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Mr Gerry McInally  
Committee Secretary  
Senate Red Tape Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Via email [redtape.sen@aph.gov.au](mailto:redtape.sen@aph.gov.au)

Dear Mr McInally

**Re: EFFECT OF RESTRICTIONS AND PROHIBITIONS ON BUSINESS (RED TAPE) ON THE ECONOMY AND COMMUNITY**

Roy Hill Holdings PTY Ltd (RHH) welcomes the opportunity to make a submission to the Senate Committee on Red Tape Reduction.

In summary RHH recommend:

- I. There should be a **stronger, single, fast track macro approach to approval processes** which can provide an overarching government approach to major projects. This requires EPBC Act Reforms to enable a Federal One Stop Shop and the WA Mining Act Reform should be restarted to realise red tape education opportunities.
- II. **Environmental Reporting and assurance should be risk based rather than administratively based.**  
It should reflect the risk of the activity it seeks to monitor rather than simply requiring routine reporting for no material benefit to the State or agencies.
- III. **The State should have a single point of data collection and management from the various approvals processes.**  
This will enable the approvals agencies to assess the cumulative impact of each project. The data can also be used to inform policies on acceptable development to strategically manage the approvals process in advance of referrals and applications being lodged.
- IV. **Streamlined internal agency processes**  
Centralised online systems to manage workflows would improve the efficiency of the approvals and reporting process.

Yours sincerely

Barry Fitzgerald  
Chief Executive

## 1. Introduction

RHH is Australia's newest and single largest iron ore mine, located in the Pilbara region of West Australia. RHH represents the single largest project financed mine development in the world with total capital costs greater than A\$10 billion. It will produce 55 million tonnes per annum saleable iron ore at full capacity and consists of mine, process plant, and a 340km heavy haul rail and port facility at Port Hedland.

RHH commenced export of iron ore in December 2015 and at full capacity will generate approximately AUD2 - \$3B p.a. in revenue. Over 50,000 workers were employed during construction and around 2,000 staff will be employed full-time at peak operation. As a margin driven business, constrained by 55Mtpa port capacity RHH is focused on continuous improvement and innovation regardless of market conditions.

The Roy Hill Project required the following approvals:

- Environmental Impact Assessment and Ministerial approval under Part IV of the Environmental Protection Act 1986 (EP Act);
- Environmental Impact Assessment on Matters of National Environmental Significance and Ministerial approval under the Environment Protection and Biodiversity Conservation Act 1999;
- Dumping of dredge spoil in marine waters (Sea Dumping Permit) under Sea Dumping Act 1981;
- Construction and operation of prescribed premises (Works Approvals and Operating Licences) under Part V of the EP Act;
- Construction and operation of a mine (Mining Proposal) under Mining Act 1978;
- Construction of water bores, abstraction of groundwater and surface water and disturbance to beds and banks of a watercourse under the Rights in Water and Irrigation Act 1914; and;
- Construction and operation of waste and water treatment facilities and food preparation and other facilities under the Health Act 1911.

## 2. Importance of resource sector to the Australian Economy

Under Australia's parliamentary system, Commonwealth and State Governments have shared responsibility for promoting development in the resource sector. This means that it is critical that the Commonwealth and State Governments have shared objectives and synergistic policy instruments and avoid jurisdictional differences that hamper resource projects.

While the RHH project is now complete, it is important to share our learnings from this process. In previous submissions to both the Commonwealth<sup>1</sup> and West Australian Governments<sup>2</sup>, RHH has highlighted the need for simplification of environmental approvals and unification into a single process with a single decision maker.

As a margin driven business, we focus on innovation and business improvement methodology regardless of the iron ore price. But as we continue to drive our costs lower, it is imperative that both the State and Commonwealth continue to work with industry to reduce compliance costs and the regulatory burdens that are imposed on industry.

More than two decades ago the then Prime Minister Bob Hawke introduced the concept of 'minimum effective regulation'. In essence minimum effective regulation requires three things:

1. It must deliver a net benefit to the community;
2. It must be the most effective way of addressing the issue; and
3. It should impose the least possible burden on those regulated and the community.

RHH's commitment to operate in a responsible manner is central to our philosophy and operating mantra. But it is entirely reasonable to challenge whether the current regulatory framework meets the 'minimum effective regulation' benchmark.

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<sup>1</sup> Submission to the Federal Government Resource Statement by Roy Hill Holdings Pty Ltd 8 March 2016

<sup>2</sup> Reducing the Regulatory Burden - the economic cost to Roy Hill, 2015 & Regulatory Reform – Turning the Why to the How

### 3. Operating Context

In Australia, State environmental systems have traditionally been based on a model where one lead agency takes a coordinating role but under that model **all** regulatory agencies have a say in both inputs and outputs. This can lead to unnecessary delays and duplication.

Now RHH is operational, environmental reporting is standardised across the three departments (though this will soon change with recent amalgamation of WA environmental agencies) and relationships with the regulators are generally positive and pragmatic.

The recently announced amalgamation of the West Australian Department of Water (DoW), Department of Environment Regulation (DER) and Office of the Environmental Protection Authority (OEPA) into the Department of Water and Environment Regulation (DWER) is a positive move which should create a one stop shop and streamline regulatory processes. However, it is too early to assess the impact of this change.

In previous submissions, RHH highlighted the duplication of approvals between State and Commonwealth. Positively in 2015, the Commonwealth and Western Australia entered into a bilateral agreement under the Environment Protection and Biodiversity Conservation Act 1999 (Cwth) (EPBC Act) allowing the state to conduct environmental assessments on behalf of the Commonwealth, removing duplication including the need for a separate Commonwealth assessment.

### 4. Roy Hill Case Studies

RHH experience highlights the opportunity to streamline the phasing of approvals, inter and intra agency consultation, data sharing and alignment, as well as a focus on reducing compliance costs.

#### 4.1 Creek discharge approval – a nine month process across two agencies causing significant delays

Approximately six months ago RHH submitted an application to the OEPA for a section 45C assessment for a creek discharge on the advice of officials. Following a recent change of personnel at OEPA, RHH was advised a section 45C approval was not required and to submit an application directly to DER, a process which will take two to three months. With the right advice RHH could have avoided a six month delay to a relatively straight forward approval.

#### 4.2 Multi-tiered approvals framework requiring multiple approvals for the same project component could be streamlined.

The Roy Hill mine project definition included the accommodation village and wastewater treatment plant (WWTP) which required Ministerial approvals at both Federal and State level. Shire planning approval and a building licence are also required for the accommodation village; a works approval and operating licence for the WWTP is required from the Department of Environment and Conservation (DEC) Industry Regulation branch and Shire approval under the *Health Act 1911* is required to operate a WWTP.

#### 4.3 Financial and Time Cost of Major Project Approvals

The timeline for the major approvals for the RHH Project was a cumulative 10 years. RHH first began work on the environmental approvals required under the Commonwealth Environmental Protection and Biodiversity Conservation Act (2000) and the State's EPA 1986 Part IV process during the 3rd quarter of 2005. It took until the first quarter of 2010 to complete the process: nearly five years.

Subsequently, RHH entered the next major phase of approvals: the Mining Act, the Rail Safety Act and the Aboriginal Heritage Act (1972) – with still more approvals required under the State's Environmental Protection Act (1986). This added another five years.

It is important to note that while over 4,000 approvals and related conditions were required for the RH project, there were no critical path delays to the project, despite frustrating and costly duplication and approval loops.

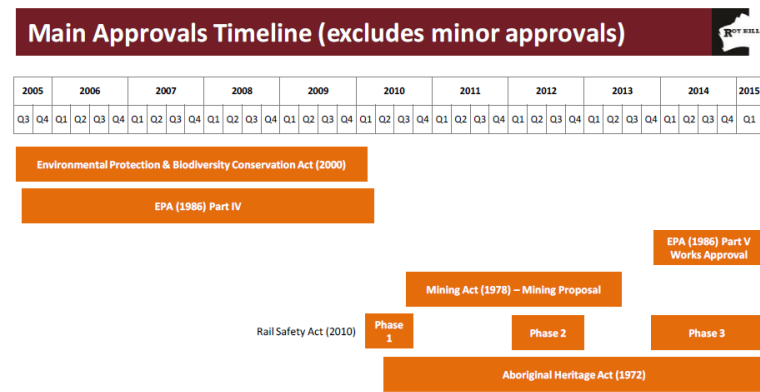


Figure 1: RHH Project Approvals Timelines

RHH estimate a \$75million cost of approvals (not just environmental approvals) leading to first ore on ship, and compliance costs greater than \$600million over the project life.

## 5. Roy Hill recommendations

RHH is not advocating further inquiries into red tape reduction – there is a plethora of reforms and amalgamations in play, the key is to complete these programmes of work and ensure industry is consulted and actively engaged on this journey.

### Recommendations

- I. **A stronger, single, fast track macro approach to approval processes** which can provide an overarching government approach to major projects.

This requires EPBC Act Reforms to enable a Federal One Stop Shop and the WA Mining Act Reform to be restarted to realise red tape education opportunities.

Proponents should be provided with indicative timelines for “standard” approval processes to enable better planning and phasing of projects, acknowledging that increased risk would likely increase approval timelines.

- II. **Reporting and assurance should be risk based rather than administratively based.**

Environmental approvals and reporting should reflect the risk of the activity it seeks to monitor, rather than simply requiring routine reporting for no material benefit to the State or agencies.

Where approvals are incremental in nature a new approval process can destroy value for both the proponent in terms of project delays and opportunity cost of missing changes in market conditions; and the State in terms of lost royalties. Rather, there should be a streamlined amendment to an existing license condition of the risk is not material.

- III. **The State should have a single portal for data collection and management from the various approvals processes.**

A central repository for project information would enable approvals agencies to assess the cumulative impact of each project. The data can also be used to inform policies on acceptable development to strategically manage the approvals process in advance of referrals and applications being lodged.

- IV. **Streamlined agency processes**

Online systems to manage workflows would improve the efficiency of the approvals and reporting process e.g. allowing online lodgement of applications rather than paper based record system and receipts; online reporting tools of number of applications, where the application is in the approval process.

This approach could also streamline reporting process e.g. RHH currently reports to three environmental agencies in WA. A single point report would provide transparency of information across agencies, and streamline processes for proponents. This may be addressed with the amalgamation of environmental regulators in WA.

As a proponent operating under the Mining Act, RHH is subject to closure criteria of the EPA and DMP. While acknowledging these agencies administer different aspects of closure, ideally proponents should be able to deal with a single agency which draws on the expertise of other agencies as required.

## 6. General Commentary

### EPBC Act Reforms

The next independent statutory review of the EPBC Act, as required by section 522A, is due by October 2019. While the review has not commenced, the Department of Environment and Energy (DoEE) is undertaking preliminary work for the review.

Inconsistency in the interpretation of the offsets policy continues to be an issue for the resources sector. As an example different projects dealing with the same matter of National Environmental Significance, have found assessment officers interpret the policy differently which can lead to varying offset requirements. The DoEE was due to review the offsets policy (2012), but this was delayed pending the one-stop-shop reforms.

RHH understand that one-stop-shop reform remains a priority, however progress of necessary EPBC Act amendments has been delayed in the Senate. In the interim the Western Australian assessment and approvals bilateral needs to be updated due to recent State based EPA reform.

### Mining Act Reform

The *Mining Legislation Amendment Bill 2015* (Amendment Bill) did not get necessary political support prior to the WA State election and the benefits of removing unnecessary red tape and streamlining of environmental approvals have not materialised for the resources sector.

The McGowan Government is considering its position on the Amendment Bill, but acknowledges that improving regulatory efficiency and reducing red-tape remains a priority for the new government. In the interim there is a risk that policies, guidelines and templates updated by DMP in anticipation of the legislative changes will be "rolled back".

### Department of Environment Regulation (DER) Industry Licence Reform.

In West Australia the DER is progressing significant reforms of its regulatory functions under the *Environmental Protection Act 1986* (EP Act). This move to a fully transparent risk-based approach for works approvals and licences has seen partial reform of the Regulatory Assessment Framework and supporting Guidelines/Environmental Standards.

It is important the new framework does not duplicate or impose impractical conditions resulting in increased and unnecessary costs.