the affairs of ERA. Copies of the Initial 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](http://www.takeovers.gov.au/content/Media_Releases/2019/downloads/MR19-078.pdf).

On 13 December 2019, Rio Tinto lodged an application for a review of the Initial Panel's decision. On 20 January 2020, the review Panel (**Review Panel**) affirmed the decision of the Initial Panel to make a declaration of unacceptable circumstances and varied the Initial Panel's orders. Copies of the Review Panel's declaration and the variations ordered by the Review Panel are reproduced on the Panel's website at:

[https://www.takeovers.gov.au/content/Media\\_Releases/2020/downloads/MR20-005.pdf](https://www.takeovers.gov.au/content/Media_Releases/2020/downloads/MR20-005.pdf).

### **Summary of Review Panel's variations to the orders made by the Initial Panel**

In summary, the variations to the Initial Panel's orders made by the Review Panel:

- (a) removed the orders prohibiting Rio Tinto from compulsorily acquiring shares in ERA under the statutory procedure set out in Part 6A.2 of the Corporations Act (otherwise known as the "general compulsory acquisition procedure") if it becomes a "90% holder" as a consequence of the Entitlement Offer and Underwriting Agreement.<sup>2</sup> Accordingly, should Rio Tinto become a 90% holder as a consequence of the Entitlement Offer and Underwriting Agreement, Rio Tinto may compulsorily acquire shares in ERA in accordance with the statutory procedure set out in Part 6A.2 of the Corporations Act. The Review Panel removed the orders of the Initial Panel which introduced an additional requirement for Rio Tinto to also receive minority shareholder approval under item 7 of section 611 of the Corporations Act in addition to following the statutory procedure in Part 6A.2 to proceed with compulsory acquisition. Section 1.14 of the Offer Information Booklet contains a description of the general compulsory acquisition procedure;
- (b) require Rio Tinto to form intentions regarding compulsory acquisition in the event that Rio Tinto becomes a 90% holder in ERA's ordinary shares as a result of the Entitlement Offer and Underwriting Agreement;
- (c) require ERA to dispatch an additional supplementary statement to ERA shareholders in a form approved by the Review Panel which discloses:
  - (i) the effect of the variations to the Initial Panel's orders; and
  - (ii) Rio Tinto's intentions regarding compulsory acquisition in the event that Rio Tinto becomes a 90% holder in ERA's ordinary shares as a result of the Entitlement Offer and Underwriting Agreement;
- (d) require ERA to extend the Entitlement Offer timetable by not less than 15 business days from the date of the variation of the orders by the Review Panel, for ERA shareholders to consider the additional disclosure; and
- (e) prohibit the Underwriter, without the consent of the Panel, relying 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 (including as varied). Accordingly, the

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<sup>2</sup> Rio Tinto would become a 90% holder if it holds, either alone or with a related body corporate, full beneficial interests in at least 90% of the shares in ERA (by number).



Underwriter continues to remain 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, despite the orders made by the Panel.

This Statement is the additional supplementary statement referred to in paragraph (c) above as required by the Panel's orders as varied.

### **Timetable**

In accordance with the orders as varied by the Review Panel, ERA has extended the Entitlement Offer timetable by postponing key dates for 15 business days. The adjusted timetable is now<sup>3</sup> as follows:

<b>EVENT</b>	<b>DATE</b>
Suspension of trading of New Shares under the Entitlement Offer on deferred settlement basis lifted and trading begins	Wednesday, 12 February 2020
Last day to extend the Entitlement Offer closing date	Thursday, 13 February 2020
Entitlement Offer closes	5pm (AEDT) on Tuesday, 18 February 2020
Determination of allocation under Shortfall Facility and Shortfall Bookbuild	Thursday, 20 February 2020
Notification of shortfall to ASX	Friday, 21 February 2020
Issue of New Shares under the Entitlement Offer	Tuesday, 25 February 2020
New Shares under the Entitlement Offer commence trading on ASX on a normal settlement basis	Wednesday, 26 February 2020
Despatch of holding statements for New Shares under the Entitlement Offer	Wednesday, 26 February 2020

In accordance with the orders as varied, ERA announced on 20 January 2020 to the ASX the extension to the Entitlement Offer timetable and the effect of the Review Panel's variation of the Initial Panel's orders.

### **Rio Tinto intends to compulsorily acquire (if entitled)**

As noted above, the Review Panel removed the orders prohibiting Rio Tinto from compulsorily acquiring shares in ERA under 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, and required Rio Tinto to form intentions regarding compulsory acquisition in the

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<sup>3</sup> 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 that Rio Tinto becomes a 90% holder in ERA's ordinary shares as a result of the Entitlement Offer and Underwriting Agreement.

This section of the Statement sets out Rio Tinto's intentions in this regard as provided to ERA by Rio Tinto.

In the event that Rio Tinto acquires New Shares under the Entitlement Offer and the Underwriting Agreement which, when aggregated with its existing holding, result in it beneficially owning 90% or more of the shares in ERA, Rio Tinto intends to proceed with compulsory acquisition of all remaining ERA shares under Part 6A.2 of the Corporations Act. If Rio Tinto does proceed to compulsory acquisition, it intends to propose a compulsory acquisition price of 15 cents per ERA share (being an amount equal to the Offer Price under the Entitlement Offer).

These intentions are subject to, in Rio Tinto's opinion, there being no material adverse change to the business, assets, liabilities, financial position or prospects of ERA during the period from the date of this disclosure up until the date of the compulsory acquisition.

Note that, in order to proceed with compulsory acquisition under Part 6A.2 of the Corporations Act, Rio Tinto will be required to obtain an independent expert's report, prepared by an expert nominated by ASIC, on whether the proposed compulsory acquisition price represents 'fair value' for ERA shares (as determined in accordance with section 667C of the Corporations Act). If the independent expert concludes that the proposed compulsory acquisition price of 15 cents per ERA share does not represent 'fair value' for the securities, Rio Tinto could either elect to increase its proposed compulsory acquisition price, or elect not to proceed with compulsory acquisition. If Rio Tinto decided to increase its proposed compulsory acquisition price, it would firstly need to obtain further internal approvals to do so.

Note also that if Rio Tinto does proceed to compulsory acquisition, and persons holding at least 10% of the ERA shares covered by the compulsory acquisition notice object to the acquisition before the end of the relevant objection period, the compulsory acquisition can only occur if it is approved by the Court. If the 90% holder (here, Rio Tinto) establishes that the terms set out in the compulsory acquisition notice give a 'fair value' for the shares, the Court must approve the acquisition of the shares on those terms. Otherwise, it must confirm that the acquisition will not take place. Further detail about the general compulsory acquisition procedure is set out in section 1.14 of the Offer Information Booklet.

Yours sincerely

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

Important information

This document is issued by Energy Resources of Australia Ltd. This document is not a prospectus or offering document under Australian law or under any other law. It is for information purposes only and does not constitute an offer, invitation or recommendation to subscribe for, retain, purchase or sell any securities in the



Company in any jurisdiction. This document does not constitute financial product advice and does not and will not form part of any contract for the acquisition of ERA ordinary shares.

This document 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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