

The Hon Joshua Burgoyne
Minister for Lands, Planning and Environment
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Via email: minister.burgoyne@nt.gov.au

Dear Minister Burgoyne

Re: McArthur River Mine – Independent Monitor Annual Environmental Performance Audit Report 2024

The Department of Lands, Planning and Environment (Department or DLPE), as the environmental regulator of mining activities in the Northern Territory, welcomes the opportunity to respond to the findings made by the Independent Monitor in its Annual Environmental Performance Audit Report of McArthur River Mine for the period 1 May 2023 to 30 April 2024.

Following machinery of Government changes in 2024, DLPE assumed responsibility for the environmental regulation of mining activities from the Department of Industry, Tourism and Trade (DITT) which is the agency referenced in the Report. It is on this basis that DLPE is responding to the Independent Monitor's findings.

Key findings of the Independent Monitor's audit with respect to the performance of the Department include:

- continued regulatory attention being focused on those key mining activities representing risks to the environment, translating into good operational practices and positive environmental outcomes;
- the continued protection of the health of the McArthur River from mining related impacts attributable to effective regulation supporting appropriate management actions as demonstrated by active monitoring in compliance with conditions of licence;
- no significant environmental issues identified requiring urgent investigation of additional regulatory attention;
- convening of the inaugural meeting of the McArthur River Mine Community Reference Group and making public on the government website the topics considered by the representative community group; and
- appointment by the Minister of the Chairperson for the independent panels of experts for the North Overburden Emplacement Facility (NOEF) and Tailings Storage Facility (TSF) which represent the two greatest operational risks to the environment if not regulated and operated appropriately.

Overall, the Independent Monitor has found DLPE to be effective in achieving the object of regulating mining of the Territory's mineral resources and protecting the environmental values for all Territorians. The findings of the Independent Monitor confirm that regulatory effort is being focused to best effect with the appropriate focus on positive environmental outcomes.

Two areas of interest for the Independent Monitor in 2024 were the operation of the Independent Certifying Engineer (ICE) and the response of DLPE and MRM in the face of Tropical Cyclone Megan. The inclusion of a requirement for an ICE as conditions of licence reflect the importance placed by DLPE on third party oversight of the construction of long term mine infrastructure, with the Independent Monitor reinforcing the value of the role and acknowledging improvement in the operation of the ICE. The appropriateness of regulatory focus and responsiveness of DLPE was also demonstrated by immediate mobilisation of Environmental Mining Officer to undertake inspection of the NOEF and TSF following the passage of Tropical Cyclone Megan.

I acknowledge that this report identifies a decrease in the overall compliance score as compared to the previous reporting period. This decrease is primarily attributed to the achievement of 'part compliances' associated with failures to ensure administrative processes and obligations were appropriately completed. While it is important that these matters be addressed, I note that none of these part compliances represent a risk to the environment, the environmental performance of MRM, or the health of McArthur River.

The Department's response to the identified opportunities for improvement (OFIs) arising from part compliances are presented in **Attachment A**. DLPE offers context and provides details of future action to be taken to address each of the OFIs made against the three aspects audited by the Independent Monitor: Authorisation 0059 (Table 4-4), NT EPA recommendations (Table 4-6) and Regulatory approach (Table 4- 8). The detail in the attached tables comprise an extract from the *Annual Environmental Performance Report 2024*.

The Department remains committed to effective regulation of mining activities and will continue to work with MRM to protect the health of the McArthur River from mine-related impacts.

Yours sincerely



JO TOWNSEND
Chief Executive Officer

Response to opportunities for improvement (OFI) relating to conditions of Authorisation 0059

OFI Ref (Table 4-3)	Condition	Opportunity for improvement (OFI)	Department response
Mining Management Plan and Reporting			
24-DE-AUTH-01	7a, b, c, d, e, f, g 80 Schedule D-2c	Liaise with the Operator on submissions that are due including annual environmental monitoring data and TSF quarterly reports to ensure timely delivery.	<p>The obligation remains for the Operator to be compliant with conditions of approvals.</p> <p>The Department engages with the Operator on a regular basis to discuss up-coming compliance matters and takes a proactive approach to address emerging issues through the Technical Working Group (TWG).</p> <p>The TWG is attended by the Mining Division's Directors of Assessment and Compliance and Governance and Support and the Operator's Environment, Health and Safety team.</p>
Overburden Management Project			
24-DE-AUTH-02	16.e, 17.b, 27.e, 27.g.iii, 29.c, 36.e, 37.d	Provide more timely responses from DITT on review/approval of submitted documents.	<p>The Department manages submissions from all NT operators according to risk-based prioritisation and endeavours to complete all assessments as efficiently as possible with existing resources.</p> <p>Submissions from MRM are routinely discussed with the Operator during TWG meetings and formal correspondence is communicated as appropriate.</p>

OFI Ref (Table 4-3)	Condition	Opportunity for improvement (OFI)	Department response
24-DE-AUTH-03	21, 27.d	Prioritise and provide oversight to the establishment of the operation of the Independent Panels (NOEF and TSF) as soon as practical to enable the approval requirements, dependent on the Independent Panels operation, to progress.	<p>The Department has pursued the establishment of the independent panels of experts to address the recommendations made by the NT EPA.</p> <p>The time taken to establish the panels is acknowledged as being lengthy. The Department found the identification of individuals of suitable standing to be challenging due the specialist nature of the roles.</p> <p>The Department will continue to provide appropriate support and clear direction to the Operator with the NOEF Panel established. It is anticipated that the appointment of Dr Alan Robertson as the independent chairperson for both the NOEF and TSF panels will see efficiencies of operation for both panels as a result of shared experience.</p>
24-DE-AUTH-04	22	DITT to establish the Independent Panel (NOEF), or use an alternative expert review in the interim, to assess requirement for the NOEF seepage interception trench and recovery system.	<p>The NOEF Panel has since been established with members formally appointed by the Minister on 16 December 2024.</p> <p>The Department is working with the Operator and Independent Chairperson Dr Robertson to facilitate NOEF Panel access to the necessary documentation and to site, and a clear pathway to deliver the report required by the terms of reference.</p> <p>Updated information can be found on McArthur River Mine independent expert panels Department of Lands, Planning and Environment</p>

OFI Ref (Table 4-3)	Condition	Opportunity for improvement (OFI)	Department response
24-DE-AUTH-05	23.e	DITT should request the final NOEF geosynthetic liner cover system plan for their review and approval.	<p>The Operator submitted a draft plan in November 2022.</p> <p>The final plan will be submitted for assessment following incorporation of NOEF Panel review comments.</p> <p>Performance of the geosynthetic liner cover system trials is regularly discussed at TWG meetings.</p>
24-DE-AUTH-06	42	DITT to follow-up with operator and government webservices to ensure most recently approved MMP is publicly available.	<p>The 2020 MMP remains the primary document detailing mining activities approved at McArthur River Mine.</p> <p>Minor amendments submitted by the Operator have since been approved. The Department commits to making public on the Mining Reports webpage a summary of the approved amended activities.</p> <p>The details of approved MMPs for large mines can be viewed at Mining projects Department of Mining and Energy.</p>
24-DE-AUTH-07	45.b, 45.c	DITT to follow up with the Operator to update the AMP based on the Independent Monitor's review comments and obtaining inputs from the CRG (when available).	<p>The obligation remains for the Operator to be compliant with conditions of approvals and ensure incorporation of Independent Monitor review comments as appropriate.</p> <p>The Department will continue to monitor compliance by the Operator with conditions of licence.</p>

OFI Ref (Table 4-3)	Condition	Opportunity for improvement (OFI)	Department response
Water management and storage			
24-DE-AUTH-08	62.c.iii.d	DITT to liaise with Chief Health Officer to obtain relevant correspondence and agreement for approach to erecting warning signage at the Bing Bong Loading Facility.	<p>The Independent Monitor has found there to be no health concerns relating to the consumption of fish from the McArthur River, and public access to the Bing Bong Loading Facility is prohibited.</p> <p>The Department deploys its resources in accordance with risk-based prioritisation and will continue to undertake its responsibilities in as timely manner as possible.</p>
Water transfer and discharge			
24-DE-AUTH-09	69.h	Provide formal agreement that SW19 or SW20 monitoring location is an acceptable alternative to SW06 related to monitoring during discharges from WMD into Little Barney Creek or liaise with the Operator on the requirement to monitor at SW06.	<p>The Operator submitted an application requesting an ongoing exemption to accommodate limited access to SW06 due to sacred site considerations after the audit.</p> <p>The submission is under assessment by the Department. A recommendation and determination will be made in accordance with due process.</p>
Perimeter run-off dams – SPROD, SEPROD, WPROD and EPROD			
24-DE-AUTH-10	75(2)	Review the Eastern Perimeter Runoff Dam Construction Report (EPROD Construction Report) dated November 2022 and discuss the conclusions and recommendations with the Operator.	The Department engages with the Operator on a regular basis to discuss such matters and takes a pro-active approach to address emerging issues through the TWG.

OFI Ref (Table 4-3)	Condition	Opportunity for improvement (OFI)	Department response
TSF Management			
24-DE-AUTH-11	80	DITT to formally review and assess TSF Quarterly Reports in a more timely fashion.	<p>The Department assesses all operator submissions as expediently as possible allocating resources according to risk prioritisation informed by site knowledge, inspections and regular communication with operators.</p> <p>The Department engages with the Operator on a regular basis to discuss McArthur Rive Mine specific matters and takes a pro-active approach to address emerging issues through the TWG.</p> <p>Discussions at TWG are communicated formally in departmental correspondence as appropriate.</p>
24-DE-AUTH-12	80	DITT to formally review and assess TSF Quarterly Reports received after November 2022 and advise the Operator in writing when reports are accepted.	<p>The Department will continue to provide feedback through regular engagement with the operator at TWG and communicate specifics formally in departmental correspondence as appropriate.</p> <p>The Department attends site on an as needs basis to maintain current firsthand knowledge of site conditions, as evidenced by the site visit immediately following Tropical Cyclone Megan.</p>
24-DE-AUTH-13	80	DITT to follow up with the Operator regarding submission of the Annual Dam Safety Assessment and TSF Cell 1 Stage 5 and Cell 2 Stage 6 raises "as-constructed" construction reports.	<p>The Department engages with the Operator on a regular basis to discuss such matters and takes a pro-active approach to address emerging issues through the TWG.</p> <p>The Department has identified the need to clarify the definition of "as-constructed" when conditions of licence are next revised.</p>

OFI Ref (Table 4-3)	Condition	Opportunity for improvement (OFI)	Department response
Geochemical, geotechnical and hydrogeological assessments and investigation drilling			
24-DE-AUTH-14	83	Request the Operator to provide characterisation data from the drilling.	<p>The Department only requests such data on an as needs basis informed by the risk such approved drilling activities represent to the environment.</p> <p>The drilling activity approved and undertaken was not considered of sufficient risk to warrant formal request of the characterisation information during the audit period.</p>
SCHEDULE C - Independent Monitoring Assessment Conditions			
24-DE-AUTH-15	Schedule C - 28	Given invoices are not due within 7 days, update the condition to reflect the actual invoice payment timeframe.	The Department is subject to whole of government procurement and finance timeframes. This discrepancy has been identified for amendment when conditions of licence are next revised (likely to be during the next audit period).

Response to OFI relating to Northern Territory Environment Protection Authority (NT EPA) recommendations made in Assessment Report 86 published in July 2018¹

OFI Ref (Table 4-6)	NT EPA recommendation	Opportunity for improvement (OFI)	Department response
24-DE-REC-01	13 continued	DITT to approve the Water Management Plan which triggers the requirement for the Operator to publish results of the program on Operator's website.	<p>The requirement for an operator to make public reports is currently the subject of Departmental review following implementation of the Northern Territory Government's environmental regulatory reforms.</p> <p>The Operator submitted the plan for assessment by the Department. The Department is waiting on advice from external regulators to finalise the assessment. A</p>

¹ [McArthur River Mine | NTEPA](#)

OFI Ref (Table 4-6)	NT EPA recommendation	Opportunity for improvement (OFI)	Department response
			<p>recommendation and determination will be made in accordance with due process.</p>
24-DE-REC-02	20.ii	<p>DITT should formally approve the Aquatic Ecology Monitoring Plan, to trigger the requirement for public reporting.</p>	<p>The requirement for an operator to make public reports is currently the subject of Departmental review following implementation of the Northern Territory Government's environmental regulatory reforms.</p> <p>The Operator submitted the plan for assessment by the Department. The Department is waiting on advice from external regulators to finalise the assessment. A recommendation and determination will be made in accordance with due process.</p>
24-DE-REC-03***	27	<p>DITT to incorporate a mechanism for the revised monitoring program (assume Water Monitoring Program) to be reviewed by the Independent Panel(s) and Independent Monitor and then be approved by the relevant regulators, e.g. DITT.</p>	<p>The Operator has complied with condition 44 requiring a synthesis of all environmental monitoring programs by May 2022. The review results informed the subsequent Adaptive Management Plan and monitoring programs submitted by the Operator and approved subject to the Mining Management Act 2001.</p> <p>The NOEF Panel has been established, and the TSF Panel will likely be established during the next audit period.</p> <p>The program will be reviewed by the NOEF and TSF panels. Any recommendations made by the panels will be considered by the Department in any assessment of the program. Subsequently the Department will make a recommendation and determination in accordance with due process.</p>

Response to OFI relating to regulatory approach

OFI Ref (Table 4-8)	Opportunity for improvement (OFI)	Department response
24-DE-REG-01	DITT to prioritise the establishment of the Independent Panel of Experts for TSF and NOEF to facilitate independent reviews of the Operator’s monitoring program and reporting.	<p>The NOEF Panel has since been established with members formally appointed by the Minister on 16 December 2024.</p> <p>Establishment of the TSF Panel will follow within 12 months and be informed by the experiences of the NOEF Panel.</p>
24-DE-REG-02	DITT to facilitate an internal review to examine the annual EMR process, tasks and outputs with a view to streamline the activity. As part of this review, examine what is sufficient for regulatory requirements and responding to community expectations, as well as how the annual process could be more efficient.	<p>Ongoing.</p> <p>Periodic review is conducted with a view to improving the relevance and focus of environmental reporting requirements.</p> <p>The Northern Territory’s new environmental (mining) licensing framework which commenced on 1 July 2024 presents an opportunity to revisit the reporting requirements.</p>
24-DE-REG-03	DITT to prepare an internal procedure for the regulation of the Authorisation conditions and NT EPA recommendations to document the processes, timing, due dates, overdue submissions, approvals, decisions, public /community communication and records requirements to assist managing the complex regulatory requirements relating to DITT activities.	<p>Existing Department business systems inform regulatory oversight and action by officers. Optimal application of the systems was impeded by vacancies during the audit period.</p> <p>Departmental practices are subject to regular internal review to achieve efficiencies and ensure they remain fit for purpose.</p>

OFI Ref (Table 4-8)	Opportunity for improvement (OFI)	Department response
24-DE-REG-04	DITT to reduce reliance on key individuals within DITT to ensure consistency and continuity of compliance and performance.	<p>Ongoing</p> <p>Recruitment of specialists and team members with the appropriate attitude, skills, knowledge and experience is proving challenging across the mining sector and NT Public Sector more broadly.</p> <p>Recruitment and retention and development of suitably qualified Environmental Mining Officers is a focus of the Department to achieve effective regulation of all projects licenced under the <i>Environment Protection Act 2019</i>.</p>
24-DE-REG-05	DITT to prioritise the establishment of the Independent Panel of Experts for Mine Closure including appointment of the Chairperson and panel members.	<p>Dr Grant was appointed as Independent Chairperson of the Mine Closure Panel by the Minister on 5 November 2024.</p> <p>Establishment of the Mine Closure Panel will follow in the next 18 months informed by experience of the NOEF and TSF Panels.</p> <p>The independent expert report is not required from the Mine Closure Report until late 2026.</p>
24-DE-REG-06	DITT to provide a definition of 'construction being finalised' to clarify timing for when "as-constructed" reports should be submitted.	The Department has identified the need to clarify the definition of "as-constructed" when conditions of licence are next revised (likely during the next audit period).

OFI Ref (Table 4-8)	Opportunity for improvement (OFI)	Department response
24-DE-REG-07	DITT to set up process for tracking submissions by Operator and subsequent acknowledgement, review, information request (as relevant) and approval (or otherwise) of submitted documents by DITT. This may include register and work program to set out forecast activity timeframes and dates, which are updated regularly as actual progress is made.	<p>Existing Department business systems inform regulatory oversight and action by officers. Bespoke business systems are used by the Department to track assessment and compliance matters.</p> <p>Departmental practices are subject to regular internal review to achieve efficiencies and ensure they remain fit for purpose.</p> <p>The Department will be taking the opportunity following the recent implementation of the Northern Territory Government's environmental regulatory reforms.</p>