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Ref: EA-LET-00216

28 January 2020

Strategy Policy - Environmental Protection Act 1986 amendments
Department of Water and Environmental Regulation
Locked Bag 10
JOONDALUP DC WA 6919

Via email: EPActamendments@dwer.wa.gov.au

Dear Sir/Madam

Re: ENVIRONMENTAL PROTECTION ACT 1986 PROPOSED AMENDMENT REVIEW

Roy Hill welcomes the opportunity to provide input through the consultation process on the proposed amendments to the *Environmental Protection Act 1986* (the EP Act) detailed within the Discussion Paper and Exposure Draft Bill released by the Department of Water and Environmental Regulation (DWER) in October 2019.

Roy Hill is happy to continue to work with the State Government in the interests of ensuring any resulting intention of the proposed changes are workable for the mining sector. Should you wish to discuss this submission in further detail, please contact me on 08 6242 1229.

Yours sincerely

A handwritten signature in blue ink, appearing to read "S Blake", with a long, sweeping horizontal stroke at the end.

Sarah Blake
Manager, Environment & Approvals
Roy Hill

Encs:

About Roy Hill

Roy Hill is an independent world-class integrated iron ore mining, rail and port operation in the Pilbara region with Western Australian majority ownership, chaired by Mrs Gina Rinehart.

The operation consists of:

- Mine, incorporating:
 - Conventional open pit, bulk mining operation from multiple production benches
 - 60 million tonne per annum (Mtpa) wet processing plant;
- 344 kilometre single line, heavy haul railway;
- Purpose built, dedicated two berth iron ore port facility at Port Hedland, capable of receiving, stockpiling, screening and exporting 60Mtpa (wet) of direct shipped iron ore as lump and fines; and
- Perth Headquarters and Remote Operating Centre.

Roy Hill has a defined mineralisation of approximately 2bt of +50% Fe iron ore of which 1bt forms the current +55% Fe mineral resource, enough to sustain a base case mine life of more than 11 years. Mining commenced in 2014, and current tonnages take into account mining depletion. With integrated mine, rail and port facilities, which have the current capacity to deliver 60 Mtpa – Roy Hill is one of the world's major resource-based operations, delivering enormous benefits to the broader West Australian community for years to come.

Roy Hill loaded its first shipment of ore for export on 10 December 2015 and has since loaded multiple shipments to its key markets in Japan, Korea, China and Taiwan.

Context

Our Chairman, Mrs Gina Rinehart's mining entrepreneurial drive and passion has successfully unlocked economic opportunities to the benefit of thousands of West Australians both directly and indirectly.

Her vision to leverage Australia's unique mining assets to benefit the future prosperity of all Australians can only be realised through the West Australian Government's creation of policies that encourage investment, business growth and jobs.

Roy Hill is subject to *Environmental Protection Act 1984*, *Mining Act 1978*, *Environmental Protection and Biodiversity Conservation Act (EPBC Act)*, *National Greenhouse and Energy Reporting Act 2007* (NGER Act) as well as other legislation.

Submission

In principle, Roy Hill supports the Department of Water and Environmental Regulation's (DWER) stated objectives to modernise and streamline processes to improve regulatory effectiveness.

As a member of the Chamber of Minerals and Energy (CME), Roy Hill are aware of, and has been consulted in, the CME's submission regarding proposed amendments to the *Environmental Protection Act 1986* (EP Act). Roy Hill supports CMEs submission, in particular, the following points:

2. Part IV – Environmental Impact Assessment

2.1 Referral of proposals to Authority (section 38)

Roy Hill supports the additional flexibility provided by this proposed change which allows proponents to amend or withdraw a proposal prior to a decision on assessment, without impacting the future right to refer the proposal.

2.2 Definition of key decision-making authority (section 45)

Roy Hill does not support the introduction of two tiers of decision-making authorities (DMAs) as is currently drafted under s3 and s45.

The proposed amendment to s45, to introduce 'key decision-making authorities' appears to add further complexity to the determination of a DMA.

Roy Hill recommends that there be only one definition of a DMA (rather than key and non-key DMAs), specifically DMAs be only those that have a major role in making a decision that is relevant to a proposal. All other relevant public authorities and Ministers could then have the opportunity to be consulted as stakeholders throughout the assessment process.

2.2 Cost recovery (section 48AA)

Roy Hill supports, in principle, the proposed amendments to allow for cost recovery, however further information is required on the proposed cost modelling. A greater understanding of an appropriate scale of fees, the total proposed fees, as well as the expected timing of payment (i.e. at referral or upon the level of assessment being determined) is required. In addition, transparency on how these fees are utilised to cover costs would be appreciated.

Roy Hill strongly encourages the ongoing improvement to the implementation and publication of any DMA's key performance indicators, enhancing the transparency of the government's performance. It would be understood by industry that any implementation of cost recovery measures would enable the consistent delivery of projects to agreed regulatory timelines.

Roy Hill however does not support the duplication of charges that may arise between State and Federal processes, with particular focus on proposed changes to Part IXA – bilateral agreements with the Commonwealth.

3. Part V – Environmental Regulation

3.1 Licences (Division 3)

Roy Hill supports the combination of works approvals and licences to regulate prescribed activities and understands this would result in improved approvals efficiency by undertaking these processes in parallel.

Roy Hill supports in principle the changing licences to cover "prescribed activities" rather than "prescribed premises" as this introduces flexibility to the management of activities, and appears to improve and further encourage environmental risk and outcomes based assessment. There is however, concern this may allow licences to overlap, and cause confusion as to the responsibility for emissions or discharges.

Roy Hill looks forward to future consultation on the subsequent required amendments to the Environmental Protection Regulations, to clarify current uncertainty in definitions of activities and the associated thresholds.

3.2 Defences (Division 5)

Roy Hill considers that proposed section 74(A)(2) is not appropriate and has the potential to create a number of unreasonable consequences for licence holders, as well as an increased administrative burden for both licence holders and regulators. The inclusion of this clause too narrowly defines the scope of defence offered by a licence, and subsequently has potential to encourage proponents to comprehensively list every minor, low-risk emission to ensure a defence for emissions incidental to approved controlled works and prescribed activities.

In addition to the CME submission, Roy Hill considers the 21 day time frame proposed in s71(E)(b) is inappropriate. For consistency with other legal processes, Roy Hill proposes that no time frame should be enforced until a formal summons is issued (as is proposed under s71(E)(A)).

Roy Hill recommends that a clearer drafting of the interaction of prescribed activities, offences and potential defences, and the potential emissions that occur surrounding authorised activities from other sources.

4. Part VIIB – Environmental Monitoring Programmes

Roy Hill does not object to the government's proposal to seek industry cost recovery to cover key state environmental programs to assess cumulative impacts, however more detail on the framework for implementation is required. This would include how any monitoring (and subsequent monitoring results) would interact with licences and conditions, how information is available to the public, transparency on costs received and expenditure.

5. Part IXA – Bilateral agreements with the Commonwealth

Roy Hill supports the proposed amendments to enable the State Government to fully implement bilateral agreements, subsequently removing duplication between State and Federal approvals and reducing assessment timeframes.

6. Schedule 2 – Matters in respect of which regulations may be made

5.1 Provide a head power for certified environmental practitioners

Roy Hill does not support the introduction of a head power for the accreditation of environmental practitioners and understand this is a response to poor-quality applications received by DWER. Roy Hill believes this can be better managed outside of a change to regulation, through improved guidelines.