

Attention: Mr Paul Reid
Assistant Director, Utility Services Regulation
Economic Regulation Authority
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Our reference: RTIO-AM-0209914

Dear Paul

Consultation on draft decision - Water licence review 2019

Thank you for the opportunity to consult in response to the Economic Regulation Authority's draft decision on the Water Licence review 2019 (1 October 2019) (**Draft Decision**).

The only proposal that we will provide comment on is the amendment proposed to clause 6.1 [now 7.1]. We note that this amendment was not included in the Economic Regulation Authority's Water Licence Review 2019 – Issues Paper (April 2019).

From the information provided in the Draft Decision and the Department of Health (**DoH**) submission (10 May 2019), without further detailed consultation, Rio Tinto does not support the proposed amendment to the water licences template that will impose a condition for licensees to enter into a formal Memorandum of Understanding for Sewerage Services (**MOU for Sewerage Services**).

The introduction of this condition will impose unnecessary, potentially duplicated, regulation and compliance costs in an already highly regulated industry. It is our view that the public interest is already served through the current legislation and approvals required for sewerage services.

Further, insufficient detail has been provided about the proposed condition and its likely impact. It is our view that it is not in the public interest to amend the licence template to include an ambiguous condition.

Adequate regulation is already in place for sewerage services

The Government of Western Australia's *Government Sewerage Policy 2019*¹ (**Policy**) promotes objectives in the public interest including the protection of public health and amenity. As outlined in the Policy, sewerage discharges are already "*regulated to ensure that the quality of treated sewage is satisfactory for release into the environment or for its beneficial re-use, without an unacceptable impact on the environment and with the greatest regard for public health.*"

In our view, adequate regulation is already provided for sewerage services. The collection, treatment and disposal of sewage, as well as the provisions of ancillary services is appropriately regulated through a suite of environmental², health³, water industry⁴ and safety⁵ legislation and approvals.

¹ https://www.dplh.wa.gov.au/getmedia/27d85e1b-22d9-41b8-a72a-aa99f7b5d1e7/POL-Government_Sewerage_Policy_2019September; produced by the Department of Planning on behalf of the State Government

² Example, not an inclusive list: Environmental Protection Act 1986 (WA), Environmental Protection Regulations 1987 (WA), Environmental Protection (Unauthorised Discharges) Regulations 2004 (WA) and associated Part V approvals.

³ Example, not an inclusive list: Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974 (WA)

⁴ Example, not an inclusive list: Water Services Act 2012 (WA) and subsidiaries, including water licenses, Plumbers Licensing and Plumbing Standards Regulations 2000 (WA); Country Areas Water Supply Act 1947 (WA)

⁵ Example, not an inclusive list: Medicines and Poisons Act 2014 (WA) and subsidiary including poisons permits; Dangerous Goods Safety Act 2004 (WA) and subsidiary

To impose additional approvals in an already multifaceted approval regime is unnecessary and imposes an excessive burden on sewerage services providers.

The DoH submission stated that the MOU for Sewerage Services requirement would ensure that wastewater outcomes of licensed sewerage providers meet health, environmental and social expectations. However only very brief information on the proposal has been provided to stakeholders. What material has been conveyed does not demonstrate any issues with the existing regulatory regime for sewerage services or how the introduction of the MOU for Sewerage Services is in the public interest.

Rio Tinto are of the view that the current regulatory regime ensures that the risks associated with sewerage services are managed and that these expectations are being met.

Detailed industry consultation is appropriate and required prior to approval of condition

The DoH submission notes that further opportunity to explore this proposal with the ERA and other industry and government stakeholders is required. While we are of the view that the risks associated with sewerage services are already adequately regulated in existing legislation and that the MOU for Sewerage Services is likely to duplicate this regulation, we agree with this statement that further consultation is required. As such, at this stage we do not support the Draft Decision's proposal to amend the template to include this condition.

We propose that the introduction of a new approval requirement condition is a complex obligation for licensees and all relevant stakeholders to consider. The information provided to date provides no clarity on the requirement. It is not in the public interest to impose a new condition with so much ambiguity.

For example, the Draft Decision and the DoH submission states small sewerage licensees will have their MOU for Sewerage Services requirement "deferred". However, there is no indication of how a "smaller sewage service licensee" is to be defined. We note that it is our understanding that all licensees, other than the Water Corporation, current report as "small sewerage" in their annual performance reporting to the Economic Regulation Authority.

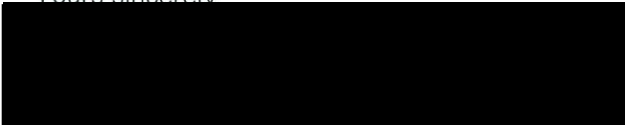
To provide clarity about the proposal and to allow all stakeholders the opportunity to respond appropriately to the proposal, a more extensive consultation process should be undertaken with specific information provided. This will allow stakeholders to provide a fully informed comment prior to the ERA's decision on whether to include this specific condition that will potentially have substantial and ongoing consequences.

If such consultation is outside the scope of the 2019 Water Licence Review, we recommend the Economic Regulation Authority defer the amendment proposed to clause 6.1 [now 7.1].

Rio Tinto is committed to providing safe and reliable potable water and sewerage services that benefit the community and consider health, environmental and social impacts of the supply of these services. Rio Tinto supports the 2019 Water Licence Review and looks forward to collaborating with the ERA and other stakeholders with its development.

If there are further queries, please contact Karyn McDougall on 0459 845 397 or Tegan Campbell on 0436 922 457.

Yours sincerely



Daniel Taylor
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