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Dr Ursula Kretzer
Inquiry into Water Resource Management Charges
Economic Regulation Authority
PO Box 8469
Perth Business Centre
PERTH WA 6849

2 September 2009

Dear Dr Kretzer

Rio Tinto Iron Ore submission to *Discussion Paper: Inquiry into Water Resource Management and Planning Charges*

This letter supplements comments made by Rio Tinto Iron Ore in our submission to the *Issues Paper* in June 2009.

We note that the *Discussion Paper* deals with economic concepts and principles for the application of water resources management and planning charges, which we welcome. Rio Tinto raised and discussed its views on a number of these concepts and principles in our submission to the *Issues Paper*, including the public good characteristics of many of the services offered by the Department of Water, and the need to appropriately weigh up the costs and benefits of sophisticated charging regimes for certain services offered by the Department. We do not intend to repeat these comments in response to the *Discussion Paper*, but request that the points we have already raised be considered again by the Authority for this stage of the consultation process.

Since the release of the *Discussion Paper*, the Authority has conducted a Round Table discussion of some of the concepts and principles raised in the *Discussion Paper*, and has also made presentations to groups such as the Chamber of Minerals and Energy Water Issues Group. This letter addresses some points raised in these forums.

1. **Distinguishing between costs for administering the existing *Rights in Water and Irrigation Act* regime and the proposed NWI arrangements**:

It was noted by an Authority representative at the Round Table that the same first principles for setting costs would apply irrespective of the regime that was in place. However, this does not acknowledge the vast difference in the total quantum of costs incurred to administer and manage these different regimes.

The likely impact of costs to rights/authorisation holders are very different. That is, fixed term/fixed volume licences under the RiWI regime are likely to be far less resource intensive for the Department than a regime to establish and manage perpetual water access entitlements under the NWI. The Department has already initiated planning to enable the introduction of an NWI regime, in accordance with the State's obligations under the NWI agreement. These costs need to be identified and translated into potential impacts on licensees and rights holders as part of this Inquiry.

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2. **Acknowledging investments made in water management by the mining industry**:

Rio Tinto's iron ore business is a significant contributor to the economic health of Australia and Western Australia, as one of the largest employers in Western Australia and contributing more than US$13.7 billion in export revenue. In addition to its contribution to the State's financial position through mining royalties, Rio Tinto also funds and undertakes many of the services which would otherwise be undertaken by the Department of Water, such as the identification, development and management of these resources.

An issue raised at the Round Table with regard to accounting for investments made in water management by the mining industry and the way this may be factored into discounts or credits on any charges suggested that one option may be to start from the year of introduction of the proposed charges, rather than to acknowledge previous investments.

Rio Tinto reiterates 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, and any charges be adjusted downwards accordingly. It is unreasonable that it should bear the costs of the same services undertaken by the Government elsewhere in the State.

It is therefore important that in any consideration of the introduction of water resource management and planning charges, 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, and that credit is given for investments and services funded by the proponent. Failure to acknowledge this investment will enable new licence holders in these areas to effectively "free ride" on the investments already undertaken by existing mining concerns. Rio Tinto would urge the Authority to address the "free rider" issue in its Inquiry.

3. **Avoiding cross-subsidisation of water resource management and planning costs**:

The Round Table also raised the issue of cross-subsidisation of water resource management and planning costs between industries. This position is not supported by Rio Tinto.

The concept of cross-subsidisation between industries is a concept that seems at odds with the principles of transparency that underpin matters to which the Authority should have regard under s26 of the *Economic Regulation Authority Act 2003*.

If the Government of the day decides that water resource management and planning costs, based on appropriate principles, places certain industries and businesses at risk, then a political decision would be required to either:

- subsidise the industry concerned via Consolidated Fund if it is deemed to be in the public interest; or
- provide for structural adjustment programmes to ensure the appropriate transition for those effected by the changes, again funded via the Consolidated Fund.

4. **Relating charges to cost of service provision, not to size of licence**:

A recent ERA presentation to the Chamber of Minerals and Energy Water Issues Group mentioned the possibility that water resource management and planning charges might be linked to the size of the licence, in other words volumetric charging. As stressed in the Rio Tinto submission to the *Issues Paper*, we are strongly opposed to this approach.

The size of licence has little to do with the effort required to administer and manage it and therefore should not be a consideration as a basis for charging. Costs need to be reflective of the water resource management and planning effort. For example, a licence for 5Gl per year will involve far less administrative and management effort if it is

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geographically isolated, with few other users in the catchment and little risk of the resource being fully allocated than if the same volume licence was located within a fully allocated or near fully allocated catchment. Once licences are established within a non-competitive catchment, there is a relatively low cost to Government for ongoing administration and management.

Rio Tinto reiterates that the *Blueprint for Water Reform in Western Australia* (2006) did **not** recommend volumetric charging with regard to either water licence administration fees or water resource management charges.

As noted in the Rio Tinto submission to the Issues Paper, 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:

- Whilst one of the biggest users of water in the state, the use of water in the mining industry is also one of the highest value uses of that water. Flow of water to its highest value uses is one of the key objectives of the water reform agenda under the NWI;

- 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 Rio Tinto's Pilbara iron ore operations, despite having access to good quality potable water, the water resources are so remote that there is often no viable alternative uses and therefore a substantial charging regime linked to volume would exacerbate this market failure;

- The amount of water abstracted for dewatering purposes for below water table mining operations can be high. However this is an integral part of the mining process, and excess water not used preferentially for production purposes is assessed in terms of putting the water to beneficial use in accordance with NWI principles and the Department of Water's own "Hierarchy of uses"; and

- In the case of dewatering for below water table mining operations, licence volumes are expressed in terms of the amount of water initially abstracted, and do not account for water surplus to production requirements that is returned to the environment, either by Aquifer Storage and Recovery (ASR) or discharge to the surface. Failure to appropriately account for net flows would make any volumetric charging proposition even more problematic.

It is therefore critical that water resource management and planning charges relate to the cost of service provision, not to the size of licences. This would enable lower costs for those catchments where NWI type management arrangements (ie perpetual water access entitlements) do not apply because of market failure (eg. too few users), resulting in a charging system that is proportionate to the management and administrative effort required for that catchment or region.

Please contact Mike Harold on 08 9366 5641 or mike.harold@riotinto.com if you wish to discuss or clarify any issues raised in this letter or in our previous submission to this Inquiry.

Yours sincerely

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