

17 November 2017

Aditi Varma  
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Department of Treasury  
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By email: [regulatoryreform@treasury.wa.gov.au](mailto:regulatoryreform@treasury.wa.gov.au)

Dear Ms Varma,

### **Review of the Western Australian Rail Access Regime**

Rio Tinto Iron Ore (**RTIO**) welcomes the opportunity to provide a submission to the Review of the Western Australian Rail Access Regime (Issues Paper July 2017). This submission focusses on one issue in particular, namely the request for feedback on the potential introduction of a haulage regime to augment the Western Australian rail access regime (page 31, Issues Paper).

RTIO is the world's second largest iron ore producer and contributes approximately a quarter of the world's seaborne iron ore trade. RTIO's operations are predominantly located in the Pilbara region of Western Australia and consist of a network of 16 mines, four shipping terminals and the largest privately owned heavy freight railway in Australia. In 2017, RTIO expects to ship around 330Mt of iron ore.

RTIO's railways are not subject to the *Railways (Access) Act 1998 (WA)* and the *Railways (Access) Code 2000 (WA)*.

In addition, RTIO's railways were developed under the *Iron Ore (Hamersley Range) Agreement Act 1963 (WA)* and the *Iron Ore (Robe River) Agreement Act 1964 (WA)* (**RTIO State Agreements**). Under the RTIO State Agreements, there is an existing obligation to haul third party ore. However, that obligation is only enlivened where haulage or use does not 'unduly prejudice or interfere' with RTIO's operations. This was the basis on which RTIO's substantial investment in the railway network has been made.

Accordingly, RTIO does not consider a further haulage regime to be necessary or appropriate, given the express terms of the RTIO State Agreements.

RTIO's existing haulage obligation is not presently enlivened, since the hauling of third party ore using RTIO's own rolling stock would cause undue prejudice and interference to RTIO's vertically integrated operations for the reasons summarised below.

There is also no Australian regulatory precedent for the introduction of a haulage regime of the type proposed. As the Issues Paper notes, it extends economic regulation into a market which no other Australian competition or economic regulator has sought to regulate and does so in a

manner which may limit the railway owner's incentive to innovate and improve the efficiency of above rail operations. RTIO's progress on transitioning towards autonomous trains is an example of an investment that may not have been made if RTIO was faced with a haulage regime.

The imposition of a haulage obligation would divert RTIO's own rolling stock and rail system capacity from servicing RTIO's operations. Consistent with market guidance, RTIO expects to ship around 330Mt of iron ore in 2017.

RTIO operates its mine, rail and port facilities as one integrated operation with the objective of maximising iron ore production and shipments within the specification agreed with customers. Final product is created at the ports by blending, in most cases from several of the operating mines, which requires controlled sequencing of trains from the various mines to achieve specification at port. Further, the planned railing sequence needs to be constantly revised to cater for unexpected (but inevitable) changes to plan caused by such events as:

- mine grade variation from the quality expected;
- unscheduled stoppages at mines (eg loader breakdown);
- unscheduled maintenance requirements at a mine, rail or port facility;
- shipping variability; and
- weather related or other interruptions to operations.

RTIO has found that the key to achieving maximum quantity of specification product ready for shipment is having absolute flexibility in its rail operations. There can be no set schedule (of the sort which would be necessary if there were to be multiple users under a haulage regime). Final decisions on the mine from which each train collects its ore and on the port and dumper to which it delivers its ore are made on a dynamic basis during each day. To do otherwise would severely restrict capacity and jeopardise the creation of blended iron ore products that meet customer specifications.

In light of the key role which rail plays in RTIO's production process, RTIO has a deep concern about any step that may be taken that could impede the operation of its rail function. RTIO firmly believes that the imposition of a haulage regime on any terms inconsistent with those in the RTIO State Agreements will impact on this objective, and any further expansions, with the net result that less throughput will be achieved than would have been the case without a haulage regime.

RTIO firmly disagrees with the description in the Issues Paper (at page 31) that 'under a haulage regime, there is less need to negotiate detailed terms and conditions relating to the same range of interface and train scheduling issues'. A third party receiving haulage services will still need certainty about when its haulage will be provided so as to arrange shipments and mine production schedules. Having to accommodate the requirements of other users is the base cause of the significant diseconomy costs that would be imposed on an integrated producer such as RTIO. These costs are very large, as was found by the Australian Competition Tribunal in its rail access decision in 2010. The diseconomy costs which the Tribunal found would "dwarf" the benefits would be as apparent in a haulage regime as a below rail access regime

The costs and disruptions to RTIO's integrated operations would far outweigh any potential benefits from haulage. One need only compare the performance of Australia's east coast facilities with the performance of the Pilbara ports to realise the potential cost to Western Australia if the inefficiencies of the east coast developed in the Pilbara. Changing the facilities from single user integrated facilities to multi user facilities will inevitably impose many of the costs and inefficiencies of the east coast on the Pilbara.

In short, RTIO is strongly of the view that the total tonnage exported will be significantly reduced if a generic rail haulage regime is imposed on the RTIO single user integrated system. The resulting capacity and production losses and inefficiencies will directly impact on RTIO's exports, and as a result employment, government royalties and rents and future investment by RTIO in the region.

RTIO refers to its public submission to the Pilbara Rail Access Interdepartmental Committee in July 2008 on the then proposed Pilbara Railways (Third Party Haulage) Regime for further details as to the costs and disruptions a haulage regime would impose on its vertically integrated operations and the WA economy more generally.

Please contact me if you would like to discuss further via my Executive Assistant Tara Salerno on (08) 6213 0968 or [tara.salerno@riotinto.com](mailto:tara.salerno@riotinto.com)

Yours sincerely,



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