

The Hon Nicole Manison MLA
Minister for Mining and Industry
GPO Box 3200
DARWIN NT 0801

Dear Minister Manison

Re: McArthur River Mine - Independent Monitor Annual Environmental Performance Audit Report (AEPAR) 2022

The Department of Industry, Tourism and Trade welcomes the opportunity to respond to the Independent Monitor's AEPAR 2022 for the period 1 May 2021 through to 30 April 2022.

In summary, I am pleased with the Department's performance as reported by the Independent Monitor.

Key findings of the Independent Monitor's AEPAR 2022 with respect to the Department's compliance include:

- the Department has a strong focus on key environmental risks with correspondingly high numbers of conditions on the Northern Overburden Emplacement Facility (NOEF) and Tailings Storage Facility
- continued attention to key environmental risk areas has translated into improved performance during the audit period
- the monitoring and management actions of the operator and regulator have protected the health of the McArthur River
- no significant environmental issues requiring urgent investigation or additional regulatory attention were identified for McArthur River Mine or Bing Bong Loading Facility
- achievement of an overall compliance of 96% against 68 active conditions in Authorisation 0059; a 1% improvement on 2021
- achievement of a compliance score of 98% with respect to implementation of NT EPA recommendations relevant to the Department; a 1% improvement on 2021 when assessed against the same number of active conditions.

In relation to the audit against the conditions of Authorisation 0059, the Department achieved an overall compliance score of 96%. While demonstrating strong compliance, the score indicates there are areas for improvement. The AEPAR 2022 identifies areas where elements of the condition or requirements were not completely satisfied, with the areas of partial compliance pointing to a need for administrative improvements which have minimal, if any, consequence on the environmental performance of the mine and the health of the McArthur River.

In relation to the audit against the 116 elements of NT EPA recommendations, the Department was compliant in all but 10 elements. With regards these 10 elements, the Department was found to be "part compliant". The audit identified that the Department has effectively incorporated the NT EPA recommendations into Authorisation conditions. While opportunities for improvement are identified by the Independent Monitor, they are couched as non-mandatory and can be achieved as part of the process of continuous improvement.

In addition to the annual performance audit, the Independent Monitor conducted focused reviews of MRM's Risk Management Plan and Waste Rock Handling Procedures for the mine. The findings of the Independent Monitor concur with the Department's assessment. The Independent Monitor reported *'The Operator has a comprehensive Risk Management Plan that contains an appropriate environmental risk management framework and process'* and *'The Mine has demonstrated a high level of effective action to implement the plan's requirements to support the fulfilment of the stated objectives for the design, construction and operation of the NOEF based on the risks identified'*.

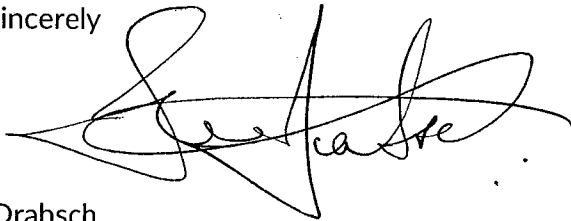
I am pleased that the Independent Monitor has acknowledged that the Department's work to date in addressing previously identified opportunities for improvement as having contributed to MRM attaining higher compliance scores but accept that the process of continuous improvement is ongoing.

In **Attachment A** to this letter, I outline the Department's response to specific opportunities for improvement (OFIs) identified by the Independent Monitor under the 3 categories of Authorisation 0059, NT EPA recommendations (and Regulatory Approach).

The achievement of regulatory compliance scores of 96% or higher by both the mine operator and the Department can be attributed to the Department's strong commitment to working with operators to develop and implement practical, risk and evidence based conditions to achieve sustainable environmental outcomes.

The Department remains committed to effective regulation of all mining activities under the *Mining Management Act 2001*, and will continue to work with MRM to protect the health of the McArthur River and its tributaries from mine-related impacts.

Yours sincerely



Shaun Drabsch
Chief Executive Officer

15 December 2022

DITT response to Independent Monitor's identified opportunities for improvement Authorisation 0059 conditions

OFI Ref (Table 4-3)	Authorisation condition	Opportunity for improvement (OFI)	DITT response
Mining Management Plan and Reporting			
OFI-22-DE-AUTH-01	8	Amend the condition to specify what 'as built' construction reports are required rather than relying on the MMP to provide a clear list of what 'as built' construction reports are required.	Noted. The OFI will be considered in future variation of the Authorisation.
OFI-22-DE-AUTH-02	8^	Prepare an annual program/register of Operator deliverables and submissions to assist DITT to manage the acknowledgement of receipt, adequacy review of submissions, and timely request for additional information, if required.	Accepted in response to 2021 AEPAR. Administrative procedures and/annual programs for deliverables and submissions are being updated to more readily support timely regulatory action.
OFI-22-DE-AUTH-03	8^	Monitor construction progress to identify upcoming completion so that the anticipated date of receipt of construction reports is known in advance and to prompt follow-up action if anticipated due date is passed.	Accepted in response to 2021 AEPAR. The Department will improve documentation of regular updates from the Technical Working Group forum which in combination with site visits and the compliance register should address this OFI.

OFI Ref (Table 4-3)	Authorisation condition	Opportunity for improvement (OFI)	DITT response
Overburden Management Project			
OFI-22-DE-AUTH-04	22, 28.b, 34.c and 94.d	Review and approve submitted document in a more timely manner (e.g. NOEF Interception Scheme Report VOA Condition 22 dated 13 Nov 2021, Ecotoxicology research and investigation program submitted 25 Oct 2021, Air Quality Management Plan submitted 13 Nov 2021 and AMP submitted 13 Nov 2021 to allow for implementation of any recommendations).	Noted. The Department will continue to review documents submitted by the operator and provide initial feedback at the Technical Working Group forum and improve documentation of regular updates.
OFI-22-DE-AUTH-05	22	Establish the independent expert panel (NOEF) or use an alternative expert review in the interim to assess requirement for the NOEF seepage interception trench and recovery system.	Accepted. Draft terms of reference for the independent expert panel have been endorsed by the NT EPA and are to be considered for final approval.
OFI-22-DE-AUTH-06	27.d	Establish the Independent Panels (NOEF and TSF) so that consultation during the preparation of future management plans can occur.	Accepted. As above.
OFI-22-DE-AUTH-07	43	Establish the Community Reference Group.	Accepted. This is being progressed.
Tailings Storage Facility			
OFI-22-DE-AUTH-08	80.d	Monitor overdue Operator TSF actions from the TSF Recommendation Instruction and Action Register to ensure they are closed out satisfactorily.	Accepted. The compliance register for the project will be enhanced to facilitate more timely regulatory action.

^ indicates OFI carried over from 2021 AEPAR.

DITT response to Independent Monitor's identified opportunities for improvement) regarding NT EPA Recommendations

OFI Ref (Table 4-6)	NT EPA Recommendation [#]	Opportunity for improvement (OFI)	DITT response
Inland Water Environmental Quality			
OFI-22-DE-REC-01	8.i [^]	Incorporate into DITT processes a review of the Operator's NOEF management program every three years.	Accepted in response to 2021 AEPAR. Draft terms of reference for the independent expert panel have been endorsed by the NT EPA and are to be considered for final approval.
Aquatic Ecosystems			
OFI-22-DE-REC-02	14. cont. ^{^^}	Incorporate into DITT processes consultation with other government agencies on the preparation and implementation of the ecotoxicological program, e.g. NT DEPWS and Commonwealth DAWE (now DCCEEW).	Noted in response to previous AEPARs. The Department's business as usual practice is for interagency engagement with Northern Territory and Australian government departments. Documentation of processes will be review and amended where appropriate.
OFI-22-DE-REC-03	15. cont. ^{^^}	Incorporate into DITT processes consultation with other government agencies on the preparation and implementation of the aquatic ecosystem monitoring program, e.g. NT DEPWS and DAWE (now DCCEEW).	Accepted in response to previous AEPARs. As above.

OFI Ref (Table 4-6)	NT EPA Recommendation [#]	Opportunity for improvement (OFI)	DITT response
Human Health			
OFI-22-DE-REC-04	19. cont.^	Update a future Authorisation to include reference to the results of the air quality monitoring plan to be audited by the Independent Monitor every three years.	<p>An alternative implementation approach given in response to the 2021 AEPAR.</p> <p>While there is no specific condition in the Authorisation requiring the results relating to air quality to be audited; the Authorisation includes a condition requiring submission of an annual Environmental Mining Report (EMR).</p> <p>The Department and operator have agreed that the EMR content will include air quality monitoring results.</p> <p>The EMR is already subject to annual audit by the Independent Monitor.</p>
Matters of National Environmental Significance			
OFI-22-DE-REC-05	21.^	Incorporate a requirement into DITT processes to consult other government agencies on the development of non-lethal monitoring program for sawfish monitoring program, including trigger threshold for investigation and management measures, e.g. NT DEPWS and DAWE (now DCCEEW).	<p>Accepted in response to 2021 AEPAR.</p> <p>The Department's business as usual practice is to facilitate expert input/comment on matters relating to threatened and or protected species, and engage with relevant Northern Territory and Australian Government agencies.</p>

OFI Ref (Table 4-6)	NT EPA Recommendation [#]	Opportunity for improvement (OFI)	DITT response
Closure and Rehabilitation			
OFI-22-DE-REC-06	23.ii [^]	Incorporate a requirement into DITT processes for the independent panel to review the risk of failure of the mine levee wall and the McArthur River diversion channel as part of the closure plan objectives.	Accepted in response to 2021 AEPAR To be included in the Terms of Reference for the Independent Expert Panel.
OFI-22-DE-REC-07	23. cont. [^]	Incorporate a requirement into DITT processes for the independent panel to provide a 3-5 yearly review report on the mine closure plan to assess the trajectory of closure options to DITT and the Independent Monitor. To subsequently be made available to the Operator, government agencies, CRG and the public.	Accepted in response to 2021 AEPAR. Terms of reference for the Independent Expert Panel will address this OFI.
Adaptive Management			
OFI-22-DE-REC-08	27. [^]	Incorporate into DITT processes a mechanism for the Operator's review and synthesis of all monitoring programs and revised monitoring program to be reviewed by the independent panel(s) and the Independent Monitor, and be approved by the relevant regulators, e.g. DITT.	Accepted in response to 2021 AEPAR. Usual business practice is for Mining Officers to address such matters routinely during the review of Environmental Mining Reports (EMR) submitted in accordance with section 37(e) of the <i>Mining Management Act 2001</i> . Also, see response to Recommendation 19 above.

OFI Ref (Table 4-6)	NT EPA Recommendation [#]	Opportunity for improvement (OFI)	DITT response
General			
OFI-22-DE-REC-09	Not applicable [^]	Consider the development of a DITT process or register to assist capturing the NT EPA recommendations details that are not explicitly stated in the Authorisation conditions to ensure implementation of the specific requirements is achieved.	Noted in response to 2021 AEPAR. Consistent with usual business practice a compliance register is maintained for the project.

[^] indicates OFI carried over from 2021 NT EPA recommendations compliance audit

^{^^} indicates OFI carried over from 2020 and 2021 NT EPA recommendations compliance audit

DITT response to Independent Monitor's identified opportunities for improvement regarding the department's regulatory approach

OFI Ref (Table 4-7)	Opportunity for improvement (OFI)	DITT response
OFI-22-DE-REG-01 [^]	Prioritise the establishment of the independent panel of experts for TSF and NOEF to trigger and facilitate independent reviews of the Operator's monitoring program and reporting.	Accepted in response to 2021 AEPAR. Draft terms of reference for independent expert panel have been endorsed by the NT EPA and are to be considered for final approval.
OFI-22-DE-REG-02 ^{^^}	Facilitate an internal DITT 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.	Accepted in response to previous AEPARs. Work ongoing. Annual review conducted with a view to improving relevance and focus of the content of the Environmental Mining Report submitted in compliance with section 37(e) of the <i>Mining Management Act 2001</i> .

OFI Ref (Table 4-7)	Opportunity for improvement (OFI)	DITT response
OFI-22-DE-REG-03^^	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.	Accepted in response to previous AEPARs. Work ongoing. Departmental business practices are subject to regular internal review to achieve efficiencies.
OFI-22-DE-REG-04^^	Improve communication and collaboration with other government agencies (Commonwealth and NT) to align objectives and actions, streamline processes, and improve environmental outcomes.	Accepted in response to previous AEPARs. Work ongoing. Departmental business practices are subject to regular review to achieve efficiencies.
OFI-22-DE-REG-05^^	Reduce reliance on key individuals within DITT to ensure consistency and continuity of compliance and performance.	Accepted in response to previous AEPARs Work ongoing. Recruitment and retention of suitability qualified Mining Officers is a focus of the Department to achieve effective regulation of all projects authorised under the <i>Mining Management Act 2001</i> .

^^ indicates OFI carried over from 2020 and 2021 regulatory approach review