

Mine Closure Independent Panel for McArthur River Mine - Terms of Reference

1. Background

McArthur River Mine is an open pit zinc, lead and silver mining operation in the Northern Territory (NT), located approximately 700 kilometres (km) south-east of Darwin, and approximately 45 km south-west of the township of Borroloola. McArthur River Mining Pty Ltd (MRM) is the authorised operator of McArthur River Mine, and is a wholly owned subsidiary of Glencore Plc.

The overarching environmental objective against which successful performance of the mine will be measured during operation and following mine closure is the protection of the health of the McArthur River along its entire length from mine related impacts¹.

In 2020, MRM submitted to the Department of Industry, Tourism and Trade (the department) a Mining Management Plan for McArthur River Mine for approval under the NT *Mining Management Act 2001* (MM Act). The MMP provided an unplanned closure plan and committed to the development of a mine closure plan for the life of mine (LOM) through to closure, with the objectives that the post-mining landscape will be:

1. left in a condition safe and secure for humans and animals; and
2. landforms that are stable, non-polluting and able to sustain an agreed post-mining land use².

These objectives are consistent with achieving effective long term containment of mining waste post closure, or following unforeseen closure, to achieve protection of the environment. Mine closure planning is an integral part of mine planning required for assessment under the MM Act³.

The Mine Closure Panel is a requirement of regulatory approvals to which McArthur River Mine is subject to under the MM Act. The project is influenced by recommendations made by the Northern Territory Environmental Protection Authority in its Assessment Report 86, which were accepted by the Minister for Mining and Industry for implementation. Other regulatory approvals of relevance to operation of McArthur River Mine have been issued including under the NT *Water Act 1992*, and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The importance of the Mine Closure Panel lies in providing external and transparent oversight and reporting to advise the government and the community regarding the status of closure strategies for McArthur River Mine and an assessment of MRM's progress to achieving agreed closure objectives.

¹ NT EPA Assessment Report 86, July 2018, (Executive Summary, page xii) accessible at: [McArthur River Mine | NTEPA](#)

² McArthur River Mine Mining Management Plan 2020 approved 13 November 2020 accessible at: [McArthur River Mine - Mining Management Plan January 2020](#)

³ Section 40(2)(g) of the *Mining Management Act 2001* available at: [Legislation Database \(nt.gov.au\)](#)

2. Purpose

The purpose of the Mine Closure Panel is to *conduct a rolling 3-5 year review of the mine closure plan to assess the trajectory of closure options for MRM site domains and provide a report to the relevant regulator and the Independent Monitor that is made available to the Proponent, government agencies, the Community Reference Group and the public*⁴.

In fulfilling its primary purpose, the Mine Closure Panel will provide the department⁵ responsible for regulation of McArthur River Mine under the MM Act with robust, independent advice regarding planning for the closure of McArthur River Mine and related management.

3. Scope

The Mine Closure Panel is not a decision making body.

The Mine Closure Panel is an independent advisory body, providing advice regarding the:

- i. development of closure and care and maintenance strategies for mine site domains, and the trajectory towards achieving agreed closure objectives; and
- ii. the risk of potential catastrophic failure of the mine levee wall and the McArthur River diversion channel in view of future closure objectives⁶.

Aspects for the Mine Closure Panel to consider in preparing its advice to the regulator under the MM Act are outlined in **Appendix A**.

In the conduct of their duties, Mine Closure Panel members may review relevant management plans, monitoring data and reports.

Any review by the Mine Closure Panel of reports or methodology prepared by MRM would take place as part of the Mine Closure Panel's periodic three to five yearly review and reporting.

At completion of each review, the Mine Closure Panel will submit to MRM and the department a report detailing the findings of its independent expert review.

The Mine Closure Panel will not undertake any contractual review or reporting regarding MRM operations between the three to five year review and reporting periods. It is acknowledged that members of the Mine Closure Panel may engage with the project between reviews for the purpose of maintaining a contemporary understanding of matters of importance. Such interactions will be recorded and provided to the department consistent with the Communication Protocol at Section 9.

4. Panel Membership

The Mine Closure Panel will be chaired by an independent closure expert appointed by the NT Minister for Mining in consultation with the NT Minister for Environment⁷.

The Mine Closure Panel will comprise members who are recognised experts from relevant fields, and will be nominated by the Independent Chairperson.

⁴ NT EPA Assessment Report 86, July 2018, Recommendation 23, as reproduced in Excerpt 1

⁵ The Department of Industry, Tourism and Trade, referred to variously as either the department or the regulator, is responsible for administration of the *Mining Management Act 2001*

⁶ NT EPA Assessment Report 86, July 2018, Recommendation 23, as reproduced in Excerpt 1

⁷ At the time of preparation the corresponding ministerial portfolios are that of the Minister for Mining and Industry and the Minister for Environment, Climate Change and Water Security

Mine Closure Panel members will be appointed by the NT Minister for Mining for each review. Where appropriate, past panel members may be reappointed. The members appointed will bring a diversity of skills, experience and views relevant to mine closure from a range of scientific backgrounds.

While membership of the Mine Closure Panel may be subject to change between three to five yearly reviews, the panel will be convened every three to five years for the life of the project, including during any period of care and maintenance.

To ensure independence is maintained, the intention is that members have:

- no pecuniary interest in McArthur River Mine, and
- had no professional involvement with MRM during the three to five year period under review other than in a peer review capacity.

It is acknowledged there are very few recognised experts with the required specialist knowledge able to fulfil the Mine Closure Panel requirements.

Should members have any (i.e. past/present/proposed) association with McArthur River Mine, the conflict of interest must be declared and reported to the Chairperson. The Chairperson will then make a recommendation to the department. The department will consider the recommendation and, based on available evidence and natural justice, take appropriate action.

The names and credentials of the Mine Closure Panel members will be published on an appropriate NT Government website.

5. Role of Chairperson

The Chairperson is to provide leadership to the Mine Closure Panel, including:

- advising members of their roles and responsibilities as members of the Mine Closure Panel
- developing the scope, content, assessment criteria and timeline for the review (for approval by the department)
- overseeing the preparation and submission of the draft and final reports
- overseeing the receipt of feedback provided by MRM and the department on the draft report and amendment of the report to the extent required to correct factual inaccuracies
- convening and running meetings as required, including overseeing that appropriate meeting records (e.g. minutes) and correspondence are kept
- arranging information requests and discussion with the department, and with other relevant groups through the department (see Section 6)
- being the point of contact for the Mine Closure Panel.

The Chairperson is to be a closure expert in their own right, performing the additional functions as outlined above.

6. Reporting Obligations and Process

The Mine Closure Panel must submit a report to MRM and the department within 12 months of establishment (or otherwise, as agreed with the department); and subsequently on a three to five year basis from the date of the first report submission.

A draft report is to be submitted to MRM and the department for factual review two months prior to its final submission. The department will coordinate expert advice from relevant agencies as appropriate.

Should the Mine Closure Panel need to meet with other independent bodies for the McArthur River Mine (e.g. the panels of independent experts for the North Overburden Management Facility and Tailings Storage Facility) or government agencies (e.g. the Department of Environment, Parks and Water Security, DEPWS) to discuss findings, this should be arranged in consultation with the department and MRM in accordance with the communication protocol outlined in Section 9, to ensure transparency and accountability.

The department will provide a copy of the final report to other regulators, the Community Reference Group and the Independent Monitor, and publish the report on the department’s website.

The relationships between the Mine Closure Panel and various parties relevant to regulatory requirements are depicted in Figure 1.

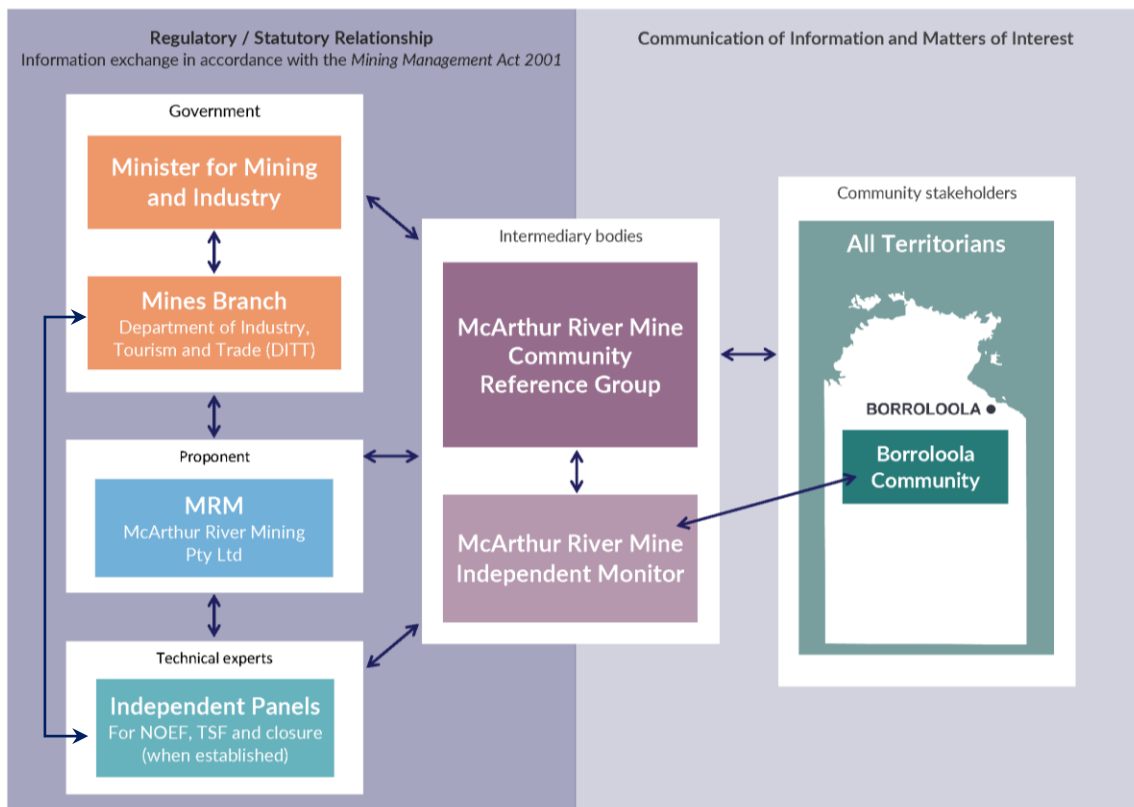


Figure 1: Relationships between governance bodies for the McArthur River Mine

7. Period of Review

The structure of the Mine Closure Panel and its Terms of Reference shall be reviewed every six years⁸ from the date the Terms of Reference are finalised, or sooner, if required. Reviews are to be conducted by the NT Minister for Mining, in consultation with the NT Minister for Environment.

If the Chairperson has concerns about the effectiveness of the Mine Closure Panel, they may refer the matter to the department. The department will consider the concerns raised and determine what action should be taken.

⁸ NT EPA Recommendation 11, as reproduced in Excerpt 1.

8. Obligations of the Operator

MRM is required to:

1. assist as necessary with the establishment and operation of the Mine Closure Panel
2. fund reasonable costs for the Mine Closure Panel
3. organise site visits for the Mine Closure Panel as required to fulfil its role
4. provide the Mine Closure Panel with timely, accurate and comprehensive reports such as, but not limited to, the:
 - annual Environmental Mining Report⁹
 - construction reports and monitoring data
 - approved Mining Management Plan and other relevant plans (including the Adaptive Management Plan)
 - and any other relevant reports in Attachment A.
5. provide the Mine Closure Panel with timely and accurate information as soon as practicable in light of the request made, and in any event no later than 28 days of receiving the request
6. respond to questions asked or advice given by the Mine Closure Panel within 28 days of receiving the request.

⁹ A requirement under section 37(3)(e) of the *Mining Management Act 2001*.

9. Communication Protocol

Table 1 outlines a protocol for any communication that takes place between MRM, the Mine Closure Panel and other relevant bodies. The intent of the communication protocol is to ensure a transparent process is followed and the Mine Closure Panel can be seen to operate independently.

Table 1: Communication Protocol

Relevant Matter	Approved Communication Method	Other Requirements
Request from Panel for reports and data from MRM	Chairperson to contact MRM directly via email	Copy to be sent to the department ¹⁰
Provision of reports and data from MRM by Panel	MRM to provide directly to Chairperson via email	Copy to be sent to the department
Provision of CRG contribution to closure objectives	CRG Chairperson to provide directly to Chairperson via email	Copy to be sent to MRM and the department
Clarification/discussions	Direct discussion between Panel and MRM to address issues raised by Panel Direct discussion between Panel and the department Department to facilitate discussion between Panel and other agencies, other expert panels and the IM	The department to be informed of engagement where it relates to report findings/conclusions
Provision of draft reports/findings by Panel	Chairperson to issue directly to MRM and the department	The department to circulate to the Independent Monitor and Community Reference Group as appropriate
Provision of comments on draft reports/findings by MRM	MRM to issue to Chairperson	Copy to be sent to the department
Provision of comments on draft reports/findings by the department	The department to issue to Chairperson	Copy to be sent to MRM
Provision of final report by Panel	Chairperson to issue to MRM and the department	The department to distribute report to DEPWS, Independent Monitor and Community Reference Group and publish the report on the department's website
Panel site visits/other meetings	Chairperson to inform the department of proposed site visits/meetings and arrange with MRM directly	The department to be offered the opportunity to participate in site visits/meetings

Other communication methods not outlined in this protocol may be used upon endorsement by the department.

Relevant Excerpts

Excerpt 1 – NT EPA Assessment Report 86 Recommendation 23¹¹

Approvals and decisions in relation to the proposal will include conditions requiring the Proponent to provide funding to establish and operate a panel of independent experts to:

- i. review and advise on the development of closure and care and maintenance strategies for mine site domains, and the Proponent's trajectory towards achieving agreed closure objectives*
- ii. review the risk of potential catastrophic failure of the mine levee wall and the McArthur River diversion channel in view of future closure objectives.*

The panel shall be formed:

- iii. with an independent chair, appointed by the responsible Minister in consultation with the Minister for Environment and Natural Resources*
- iv. on the advice of the relevant regulator/s and the Proponent.*

The panel shall conduct a rolling 3-5 year review of the mine closure plan to assess the trajectory of closure options for MRM site domains and provide a report to the relevant regulator and the Independent Monitor that is made available to the Proponent, government agencies, the Community Reference Group and the public.

Terms of Reference for the panel shall set out the terms for roles and responsibilities, membership, timeframe for commencement and scope, reporting obligations and transparency and accountability. The Terms of Reference shall be finalised by the responsible Minister, in consultation with the Minister for Environment and Natural Resources acting on advice from the NT EPA, within 12 months of authorisation of the Proposal.

The structure of the panel and its Terms of Reference shall be reviewed by the Responsible Minister, in consultation with the Minister for Environment and Natural Resources every six years from the date the Terms of Reference are finalised.

¹⁰ The department refers to the department that is responsible for administration of the *Mining Management Act 2001*

¹¹ NT EPA Assessment Report 86, July 2018 - Executive Summary page xxi - accessible at:
https://ntepa.nt.gov.au/__data/assets/pdf_file/0004/553081/mrm_overburden_assessment_report.pdf

Appendix A: Matters for consideration by the Mine Closure Panel

The key matters for consideration by the Mine Closure Panel in their review of closure for McArthur River Mine under three scenarios against the objective of protecting the health of McArthur River from mining related impacts are to include:

- a) the development of closure and care and maintenance strategies for mine site domains, and the trajectory towards achieving agreed closure objectives
- b) the risk of potential catastrophic failure of the mine levee wall and McArthur River diversion channel in view of future closure objectives¹².

The three closure scenarios nominated being:

1. temporary cessation of mining (care and maintenance)
2. permanent unplanned cessation of mining, and
3. permanent planned cessation of mining.

The Mine Closure Panel may consider for each mine domain, where appropriate and relevant, the following:

- NT EPA Assessment Report 86
- Authorisation 0059
- approved MMP, including MMP amendments
- closure plans (including unplanned closure plans)
- outputs of the independent panels of experts for the North Overburden Emplacement Facility and Tailings Storage Facility
- outputs of the McArthur River Mine Community Reference Group
- Independent Monitor annual environmental performance audit reports
- Independent Monitor reviews of McArthur River Mine Environmental Monitoring Plans (EMPs)
- outcomes of site-specific trials
- Environmental Mining Reports
- EMPs, including the Adaptive Management Plan (AMP).

The Mine Closure Panel is to report for each closure scenario (care and maintenance, unplanned closure and planned life of mine closure):

1. the appropriateness of the closure objectives and criteria in being able to demonstrate each mine domain (including mine levee wall and diversion channels) is safe, stable and non-polluting
2. the adequacy of the management strategies for each mine domain assessed against the closure objectives and criteria and the overarching objective of protecting the health of McArthur River from mine related impacts
3. any site-specific trials required to address knowledge gaps and timeframes for completion
4. the adequacy of proposed maintenance and monitoring (including monitoring timeframes).

¹² Recommendation 23, NT EPA Assessment Report 86