Department of Primary Industry and Resources

Response to the Independent Monitor for the McArthur River Mine Environmental Performance Annual Report 2016

December 2017

Contents

Executive Summary

The Department of Primary Industry and Resources (formerly the Department of Mines and Energy) ("the department" or "the Regulator") has undertaken a review of the Independent Monitor's (IM) Environmental Performance Annual Report 2016 submitted to the Minister for Primary Industry and Resources on 23 October 2017 for the 2016 reporting period at the McArthur River Mine.

The department's comments are focused on the IM's assessment of the performance of the department, in regulating the McArthur River Mine by McArthur River Mining Pty Ltd ("MRM" or "the Operator"). The IM commended the department for continuing regular site inspections and developing comprehensive site inspection reports. However the IM noted that while major issues observed during site inspections were addressed through the issuing of an instruction, there appeared to be no tracking of issues which did not warrant an instruction. The IM concluded that this was a gap in the department's inspection process.

The IM also concluded that since commencing in the role as IM in 2014, a number of specific recommendations to improve the performance of the department had been made by the IM. Progress on implementing these recommendations has been slow and the IM would like to see the department place a higher priority on appropriate action.

In summary the IM recommended the department should:

- continue regular site visits and ensure inspection reports adopt a consistent approach.

- review its compliance audit protocol to define and document 'best practice' for specific areas of the operation and include this as part of the department audit protocol.

- establish a goal that audit reports are finalised within six weeks of the audit being conducted.

- ensure that Mining Management Plan (MMP) commitments are:
    o Reduced and collated into a single list contained within the main MMP document;
    o Specific, measureable, attainable, relevant and time-based.

- ensure that a convention is adopted with regard to a consistent method for referring to the dates of correspondence/documents.

- revise the current MMP review process (including requests for additional information) so as to improve its efficiency.

- establish a database or register that captures instructions issued to MRM, and similar actions.

- investigate further with MRM how incidents and near misses are reported and clarify incident reporting requirements, process and incident ranking.

- facilitate the resolution of GHD's potential conflict of interest given that GHD is both the Independent Certifying Engineer (ICE) and design engineer for the

Tailings Storage Facility (TSF) and promote clarity of roles between the ICE and Independent Tailings Review Board (ITRB).

- prepare a schedule for the Environmental Monitoring Units (EMU) check monitoring and review EMU procedures.

- prepare an action plan detailing how the department's high priority recommendations will be addressed.

- request that MRM submits an action plan detailing how the high priority recommendations will be addressed.

The department welcomes the recommendations made in the IM's Environmental Performance Annual Report 2016. The department accepts all the recommendations and is committed to implementing the recommendations to facilitate continuous improvement.

Since 30 October 2016, the cut off period for the current IM report, the department has taken a number of steps to improve its regulation of mines and in particular MRM. This includes the Mines Division of the department, undertaking a major restructure in August 2017, to introduce the Mining Operations section. This section is in the process of building its capacity to better support the proactive regulation of operating mines. This includes clearly articulating its expectations to operators and refocussing its work program to spend more time on high value regulatory activities, including onsite check monitoring, inspections and audits.

In relation to the regulation of MRM, the department is committed to implementing a comprehensive and effective governance program for ensuring that the recommendations of the IM in relation to both the department's and MRM's operations are addressed in accordance with real risks and in a transparent and timely manner.

Background

In October 2006, the Northern Territory Government (NTG) approved the open-cut expansion proposal for the McArthur River Mine operated by McArthur River Mining Pty Ltd (MRM). A condition of the approval was the appointment of an Independent Monitor (IM) to oversee the environmental performance of the mine. The requirements of the IM are outlined in the *Independent Monitoring Assessment Conditions* (IMAC).

In accordance with the IMAC, the role of the IM is to assess the environmental performance of the mine by reviewing environmental assessments and monitoring activities undertaken by the mine operator, McArthur River Mining Pty Ltd ("MRM" or "the Operator") and environmental assessments and audit activities undertaken by the Department of Primary Industry and Resources (formerly the Department of Mines and Energy) ("the department" or "the Regulator"). The IM is not responsible for assessing mine safety or social matters regarding the operation.

In 2013, a five-year contract for the services of an IM was awarded to the ERIAS Group Pty Ltd (ERIAS Group) from Adelaide.

The IM has provided the Environmental Performance Annual Report 2016 covering the 2016 reporting period of the mine (i.e. October 2015 to September 2016). The report includes information obtained during the IM visit to MRM and to the department in June 2017.

Objectives

The objectives of the IM assessment are to:

- Document the review of environmental performance.
- Report on progress from the previous IM assessment.
- Identify any urgent issues that require investigation and reporting.
- Identify areas of MRM's and the department's environmental performance that require improvement and recommend actions to address these deficiencies.
- Acknowledge areas of MRM and the department's performance that are done well.

Assessment Scope

The roles, responsibilities and activities of the IM, MRM and the department are detailed in the IMAC.

In accordance the IMAC, the IM is required to monitor the environmental performance of the mine (including the Bing Bong Port) by reviewing:

(i) Environmental assessments and monitoring activities undertaken by the Operator.
(ii) Environmental assessments and audits undertaken by the Regulator.

Issues relating to mine safety, social issues, personnel matters, administration matters or governance arrangements resulting from the operation of the mine in the McArthur River region are not included in the assessment.

The assessment of environmental performance addressed a one-year reporting period from 1 October 2015 to 30 September 2016.

Response to the Performance Report

The IM's Environmental Performance Annual Report 2016 for the McArthur River Mine over the 2016 reporting period was submitted to the NTG Minister for Primary Industry and Resources on 23 October 2017.

A review of the Environmental Performance Annual Report's findings was undertaken by the department. The department's comments are focused on the performance of the department in regulating the McArthur River Mine operated by MRM.

Review of the Regulator, Department of Primary Industry and Resources

The IM conducted a review of the department in regulating the environmental performance of MRM under the *Mining Management Act* (the Act) and regulations. This included review of:

1. Compliance auditing and site visits

2. The department's assessment of Mining Management Plan and Amendments

3. Instructions, Investigations and Incidents

4. Expert Advice

5. The department's Environmental Monitoring Unit

6. Previous IM Recommendations regarding the department's performance

1. Review of Compliance Auditing and Site Visits

The IM noted that no formal compliance audits were undertaken during the 2016 reporting period.

However, the IM commended the department on undertaking regular site inspections and noted that for each site inspection the department prepared a comprehensive site inspection report detailing the areas inspected and observations with supporting photographs.

The IM noted that while major issues observed during site inspections were addressed through the issuing of an Instruction, subject to the *Mining Management Act*, there appeared to be no tracking of issues which did not warrant an instruction.

The IM recommendations in relation to compliance auditing and site visits and the department's response is provided in Table 1.

Table 1: IM Recommendations regarding Compliance Auditing and Site Visits (adapted from Table 4.71 of the IM Report), and the department's response.

No.	IM Recommendations	Department Response
Site Visits		
1.1	The department should continue regular site visits and use these to facilitate the exchange of technical information, address information gaps and inconsistencies, and minimise misunderstandings between the two parties	The department accepts this recommendation.
1.2	The department should ensure that field inspection reports adopt a	The department accepts this recommendation.

No.	IM Recommendations	Department Response
	consistent approach to including recommendations and required actions.	
Auditing		
1.3	The department should review its compliance audit protocol to include as part of its assessment of MMP compliance whether MRM is also complying with guidelines, e.g., ANZECC/ARMCANZ guidelines for water quality, rather than simply completing an action, e.g., groundwater monitoring being undertaken quarterly.	The department accepts this recommendation.
1.4	The department should define and document 'best practice' for specific areas of the operation and include this as part of the department audit protocol.	The department accepts this recommendation.
1.5	The department should establish a goal that audit reports are finalised within six weeks of the audit being conducted.	The department accepts this recommendation. The department is committed to providing timely turnaround for site audit and inspection reports, and accepts six weeks as a reasonable timeframe.

2. Assessment of the Mining Management Plan and Amendments

During the 2016 reporting period, the department assessed three amendments to the current approved 2013-2015 Mining Management Plan (MMP) (approved by the then Department of Mines and Energy on 23 December 2015). The IM reviewed these three assessments.

In reviewing the process of approval of these MMP amendments, the IM found that the level of technical review was appropriate and that requests by the department for additional information were detailed. The timeframes from receipt of MRM's request for an amendment to the MMP and subsequent approval were also appropriate and review of the documentation indicated that the department provided timely responses in terms of initial review and requests for additional information.

The IM recommendations in relation to the department's assessment of MMPs and Amendments and the department's response is provided in Table 2.

Table 2: IM Recommendations regarding the Assessment of MMPs and Amendments (adapted from Table 4.71 of the IM Report), and the department's response.

No.	IM Recommendations	Department Response
Mining Management Plan		
2.1	The department should ensure that MMP commitments (and OPR [Operational Performance Report] commitments where applicable) are: • Reduced and collated into a single list contained within the main MMP document • Specific, measureable, attainable, relevant and time-based.	The department accepts this recommendation.
Review of MMP and other approval documents		
2.2	The department should ensure that a convention is adopted with regard to a consistent method for referring to the dates of correspondence/documents. Ideally, reference should be the date of correspondence/ document (and this can be qualified with date received, if required).	The department accepts this recommendation.
2.3	The department should revise the current MMP review process (including requests for additional information) so as to improve its efficiency (and ensure that it is applicable to the OPR). In particular, this should include review of the 2013-2018 and 2013-2015 MMP assessment processes to identify deficiencies in the process and opportunities for improvement.	The department accepts this recommendation. The department has commenced a review of the MMP assessment process.

3. Review of Instructions, Investigations and Incidents

The IM reviewed a number of Instructions issued by the department in relation to requests for additional information to assist the assessment of MMP amendments or were as a result of issues identified during site inspections. The IM also reviewed a number of incidents reported by MRM to the department during the reporting period.

The IM commended the department on the level of detail provided in various comments and responses attached to the various instructions, and the engagement of external specialists to assist in the review of technical reports provided by MRM.

The IM noted that:

- The department did not establish a register of instructions issued to MRM to enable the tracking of the status of MRM's response and key dates.
- A number of incidents reported to the department and the number of incidents recorded in the MRM incident database differs substantially and there appeared to be some confusion when incidents should be reported to the department.
- The classification of incidents varied, with the department and MRM classifying the same incident at different levels.

The IM recommendations in relation to the review of instructions, investigations and incidents and the department's response is provided in Table 3.

Table 3: IM Recommendations regarding the Review of Instructions, Investigations and Incidents (adapted from Table 4.71 of the IM Report), and the department's response.

No.	IM Recommendations	Department Response
Documentation		
3.1	The department should establish a database or register that captures instructions issued to MRM, and similar actions. This should include the date of the instruction, key points, status of MRM's response, and key dates.	The department accepts this recommendation. The department has made improvements to the department's existing Operations Based Information System (OBIS) to include this information. Further improvements will be considered and implemented as required.
3.2	The department should investigate further with MRM how incidents and near misses are reported, and ensure that these are appropriately closed-out with relevant actions being captured in the database referred to above.	The department accepts this recommendation. The department will work with MRM to determine and clearly articulate reporting requirements for incident and near misses. The department's recording of close-out and relevant actions in relation to incidents will be built into the department's OBIS database.
Incident Reporting		
3.3	The department should clarify with MRM incident reporting	The department accepts this recommendation.

No.	IM Recommendations	Department Response
	requirements, process and incident ranking.	

4. Review of Expert Advice

The IM reviewed the department's appointment of technical experts for the review of documentation relating to approvals for mining infrastructure on the site.

The IM supports the engagement of external specialist advice to supplement internal expertise and to facilitate the department's review and approval process.

The IM recommendations in relation to the review of expert advice the department's response is provided in Table 4.

Table 4: IM Recommendations regarding the Review of Expert Advice (adapted from Table 4.71 of the IM Report) and the department's response.

No.	IM Recommendations	Department Response
4.1	The department should facilitate the resolution of GHD's potential conflict of interest given that GHD is both the Independent Certifying Engineer (ICE) and design engineer for the Tailings Storage Facility (TSF).	The department accepts this recommendation. The department is working with MRM to ensure these roles are better defined to eliminate potential conflicts of interest.
4.2	The department should promote clarity of roles between the ICE and Independent Tailings Review Board (ITRB) and encourage MRM to explore possible synergies to ensure that maximum benefit is obtained from their engagement.	The department accepts this recommendation. As for 4.1, the department is working with MRM to ensure these roles are better defined to eliminate potential conflicts of interest.

5. Review of the Department's Environmental Monitoring Unit

The IM noted that the Environmental Monitoring Unit (EMU) collected one groundwater sample and one surface water sample during the reporting period.

The IM recommendations in relation to the review of the department's EMU and the department's response is provided in Table 5.

Table 5: IM Recommendations regarding the Review of the EMU (adapted from Table 4.71 of the IM Report) and the department's response.

No.	IM Recommendations	Department Response
5.1	The department should prepare a schedule for EMU's check monitoring.	The department accepts this recommendation.
5.2	The department should review EMU procedures and include content on the purpose and objectives of the check monitoring site visit.	The department accepts this recommendation.
5.3	The department should prepare a field report for the check monitoring site visit that is provided to MRM. The report should clearly document the objectives of the check monitoring and provide an analysis of results (in the context of MRM's monitoring results).	The department accepts this recommendation.

6. Review of Previous IM Recommendations Regarding the Department's Performance

The IM reviewed the progress and performance of the department in addressing recommendations made during the review of the 2012, 2013, 2014 and 2015 reporting periods. The IM provided a collated list of new recommendations and previous outstanding recommendations that have been brought forward and/or modified from previous IM reports. The IM noted that progress towards implementing previous IM recommendations had been limited. After reviewing the performance of the department in regulating MRM, the IM made one new recommendation regarding clarifying incident reporting requirements. This new recommendation has been included in Table 3 (refer to No. 3.3). The department has provided comment regarding these recommendations in the relevant sections of this report (Tables 1 to 5).

The IM recommendations in relation to the IM's review findings and the department's response is provided in Table 6.

Table 6: IM Recommendations regarding the IM's Review Findings (adapted from Table 4.71 of the IM Report) and the department's response.

No.	IM Recommendations	Department Response
IM review findings		
6.1	The department should prepare: • An action plan detailing how the department's high priority recommendations will be addressed, including a timeline	The department accepts this recommendation.

No.	IM Recommendations	Department Response
	• Quarterly updates on progress towards implementing the high priority recommendations	
6.2	The department should request that MRM submits: • An action plan detailing how the high priority recommendations will be addressed, including a timeline • Quarterly updates on progress towards implementing the high priority recommendations	The department accepts this recommendation.