

Response to the Independent Monitor for McArthur River Mine - Environmental Performance Annual Report 2017-2018 October 2018



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1 Introduction and 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).

The role of the IM is to assess the environmental performance of the mine by reviewing environmental assessment and monitoring activities undertaken by the mine operator, MRM (the Operator) and environmental assessment and audit activities undertaken by the Department of Primary Industry and Resources (DPIR, the Department or the Regulator).

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

The IM provided the Environmental Performance Annual Report 2017 - 2018 (the Report) to the Minister for Primary Industry and Resources in September 2018. The Report presents the IM's findings following a review of MRM environmental performance and the Department's activities as the Regulator during the 17 months from October 2016 and March 2018. The 2017 reporting period represents an increase from 12 to 17 months at the request of DPIR and MRM to reduce the time between the public release of the Report and the end of the operating reporting period, thereby increasing the relevance of the IM's findings to interested stakeholders. The findings and information in the Report are based on detailed review of relevant information provided by MRM and DPIR pertaining to the reporting period including monitoring data and reports, assessments, plans, and consultant reports provided by MRM, and inspection reports, audits, schedules and monitoring data from DPIR. Review of documentation by the IM was supplemented by site visits and face-to-face discussions with relevant DPIR Mining Officers and MRM Environmental Officers.

1.1 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; and
- Acknowledge areas of MRM and the Department's performance that are done well.

1.2 Assessment Scope

The roles, responsibilities and activities of the IM, MRM and the Department are detailed in the mine's Authorisation issued under the *Mining Management Act*. In accordance with conditions of the Authorisation 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; and
- ii. Environmental assessments and audits undertaken by the Regulator.

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

1.3 Response to the Performance Report

The IM's Environmental Performance Annual Report for the McArthur River Mine over the 2017 operational period was made available by the Minister of Primary Industry and Resources to the Department on 2 October 2018. In accordance with the Authorisation the Minister has issued a request to both the Department and MRM for a formal response in relation to the IM report. The Department's and MRM's response are to be included as part of the presentation of the IM findings to the community and interested stakeholders.

The comments presented herein are focused on the IM's comments related to the performance of the Department in regulating the McArthur River Mine operated by MRM.

2 Review of the Regulator

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:

1. Compliance auditing and site visits;
2. The Department's assessment of Mining Management Plan and Amendments;
3. Instructions, Investigations and Incidents;
4. Review of Expert Advice;
5. The Department's Environmental Monitoring Unit;
6. Previous IM Recommendations regarding the Department's performance

The IM's assessment of the Department's performance in relation to each of the above topics is discussed below, together with the Department's response to recommendations made by the IM.

2.1 Review of Compliance Auditing and Site Visits

The IM noted that no formal compliance audits were undertaken during the 2017 reporting period. However the Department conducted eight site inspections during the 2017 reporting period.

The IM commended the regular inspections undertaken by the Department and the comprehensive site inspection reports prepared.

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

Table 1: 2017 Reporting Period IM Recommendations regarding Compliance Auditing and Site Visits and Department's Response (IM recommendations adapted from Table 4.72 of the IM Report).

Subject	IM Recommendation	Department Response
Auditing	The DPIR should review its compliance audit protocol to include as part 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. All assessments currently undertaken by the Department involve review of all available data (including data supplied by the Operator and those held by the Department) against applicable guidelines including ANZECC and ARMCANZ (2000) guidelines.
Site visits	The DPIR should track recommendations or actions provided to MRM in the inspection reports. It would be useful to include a summary table in each inspection report showing progress against previous recommendations or required actions. In addition, DPIR needs to use clear language regarding recommendations/actions as to whether MRM is required to address them or if they are only for consideration.	The Department accepts this recommendation Actions commenced: <ul style="list-style-type: none"> • The recommendations made in site inspection reports prepared since January 2017 have been consolidated into a single document to assist the tracking of progress against the recommendations. • The structure of the site inspection reports has been modified to separate 'Recommendations' and 'Actions' detailed in the reports to clarify matters that require action by MRM.

2.2 Assessment of the Mining Management Plan and Amendments

During the 2017 reporting period, the IM noted five Mining Management Plan (MMP) amendments were requested by MRM. These included:

- Tailings Storage Facility (TSF) Cell 2 Raise 4;
- TSF Cell 1 Stage 4;
- TSF Seepage Interception Trench;
- TSF Water Management Dam Release (WMD); and
- Central West Sump Discharge.

The IM did not provide any non-compliance comments with respect to DPIR's performance in dealing with MMP amendments, however recommendations for improvements in relation to review processes for MMPs and Amendments were put forward -Table 2.

Table 2: 2017 Reporting Period IM Recommendations regarding Assessment of MMPs and Amendments and Department's Response (IM recommendations adapted from Table 4.72 of the IM Report).

Subject	IM Recommendation	Department Response
MMP	The DPIR should ensure that MMP commitments (and OPR commitments where applicable) are: <ul style="list-style-type: none"> • Reduced and collated into a single list contained within the main MMP document; • Specific, measurable, attainable, relevant and time-based. 	The Department accepts this recommendation.
Review of MMP and other approval documents	The DPIR 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.
Review of MMP and other approval documents	The DPIR 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. MMP requirements are under review by the Department for all mining activities.
Review of MMP and other approval documents	The DPIR should ensure that future Requests for Information (RFIs) are requested from MRM in a timely manner.	The Department accepts this recommendation. Actions have commenced to address this recommendation.

2.3 Review of Instructions, Investigations and Incidents

The IM's review in relation to Instructions, Investigations and Incidents noted the following:

- Acknowledgment that regulatory issues were addressed through other available mechanisms as no instructions had been issued during the reporting period;
- Progress by DPIR on previous recommendation by establishing an instructions tracking register to demonstrate instructions issued were successfully closed-out;
- Improvement in incident reporting by MRM and management by the Department, however discrepancies in the date incidents were filed or used in correspondences were identified; and
- Ensuring incidents are closed-out in a timely manner.

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

Table 3: 2017 Reporting Period IM Recommendations regarding Review of Instructions, Investigations and Incidents and Department's Response (IM recommendations adapted from Table 4.72 of the IM Report).

Subject	IM Recommendation	Department Response
Instructions	No recommendation by IM.	Not required
Incidents	The DPIR should clarify with MRM incident reporting requirements, process and incident ranking. The DPIR 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. DPIR notes that a match between the number of incidents reported by MRM and incidents recorded in the Department's database indicates improved understanding between MRM and the Department on incident classification and reporting. The Department will continue to work with MRM in closing out all incidents appropriately.
Incidents	The DPIR and MRM should discuss the recording and reporting of exceedances within the various monitoring programs, in terms of exceedances being considered non-compliances or incidents. The goal of this discussion should be to reach an agreed position whereby appropriate criteria are established, legal requirements are met, an appropriate level of environmental protection is achieved and bureaucratic burdens are minimised.	The Department accepts this recommendation. The Department and MRM have established a forum to manage such issues.
Investigations	No recommendation by IM	Not required

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

Table 4: 2017 Reporting Period IM Recommendations regarding Review of Expert Advice and Department's Response (IM recommendations adapted from Table 4.72 of the IM Report).

Subject	IM Recommendation	Department Response
ICE and ITRB	<p>The DPIR should:</p> <ul style="list-style-type: none"> • Facilitate the resolution of GHD's potential conflict of interest given that GHD is both the Independent Certifying Engineer (ICE) and TSF design engineer; • Promote clarity of roles between ICE and Independent Tailings Review Board (ITRB) and encourage MRM to explore possible synergies to ensure that maximum benefit is obtained from their engagement. 	<p>The Department accepts these recommendations.</p> <p>These matters are currently under review.</p>

2.6 Review of Department’s Environmental Monitoring Unit

The Department’s Environmental Monitoring Unit (EMU) undertook one surface water check monitoring event at MRM during the reporting period. The purpose of the check monitoring activities at MRM, and mine sites throughout the NT, is to provide the Department an independent assessment of water quality (and where appropriate, sediment quality) impacts at the site by comparison of the EMU-based data with environment data supplied by the operator. While improvements relative to the previous IM reporting period were noted the IM provided revised recommendations for EMU related activities. These recommendations, together with Department’s response, are presented in Table 5.

Table 5: 2017 Reporting Period IM Recommendations regarding Review of the Environmental Monitoring Unit and Department’s Response (IM recommendations adapted from Table 4.72 of the IM Report).

Subject	IM Recommendation	Department Response
EMU Check Monitoring	The DPIR should review EMU procedures and include content on the purpose and objectives of the check monitoring site visit	The Department accepts this recommendation.
EMU Check Monitoring	The DPIR 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 the results (in the context of MRM’s monitoring results).	The Department accepts this recommendation. Future monitoring reports will be further enhanced to incorporate these recommendations.

2.7 Summary and comments on new recommendations

The IM's review acknowledged the progress and performance of the Department in addressing recommendations arising from the previous reporting periods and provided a collated list of recommendations that have been brought forward or modified from previous IM reports. The Department's response to these previous IM recommendations are included in Tables 1 to 5.

After reviewing the performance of the Department in regulating MRM the IM made three new recommendations:

- Tracking the actions or recommendations raised through the site inspection reports. The new recommendation, together with the Department's response is provided in Table 1;
- Ensuring requests for further information (RFI) are undertaken in a timely manner. This recommendation, together with the Department's response is provided in Table 2; and
- The Department should consider exceedances to nominated environmental guidelines as incidents or non-compliances and establish MRM reporting and DPIR management requirements. This recommendation, together with the Department's response is provided in Table 3.

Other IM recommendations previously raised that have not already been addressed, together with the Department's response, are presented in Table 6.

Table 6: 2017 Reporting Period IM Recommendations regarding IM Review Findings and Department's Response (IM recommendations adapted from Table 4.72 of the IM Report).

Subject	IM Recommendation	Department Response
IM Review Findings	The DPIR should continue to update the action plan for implementing the IM recommendations and continue to compile quarterly reports.	The Department accepts this recommendation. The Department has continued with this protocol as previously recommended.
Documentation	The DPIR should establish a database or register that captures instructions issued to MRM, and actions or recommendations from the inspection reports. This should include the date of the instruction, recommendations/ actions, key points, status of MRM's response, and key dates	The Department accepts this recommendation. The Department will continue to enhance its administrative protocols in this regard.