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Submission on the Exposure Draft of the Clean Energy Regulations 2011

Thank you for the opportunity to lodge a submission on the Exposure Draft of the Clean Energy Regulations 2011, relating to the implementation of aspects of the Jobs and Competitiveness program under the Clean Energy Future legislation. MagNet supports the Jobs and Competitiveness Program and the commitment to provide industry assistance until a time when the majority of other jurisdictions have mandated and binding emissions reduction legislation or effective measures.

Background

Since 2009, MagNet has been working constructively with the Government and policy-makers to develop a solution that both addresses the emerging magnetite industry's concerns and protects the integrity of any carbon pricing model and prospective emissions trading scheme provided by the legislation. During that time, MagNet's membership has tripled to representation of emerging producers across four states; Tasmania, Western Australia, South Australia and New South Wales.

Current members

Asia Iron Australia Pty Ltd/ Extension Hill Pty Ltd
Atlas Iron Ltd
CITIC Pacific Mining
Crosslands
Gindalbie Metals Ltd
Grange Resources
Iron Ore Holdings Pty Ltd
Braemar Iron Alliance comprising:
Bonython Metals Group
Carpentaria Exploration Ltd

Havilah Resources
Minotaur Exploration
Sinosteel PepinNini Curnamona Management

Our members are focused on adding value in Australia to low iron-content ore bodies to produce high iron-content magnetite concentrate and pellets, commodities valued for purity and chemical properties in steel-making. Magnetite concentrate requires less energy and releases less carbon emissions in the production of premium-quality steel when compared to Direct Shipping Ore or hematite.

Selected MagNet member projects in Western Australia, alone, represent an initial capital investment of some \$18 billion, an estimated \$9.5 billion in annual export revenue, more than 12 000 direct construction jobs and 4 000 direct permanent jobs.

MagNet has welcomed past opportunities to make submissions to DCCEE, the Senate Select Committee on the Scrutiny of New Taxes, the Joint Select Committee on the Clean Energy Future legislation and the Multi-Party Climate Change Committee (MPCCC) regarding the architecture and implementation arrangements for a carbon pricing mechanism and refers to these submissions as maintaining our position that there is an unintended consequence of the legislation. This is because inadequate provision is made for emerging industries and projects.

While it is anticipated that magnetite concentrate will be eligible for moderately emissions intensive trade exposed assistance, the DCCEE are still working with the existing producers to determine the allocative baseline.

MagNet would like to acknowledge, in particular, the professionalism of representatives of the DCCEE in their regular dealings with us over the last 2.5 years.

Prior Submissions

MagNet's past submissions highlight the emerging industry's key concerns arising from the proposed carbon pricing scheme, as follows:

- The unintended consequence of penalising emerging industries in general due to the rigid setting of activity definitions and allocative baselines;
- The failure to recognise the trade-exposed nature of magnetite in the absence of an international carbon pricing mechanism;
- The failure to recognise the global carbon savings in steel-making from magnetite concentrate when compared to hematite iron ore (Direct Shipping Ore, DSO); and
- The associated difficulty in securing investment for the development of projects at a time of rising global demand for steel and steel-making products.

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Reviewable Decisions – Part 21:

Because of this interaction with matters of fact, the key decisions under the Program are subject to the review provisions in Part 21 of the Bill. Those provisions include an internal reconsideration of the matter if the decision is made by a delegate of the Regulator. If dissatisfied with reconsideration, or if the Regulator made the decision itself, full merits review of the issue is available in the Administrative Appeals Tribunal.

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MagNet welcomes these review provisions and notes the additional provisions for judicial review. It will be important to understand the full opportunities for review when more information is available from the Government about the operation of Productivity Commission opportunities for review.

It is essential to have as much detail as possible for review options to provide greater certainty to parties seeking free permits. Companies are required to factor in many complex scenarios when moving towards making investment decisions – in the case of capital intensive magnetite projects yet to be under construction this will include some estimates of the manner in which new projects are to be treated.

MagNet points out that in reference to the provision for review by the Productivity Commission in Clause 155 of the Bill, it is important to provide further detail of the process in a reasonable time given the importance of these review decisions to a range of emerging projects and industries and the requirement to wait three years prior to an evaluation.

Further clarity is desirable. A submission process would be helpful with respect to anticipated Guidelines. As the guidelines covering the review mechanism are yet to be written, thus compounding the existing uncertainty surrounding the impact of the legislation on the magnetite industry. MagNet seeks a full and clear engagement of process in this matter and is keen to have further discussions with Government.

It is noted that some industries have received special compensation or minimum liability guarantees referred to as supplementary allocations and MagNet supports the need for ongoing policy flexibility in this regard.

As the representative of an emerging value-adding industry undertaking considerable capital investment and poised to deliver thousands of jobs in cities and country areas, MagNet seeks involvement in the development of the review guidelines. We propose the appointment of an “Emerging Industries Advisory Group”, including expert representatives of the magnetite and/or mining sector, to fast track this process.

176. The Government, after considering the outcomes of a Productivity Commission review, may adjust the assistance rates in light of the assessment of the economic and

environmental efficiency of the Program in the context of Australia's climate change policies and those in other countries.

177. In particular, under clause 156 of the Bill, the Productivity Commission will be asked to examine whether assistance rates should be paused at 90 per cent for a highly emissions intensive activity and 60 per cent for a moderately emissions intensive activity if less than 70 per cent of international competitors have introduced comparable carbon constraints.

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Allocative baselines

MagNet notes there is a very limited legislative mechanism to re-visit allocative baselines for **new** projects even where there is some marked difference to existing projects that will have had their audited emissions data submitted and averaged for the purposes of reaching an allocative baseline.

Similarly, the activity definition for magnetite concentrate made in October 2010 does not take in to account the actual technical specifications of the infrastructure that will be an integral part of the mining process in some new projects already under construction and scheduled to commence production in 2012.

While MagNet totally supports the need for adequate industry assistance for the existing two producers – Grange Resources and OneSteel, other member companies are anticipating that emissions will be higher for the new emerging projects for a range of reasons that have previously been provided in earlier submissions. Hence due to the timing of these new projects their actual emissions will not be taken in to account in setting the allocative baseline.

The Regulations could effectively deal with some of these flaws in a manner that would be consistent with the integrity and public policy objectives of the Cleaner Energy Future legislation. MagNet has previously set out its position on the need for a separate activity definition for emerging “ultrafine” magnetite concentrate and will not repeat the content of earlier submissions here.

We note that there are to be further Regulations that deal with magnetite and other matters of interest to us.

Aspects of the Program that are not included in this tranche of draft regulations include:

- supplementary allocation for liquefied natural gas;*
- treatment of situations where a person is eligible for assistance under the Program but has an outstanding debt under the Clean Energy Act; and*
- any potential EITE activities for which a formal assessment has not been finalised.*

These aspects will be included in later releases of draft regulations for consultation.

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Thank you for your attention and consideration.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Megan Anwyl', with a stylized flourish at the end.

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