



Train Path Policy

Draft

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1. Introduction

1.1 Background

- (a) Roy Hill Infrastructure Pty Ltd (**RHI**) owns and operates the RHI Railway from Roy Hill Mine to Port Hedland in the Pilbara region in Western Australia. RHI proposes to enter into agreements with various third parties (**Operators**) under which RHI will agree to provide Services for Operators over the RHI Railway.
- (b) Roy Hill Holdings Pty Ltd (**RHH**) supported by the RH Financiers has undertaken substantial commercial and operational risk in developing the Roy Hill Project for the benefit of RHH’s shareholders. The tonnages reserved for Roy Hill Iron Ore Pty Ltd (**RHIO** or the **Foundation User**) under the contact between RHI and the Foundation User for rail haulage capacity on the RHI Railway are a vital element in protecting RHH’s investment in the RHI Railway.
- (c) RHI will operate the RHI Railway on a “run when ready” operational philosophy. “Run when ready” means that RHI has the flexibility to adjust the number of Trains run each day and the departure times of those Trains so that the Trains are aligned to RHI’s transport task requirement (that is, Trains required to be run to optimally meet Roy Hill’s production requirements, crew availability and operational practices) rather than being fixed to a defined schedule of departure and arrival times. By employing the “run when ready” model RHI will, subject to the constraints of its available Rolling Stock, maximise the efficiency of the RHI Railway and minimise the RHI Railway’s operating costs.
- (d) The operational planning and execution of all activity on the RHI Railway (including the crossings/ passing of Trains on the RHI Railway) will be at the discretion of RHI.
- (e) RHI’s Train Path Policy and the Train Management Guidelines must be considered in the context of, and therefore must align with, RHI’s “run when ready” operational philosophy.

1.2 Purpose and scope of this Train Path Policy

- (a) This policy sets out, among other things, the order of priority RHI will apply in those operational circumstances where it may not be able in accordance with RHI’s “run when ready” operational philosophy and in accordance with the RH Requirements to schedule Trains to accommodate all Operators’ requirements.
- (b) The RH Requirements include, but are not limited to, the requirement that RHI must operate the RHI Railway in a manner that ensures loaded Trains will always have priority:
 - (i) when running on the RHI Railway and when crossing the RHI Railway mainline at any of the crossing loops located along the RHI Railway;
 - (ii) in the event of a delay at a terminal or intermediate locations for crossing and passing movements and in the event of a delay in recommencing a disrupted Train service; and

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- (iii) under circumstances where RHI considers it to be in the best interest of the Operators.
- (c) These rules apply to each Operator on the RHI Railway in accordance with the Access Agreement executed by the Operator.

1.3 Application

- (a) This policy has effect under the Access Agreement executed by each Operator.
- (b) This policy does not apply to the process by which a person enters into an Access Agreement. Access Agreements are entered into by negotiation in accordance with any applicable access regime.

2. Types of Service

2.1 Definitions

- (a) For the purposes of these rules and an Access Agreement, an Access Agreement may provide for an Operator to receive a “**Contracted Service**” which is the primary reserved Service under an Access Agreement which may be offered to an Operator on the RHI Railway.
- (b) Contracted Service may be supplemented by a service under an Access Agreement which may be offered to an Operator to enable it to request to run additional Trains.
- (c) In addition there is one special category of Contracted Service which is the service provided to the Foundation User to haul “**Foundation Tonnage**”. The Foundation Tonnage is all Tonnage hauled by RHI for the Foundation User from time to time.

2.2 Aggregation of Contracted Services

If this Policy refers to an Operator’s Contracted Services and the Operator has more than one Access Agreement or more than one project under any Access Agreement or both then the reference is to be read as a reference to the aggregate, across all of the Operator’s projects and Access Agreements, of its Contracted Services.

3. Order of Priority

3.1 Higher priority prevails if necessary

- (a) RHI may Disrupt the provision of Services to an Operator in a Category in the Order of Priority to the extent that RHI, acting reasonably, in good faith and in accordance with GRIP, judges necessary to ensure that an Operator in a higher-ranked Category receives all (or, if that is impossible, as much as possible of) its Contracted Services in a Contract Year (as that term is defined in the relevant Access Agreement).

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- (b) Without limiting the preceding paragraph, the Foundation User at all times has, in respect of the Foundation Tonnage, priority over all other Operators to Services in respect of the full capacity of the RHI Railway from time to time including the Operational Reserve.

3.2 The priority categories

For the purposes of these rules and an Access Agreement, the “**Order of Priority**” between the “**Categories**” is as follows, with Category 1 having the highest priority:

Category	Entitlement holder	Entitlement quantity
1 Foundation Tonnage	the Foundation User	Full Foundation Tonnage as varied at the discretion of RHI from time to time.
2 Other Contracted Services	Parties to other Access Agreements	An Operator’s Contracted Services will be specified in, and under the terms of, its Access Agreement.
3 Ordinary Additional Services	Any person with tonnage in Category 2	An Operator’s entitlement (if any) to Ordinary Additional Services will be determined from time to time under the terms of its Access Agreement.

3.3 Apportionment within Category 2

Should it prove necessary RHI will apportion the available tonnage within Category 2 in accordance with GRIP having regard to any Access Agreements it may have entered into with a person regarding Category 2 entitlements.

3.4 Apportionment within Category 3

- (a) Should it prove necessary RHI will apportion the available tonnage within Category 3 in its discretion but without discriminating unfairly between Operators.
- (b) No tonnage in Category 3 is guaranteed to be scheduled or hauled.
- (c) An Operator Access Agreement may grant the Operator more specific or additional rights in relation to Category 3 tonnage but Category 3 will always rank below Categories 1 and 2.

4. Applying these priority rules

4.1 Application of this section 4

RHI will endeavour acting reasonably, in good faith and in accordance with the RH Requirements to:

- (a) minimise the extent to which it has recourse to section 3.1; and
- (b) meet the Full Service Objective in section 4.2 in accordance with this section 4,

provided that, to the extent of any conflict or inconsistency, section 3.1 prevails over this section 4.

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4.2 Full Service Objective

The objective for the RHI Railway is that, so far as practicable and in accordance with the RH Requirements and its “run when ready” operating philosophy, RHI will, in respect of a year, ensure sufficient services to enable each Operator to receive its Contracted Services across that year (**Full Service Objective**).

4.3 Safety first

Despite anything else in these rules, RHI may depart from these rules whenever necessary for safety reasons, including preventing damage to any equipment or injury to a person.

4.4 Priority in normal operational circumstances

In normal operational circumstances and to the extent that it is consistent with the “run when ready” operating philosophy RHI will endeavour to achieve the Full Service Objective by:

- (a) indicating estimated scheduling of trains under the Train Management Guidelines;
- (b) despatching and running trains and dealing with conflicts between trains, including dealing with any normal operational issues, breakdowns, maintenance and other works, Possessions and delays in loading or unloading; and
- (c) determining whether and when an additional Train may be available.

4.5 Priority during and after emergencies etc.

During:

- (a) an emergency, event of Force Majeure or other abnormal or extreme operating circumstance, including any Disruption (**Emergency**); and
- (b) the period following such an event or circumstance which is required in accordance with the RH Requirements for normal operational conditions to be re-established,

RHI will so far as is practicable in the circumstances use reasonable endeavours to achieve the Full Service Objective or alternatively to minimise the extent to which the Full Service Objective is not achieved. However, in Disrupting a Train RHI must act in accordance with the Operator’s Access Agreement, this Train Path Policy and the Train Management Guidelines.

4.6 Priority for remedial Services

- (a) An Operator Access Agreement may identify circumstances in which a shortfall has occurred between the Services requested to be provided in a period and the Services actually provided in the period (**Shortfall**). An Access Agreement may deal with the remediation of Shortfalls. The following rules apply unless the Access Agreement provides otherwise:
 - (i) if a Shortfall has occurred in respect of an Operator, RHI may under the Train Management Guidelines from time to time run one or more Trains with a view to remedying the Shortfall; and

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- (ii) RHI may in its discretion determine the priority it assigns to a Train intended to remedy the Shortfall but must not assign a higher priority than a Train intended to deliver the original tonnage.
- (b) For the avoidance of doubt, any remediation of any Shortfalls discussed in this section 4.6 must not interfere with the priority conferred on the Foundation Tonnage by section 3.2 of this Train Path Policy and shall always be consistent with RHI's "run when ready" operating philosophy.

4.7 Register of decisions

Whenever RHI Disrupts a Service under section 3.1 it will record the decision and associated reasons in a register. The parts of the decision which relate to an Operator are to be made available to the Operator and (subject to the rules of any Access Agreement relating to confidentiality and to disputes) to any dispute resolver appointed under the Operator's Access Agreement, but in either case any information provided to the Operator may be redacted, consolidated or otherwise de-identified as necessary to preserve the confidentiality of other Operators.

4.8 RH Requirements

- (a) An Operator's Access Agreement may (as between the Operator and RHI) set out detail on the content and application of the RH Requirements including the extent to and manner in which the RH Requirements may be disclosed directly or indirectly to the Operator (**Disclosed Requirements**). Such detail may also set out how issues or disputes concerning the content or application of, or conflicts or inconsistencies between, RH Requirements, Disclosed Requirements and GRIP are to be resolved.
- (b) Despite anything else in this Train Path Policy:
 - (i) RHI may at all times apply the RH Requirements in connection with this Train Path Policy; and
 - (ii) if this Train Path Policy requires RHI to apply the RH Requirements in respect of a matter but the RH Requirements do not prescribe a standard for the matter then RHI must apply GRIP if GRIP sets a standard for the matter; and
 - (iii) nothing in this Train Path Policy serves to require the design, procurement, construction, commissioning, operation and maintenance of the RHI Railway to be inconsistent with or derogate from the RH Requirements.

5. Provision of access to underutilised Train Path

5.1 Identification of an underutilised Train Path

- (a) Access Agreements will include clauses which provide for the implementation of sections 5.1(b) to 5.1(c) of this Train Path Policy.

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- (b) In general Access Agreements will entitle Operators to use a Train Path on a regular and recurring basis. If an Operator has failed to utilise such a Train Path as prescribed in an Access Agreement that Train Path may be classified as underutilised.
- (c) The process for identifying and confirming whether a Train Path is underutilised is as follows:
 - (i) RHI will monitor the Train Path over a three month period (**Monitoring Period**);
 - (ii) If the Train Path is not utilised as prescribed in the Access Agreement at any time during the Monitoring Period (provided that the failure to utilise the Train Path is not as a consequence of a Force Majeure event or RHI not making the Train Path available) RHI may issue the Operator with a written notice that this Train Path has been identified as underutilised;
 - (iii) If the Operator fails to utilise the Train Path as prescribed in the Access Agreement more than 6 times in aggregate in a six month period from the date of the notice (**Utilisation Period**), RHI will issue the Operator with a written notice confirming the Train Path as underutilised at the end of that period (provided that the failure to utilise the Train Path is not as a consequence of a Force Majeure event or RHI not making the Train Path available or temporary changes or variations to the Train Paths agreed to by RHI);
 - (iv) If the failure by the Operator to utilise a Train Path during the Monitoring Period or the Utilisation Period, as the case may be, is the consequence of a Force Majeure event or of RHI not making the Train Path available, or temporary changes or variations to the Train Paths have been agreed by RHI then the Monitoring Period or the Utilisation Period, as the case may be, will be extended by such period as is required for RHI to make available to the Operator the number of Train Paths that were not utilised for those reasons.

5.2 Consequences of a confirmed underutilised Train Path

- (a) Once a Train Path has been confirmed as being underutilised and the relevant Operator is notified as such RHI may withdraw the contractual entitlement of the Operator to utilise that Train Path.
- (b) Prior to RHI withdrawing the contractual entitlement of the Operator to utilise the Train Path RHI will consult with the Operator and provide the Operator with an opportunity to:
 - (i) provide any relevant evidence to RHI in relation to the underutilisation; or
 - (ii) demonstrate to RHI's reasonable satisfaction a bona fide future requirement for that Train Path.

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6. Definitions and Interpretation

6.1 Access Agreement and Train Path Policy interpretation rules apply

- (a) Unless this document expressly states otherwise definitions and rules of interpretation in an Access Agreement or other third party contract which refers to this Train Path Policy apply also to the interpretation of this document in respect of the Operator or other third party as the case may be.
- (b) Unless indicated otherwise references to sections are to sections of this Train Path Policy.

6.2 Definitions

In this Train Path Policy unless the contrary intention is apparent:

Access Agreement	means an agreement in writing under the Code between RHI and an entity for access to the RHI Railway by that entity.
Categories	Is defined in section 3.2 and Category has a similar meaning.
Contracted Service	is defined in section 2.1(a).
Disclosed Requirements	is defined in section 4.8(a).
Disruption	means any delay, rescheduling, re-routing or cancellation of a Train and any other delay, suspension, cancellation, interruption or disruption of the provision of a haulage service and Disrupt has a similar meaning.
Emergency	is defined in section 4.5(a).
Economic Regulation Authority (ERA)	means the Economic Regulation Authority established by the <i>Economic Regulation Authority Act 2003 (WA)</i> .
Force Majeure	<p>means an event or circumstance or combination of events or circumstances not reasonably within the control of a Party and which, by the exercise of due diligence and care consistent with (in the case of RHI) the RH Requirements or (in the case of an Operator) GRIP and the Disclosed Requirements, the Party is not reasonably able to prevent or overcome including (subject to having satisfied the foregoing requirements):</p> <ul style="list-style-type: none"> (a) acts of God, epidemics, cyclones, tidal waves, landslides, lightning, earthquakes, floods, washouts, storms, fire or extreme weather conditions; or (b) strikes, lockouts, work bans, boycotts, barricades, picketing or industrial disturbances; or (c) acts of public enemy, national emergencies, war

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	<p>declared or undeclared, terrorism, sabotage, blockade, revolution, riots, insurrections, civil disturbances, radioactive contamination or hostile action; or</p> <p>(d) explosions, breakages, mechanical and electrical breakdowns, failures of equipment, derailments, collapses of gantries, loaders or conveyors, accident to machinery or lines or pipes; or</p> <p>(e) actions or inactions by, or orders, judgments or rulings, injunctions, decisions of enforcement actions of any State or Federal court; or</p> <p>(f) actions or inactions of government or other authorities whether domestic or foreign including denials, refusals or failures to grant or renew, or cancellation or withdrawal of, any applicable authorisation, expropriation, confiscation, resumption or restraint and changes to, or removals or modifications of any exemption from, laws, rules and regulations; or</p> <p>(g) denial of access to the RHI Railway by any government agency, railway track closure or blockage; or</p> <p>(h) a failure or malfunction of any software or goods supplied or used by RHI in providing the Services or any ancillary services under the applicable Access Agreement.</p>
Foundation Tonnage	means all tonnage hauled by RHI for the Foundation User from time-to-time.
Foundation User	is defined in section 1.1(b).
Full Service Objective	is defined in section 4.2.
GRIP or Good Rail Industry Practice	<p>means:</p> <p>(a) the exercise of that degree of skill, diligence, prudence and foresight that a skilled and experienced person would reasonably and ordinarily exercise in comparable circumstances, if engaged in providing services in the Australian railways industry for carriage of mineral ore, and complying with its contractual obligations and all applicable laws, authorisations, standards, industry codes and guidelines (including those governing</p>

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	<p>reliability, safety and environmental protection); or</p> <p>(b) to the extent the standard referred to in paragraph (a) of this definition is inapplicable, for example because the expression is being applied in a different industry, a comparable standard.</p>
Monitoring Period	is defined in section 5.1(c)(i).
Operational Reserve	<p>means from time to time the aggregate of:</p> <p>(a) the number of tonnes by which the total overall rail haulage capacity of the RHI Railway (determined under the RH Requirements) exceeds the sum of all RHI's obligations to provide Services to each Operator(including the Foundation User), in order to provide reliability, robustness, operational flexibility and resilience and to ensure that, in normal operating circumstances, RHI can satisfy those obligations; and</p> <p>(b) any additional uncontracted rail haulage capacity of the RHI Railway from time to time, in excess of that determined under paragraph (a) of this definition.</p>
Operator	has the same meaning as in clause 3 of the Code.
Order of Priority	is defined in section 3.2.
Ordinary Additional Service	is a service (other than a Contracted Service) under an Access Agreement which may be offered to an Operator on the RHI Railway to enable it to request to run additional Trains.
Possession	means the closure, occupation, use or other removal from service by RHI of part of the RHI Railway for the purposes of carrying out maintenance, enhancement or other work on or near the RHI Railway, which does or is reasonably likely to Disrupt or otherwise adversely impact on the provision of Services.
Product	means iron ore of all grades and all products from the processing of iron ore and may also include other products required by RHI in connection with the Roy Hill Project.
Railway Agreement Act	means the <i>Railway (Roy Hill Infrastructure Pty Ltd) Agreement Act 2010 (WA)</i> .
RH Financiers	means the financiers of the Roy Hill Project.

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RH Financier Assumptions	means the risk, cost, operational or other assumptions or bases upon which the Roy Hill Project’s financing was obtained.
RHH	means Roy Hill Holdings Pty Ltd ABN 71 123 721 077
RHI	means Roy Hill Infrastructure Pty Ltd ABN 60 130 249 633
RHIO	means Roy Hill Iron Ore Pty Ltd ACN 123 722 038
RHI Railway	means the railway owned and operated by RHI from the Roy Hill minesite to the Port of Port Hedland, excluding <i>railway infrastructure</i> which is not covered under the definition in section 3 of the <i>Railways (Access) Act 1998</i> .
RH Requirements	means, subject to clause 4.8: (a) the detailed technical, performance and operational standards under documents and related agreements in connection with any aspect of the Roy Hill Project, including the RH Financier Assumptions; and (b) if at any time RHI’s financing arrangements in respect of the Roy Hill Project end, GRIP.
Rolling Stock	means a locomotive, carriage, wagon or other vehicle for use on a railway
Services	means access to the RHI Railway and any other services or facilities agreed to be provided by RHI to the Operator as set out in an Access Agreement. Service has a similar meaning.
Shortfall	is defined in section 4.6.
Train	means one or more units of Rolling Stock coupled together, at least one of which is a locomotive or other self propelled unit.
Train Management Guidelines	means the guidelines approved or determined by the ERA in accordance with clause 43 of the Code, which are to be applied and followed by RHI in the performance of its functions in relation to a part of the railway network and associated infrastructure.
Train Path	means an entitlement granted to an Operator by RHI to access the RHI Railway between entry and exit points on the RHI Railway.
Utilisation Period	is defined in section 5.1(c)(iii).

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