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Department of Environment and Natural Resources

Transmitted via email to: environment.policy@nt.gov.au

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RE: Submission on proposed Environmental Protection Legislation for the Northern Territory

Thankyou for the opportunity to provide input to the draft legislation being proposed for environmental protection in the Northern Territory.

GEMCO welcomes the enhancement in environmental rigor applied to the review and assessment of projects in the Northern Territory. It is in the best interests of all stakeholders, and particularly industry, that community members and other key stakeholders can have a high degree of confidence that the expectations, and performance of operators across the Territory meet appropriate standards.

The stated objectives of: investor certainty; environmental outcomes and community confidence are very appropriate.

In reviewing the fact sheets that are available on the proposed changes to the regulatory environment we offer the following comments for consideration:

1. Clarity of role of various agencies

It will continue to be important for government agencies and members of industry to have clarity on the role of the various agencies, specifically the boundary of powers, and the avoidance of overlap in powers and hence avoidance of any misunderstandings that could complicate or lengthen approval processes. While the relationship between the various NT Departments is of interest, the separation of roles of the EPA and the Commonwealth Government is particularly important, particularly in the context of bilateral agreements and the assessment process / determination for environmental offsets. The NT Government has previously deferred this responsibility to the Commonwealth, however the draft Bill is suggesting it will also be captured and overseen by the EPA. There is the risk of extending the approval timeframes further, whilst duplicating assessment fees and / or environmental offset funding - this requires further clarification.

2. Transitional arrangements

Transitional arrangements are crucial to those with developments under way. Given the timeframes to work through environmental approval processes it will be essential to have clarity on transitional arrangements, especially to ensure that there are no unnecessary delays.. In particular, it is not clear from the information available when the Environmental Protection Act will be expanded to include the environmental impacts of mining activities.

3. Financial Provisions

There is reference to bonds and levies as part of the legislation. A bond and levy is currently in existence for all mining operations and it will be important that these are not duplicated. It will also

be important that there is clarity on how arrangements may flex over time and that operators have an opportunity to have predictable outcomes as the regulating environment changes. The current levy process in place in the Northern Territory is a significant impost and places the NT as one of the most expensive jurisdictions within Australia to operate within.

4. Timeframes and resources for assessment of projects

The timeframes contained within the proposed framework seem to be lengthy. Anything that can be done to reduce the number of steps and consequently the time to achieve approvals would be desirable.

It will be essential that appropriate resourcing exists to manage applications within these timeframes.

5. Governance over performance

We welcome the auditing powers incorporated into the legislation as we strongly believe that operators should be held accountable for their performance. It is important to consider ensuring that officers, when attending operations to conduct inspections and audits, comply with all access requirements of sites.

We cite the example of NT Worksafe employees who presently refuse to comply with compulsory random drug and alcohol screening on site due to this not being included in their employment conditions. These requirements are in place to ensure that no-one in the operation is put at risk as a consequence of impairment of an individual working in or visiting the operation. It would be helpful that officers in a position to impose penalties are not in a position to use their powers to avoid complying with this type of requirement.

6. Effective implementation of a risk based approach

A positive of the new legislation is the establishment of a risk based approach to environmental impacts.

The process though for determining the significance or otherwise of a locality based or activity based trigger may result in proponents taking a pre-cautionary approach and therefore looking to refer all projects. This will undoubtedly put a strain on the EPA resources.

This aspect will require education, awareness and communication about what is considered to be significant in the eyes of the EPA/DENR.

The above comments are offered for your consideration as you move to finalise the new legislative environment.

Yours sincerely,

Jo-Anne Scarini

Vice President Operations, GEMCO