1 About VIRENTIA

VIRENTIA has been established to acquire end-of-life mine sites for environmental rehabilitation. It specialises in stakeholder engagement, consortium building, and project management to deliver rehabilitated sites back to public or private use. VIRENTIA uses a range of partners including civil contractors, engineering and environmental consultants, insurers and financiers on a ‘best-for-project’ basis to deliver rehabilitation works. VIRENTIA also engages with a broad range of stakeholders in project delivery including traditional owners, government, environmental groups, NGOs, the local community and the general public.

In making this submission, VERENTIA has consulted with a major global reinsurer.

2 Executive summary

VIRENTIA supports the use of varied forms of third party surety (such as Insurance Bonds) as a means of discharging financial assurance obligations.

However, the proposed financial assurance reform framework only contemplates high risk resource operators being able to secure financial assurance by way of third party surety. This is likely to represent a disincentive to insurers wishing to participate in this sector due to an unwillingness to take on that higher default and operational risk.

In order to address this issue, the Queensland Government would benefit from direct consultation with the insurance industry regarding how surety risk is assessed, which potential entities are likely to be acceptable for the deployment of capital and risk exposure and how best to incentivise insurers to participate in this aspect of the resources sector.

We also provide our views regarding the criteria for surety providers to ensure the integrity of this aspect of the financial assurance framework.

3 Broader reform background

We make this submission in relation to the *Financial Assurance Review – Providing Surety Discussion Paper* (**Surety Discussion Paper**).

However, the Surety Discussion Paper (and this submission) must be considered in the context of the broader reform proposed in Queensland relating to financial assurance and mine rehabilitation and the following documents which the Queensland Government has released for consultation:

- *Better Mine Rehabilitation for Queensland Discussion Paper* (April 2017) (**Mine Rehabilitation Discussion Paper**);
- *Review of Queensland’s Financial Assurance Framework* (April 2017) (**Framework Report**); and
- *Financial Assurance Framework Reform Discussion Paper* (May 2017) (**Framework Discussion Paper**).

At the centre of the proposed financial assurance reform is the concept of a ‘tailored solution’ which categorises mining operators according to risk and size of rehabilitation liability and proposes corresponding financial assurance options. The table below summarises the various categories and financial assurance methods.

Table One: Tailored solution[1]

Category	% of State rehabilitation liability	Risk rating[2]	Financial assurance method	Financial assurance provided by
Significant resource entities	5% or more	Minimum A-	Selected partner arrangement[3]	Scheme – operated by Queensland Government
Significant resource entities	5% or more	BBB+ and below	Third party surety	Approved financial institution
Representative resource companies	Less than 5% (approximately less than $500 million)	B- and above	Rehabilitation Fund[4]	Fund – operated by Queensland Government
Other resource entities	Less than 5% (approximately less than $500 million)	CCC+ and below	Third party surety	Approved financial institution
Small operator	Total rehabilitation cost of less than $50,000 across all environmental authorities	Any rating	Surety based on revised schedule of rates[5]	

4 Third party surety limited to higher risk entities

The Framework Report states that the third party surety option is suitable for 'other resource entities' that are:[6]

- too big for the Rehabilitation Fund but not rated high enough for the Selected Partner Arrangement; or

[1] Derived from the Framework Report and the Framework Discussion Paper
[2] Standard and Poor's Rating Scale
[3] The Queensland Government accepts the risk of the significant resource entities failing to rehabilitate and those operators contribute to a Scheme which will be applied to the State's resource related activities such as the enhancement of the scope of the Abandoned Mine Lands Program.
[4] Representative resource companies pay contributions to the Rehabilitation Fund and, if the Queensland Government is required to fund the rehabilitation costs of those operators, the cost of those works will be claimed from the Fund.
[5] The financial assurance options for small operators is subject to a separate review process.
[6] Page 4 of the Framework Report.

- represent <u>too high a risk</u> for the Rehabilitation Fund [emphasis added].

Therefore, the option to discharge financial assurance obligations by way of a third party surety is limited to those operators who represent a relatively high risk in terms of financial standing and likelihood of making a claim against the financial assurance.

The Surety Discussion Paper proposes the introduction of new forms of surety, including in the form of insurance bonds issued by insurance companies or providers that are not authorised deposit-taking institutions (**Insurance Bonds**). Insurance Bonds are in the nature of performance bonds, which provide security for contract-related obligations.

Before issuing performance bonds, insurers will carefully analyse a range of matters, including the financial standing and risk of the relevant operator. However, the nature of the proposed tailored solution means that those entities with the lowest risk are excluded from the pool of operators able to secure financial assurance by way of an Insurance Bond. We submit that this is likely to result in a situation where insurers with robust risk assessment processes may be unwilling to issue Insurance Bonds to 'other resource entities' as they are not attractive from a risk management perspective.

This will act as a disincentive for insurers, who are otherwise very well placed to assess and price the risk associated with rehabilitation liability and assess the creditworthiness of an operator on a global portfolio basis (rather than simply limiting such assessment to the operator's Australian based assets). This will be particularly relevant to overseas entities who operate via joint ventures in Australia but otherwise have no or limited assets in Australia.

As stated above, we encourage the Queensland Government to consult directly with the insurance industry regarding how surety risk is assessed, which potential entities are likely to be acceptable for the deployment of capital and risk exposure and how best to incentivise insurers to participate in this aspect of the resources sector.

5 Criteria for surety providers

VIRENTIA considers that it is important to ensure that acceptable issuers of Insurance Bonds are those insurers with a proven track record of writing this sector globally and of paying claims. If the only pool of operators able to rely upon third party surety are those with a higher financial risk, there is concern that less reputable insurers with a higher risk profile will be attracted. This in turn represents a higher risk in the longer term for the industry and the Queensland Government.

We consider that issuers of Insurance Bonds should:

- be authorised under the *Insurance Act 1973* (Cth) to carry on insurance business;
- have a minimum insurer financial strength rating of A-;
- be incorporated and regulated in Australia;
- not include underwriting agencies due to the shorter term of their security cycles and the lack of certainty as to their long term commitment to this sector – renewals of security by underwriting agencies are typically three years but can be as short as 18 months.

It is critical that Queensland Government work closely with APRA when determining acceptable criteria for issuers of Insurance Bonds having regard to the higher risk nature of the category of operators able as discussed above.

6 Conclusion

Thank you for the opportunity to make this submission.