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Published on: 31 July 2023

Statement No. 1206

**STATEMENT TO AMEND AN APPROVED PROPOSAL AND CONDITIONS
INCLUDING CONSOLIDATION OF APPROVED PROPOSALS WITHOUT INQUIRY
OR ASSESSMENT**

(Environmental Protection Act 1986)

ROY HILL PORT EXPANSION PROJECT

Proposal: The proposal is an expansion of the existing Roy Hill Port and comprises the construction and operation of port infrastructure, including but not limited to, a stockyard, rail loop, train unloader, conveyors, wharf, and ship loading facility at Port Hedland.

Proponent: Roy Hill Infrastructure Pty Ltd
Australian Company Number 130 249 633

Proponent address: 28-42 Ventnor Avenue
WEST PERTH WA 6005

Previous Assessment Numbers: 1853, 1902, 1902B, 2003, and 2145

Previous Report Numbers: 1377, 1419, 1515, 1591 and 1622

Preceding Statements Relating to this Proposal: 858, 891, 978, 1056 and 1084

Introduction: The Roy Hill 1 Iron Ore Project, Port Infrastructure approved proposal was agreed to be implemented under Ministerial Statement 858 (11 August 2011). The Multi-User Iron Ore Export (Landside) Facility approved proposal was agreed to be implemented under Ministerial Statement 891 (2 April 2012).

Pursuant to section 45C(1)(c) of the *Environmental Protection Act 1986*, an amendment to the approved proposals the subject of Ministerial Statements 858, 891, 978, 1056, and 1084, and to the implementation conditions relating to the approved proposals, including the consolidation of the approved proposals into one proposal pursuant to section 45D(1)(b), is now approved.

The Roy Hill Port Expansion Project proposal described in the 'Proposal Content Document' attachment of the 45C application of 26 June 2023, may now be implemented and is subject to the following implementation conditions and procedures.

Ministerial Statements 858, 978, 1084, 891, and 1056 are superseded by this Ministerial Statement.

Conditions and procedures

Part A: Proposal extent

Part B: Environmental outcomes, prescriptions and objectives

Part C: Environmental management plans and monitoring

Part D: Compliance and other conditions

PART A: PROPOSAL EXTENT

Limitations and Extent of Proposal

A1-1 The proponent must ensure that the proposal is implemented in such a manner that the following limitations or maximum extents/capacities/ranges are not exceeded:

Proposal element	Location	Maximum extent
Physical elements		
Development envelope	Figure 1	No more than 499.1 ha
Terrestrial vegetation and ground disturbance	Within the development envelope shown in Figure 1	No more than 382 ha
Mangrove disturbance	Within the development envelope shown in Figure 1	No more than 7.2 ha
Wharf	Within the development envelope shown in Figure 1	Wharf structure, three shipping berths and two ship loaders in South West Creek
Construction elements		
Disposal of dewatered groundwater		Disposal according to the following water use hierarchy: 1. Use on site 2. Disposal to Dredge Material Management Area G 3. Disposal to berth pockets in South West Creek
Timing elements		
Project life		50 years from commissioning of the new port infrastructure

PART B – ENVIRONMENTAL OUTCOMES, PRESCRIPTIONS AND OBJECTIVES

B1 Benthic Communities and Habitat

B1-1 The proponent must ensure the implementation of the proposal achieves the following environmental outcome:

- (1) no **adverse impacts** to mangroves outside of the development envelope.

B2 Marine Environmental Quality

B2-1 The proponent must ensure that **port operational activities** achieve the following environmental outcomes:

- (1) no **adverse impacts** on the **marine environmental values** of Ecosystem Health, Fishing and Aquaculture, Recreation and Aesthetics, Industrial Water Supply, Cultural and Spiritual; and
- (2) for Ecosystem Health the following levels of ecological protection are to be achieved:
 - (a) **Moderate Ecological Protection Area**; and
 - (b) **High Ecological Protection Area**.

B2-2 The proponent must ensure that during **dewatering discharge** the proposal achieves the following environmental outcome:

- (1) for Ecosystem Health achievement of a **Moderate Ecological Protection Area**, as shown in figure 2, directly outside the **Temporary Low Ecological Protection Area**.

B2-3 The levels of ecological protection identified in condition B2-1(2) and B2-2 are to be consistent with the method for deriving **Environmental Quality Guidelines** and **Environmental Quality Standards** for the corresponding level of ecological protection described in Appendix 1, Table 1 of the **Marine Water Quality Technical Guidance**.

B2-4 In the event that **dewatering discharge** is required, the proponent must revise and update the Roy Hill Infrastructure Project – Port Hedland – Dewatering Outfall Management Plan (100RH-3000-EN-PLN-2006 Rev 2, 9 May 2014), to demonstrate how achievement of the environmental outcome in condition B2-2 will be monitored and substantiated and satisfies the requirements of condition C4, and submit it to the **CEO**.

PART C – ENVIRONMENTAL MANAGEMENT PLANS AND MONITORING

C1 Environmental Management Plans: Conditions Related to Commencement of Implementation of the Proposal

C1-1 The proponent must not undertake **dewatering discharge** until the **CEO** has confirmed in writing that the environmental management plan referred to in condition B2-4 has been revised and satisfies the requirements of that condition and condition C4.

C2 Environmental Management Plans: Conditions Relating to Approval, Implementation, Review and Publication

C2-1 Upon being required to implement an environmental management plan under Part B, or after receiving notice in writing from the **CEO** under condition C1-1 that the environmental management plan(s) required in Part B satisfies the relevant requirements, the proponent must:

- (1) implement the most recent version of the **confirmed** environmental management plan; and
- (2) continue to implement the **confirmed** environmental management plans referred to in condition C2-1(1), other than for any period which the **CEO** confirms by notice in writing that it has been demonstrated that the relevant requirements for the environmental management plan have been met, or are able to be met under another statutory decision-making process, in which case the implementation of the environmental management plan is no longer required for that period.

C2-2 The proponent:

- (1) may review and revise a **confirmed** environmental management plan provided it meets the relevant requirements of that environmental management plan, including any consultation that may be required when preparing the environmental management plan;
- (2) must review and revise a **confirmed** environmental management plan and ensure it meets the relevant requirements of that environmental management plan, including any consultation that may be required when preparing the environmental management plan, as and when directed by the **CEO**; and
- (3) must revise and submit to the **CEO** the **confirmed** Environmental Management Plan if there is a material risk that the outcomes or objectives it is required to achieve will not be complied with, including but not limited to as a result of a change to the proposal.

- C2-3 Despite condition C2-1, but subject to conditions C2-4 and C2-5, the proponent may implement minor revisions to an environmental management plan if the revisions will not result in new or increased **adverse impacts** to the environment or result in a risk to the achievement of the limits, outcomes, or objectives which the environmental management plan is required to achieve.
- C2-4 If the proponent is to implement minor revisions to an environmental management plan under condition C2-3, the proponent must provide the **CEO** with the following at least twenty (20) business days before it implements the revisions:
- (1) the revised environmental management plan clearly showing the minor revisions;
 - (2) an explanation of and justification for the minor revisions; and
 - (3) an explanation of why the minor revisions will not result in new or increased **adverse impacts** to the environment or result in a risk to the achievement of the limits, outcomes, or objectives which the environmental management plan is required to achieve.
- C2-5 The proponent must cease to implement any revisions which the **CEO** notifies the proponent (at any time) in writing may not be implemented.
- C2-6 **Confirmed** environmental management plans, and any revised environmental management plans under condition C2-4(1), must be made publicly available and provided to the **CEO** in electronic form suitable for on-line publication by the Department of Water and Environmental Regulation within twenty (20) business days of being implemented, or being required to be implemented (whichever is earlier).

C3 Conditions Related to Monitoring

- C3-1 The proponent must undertake monitoring capable of:
- (1) substantiating whether the proposal limitations and extents in Part A are exceeded; and
 - (2) **detecting** and substantiating whether the environmental outcomes identified in Part B are achieved (excluding any environmental outcomes in Part B where an environmental management plan is expressly required to monitor achievement of that outcome).
- C3-2 The proponent must submit as part of the Compliance Assessment Report required by condition D2, a compliance monitoring report that:

- (1) outlines the monitoring that was undertaken during the implementation of the proposal;
- (2) identifies why the monitoring was capable of substantiating whether the proposal limitation and extents in Part A are exceeded;
- (3) for any environmental outcomes to which condition C3-1(2) applies, identifies why the monitoring was scientifically robust and capable of **detecting** whether the environmental outcomes in Part B are met;
- (4) outlines the results of the monitoring;
- (5) reports whether the proposal limitations and extents in Part A were exceeded and (for any environmental outcomes to which condition C3-1(2) applies) whether the environmental outcomes in Part B were achieved, based on analysis of the results of the monitoring; and
- (6) reports any actions taken by the proponent to remediate any potential non-compliance.

C4 Environmental Management Plans: Conditions Relating to Monitoring and Adaptive Management for Outcome Based Conditions

C4-1 The environmental management plan required to be revised under condition B2-4 must contain provisions which enable the substantiation of whether the relevant outcomes of condition B2-2 are met, and must include:

- (1) **Environmental Quality Standards and Environmental Quality Guidelines** to protect the **marine environmental values** and levels of ecological protection, including the methodology used to derive site specific **Environmental Quality Standards and Environmental Quality Guidelines**;
- (2) Monitoring parameters, sites, control/reference sites, methodology, timing, and frequencies which will be used to measure **Environmental Quality Standards and Environmental Quality Guidelines**, and methodology for determining alternate monitoring sites as a contingency if proposed sites are not suitable in the future.
- (3) baseline data;
- (4) data collection and analysis methodologies;
- (5) adaptive management methodology;
- (6) **contingency measures** which will be implemented if **Environmental Quality Guidelines** or **Environmental Quality Standards** are not met; and

(7) reporting requirements.

C4-2 The environmental management plan required under condition B2-4 is also required to include:

(1) the spatial data and coordinates for the **Temporary Low Ecological Protection Area** referred to in condition B2-2.

C4-3 Without limiting condition C3-1, failure to achieve an environmental outcome, regardless of whether **contingency measures** have been or are being implemented, represents a non-compliance with these conditions.

PART D – COMPLIANCE, TIME LIMITS, AUDITS AND OTHER CONDITIONS

D1 Non-compliance Reporting

D1-1 If the proponent becomes aware of a potential non-compliance, the proponent must:

- (1) report this to the **CEO** within seven (7) days;
- (2) implement **contingency measures**;
- (3) investigate the cause;
- (4) investigate environmental impacts;
- (5) advise rectification measures to be implemented;
- (6) advise any other measures to be implemented to ensure no further impact; and
- (7) provide a report to the **CEO** within twenty-one (21) days of being aware of the potential non-compliance, detailing the measures required in conditions D1-1(1) to D1-1(6) above.

D1-2 Failure to comply with the requirements of a condition, or with the content of an environmental management plan required under a condition, constitutes a non-compliance with these conditions, regardless of whether the **contingency measures**, rectification or other measures in condition D1-1 above have been or are being implemented.

D2 Compliance Reporting

D2-1 The proponent must provide an annual Compliance Assessment Report to the **CEO** for the purpose of determining whether the implementation conditions are being complied with.

D2-2 The proponent shall submit to the **CEO** the Compliance Assessment Report by 23 March each year, or as otherwise agreed in writing by the CEO.

D2-3 Each annual Compliance Assessment Report must be endorsed by the proponent's Chief Executive Officer, or a person approved by proponent's Chief Executive Officer to be delegated to sign on the Chief Executive Officer's behalf.

D2-4 Each annual Compliance Assessment Report must:

- (1) state whether each condition of this Statement has been complied with, including:

- (a) exceedance of any proposal limits and extents;
 - (b) achievement of environmental outcomes;
 - (c) achievement of environmental objectives;
 - (d) requirements to implement the content of environmental management plans;
 - (e) monitoring requirements;
 - (f) implement **contingency measures**;
 - (g) requirements to implement adaptive management; and
 - (h) reporting requirements;
- (2) include the results of any monitoring (inclusive of any raw data) that has been required under Part C in order to demonstrate that the limits in Part A, and any outcomes or any objectives are being met;
 - (3) provide evidence to substantiate statements of compliance, or details of where there has been a non-compliance;
 - (4) include the corrective, remedial and preventative actions taken in response to any potential non-compliance;
 - (5) be provided in a form suitable for publication on the proponent's website and online by the Department of Water and Environmental Regulation;
 - (6) be prepared and published consistent with the latest version of the Compliance Assessment Plan required by condition D2-5 which the **CEO** has confirmed by notice in writing satisfies the relevant requirements of Part C and Part D.

D2-5 The proponent must prepare a Compliance Assessment Plan which is submitted to the **CEO** at least six (6) months prior to the first Compliance Assessment Report required by condition D2-2, or prior to implementation of the proposal, whichever is sooner.

D2-6 The Compliance Assessment Plan must include:

- (1) what, when and how information will be collected and recorded to assess compliance;
- (2) the methods which will be used to assess compliance;

- (3) the methods which will be used to validate the adequacy of the compliance assessment to determine whether the implementation conditions are being complied with;
- (4) the retention of compliance assessments;
- (5) the table of contents of Compliance Assessment Reports, including audit tables; and
- (6) how and when Compliance Assessment Reports will be made publicly available, including usually being published on the proponent's website within sixty (60) days of being provided to the **CEO**.

D3 Contact Details

D3-1 The proponent must notify the **CEO** of any change of its name, physical address or postal address for the serving of notices or other correspondence within twenty-eight (28) days of such change. Where the proponent is a corporation or an association of persons, whether incorporated or not, the postal address is that of the principal place of business or of the principal office in the State.

D4 Time Limit for Proposal Implementation

D4-1 The proposal must be substantially commenced within five (5) years from the date of this Statement.

D4-2 The proponent must provide to the **CEO** documentary evidence demonstrating that they have complied with condition D4-1 no later than fourteen (14) days after the expiration of period specified in condition D4-1.

D4-3 If the proposal has not been substantially commenced within the period specified in condition D4-1, implementation of the proposal must not be commenced or continued after the expiration of that period.

D5 Public Availability of Data

D5-1 Subject to condition D5-2, within a reasonable time period approved by the **CEO** upon the issue of this Statement and for the remainder of the life of the proposal, the proponent must make publicly available, in a manner approved by the **CEO**, all validated environmental data collected before and after the date of this Statement relevant to the proposal (including sampling design, sampling methodologies, monitoring and other empirical data and derived information products (e.g. maps)), environmental management plans and reports relevant to the assessment of this proposal and implementation of this Statement.

D5-2 If:

- (1) any data referred to in condition D5-1 contains trade secrets; or
- (2) any data referred to in condition D5-1 contains particulars of confidential information (other than trade secrets) that has commercial value to a person that would be, or could reasonably be expected to be, destroyed or diminished if the confidential information were published,

the proponent may submit a request for approval from the **CEO** to not make this data publicly available and the **CEO** may agree to such a request if the **CEO** is satisfied that the data meets the above criteria.

D5-3 In making such a request the proponent must provide the **CEO** with an explanation and reasons why the data should not be made publicly available.

D6 Independent Audit

D6-1 The proponent must arrange for an independent audit of compliance with the conditions of this statement, including achievement of the environmental outcomes of this statement, as and when directed by the **CEO**.

D6-2 The independent audit must be carried out by a person with appropriate qualifications who is nominated or approved by the **CEO** to undertake the audit under condition D6-1.

D6-3 The proponent must submit the independent audit report with the Compliance Assessment Report required by condition D2, or at any time as and when directed in writing by the **CEO**. The audit report is to be supported by credible evidence to substantiate its findings.

D6-4 The independent audit report required by condition D6-1 is to be made publicly available in the same timeframe, manner and form as a Compliance Assessment Report, or as otherwise directed by the **CEO**.

[signed on 26 JULY 2023]

Professor Matthew Tonts

CHAIR

ENVIRONMENTAL PROTECTION AUTHORITY

For the Minister for Environment under Notice of Delegation under section 18 of the Environmental Protection Act 1986

Decision-making authorities to whom this notice is given under section 45C(6)(a)(ii)
Minister for Water Minister for Aboriginal Affairs Minister for State and Industry Development Minister for Transport Chief Executive Officer – Department of Water and Environmental Regulation Chief Executive Officer – Pilbara Ports Authority

Table 1: Abbreviations and definitions

Acronym or abbreviation	Definition or term
Adverse impact	Negative change that is neither trivial nor negligible that could result in a reduction in health, diversity or abundance of the receptor/s being impacted, or a reduction in environmental value. Adverse impacts can arise from direct or indirect impacts.
CEO	The Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the <i>Environmental Protection Act 1986</i> , or the CEO's delegate.
Confirmed	In relation to a plan required to be made and submitted to the CEO , means, at the relevant time, the plan that the CEO confirmed, by notice in writing, meets the requirements of the relevant condition. In relation to a plan required to be implemented without the need to be first submitted to the CEO , means that plan until it is revised, and then means, at the relevant time, the plan that the CEO confirmed, by notice in writing, meets the requirements of the relevant condition.
Contingency measures	Planned actions for implementation if it is identified that an environmental outcome, environmental objective, threshold criteria , Environmental Quality Standards or management target are likely to be, or are being, exceeded. Contingency measures include changes to operations or reductions in disturbance or adverse impacts to reduce impacts and must be decisive actions that will quickly bring the impact to below any relevant threshold management target and to ensure that the environmental outcome and/or objective can be met.
Detecting/ Detectable	The smallest statistically discernible effect size that can be achieved with a monitoring strategy designed to achieve a statistical power value of at least 0.8 or an alternative value as determined by the CEO .
Dewatering discharge	Means discharge of dewatered groundwater directly to berth pockets in South West Creek.

Disturb/disturbance	Means directly has or materially contributes to the disturbance effect on health, diversity or abundance of the receptor/s being impacted, or on an environmental value. Direct – causes or immediately has the disturbance effect Indirect – materially contributes to the disturbance effect
Environmental Quality Guidelines	Threshold numerical values or narrative statements which if met indicate there is a high degree of certainty that the associated environmental quality objective has been achieved.
Environmental Quality Standards	Threshold numerical values or narrative statements that indicate a level which if not met indicates there is a significant risk that the associated environmental quality objective has not been achieved and a management response is required.
Ha	Hectare
High Ecological Protection Area	The area outside the Moderate Ecological Protection Area
Management target	A type of indicator to evaluate whether an environmental objective is being achieved.
Marine environmental value	Particular values or uses of the marine environment that are important for a healthy ecosystem or for public benefit, welfare, safety, or health and which require protection from the effects of pollution, waste discharges and deposits as defined in the Technical Guidance Protecting the Quality of Western Australia's Marine Environment, as amended from time to time, and available at www.epa.wa.gov.au
Marine Water Quality Technical Guidance	Technical Guidance for protecting the quality of Western Australia's marine environment, as amended from time to time, and available at www.epa.wa.gov.au
Moderate Ecological Protection Area	The area shown in figure 2, and defined by coordinates referenced in Schedule 1.
Port operational activities	Activities associated with the proposal port facilities including but not limited to handling and storage of ore product, ship loading, operation of vessels and power generation, but excluding activities regulated under Part V of the EP Act.
Temporary Low Ecological Protection Area	The 30 m radius around the dewatering outfall diffuser as depicted by the yellow boundary in Figure 3-2 of the document titled Roy Hill Infrastructure Project – Port Hedland – Dewatering Outfall Management Plan (100RH-3000-EN-PLN-2006 Rev 2, 9 May 2014). The Temporary Low Ecological Protection Area only applies during dewatering discharge .

Threshold criteria	The indicators that have been selected to represent limits of impact beyond which the environmental outcome is not being met.
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Figures (attached)

- Figure 1 Roy Hill Port Expansion Project development envelope (This figure is a representation of the co-ordinates referenced in Schedule 1)
- Figure 2 Moderate Ecological Protection Area referred to in condition B2-1(2)(a) and condition B2-2(1)



Figure 1. Roy Hill Port Expansion Project development envelope



Figure 2. Moderate Ecological Protection Area referred to in condition B2-1(2)(a) and condition B2-2(1)

Schedule 1

All co-ordinates are in metres, listed in Map Grid of Australia Zone 50 (MGA Zone 50), datum of Geocentric Datum of Australia 2020 (GDA2020).

Spatial data depicting the figures are held by the Department of Water and Environmental Regulation. Record no. DWER-801164602-3147