



RIO TINTO

IRON ORE

**Submission to
The Economics and Industry Standing Committee
Western Australia Legislative Assembly**

Inquiry into Water Licensing and Services

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Rio Tinto Iron Ore and water

Rio Tinto Iron Ore (RTIO) has operations and projects on four continents. It is the world's second largest iron ore producer and contributes a quarter of seaborne iron ore trade. RTIO is headquartered in Perth.

RTIO operates three ports, eleven mines, and owns, operates and maintains the largest privately owned heavy freight rail network in Australia. RTIO also includes a HIs melt plant in Kwinana, Western Australia, which is a revolutionary process that converts iron ore fines into high quality pig iron.

Global iron ore demand growth remains strong, particularly in China. RTIO is focussed on a related growth strategy to at least maintain market share. Since 2003 RTIO has committed over US\$7.4 billion in the Pilbara to support this strategy and further investment is underway and planned. RTIO's current investment and expansion program will see us effectively double export capacity to 220 Mtpa by 2008, ramping up to 320 Mtpa capacity by 2012. We have also provided a roadmap towards achieving global production of more than 600 Mtpa, of which the Pilbara could produce 420 Mtpa. .

In 2006, RTIO exported 150.1 million tonnes of iron ore produced from its Pilbara mines, representing approximately 61% of total iron ore exports from Australia in 2006.

RTIO is a significant contributor to Australia and WA's economic health, contributing approximately US\$5.8 billion in export revenue in 2006. In Western Australia RTIO has approximately 5,600 employees and a contracting workforce of over 6,000. By 2008 RTIO expects our direct workforce in WA alone to be around 7,000 employees and a contracting workforce of over 7,000.

In this period of unprecedented demand for iron ore and massive growth RTIO is acutely aware of the need to carefully balance economic, social and environmental considerations to ensure our ongoing success. Our aim is to deliver more value from our business with less impact on the environment and the community. This commitment to sustainable development is formalised within a corporate governance framework that is underpinned by RTIO's statement of business practice, *The Way We Work*.

RTIO's creation of the position of General Manager Water Resources supported by three dedicated water managers is clear recognition of the importance of water resource management as a key part of our commitment to sustainable development both in WA and across our global operations. In addition, RTIO employs more than 20 Hydrogeologists, over 10% of Western Australia's expertise in this field.

In WA, RTIO sources approximately 90% of its water needs through self-supply. Future access to ore bodies depends on our good performance and reputation in managing water responsibly and sustainably now and into the future. A key element of RTIO's Water Strategy is to engage in the broader policy debate and the development of policy in the State at a strategic level.

RTIO welcomes the opportunity to provide comments on the *Inquiry into Water Licensing and Services* and submits the following comments for consideration to the Economics and Industry Standing Committee.

RTIO's role in developing its own water resources and the importance of the continuation of s5C water licences under the *Rights in Water and Irrigation Act*

In the case of bulk water supply to the Ports at Dampier and Cape Lambert, RTIO purchases the water from Water Corporation as sole supplier. The towns of Dampier and Wickham are also supplied through provision of water from the West Pilbara Water Supply Scheme.

RTIO's mining operations in the Pilbara draw its water needs from ground water resources for self-supply to mining operations and mining towns (Tom Price, Paraburdoo and Pannawonica) and campsites at Brockman, Yandicoogina, West Angelas and Hope Downs. These groundwater resources are dependent on cyclonic weather events for recharge. Legislative and regulatory arrangements need to recognise what constitutes sustainable allocations in a cyclone dependent environment and to enable allocation decisions that are appropriate for these circumstances.

There are a number of factors that contribute to limitations on the operation of markets in the inland Pilbara, which may limit the market-driven reforms that constitute the primary thrust of reforms under the National Water Initiative (NWI), and which are likely to see the continuation of s5C water licences under the *Rights in Water and Irrigation Act 1914*. These factors include:

- There is a low likelihood of water resources approaching full allocation within the region, with limited competition for supply;
- The isolation of many mining activities means that the costs of transporting excess water long distances to demand centres is expensive and may not be commercially viable; and
- As many operations move to below water table mining, dewatering activities will generate excess water that is location and time specific, and which is not matched by demand external to RTIO's mining operations.

RTIO considers that the best interests of the management of water resources in these areas are served by arrangements that facilitate the best outcomes for the water resource and more broadly the environment, rather than focussing on market-based outcomes *per se*.

The key to the successful application of water reforms through legislative change in the Western Australian context is to ensure a suite of legislative instruments relating to water access and trading arrangements that will enable water resource management outcomes that are "fit for purpose" and that reflect both the unique hydrogeological characteristics and the market circumstances of specific areas and regions. This need is clearly recognised in paragraph 34 of the NWI and has direct application to most inland mining operations in the Pilbara region.

RTIO understands that the new water resources legislation in Western Australia aims to make such a suite of legislative instruments available in order that optimal water resource management outcomes can be achieved for the given characteristics of an area. This includes the continuation of water licences similar to those that currently operate under s5C of the *Rights in Water and Irrigation Act 1914*, that enable licences to be issued for a fixed volume for a fixed term; and the ability of these s5C licences to co-exist alongside NWI-style Water Access Entitlements.

RTIO holds s5C water licences for all its water abstraction activities. However, it is noted that under some of its State Agreements, RTIO has had an exemption from the payment of fees in connection with developing and drawing from a water source, specifically:

- The *Iron Ore (Channar Joint Venture) Agreement Act 1987* - clause 17(5);
- The *Iron Ore (Hope Downs) Agreement Act 1992* - clause 21(4); and
- The *Iron Ore (Yandicoogina) Agreement Act 1996* - clause 18(4).

RTIO would urge the Government to ensure that these rights be preserved under any future water legislation.

Key Issues for RTIO

The key issues for RTIO with regard to the *Inquiry into Water Licensing and Services* are as follows:

- RTIO urges the Government to ensure that exemptions from the payment of fees in connection with developing and drawing from a water source under the *Iron Ore (Channar Joint Venture) Agreement Act 1987*; the *Iron Ore (Hope Downs) Agreement Act 1992*; and the *Iron Ore (Yandicoogina) Agreement Act 1996* are preserved under any future water legislation;
- With regard to water licence administration fees, RTIO considers that it should only bear its share of those costs associated with the services undertaken by the Government in relation to the better management of the water resources RTIO uses;
- RTIO considers that the future introduction of volumetric charging for mining operations could seriously weaken the viability of resource development, with no apparent benefit in water resource management terms;
- RTIO is concerned that there appears to be no proposal to cap the water licence administration fees to prevent uncontrolled increases in the fee structure;
- RTIO considers that there needs to be appropriate accountabilities and controls placed upon the Department of Water to ensure the services that are to be covered by the water licence administration fees are:
 - Delivered efficiently; and
 - Delivered to a level that is appropriate to the water resource management needs of the catchment in question.
- RTIO considers it important that the structure of charges such as water licence administration fees are reflective of the specific water resource management needs and costs faced by the mining industry in the Pilbara;

- RTIO supports the Western Australian Government's proposed approach to ensuring a suite of legislative instruments relating to water access and trading principles is available, that would include the availability of fixed term/fixed volume water licences similar to s5C licences under the *Rights in Water and Irrigation Act 1914*. This will enable statutory management plans to achieve water resource management outcomes that are "fit for purpose" and that reflect both the unique hydrogeological characteristics and the market circumstances of the area in question.

These issues are detailed below with regard to the specific terms of reference for the Inquiry.

1. Benefits and costs of a licensing system for taking water

Water licence administration fees

RTIO fully supports the State Government's endeavours to develop better ways to manage our water resources and is generally supportive of the directions it has outlined in this regard through the *State Water Plan*, and the *Government's Response to the Blueprint on Water Reform in Western Australia*.

RTIO recognises the role of Government in regulating, planning and managing water resources in the interests of the community, the environment and the economy. The administration of licences to take water under the *Rights in Water and Irrigation Act* is an important element of this role.

It is reasonable to expect that the costs of funding this role should be borne equitably by the beneficiaries, including the wider community. However, the proposed fee structure for the water licence administration fees specifically targets licensees and does not seek to make the connection between the broader community benefit and the distribution of costs.

RTIO considers that it should only bear its share of those costs associated with the services undertaken by the Government in relation to the better management of the water resources it uses.

Water resource management charges

RTIO notes that Recommendation 44 of the *Blueprint* regarding water licence administration fees (to which the Government agreed) commits the Government to the introduction of further charges for water resources planning and management, but only "...once a nationally consistent approach is adopted and substantial progress is made on water reform in Western Australia, i.e. the completion of statutory water management plans and the establishment of longer term secure water access entitlements."¹

¹ Water Reform Implementation Committee "Blueprint on Water Reform in Western Australia" 2006: p47

Like many other mining companies, RTIO already contributes significantly to the identification, development and management of the water resources it uses, for example in resource definition, and improved resource modelling and monitoring. This is in addition to the substantial investment it makes in infrastructure to obtain the water. This was clearly acknowledged by both the Water Reform Implementation Committee in the *Blueprint on Water Reform in Western Australia*² and in *Western Australia's Implementation Plan for the National Water Initiative*³.

Where RTIO already funds and undertakes many of these services with regard to the water resources it uses, it is unreasonable that RTIO should bear the costs of these services undertaken by the Government elsewhere in the State. It is reasonable to expect that RTIO should only bear its share of those costs associated with the services undertaken by the Government in relation to the better management of the water resources it does use. It is therefore important that in any consideration of the introduction of water resource management charges in the future, that the structure of the charges is reflective of the specific water resource management needs and costs faced by the mining industry in the Pilbara.

In particular, it is noted that the *Blueprint* did **not** recommend volumetric charging. The government has yet to articulate a clear position on volumetric charging.

RTIO considers that the future introduction of volumetric charging for mining operations could seriously weaken the viability of resource development, with no apparent benefit in water resource management terms.

Volumetric charging for mining operations would weaken the viability of some resource development, with no apparent benefit in water resource management terms, for the following reasons:

- The resources industry often undertakes its own water resource exploration, investigations and sustainable management practises;
- In many regions mining operations access and use either non-potable or hypersaline water for which there are no other viable alternative uses;
- In the case of RTIO's Pilbara operations, despite having access to high quality potable water, the water resources are so remote that there is often no other viable alternative uses and there is therefore no rationale for a substantial charging regime; and
- The amount of water abstracted for dewatering purposes for below water table mining operations can be very high. However this is an integral part of the mining process, and excess water not used preferentially for production purposes is returned immediately back to the environment..

RTIO would like to highlight the Government's commitment with regard to consideration of further charges:

² Water Reform Implementation Committee "*Blueprint on Water Reform in Western Australia*" 2006: p43

³ Government of Western Australia "*Western Australia's Implementation Plan for the National Water Initiative*" 2007: p55

...any introduction of further cost recovery will take place only after extensive consultation and the completion of statutory water management plans and the establishment of longer-term secure water access entitlements.⁴

2. The full cost incurred by the Department of Water for administration of the current water licence system

RTIO is concerned that there appears to be no proposal to cap the water licence administration fees to prevent uncontrolled increases in the fee structure.

Experience with similar fees, such as licences issued under Part V of the *Environmental Protection Act 1986* has seen substantial increases in recent years, with the premises component of the licence fee increasing by 54% since 2000 and the discharge component of the licence fee increasing by 150% over the same period. Concerns over future increases to the water licence administration fee if it was not capped were identified as a significant issue of concern for many stakeholders during the consultation phase of the *Blueprint on Water Reform in Western Australia*.⁵

RTIO considers that there needs to be appropriate accountabilities and controls placed upon the Department of Water to ensure the services that are to be covered by the fees are:

- delivered efficiently; and
- delivered to a level that is appropriate to the water resource management needs of the catchment in question.

In introducing a system of fees that is to be hypothecated to the water resource management services provided, it is essential that the agency responsible for both the fee setting and the expenditure on service delivery is transparent and accountable and that the appropriate arrangements for scrutiny and review are put in place. RTIO endorses Recommendation 43 of the *Blueprint* which proposes that the Economic Regulation Authority independently review the structure and amount of the water licence administration fee on a regular basis. This review process will need to ensure that efficient delivery of services covered by the fees is also closely scrutinised.

⁴ Government of Western Australia "*Western Australia's Implementation Plan for the National Water Initiative*" 2007: p56

⁵ Water Reform Implementation Committee "*Blueprint on Water Reform in Western Australia*" 2006: p44

3. The extent to which the water licence administration fees meet cost recovery requirements the National Water Initiative (NWI) places on the State

No comment

4. The penalty or cost that might be applied to Western Australia by the Commonwealth under the NWI, if there was minimal or no cost recovery for services provided to water users by the Department of Water

No comment

5. Whether water licences and/or licence administration fees should be required for taking water under arrangements that are currently exempt

No comment

6. What recognition needs to be given to the cost incurred by landholders in harvesting water, including dam construction costs

It has been noted above that RTIO often undertakes significant investment in its own water resource exploration, investigations and sustainable management practises. There is no recognition in the structure of the annual administration fee proposed by the Government of this ongoing investment in water resource management.

RTIO considers it important that the structure of charges such as water licence administration fees are reflective of the specific water resource management needs and costs faced by the mining industry in the Pilbara.

7. The extent to which the NWI provides for a range of different licensing systems

The key to the successful application of water reforms through legislative change in the Western Australian context is to ensure a suite of legislative instruments relating to water access and trading principles that will enable statutory management plans to achieve water resource management outcomes that are "fit for purpose" and that reflect both the unique hydrogeological characteristics and the market circumstances of the area in question.

This need is clearly recognised in paragraph 34 of the NWI and has direct application to most inland mining operations in the Pilbara region.

The Report notes that paragraph 34 of the NWI provides scope to deal with market inefficiencies. The following factors limit the application of market based solutions to water resource management in the inland Pilbara:

- As many operations move to below water table mining, an increasing problem with excess water from dewatering activities, and a lack of accessible demand for that water;
- Isolation – including the high costs of transporting water long distances;
- Low likelihood of resources approaching full allocation; and

In these circumstances, the importance of paragraph 34 to enable legislative systems to develop solutions to water management problems that are “fit for purpose” is critical. The focus of any legislative changes in the Western Australian context needs to recognise the diversity of water resource circumstances across the state and that the market based solutions envisaged in the NWI may have mixed application to these circumstances. The retention of paragraph 34 of the NWI is therefore crucial to achieving the desired water resource management outcomes across the State, rather than achieving market outcomes for their own sake.

RTIO supports the Western Australian Government’s proposed approach to ensuring a suite of legislative instruments relating to water access and trading principles is available, that would include the availability of fixed term/fixed volume water licences similar to s5C licences under the *Rights in Water and Irrigation Act 1914*. This will enable statutory management plans to achieve water resource management outcomes that are “fit for purpose” and that reflect both the unique hydrogeological characteristics and the market circumstances of the area in question.