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Dear Sir/Madam

MMSD DRAFT REPORT

Thank you for the opportunity to comment on the above report which provides a good overview and description of the significant number of issues relating to the sustainable development of the mining sector.

As you will be aware Australia is comprised of a number of States and territories, with this State being responsible for a significant proportion of Australia's minerals production. The Western Australian Government has created a single agency, the Department of Mineral and Petroleum Resources (MPR), to advance and manage the responsible development of the State's minerals and petroleum resources.

MPR considers that it is essential for the minerals industry to equip itself to address sustainability issues in terms of the co-ordination of the economic, social and environmental aspects associated with mining developments. The MMSD project makes a valuable contribution by providing advice on each of these issues. It is also recognised, as noted in the report, that this is just the first step of the process in highlighting issues that require more detailed consideration that is outside of the scope of this report.

Whilst recognising the boundaries of the MMSD project, attached for your consideration are a number of comments MPR has developed which, if adopted, should help to improve the credibility of the report and the willingness by industry, governments and the community alike to adopt and move forward with the recommended actions for change.

I wish you well with the remainder of the project, and would welcome the opportunity to comment on further drafts of this report as they are developed.

Yours sincerely

Jim Limerick
DIRECTOR GENERAL

17 April 2002

COMMENTS ON GLOBAL MMSD DRAFT REPORT DEPARTMENT OF MINERAL AND PETROLEUM RESOURCES

General

As a general comment, the report provides a good description of the issues associated with the sustainable development of the minerals sector. In this regard, it serves its purpose as a basis for future discussion of these issues in various global forums on sustainable development. It is suggested that certain chapters of the report would benefit from review to improve their impact through a “tightening up” of the issues and arguments raised and development of a more structured form of presentation.

Chapter 4: The Need for and Availability of Minerals

Need Versus Demand Page 4-3

The definition of need should be reworked. Whilst this definition purports to be associated with an economic interpretation, economic needs are more intrinsic. Economic “needs” in terms of consumption relate to the use of a product or service where it is required to meet basic living standards such as food, shelter, safety, etc. Accordingly, these needs are not necessarily restricted to situations where all persons consuming the good or service are willing to pay a price that provides an adequate return to a producer. A good example of this is the provision of public goods such as police services, defence, etc.

Physical Measures Page 4-7

The material outlined in Table 4-2 referring to life expectancies of resource bases would appear to be problematic, particularly under the scenario of zero growth in primary production. The life expectancies under this scenario seem to be very high and should be reviewed to ensure they provide an accurate indication.

Assessing Long-term Availability Page 4-11

The first paragraph of this section refers to the use of high pressure acid leaching which if successful could significantly change the economics of nickel recovery from laterites. This section should be changed to recognise that these techniques are already being used in commercial production, for example at the Cawse, Bulong and Murrin Murrin nickel projects in Western Australia.

Chapter 5: Case Studies on Minerals

Metals Overview Page 5-7

The material relating to gold in Figure 5-3 on metal consumption requires review to indicate the special case nature of gold as a store of value, and the fact that whilst its end use is largely related to jewellery production, significant reserves are held for investment purposes (for example the significant purchases of gold

in Japan recently as a consequence of concerns regarding the performance of the country's banking and financial systems).

Lead Page 5-16

MPR considers that the references to the high recycling rates for lead would be strengthened with the provision of some indicative figures in the statements made.

Steel Page 5-17

To assist in illustrating the strong contribution of Electric Arc Furnaces (EAF) to the recycling of steel scrap in the production of steel, more detailed information, statistics and graphs on these activities and rates of recycling would be very useful.

Gold Page 5-18

MPR is concerned at the heavy emphasis that is placed on gold in this chapter considering case studies of minerals in relation to sustainable development. It is considered that this heavy emphasis is unwarranted and that, accordingly, this section of the report should be reduced in size and detail.

Assessing the Need for Gold Page 5-25

This section of the report details the equity arguments and impacts associated with reduced gold production in terms of social displacement in affected communities. It is considered that such arguments are not just particular to gold but to all commodities, and so should be removed from this section and considered elsewhere in the report.

Coal - Factors Affecting Coal Use Page 5-28

The last paragraph of this section refers to the contribution of coal combustion to carbon dioxide emissions and the growing trend towards the use of alternative energy sources. MPR considers that given the importance of this issue, and the greenhouse debate in general, it should be discussed at the front of this section of the report rather than being left to a final reference.

Chapter 6: Viability of the Minerals Industry

As a general point MPR notes that this chapter of the report is reasonably long and fairly unstructured. It is considered that it would benefit from being reviewed to produce a series of tighter arguments with direct relevance to the sustainable development of the mining industry.

The Business Case for Sustainable Development Pages 6-3 and 6-4

MPR considers that the material presented in this section should be reviewed to provide more definition of the impacts of each of the issues discussed in terms of the business case for sustainable development, as opposed to simply highlighting the issues involved. This would be assisted through further information in the examples provided, as with the first case of Cameco's investment in tertiary education and training for aboriginal children. If this clearly demonstrated the positive impact of this investment on Cameco's business results/outcomes it would enhance this area of the report.

MPR is also concerned at the example provided under the heading relating to goodwill for the balance sheet, as detailed on page 6-6 of the report. The contribution made by Hamersley Iron (and other mining companies) to the development of mining towns and associated infrastructure was largely a feature of the development of the iron ore industry in Western Australia during the 1960s and early 1970s. These actions reflected the outcomes of a process of agreement on obligations and mutual undertakings by the State Government and the companies concerned, as legislated through State Agreement Acts, rather than simply being acts of goodwill by the companies. As an example, in return for these undertakings companies often negotiated reductions in the rates of royalties paid to the State Government. Given that this information is not accurate, not indicative of current practices in the Western Australian resources sector nor of current government policies, this example should be removed from the report.

MPR would also question the existence of a relationship between market advantage and the sustainable development of the mining sector. It is suggested that this item be removed from the report.

The description of the understanding by mining companies of sustainable development issues is also considered to be weak. The statement that mining companies have taken the first critical step towards sustainable development by acknowledging its importance to the industry would appear to be given undue emphasis. MPR would argue that a critical first step requires more than just a recognition of the importance of the issue.

Sustainable Development: Enhancing Shareholder Value Page 6-10

MPR considers that this section of the report would benefit from the removal of excessive descriptions of issues relating to the need for companies to adhere to basic environmental, social and humanitarian standards if they are to continue to operate in the marketplace. Questionable practices leave the company exposed to financial risk and the nature of financial markets will generally move to address these contingencies. It is recognised however, that there is a push for greater recognition of sustainability issues (as well as actions by companies to address these issues) at the individual shareholder level and within international forums such as the IMF, World Bank and WTO.

In more specific terms, the reference on page 6-12 of the report to site-specific risks should also include the risks associated with being a market leader or initiator and trialing new or unproven technologies. These risks can have significant financial implications if adverse circumstances eventuate. The example of the Bougainville copper mine in terms of site specific risks is also problematic, as it refers to funds invested to address social and environmental impacts of the mine acting to serve and protect shareholder value. In this case, expenditure of these funds was a necessity, rather than a discretionary expenditure, in order to allow for the continued operation of the mine.

The description in this chapter of the costs incurred by companies in addressing social development issues (on pages 6-15 and 6-16) is considered to be important and worthy of further discussion. The report implies that corporate contributions to sustainable development should continue to be negotiable. This position should be further explained and justified. It is also important to recognise in this discussion that there are some prescriptive elements that must be complied with in order for development to proceed, (e.g. in Australia's case, native title clearances and environmental approvals).

The positions outlined in this section of the report must also be reconciled with those expressed elsewhere in the report, which would seem to recommend more onerous sustainability requirements in areas such as mine closure planning, which if supported would inevitably become prescriptive requirements of future development approvals.

Minerals Companies and their Employees

Mine Closure Page 6-20

As noted in the comments below, the report seems to place a heavy degree of emphasis on the requirements for mining companies to take responsibility for the continued employment status of their workers beyond mine closure. As discussed below, MPR considers that whilst some companies will inevitably undertake such a role as a good corporate citizen, any prescriptive requirements beyond this voluntary action would appear to be unwarranted. It is recognised however, that companies do have an obligation to consult and work with the local community to manage the broad impacts of their mining activities, at all stages of the development of the project, including mine closure.

Understanding the Health and Safety Effects of Mining Page 6-21

This section of the report appears to be fairly superficial and it does not give consideration to a number of related issues including the health effects associated with the use of mineral products and the storage of by-products/wastes of minerals production and spent fuels.

Initiatives to Reduce Risk and Maximise Improvements Page 6-25

This section of the report needs to recognise the issue of working hours of employees within the industry and any impacts this may have on requirements for risk management.

The Role of Technology Page 6-28

As noted elsewhere in these comments, the reference to significant developments in high pressure acid leaching (Box 6-3 A Developing Technology for Nickel Production) requires modification to reflect its current commercial application in nickel extraction techniques.

The Financial Sector Page 6-30

This section of the report appears to be considerably detailed and MPR would question the need for such an extensive amount and level of information in a report of this nature.

Chapter 7: The Control, Use and Management of Land

Overall this chapter provides a good assessment of the principles to be adopted. However the emphasis is negative, referring to poor consultation with local communities with Governments frequently not taking the appropriate level of responsibility of governing for the benefit of the local people.

It is considered that this section would present a more balanced view if recognition of the many good examples (used in many jurisdictions) to progress improved land management in a sustainability context was also included.

Integrated Land Use Planning Page 7-10

In terms of discussion in this area it should be noted that any integrated approach to land use planning should include an assessment of mineral prospectivity, both for metallic and energy minerals and basic raw materials for building, roads etc. The aim should be to ensure that continuing access for exploration is not denied by land use decisions.

Land Tenure and Mining Law Page 7-12

In this discussion it should be noted that the achievement of “prior informed consent freely given” on behalf of community members may be difficult in all cases due to the particular views of individuals. Even in developed economies with well structured decision making systems, there will be some representatives who are always opposed to mining. The key in this regard is to ensure that mechanisms are in place to ensure provision for a suitable return to the community and project modification to achieve overall community objectives.

Royalties and Compensation Page 7-13

This area of the report should make clear that whilst there will be pressure by local communities for royalties from adjacent mines to be paid directly to them, the notion of property rights provides that the mineral resources within these areas are vested with the Government (on behalf of the community). Accordingly, Government must retain the role of collection of payments/royalties

for the use of these resources and distribution of these funds that have been collected, however responsibility for this collection can be delegated as discussed in the comments below on Chapter 9.

Protected Areas Page 7-29

The report notes the efforts by the conservation community to push for a moratorium on mining within World Heritage Sites and Protected Areas. MPR is concerned at the statement within the report backing such a proposal on the basis that it would restrict access to “merely 4% of the land”. It should be recognised that it is the same geological framework that has resulted in the features suitable for conservation protection that also commonly lead to high mineral prospectivity.

The experience in Australia is that exploration and mining can take place within or adjacent to World Heritage Areas and areas of high conservation value without causing their deterioration. Examples in this regard include the Ranger Uranium Mine in the Kakadu World Heritage Area in the Northern Territory; Shark Bay solar salt operations in the Shark Bay World Heritage Area, Western Australia; and the Marandoo Iron Ore mine in Karijini National Park, Western Australia. Specific conditions are set for exploration in or adjacent to protected areas. For those areas where the special conservation values are not able to be maintained even with high levels of management, access is denied.

The Challenges Page 7-33

This section of the report discusses the need for a review of the continued need for protected area categories of specific land areas. It is suggested that if this approach is to be adopted it should not be conducted in isolation, but rather as part of overall land use management planning for the area/region concerned.

The Way Forward

Integrated Land Use Planning Page 7-35

The discussion in this area notes that the land use planning process should recognise legal patterns of land ownership and also the reality of existing land usage, along with the expectations of local communities in this regard. MPR considers that such planning processes should also make provision for mineral and basic raw material assessment before decisions are taken that could exclude future resource access.

Indigenous Territories Page 7-35, 7-36

MPR would recommend that the creation of an international body for indigenous people involved with the mining industry as proposed in this section need not be a separate organisation. It is desirable to have a focus point for discussion of mining related issues affecting local indigenous people, but this could be part of a broader international forum’s program aimed at improving interactions between indigenous people and their Governments. The development of principles for entry to indigenous people’s lands is supported, but these principles would need

to recognise the role of national Governments to decide on appropriate access approaches in particular situations.

Protected Areas Page 7-39

MPR would support the development of guidance documents for “better practice” in both exploration and mining in sensitive areas as proposed in this section. (Australia would be a key contributor in this regard and would be able to provide a good range of examples.)

Chapter 9: Local Communities and Mines

This chapter provides a good overview of community issues that need to be recognised when considering mining developments on a global scale. As a general comment many of the issues highlighted would appear to be a reflection of the impacts of regulatory frameworks and processes, rather than the activities of the mining industry.

Revenue Distribution and Use Page 9-21, Page 9-24

Given the comments above, from a Western Australian perspective MPR considers that where possible the current arrangements whereby rents and royalties obtained from the development of mining projects are directed to the Central or State/Provincial Government should remain. This is to ensure that the benefits from mining of the State’s resources are distributed equitably throughout the community, in situations where appropriate regulatory frameworks are in place. If localised rent/royalty arrangements were allowed to replace these arrangements entirely it may create a situation whereby there are wealthy communities in close proximity to mines with good infrastructure, but very poor infrastructure and Government services located elsewhere.

A local administrative structure can take over the role of redistribution of income from a mine as long as it is part of an agreement as to the amount going to the Central/State government. In Western Australia, as well as rents being paid for mining titles going to the State Government, these rentals are used as a basis for calculating rates levied by local government. In addition, private arrangements are made between native title claimants/holders and companies negotiating over the grant of exploration or mining titles. Under the Native Title Act 1993 (Commonwealth) negotiated outcomes are provided for, or if not achieved, an arbitrated outcome which does not involve financial considerations. Compensation is also available to native title holders who can demonstrate that their interests have been affected by mining or exploration.

The Way Forward

Community Sustainable Development Plans Page 9-45

MPR considers that whilst the formulation of Community Sustainable Development Plans may be useful for large or long term mining operations, it would not necessarily be appropriate for all mining operations (particularly small

scale projects). It is considered that if such plans are to be developed, they should be an outcome of the social impact assessment (SIA) process in addressing/implementing the issues/actions raised by the SIA.

Roles and Responsibilities - Government Page 9-47

MPR supports the suggestion that Government should be involved in the SIA process, desirably being a reviewer of the assessment and being closely involved in the development of a Community Sustainable Development Plan.

Chapter 10: Mining, Minerals, and the Environment

MPR is concerned that overall the language in this chapter is very negative towards the minerals industry and will be unhelpful to industry's considerable efforts to improve its image in the wider community.

The document appears to have deliberately reviewed the worst case scenarios (eg Ok Tedi) when citing past industry practices that have had negative environmental impacts. This approach will amplify general society's degree of discontent with the mining industry and may severely constrain the development of improved understanding between stakeholder groups. MPR believes it may be useful to review the document and supplement those negative examples with others where best practices have been successful in averting problems or completing suitable rehabilitation.

The report should also elaborate on the role of the mining and minerals industry in the sustainable development agenda. This discussion should emphasise the fact that it would be almost impossible to visualise progress of humankind without the contribution made by the minerals sector. A large percentage of societal advances have been and continue to be inextricably reliant on products emanating from this sector. Mineral industry research and development continues to be driven by societal demands such as cleaner, more energy efficient technologies and new lighter, stronger materials. New products arising from such research help maintain the sustainability of the resource sector and provide a valuable aid to societal progress.

Introduction Page 10-2, 10-3

The introduction is spread throughout with negative statements, with five of the six paragraphs on page 10-3 being quite damning of the minerals industry in general. MPR believes the introduction should convincingly acknowledge that the mining industry is driven by the ready market provided by consumer demand for supply of its products. Many of those products form the basis of the material goods required to sustain the social and economic well-being of modern society. The introduction could be restructured to contain some up front positive statements referencing the vast change in attitude and practices that have occurred in industry as it endeavours to minimise negative environmental impacts. These positive changes have been brought about through a number of pressures, some of which are self regulation, changing attitudes of professional bodies, public pressure, an increase in statutory regulations and the realisation

that responsible (environmental) behaviour is a vital component of good business practice.

It would also be of value for the introduction to mention the footprint left on the environment by stock grazing, forestry, urban development, farming, tourism, and other human activities. By comparison, some of those activities have had and continue to have far greater negative environmental impacts than mining, particularly if the effects of land clearing (salinity, erosion, habitat loss), pesticides, and fertilisers are considered.

Managing the Mining Environment Page 10-5

This section of the report makes statements that may lead to unrealistic community expectations in terms of the rehabilitation capabilities of mine sites, for example the statement on page 10-5 “But in the majority of cases, there is still a long way to go before a mine can be seen as contributing to eco-system improvement.” It is suggested that this area of the report could be reworked to emphasise the considerable progress made in this area to date. The Western Australian mineral sands industry is a good example of the improvements and best practice techniques that have been developed in the area of mine site rehabilitation.

Mine Closure Planning Page 10-18

MPR queries to what extent the minerals industry could be expected to develop a sustainable existence for communities on mine closure. There do not appear to be similar expectations placed on other private sector non-mining industries to make this sort of commitment. Accordingly there seem to be no precedents for the expectation that private sector mining companies should contemplate this level of commitment.

Some operations have a long mine life that may result in the growth of a substantial township with related infrastructure and service provision in which case the community may survive following mine closure. There are many other cases where this would not be feasible, particularly where a mine site is in a remote location, operated on a fly in fly out basis or has a short mine life. It should be recognised that a healthy minerals industry contributes to the sustainable existence of communities by generating alternative job opportunities elsewhere within the industry, and also funding the provision of social infrastructure either directly or indirectly via taxes and royalty payments.

Environmental Management

Managing Biological Diversity Page 10-44

Grass roots exploration is a very costly exercise. Most exploration programs carried out fail to find economic ore bodies. MPR believes it is unrealistic to suggest that an EIA be carried out to establish baseline biological data before undertaking grass roots exploration which would generally have minimal environmental impacts. Added to the already high costs involved in executing an exploration program, the additional cost involved in an EIA would be problematic

for the exploration companies concerned. MPR believes that implementation of such a proposal for all exploration/mining activities would be a large disincentive to explorers already finding it difficult to raise venture capital to conduct their business activities.

Chapter 16: Agenda for Change

The Minerals Industry

Review End-of-Life Plans at Existing Operations Page 16-7

The report makes reference to the need for consultation with key stakeholders with an interest in the future of the local community, including local government. MPR considers that, in terms of communities associated with mining projects, there will be a need for consultation at all levels of government. The increasing complexity of approvals systems mean that these authorities have a role to play in granting approvals and setting of project conditions, which invariably has an impact on the interaction of the project with the local community. This consultation is vital at all levels if closure plans are to build on and supplement government planning processes and requirements as noted in the report.

Labour

Community-Level Co-operation Page 16-13

MPR is concerned that this section of the report is unclear regarding the use of the term “agreement”, which may imply mandatory compliance with certain requirements. It is considered that it would be preferable in this area to focus on the possible use of voluntary codes of practice adopted at the State or provincial level to cover issues associated with company based sustainable development plans. This may include aspects such as a best practice supplier code outlining the benefits for companies in dealing with local suppliers (i.e. timeliness of service, flexibility to meet individual requirements, ability to develop close rapport/adapt to customer needs). Such a code as an example would assist in sustainable development through the promotion of the regional benefits associated with mining developments in these areas.

In general terms MPR would prefer to see an emphasis on the use of voluntary codes to enhance and develop industry practices, rather than a general blanket imposition of mandatory/prescriptive requirements.

Governments Page 16-13, 16-14

As stated above MPR considers that Governments should have a role in the Social Impact Assessment process and the formulation of Community Sustainable Development Plans. This should involve both setting guidelines and reviewing and reporting on outcomes to the community with opportunity for their input. As Governments are regulating the resources industry, they should be involved in managing the community implications of operations.

Integrated Planning for Minerals

MPR considers that in addition to the matters discussed in relation to integrated planning for minerals on pages 16-14 to 16-18, the topic of “Land Use Planning” should also be included. Minerals are the basis for all societies and in order to provide for future demand there is a need to consider mineral prospectivity when deciding on appropriate land uses for an area. In prospective areas, the land uses should allow as much as possible for ongoing exploration and potentially development if these activities are socially and environmentally acceptable. In addition, where basic raw materials or known ore bodies are defined they should be addressed and their future extraction provided for in the planning process.

Integrated Closure Plans Page 16-14

As noted previously in these comments, MPR is concerned at the suggestion that mine closure plans should place a heavy obligation on the companies concerned to make provision at the end of a project for ensuring the continued economic development of local communities in areas related to the project. Whilst a majority of companies will fulfil this role to some degree as part of good corporate citizenship, it would be of concern to have a requirement that companies must find opportunities for displaced workers as part of any approved mine closure plans. It must be recognised that the continued imposition of requirements on companies involved in project developments will have a significant impact in terms of reducing their economic viability.

Abandoned Mineral Sites Facility Page 16-16

MPR is concerned that this area of the report seems to move directly into discussion of the rehabilitation of all abandoned mine sites, without first assessing the need for rehabilitation in all cases. This approach is also in contrast to Chapter 10 of the report which advocates the rehabilitation of abandoned mine sites with significant environmental problems, 'where the environmental legacy has been identified as most dangerous and where clean-up will offer the greatest benefits'. The other reasons provided in the draft report do not appear to provide justification for allocation of the significant resourcing required for such a task.

MPR would support the more limited approach (as proposed in Chapter 10), particularly in view of these resourcing requirements.

MPR is also concerned at the other justification for such work (page 16-16, 3rd paragraph) with the statement "In the current political climate poverty alleviation would have to be the primary goal". If that is the primary objective, a strong case could be mounted for no rehabilitation of any abandoned mine sites and spending the funds involved in a significantly more positive and direct fashion.

In terms of the approaches forwarded for the funding of such rehabilitation activities, MPR would support the second option outlined for encouraging voluntary industry contributions, from a broad range of participants, to such a fund.

Specific Initiatives Involving Multiple Actors

International Indigenous Organisation Page 16-25

MPR considers that the creation of an international body for indigenous people involved with the mining industry need not be a separate organisation as proposed. It is desirable to have a focus for discussion of mining related issues affecting local indigenous people, but this could be part of a broader international forum's program aimed at improving interactions between indigenous people, companies and Governments. The development of principles for entry to indigenous people's lands is a worthwhile aim, but these principles would need to recognise the role of Government to decide on appropriate access approaches in particular situations.

Protected Areas and Mining Initiative Page 16-26

MPR supports the initiatives outlined in this section of the report. (Australian Governments in conjunction with industry would be able to provide a series of case studies to assist in the development of these guidance measures.)

Forum on Minerals and Sustainable Development Page 16-31

MPR supports the establishment of a forum to progress sustainability issues, such as mine closure planning, as this should be addressed at the global level. MPR also supports the establishment of a single group of representatives meeting on an infrequent basis as this would lead to a more consistent global approach, rather than the establishment of a number of separate groups to address specific issues on an as required basis.

It is considered that it would also be appropriate to have a separate group of Government representatives to progressively address the wide range of regulatory issues raised by the MMSD process. This group/process could be linked to the World Mine Ministries Forum that meets biennially.