

Gippsland Environment Group thanks the Panel for the opportunity to respond to the following documents, submitted by the proponent on 18 July 2014:

- Changes/clarifications to the Work Plan;
- Parameters for the role of the Independent Technical Reviewer.

Independent Technical Reviewers process

We have the concerns with the way that the Independent Technical Reviewers (ITRs) are proposed to be used in the process for the following reasons:

1. The ITR is not sufficiently independent or accountable
2. The process involving the ITR is not transparent, and means that the public and the Inquiry Panel will not have the opportunity to review and comment on several important aspects of the project, contrary to the EES Guidelines.
3. The aspects of the project that the ITR are reviewing have significant implications for the environmental impacts of the project: therefore, it is important that the work of the ITR be subject to scrutiny and expert review.

These concerns are described in more detail below:

1. The ITR is not sufficiently independent or accountable

Following public consultation and formal hearing, DSDBI and the EPA have recommended, and Stockman has accepted, that the Draft Work Plan should be amended by Stockman and reviewed by the ITR.

The ITR is a group made up of members with a range of expertise in the fields of surface and groundwater quality, and knowledge or experience of the Tambo Catchment. The ITRs will be appointed by Independent Stockman Project Pty Ltd (Stockman) with the endorsement of the DSDBI.

As the ITR will be made up of members appointed by Stockman, a private corporation, the members will only be accountable to Stockman. The ITR will not be accountable to the public. Without the ability of the ITR to be held accountable by the public, the independence of the ITR (from Stockman) is questionable.

This lack of independence is concerning because the amended work plan states the ITR is to 'supplement' the in-house expertise of the DSDBI and the EPA, and that the DSDBI will "adopt" the ITR's findings to satisfy itself that the work plan and licence are being complied with. The DSDBI and the EPA, as government authorities, are accountable to Minister, who is accountable to the Parliament and the public. It is therefore appropriate that responsibility for making decisions on a project that has the potential to have significant impacts on the environment is made by the DSDBI and the EPA. This should ensure that any exercises of discretion as to technical matters are made in the public interest.

As explained above, the ITR is not accountable to the public in the same way, and as employees of Stockman, can be expected to act in the interests of Stockman. To the extent that the amended work plan proposes outsourcing responsibilities and decisions to the ITR that should be made by the DSDBI and the EPA, the use of the ITR is inappropriate.

2. The process involving the ITR is not transparent, and means that the public and the Inquiry Panel will not have the opportunity to review and comment on several important aspects of the project, contrary to the EES Guidelines

According to the EES Guidelines, the general objective of the EES process is “to provide for the transparent, integrated and timely assessment of the environmental effects of projects capable of having a significant effect on the environment.” The specific objective as to transparency states to provide for the transparent assessment of potential environmental effects of proposed projects, in the context of applicable legislation and policy, including principles and objectives of ecologically sustainable development”. One of the guiding principles of ecologically sustainable development, as per the EES Guidelines, is “(g) the need to facilitate community involvement in decisions and actions on issues that affect the community.”

In sum, the Guidelines make clear that the EES process is to involve meaningful public participation in decisions subject to EES processes.

At present the approval process is at the point where after the 25 July 2014 all public consultation regarding the Project will cease. Any further revisions and decisions regarding the Project will be undertaken without public consultation. In addition, the Inquiry Panel appointed to prepare a report, if it adopts the proposal submitted by the proponent on 18 July 2014, will not have the opportunity to review several important aspects of the proposal. Finalisation to the Work Plan will be made by Stockman, reviewed by the Independent Technical Reviewer (ITR), and approved by the DSDBI.

The EES Scoping Requirements requested details regarding groundwater, surface water, soil, geochemistry, and the generation and storage of mine waste. Stockman attempted to address these issues in the body of the EES and in more detail in the Draft Work Plan, in the appendices of the EES. It is proposed that important detail of many of these issues will now be dealt with by Stockman and the ITR, without further public involvement, or review by the expert panel. Important issues that are proposed to be dealt with outside the EES process include the final design of the Tailings Storage Facility and the gathering of baseline data, including on surface and groundwater.

We submit a better process would be for several of the important details that should have been in the EES and are now proposed to be dealt with via the work plan and the ITR, to be prepared, re-exhibited, and subject to further written submissions by the public, and review by the panel. We submit that the Panel should recommend such a process in their report to the Minister. We note that the Minister can require a Supplementary EES be prepared under s5 of the Environment Effects Act (1978).

3. The aspects of the project that the ITR are reviewing have significant implications for the environmental impacts of the project: therefore, it is important that the work of the ITR be subject to scrutiny and expert review.

Broadly, the ITR will:

- a) review the design and construction of the tailings storage facility (TSF); and
- b) review surface and groundwater monitoring and quality.

The design and construction of the TSF is important as failing to design and construct the TSF to a high standard would result in adverse and detrimental environmental impacts. These impacts would not be located to the mine itself, but would impact on the surrounding environment both above and below the surface. Likewise, the mine has the potential to have a significant impact on surface water and groundwater. The potential impacts would not be confined to the mine site but would impact on the surrounding environment.

Given the potential for the mine to have significant impacts on the surrounding environment, it is necessary that the final design and construction of TSF and the review of surface and groundwater monitoring and quality be undertaken by a public authority, who has a responsibility to the public at large and which is subject to public scrutiny. In addition, as discussed above, we submit that these aspects of the proposal would benefit further scrutiny by the public and the Inquiry Panel.

Amendments to the work plan

Environmental Quality Objectives

With regards to Environmental Quality Objectives (EQO) for groundwater and surface associated with the TSF, the revised position for the Work Plan is that the EQOs will not be established prior to the lodging of the final Work Plan. Instead, a 'process for establishing the EQOs will be detailed in a monitoring program included in the [W]ork [P]lan'.

An understanding of the baseline EQO values for surface and groundwater associated with the TSF are essential to an understanding of the environment prior to the expansion of the mine and the environment after the expansion of the mine. This understanding is necessary to ensure the environment is not adversely affected during the expansion and operation of the mine and after the mine ceases to operate. It is also necessary to ensure Stockman is compliant with mine specific environmental issues. By not establishing the baseline value of the EQOs for surface water and groundwater associated with the TSF, there will be insufficient information about the values of the baseline EQOs in the Work Plane. As the Work Plan forms the basis for ensuring Stockman is compliant with environmental issues, a lack of EQOs does not allow for Stockman to be held to account for any potential environmental damage caused at a later date. It is therefore recommended the EQOs for surface water and groundwater are established and submitted with the final work plan.

Surface Water and Groundwater Monitoring Plans

The mine, and in particular the TSF, has the potential to adversely surface water and groundwater. It is therefore necessary to include a detailed surface and groundwater monitoring plan in addition to the surface water and groundwater EQOs for the mine in the Work Plan, and/or the EPA licence, so that any monitoring plan is enforceable.

External Third Party Review of TSF

The revised position for the Work Plan indicates that the ITR will be undertaking the review of the design and construction of the TSF. However, it is also proposed that the ITR will be undertaking the 'third party reviews for the ANCOLD purposes'.¹ The independence of the ITR to perform both

¹ Herbert Smith Freehills, *Clarifications / additional matters to be addressed within the Work Plan*, Issue 11.

functions is questionable. In addition the ANCOLD guidelines require periodic and comprehensive assessments to be undertaken of the TSF. These assessments need to be undertaken at intervals of 2, 5 and 20 years.²

Issues:

- Will the ITR be around for the entire life of the mine?
- If Independent Stockman Project Pty Ltd closes who will appoint the ITR members and who will undertake the monitoring?

Water discharge criteria

The draft Work Plan states that excess water cover will need to be removed from the TSF prior to construction of the Stage 1 lift. It is proposed that the excess water be discharged to the environment if it meets the required discharge criteria, or if that is not possible the water will be treated or a coffer dam built.

The revised position for the Work Plan is that a 'Trigger Action Response Plan will state that supernatant water is not to be discharged from the TSF until a section 30A emergency approval has been obtained from the EPA or until the supernatant water has been treated to bring the water quality within EQO levels.' If TSF supernatant water is discharged, prior to or during the construction of the Stage 1 lift, under a section 30A emergency approval, then supernatant water could be discharged which does not meet the EQO's, firstly because it is not a requirement of a section 30A emergency approval, secondly because the revised position for the Work Plan is that the EQO's will not be determined until after finalising the Work Plan.

It also not possible, as referred to above, that the supernatant water be 'treated to bring the water quality within EQO levels' prior to discharge, as the Work Plan does not include any plan to install a water treatment plant. It is imperative therefore that the EQO's are established before the final Work Plan is completed. The Work Plan must designate that TSF water should not be discharged at any time if it does not meet the EQO's. To ensure that supernatant water that fails to meet EQO levels will not be discharged to the environment, the Work Plan should require Stockman to construct a water treatment plant prior to construction of the Stage 1 lift.

Feasibility Study for the Installation of a Water Treatment System post-closure

Although Stockman explains that it has committed not to discharge supernatant water from the TSF post-closure unless it meets relevant EQO's for surface water, the manner in which this commitment will be undertaken has not been specified by Stockman. The EPA has recommended that Stockman undertake a feasibility study for the installation of a water treatment system, and this should be

² Herbert Smith Freehills, *Clarifications / additional matters to be addressed within the Work Plan*, Issue 11. And also addressed at Issue 8, however, it is stated that in 20 years the assessment will need to be undertaken through the State post closure trust fund.

detailed in the Work Plan. We submit that a better option would be that the Work Plan requires installation of a water treatment plant prior to any works beginning at the TSF site.

Yours sincerely

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