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From: DLO Ley
Sent: Wednesday, 27 November 2019 9:28 AM
To: MinisterialCorrespondence
Cc: DLO Ley
Subject: Rio Tinto environment assessment - BCD
Attachments: 20191121 CS Ltr to Min. Sussan Ley_Environment Protection and Biodiversity Conservation Act.pdf

Categories: Min Reply-Min Ley

BCD

Please register for min reply

From: s47F
Sent: Friday, 22 November 2019 5:06 PM
To: Ley, Sussan (MP)
Cc: wa-government@dpc.wa.gov.au; Minister.Dawson@dpc.wa.gov.au
Subject: Letter from Rio Tinto Iron Ore, Chief Executive - Mr Chris Salisbury

Dear Minister

Please find attached letter from our Chief Executive, Mr Chris Salisbury.

Kind regards

s47F

Executive assistant to the chief executive - Iron Ore

Rio Tinto
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s47F <http://www.riotintoironore.com>

RioTinto

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Hon Sussan Ley MP
Minister for the Environment
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

21 November 2019

Dear Minister

Environment Protection and Biodiversity Conservation Act – Approvals Bilateral Agreement

I write in relation to the number of State and Commonwealth environmental approvals that Rio Tinto will require over the next five years, which are essential to sustain our current iron ore operations in the Pilbara. s47G(1)(a)

s47G(1)(a)

s47G(1)(a) These projects provide considerable economic value to Australia through employment and local procurement opportunities.

As you would appreciate, proponents of large resource projects, including Rio Tinto, are currently subject to duplicative assessment and approval processes under Commonwealth and State environmental laws. This duplication causes delays in assessment and approval timeframes. This increases project costs and decreases the competitiveness of our resources industry, but without resulting in superior environmental protection outcomes.

In that regard, Rio Tinto welcomes the current initiatives by the Morrison Government to review and improve regulations and processes affecting business investment in Australia. We were particularly pleased to learn of the Prime Minister's announcement yesterday to streamline approvals processes. We also consider the recently commenced statutory review of the Environment Protection and Biodiversity Conservation Act 1999 (**EPBC Act**) to be an important step.

However, while these important regulatory reviews are being progressed, we note that the EPBC Act already contains mechanisms by which the Commonwealth and State governments may enter into "bilateral agreements". These are aimed at removing duplication and ensuring that environmental assessment and approval processes are efficient, timely and effective.

As you know, there are two types of bilateral agreements:

- **assessment** bilateral agreements, under which one environmental assessment is undertaken for a project by the State and then relied on by the Commonwealth for making EPBC Act approval decisions; and
- **approval** bilateral agreements, under which declared State environmental authorisation processes also provide approval under the EPBC Act, without requiring additional Commonwealth consideration and approval.

Unfortunately these mechanisms are not currently being best utilised for Western Australia. Most Australian States and Territories have entered into assessment bilateral agreements with the Commonwealth. While Western Australia is party to such an agreement, it does not currently apply to significant proposal environmental impact assessments by the Western Australian Environmental Protection Authority (EPA). This is because the agreement references the EPA's environmental assessment framework prior to changes to the framework in 2016. Therefore, Western Australian EPA assessments of significant proposals must be accredited by the Commonwealth on a 'proposal by proposal' basis.

Whilst an assessment bilateral agreement provides some administrative streamlining of the assessment process it does not materially address the key delays. This is because an additional Commonwealth approval is still required after the State approval.

For the reasons set out below, I would respectfully ask that the Commonwealth consider as a matter of priority an approval bilateral agreement between the Commonwealth and Western Australian governments. We also suggested to him that in the interim there would be substantial benefit if Commonwealth assessment officers were co-located in Perth with assessment officers undertaking State EPA assessments. I have recently met and written to the Western Australian Premier in this regard.

An approval bilateral agreement would significantly reduce major project timeframes and save costs, while not compromising environmental regulation. The robust environmental standards and processes in Western Australia can be used to facilitate an evaluation and determination on the impact of an action for the purposes of the EPBC Act, without removing the environmental protections in place under the EPBC Act.

Indeed, in order to enter into an approval bilateral agreement, the EPBC Act requires the Commonwealth Minister for the Environment must be satisfied that the relevant State's authorisation process will:

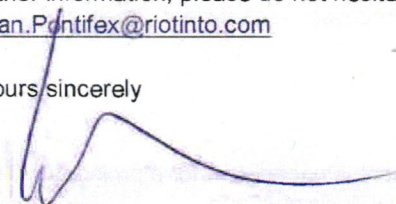
- result in adequate assessment of the impacts that actions have, will have, or are likely to have on each matter of national environmental significance protected under the EPBC Act; and
- not have unacceptable or unsustainable impacts on those protected matters.

We consider the Western Australian State environmental protection laws provide such safeguards and would result in adequate assessment of matters protected under the EPBC Act. I understand that in December 2014, the Commonwealth and Western Australian Environment Ministers released a draft approval bilateral agreement for public consultation but this was not progressed to execution.

In summary, Rio Tinto considers the preferred pathway for delivering a truly streamlined approvals system is the finalisation of the approval bilateral agreement between the Commonwealth and Western Australian governments. This mechanism already exists in the EPBC Act to reduce duplication in the environmental assessment and approvals processes and ensuring those processes are efficient, timely and effective. We do not consider the review of the EPBC Act needs to occur before such an agreement is entered into.

I would very much appreciate an opportunity to meet with you in the near future to discuss this proposal. If you require further information, please do not hesitate to contact Brian Pontifex Chief Advisor Government Relations on Brian.Pontifex@riotinto.com

Yours sincerely



Chris Salisbury
Chief Executive - Iron Ore

CC: The Hon. Mark McGowan MLA, Premier of Western Australia
The Hon. Stephen Dawson MLC, Minister for Environment