

Private and confidential

Att: Paul Reid, Assistant Director, Monitoring
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Our reference RTIO-AM-0125850

Dear Paul

Draft Audit and Review Guidelines: Water Licences - submission

Hamersley Iron Pty Ltd, a member of the Rio Tinto group of companies, is the holder of the water services licence (no. 33) (**Licence**) to provide the towns of Dampier, Tom Price and Paraburdoo. The provision of bulk water from the Bungaroo Creek borefield to the West Pilbara Water Supply Scheme, primarily for Rio Tinto's own use also falls within the scope of this licence.

We welcome the opportunity to provide our comments on the *Audit and Review Guidelines: Water Licences* (**Guidelines**) to the Economic Regulation Authority (**Authority**). In general, we are satisfied that the draft Guidelines align with the requirements under the *Water Services Act 2012* (**Act**), as well as clauses 14 and 20 of our Licence. The Guidelines provide a comprehensive overview of the new audit and review process. However, we do have a number of comments set out below for the Authority's consideration.

1. Section 8.5 - Summary of Required Documents for Auditor Approval

We seek further clarification on the requirement for a "*formal request (i.e. letter or email) from the licensee requesting the Authority to approve the nominated auditor*"¹. It is our understanding that the licensee is only consulted in this process and it is the Authority who determines which auditor is to be appointed. This can be done regardless of whether the licensee supports this Authority's decision.

We are supportive of a process that enables the licensee an opportunity to indicate their level of support for the proposed appointment and to state their reasons why. We suggest that this sentence could be amended to read: "*...formal request (i.e. letter or email) from the licensee indicating their support for the Authority to approve the nominated auditor*".

¹ Section 8.5, page 11

2. Section 9 – Audit and Review Plan Approval

The Guidelines are clear that it is the responsibility of the auditor to develop the Audit or Review Plan (**Plan**) that meet the general requirements outlined in the Guidelines. However we recommend the Authority include a mandatory provision that licensees are consulted during the development of all Plans. This will ensure practical and efficient Plans are submitted for approval. Early consultation between auditor and licensee will also minimise the potential for future issues or delays as well as ensure that any particular requirements are met (e.g. access, safety).

3. Appendix 2 – Risk Based Approach to approach to Audits and Reviews

We support the risk model to be adopted by the Authority, auditors and licensees in the assessment of risk.

4. Appendix 3 – A Guide to the Asset Management System Effectiveness Framework

We support the framework to be adopted by the Guidelines in the assessment of the effectiveness of an asset management system. However, we note a referencing issue in relation to references in the body of the Guidelines and Appendix 3. We recommend the Authority review the body of the Guidelines (e.g. s. 6.2, 9.5) and confirm whether references to Appendix 4 should actually be references to Appendix 3.

5. Appendix 5 – Overview of the audit and review process

As a licensee, under the new audit and review framework, we highly value the requirement that the Authority consult with licensees throughout the process. It is our view that Appendix 5 is crucial for the efficient and fair execution of audits and reviews under these Guidelines. Consultation will be a key factor for ensuring an effective audit process.

To reflect the importance of consultation with licensees, we request that the Guidelines clarify that Appendix 5 is a mandatory process that must be followed, rather than merely a *“template to summarise the audit and review processes that are required to be undertaken by the licensee, the auditor and the Authority’s Secretariat”*². Alternatively, the Authority may consider incorporating this process within the body of the Guidelines (e.g. section 7).

Further, we request that the Guidelines include a list of minimum requirements that the Authority must consult licensees on, rather than relying on a flow chart. This includes identifying what will be considered *“all the relevant information pertinent to the matter under consideration”*³.

Additional guidance on the internal process that the Authority will follow when taking *“into account any relevant matters raised by the licensee from that consultation”*⁴ would also greatly assist in

² Appendix 5, page 54

³ Appendix 5, page 54

⁴ Water services licence clause 14.3 and 20.5

providing transparency of the process. This would also ensure that licensees are clear on the reasons behind any decision made by the Authority.

Again we note the referencing issue and request the authority review and confirm whether Appendix 5 needs to be redrafted as Appendix 4.

6. Other general comments

(a) Timeframes

We recommend the Authority consider including more specific timeframes to ensure efficiency and remove any ambiguity. Currently timeframes are very loose and dispersed throughout the Guidelines. Specifying these will assist all parties in complying with their obligations under the Act, Licence and Guidelines. For example:

- Section 7.1 states that the Authority's letter notifying the licensee of the upcoming audit/review is "*normally sent four months prior to the end of the audit/review period*". This is however not reflected in other references to this letter (i.e. s. 8.2.1, Appendix 5).
- Section 8.2.1 required licensees to notify the Authority if there are any issues that they are aware of that may "*present an independence threat*." However licensees are not provided with guidance on how long they have to complete this conflict check.
- Appendix 5 flow charts set out the general process but do not clarify time frames or how long each party has to respond or complete their action. Further Appendix 5 requires licensee to be allowed "*adequate time*" to consider the information, however no guidance is provided on what constitutes adequate time.

(b) Checklist

In the recently re-released *Licence application guidelines and form - Electricity, gas and water licences* (April 2014) the Authority included a very useful checklist of the information required (i.e. Appendix 2). We suggest the Authority consider including a process checklist, similar to this, in addition to or in lieu of the flow charts included in Appendix 5

If there are any further queries, please contact Tegan Campbell on (08) 6213 1219 or Heath Bennett on (08) 9143 4410.

Yours sincerely

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