

## RELEASE NOTICE

Ernst & Young ("EY") was engaged on the instructions of the former NSW Department of Planning & Environment ("Client"), which is now NSW Department of Planning, Industry & Environment ("DPIE") to execute the mining titles administration process Performance Review ("Project") performed under the DPIE Internal Audit Standard Form of Deed (30 August 2018), in accordance with the engagement agreement dated 21 February 2019 including the General Terms and Conditions ("the **Engagement Agreement**").

The results of EY's work, including the assumptions and qualifications made in preparing the report, are set out in EY's report dated 29 November 2019 ("**Report**"). You should read the Report in its entirety including any disclaimers and attachments. A reference to the Report includes any part of the Report. No further work has been undertaken by EY since the date of the Report to update it.

Unless otherwise agreed in writing with EY, access to the Report is made only on the following basis and in either accessing the Report or obtaining a copy of the Report the recipient agrees to the following terms.

1. Subject to the provisions of this notice, the Report has been prepared for the Client and may not be disclosed to any other party or used by any other party or relied upon by any other party without the prior written consent of EY.
2. EY disclaims all liability in relation to any other party who seeks to rely upon the Report or any of its contents.
3. EY has acted in accordance with the instructions of the Client in conducting its work and preparing the Report, and, in doing so, has prepared the Report for the benefit of the Client, and has considered only the interests of the Client. EY has not been engaged to act, and has not acted, as advisor to any other party. Accordingly, EY makes no representations as to the appropriateness, accuracy or completeness of the Report for any other party's purposes.
4. No reliance may be placed upon the Report or any of its contents by any party other than the Client. Any party receiving a copy of the Report must make and rely on their own enquiries in relation to the issues to which the Report relates, the contents of the Report and all matters arising from or relating to or in any way connected with the Report or its contents.
5. Subject to clause 6 below, the Report is confidential and must be maintained in the strictest confidence and must not be disclosed to any party for any purpose without the prior written consent of EY.

6. All tax advice, tax opinions, tax returns or advice relating to the tax treatment or tax structure of any transaction to which EY's services relate ("Tax Advice") is provided solely for the information and internal use of the Client and may not be relied upon by anyone else (other than tax authorities who may rely on the information provided to them) for any purpose without EY's prior written consent. If the recipient wishes to disclose Tax Advice (or a portion or summary thereof) to any other third party, they shall first obtain the written consent of the Client before making such disclosure. The recipient must also inform the third party that it cannot rely on the Tax Advice (or a portion or summary thereof) for any purpose whatsoever without EY's prior written consent.
7. No duty of care is owed by EY to any recipient of the Report in respect of any use that the recipient may make of the Report.
8. EY disclaims all liability, and takes no responsibility, for any document issued by any other party in connection with the Project.
9. A recipient must not name EY in any report or document which will be publicly available or lodged or filed with any regulator without EY's prior written consent, which may be granted at EY's absolute discretion.
10. A recipient of the Report:
  - (a) may not make any claim or demand or bring any action or proceedings against EY or any of its partners, principals, directors, officers or employees or any other Ernst & Young firm which is a member of the global network of Ernst Young firms or any of their partners, principals, directors, officers or employees ("**EY Parties**") arising from or connected with the contents of the Report or the provision of the Report to the recipient; and
  - (b) must release and forever discharge the EY Parties from any such claim, demand, action or proceedings.
11. In the event that a recipient discloses the Report to a third party in breach of this notice, it will be liable for all claims, demands, actions, proceedings, costs, expenses, loss, damage and liability made or brought against or incurred by the EY Parties, arising from or connected with such disclosure.
12. In the event that a recipient wishes to rely upon the Report that party must inform EY and, if EY agrees, sign and return to EY a standard form of EY's reliance letter. A copy of the reliance letter can be obtained from EY. The recipient's reliance upon the Report will be governed by the terms of that reliance letter.

# Department of Planning, Industry and Environment

## Mining Titles Administration Process Performance Review

29 November 2019



**Building a better  
working world**

Ernst & Young  
200 George Street  
Sydney NSW 2000 Australia  
GPO Box 2646 Sydney NSW 2001

Tel: +61 2 9248 5555  
Fax: +61 2 9248 5959  
ey.com/au

Jim Betts  
Secretary  
Department of Planning, Industry and Environment  
320 Pitt Street  
Sydney NSW 2000

29 November 2019

Dear Jim,

**Performance Review - Mining Titles Administration Process**

We have completed the above-mentioned performance review and are writing to report our findings and recommendations.

We acknowledge and appreciate the assistance provided by the management and staff from the Department of Planning, Industry and Environment in the performance of this review.

Yours sincerely

Ernst & Young

## Table of Contents

|   |    |
|---|----|
| 1. Executive Summary .....  | 5  |
| 2. Detailed Findings and Recommendations .....  | 14 |
| Appendix A Scope of Work .....  | 51 |
| Appendix B Stakeholders Interviewed.....  | 54 |
| Appendix C Key Documents Reviewed .....   | 56 |
| Appendix D Sample of Mining Title Applications.....                                       | 58 |
| Appendix E Summary of IT Systems Supporting the Mining Titles Administration Process..... | 60 |

## Distribution list:

- ▶ Secretary, DPIE
- ▶ Chief Audit Executive, DPIE
- ▶ Coordinator General, Regions, Industry, Agriculture & Resources
- ▶ Deputy Secretary, Resources & Geoscience
- ▶ Executive Director, Resource Operations

## Glossary

| Term                                    | Definition   |
|---|--|
| Activity approval                       | Statutory condition on Exploration Licences and Assessment Leases that the holder must obtain approval to carry out exploration activities, referred to as 'assessable prospecting operations' in the <i>Mining Act</i> .  |
| Assessment Lease <sup>1</sup>           | An assessment lease is designed to cater for situations between exploration and mining. The lease allows the holder to maintain an authority over a potential project area, without having to commit to further exploration. The holder can, however, continue exploration to further assess the viability of commercial mining.   |
| Complimentary User Entity Controls      | Controls that the vendor have included as part of their system's control environment whereby the onus is on the user entity (i.e. DRG) to implement and execute them.  |
| Development and production environments | Development environment is the system environment utilised to write, build and test the code for a program. Production environment represents the entity's 'live' system environment whereby business processes and transactions are completed.  |
| DPE                                     | Department of Planning & Environment. Prior to the Machinery of Government changes that took effect from 1 July 2019, the Department was known as this.  |
| DPIE                                    | Department of Planning, Industry & Environment. The Machinery of Government changes that took effect from 1 July 2019 restructured the Department, including a merger with a number of functions mainly from the Department of Industry.   |
| Exploration Licence <sup>1</sup>        | An exploration licence gives the holder the exclusive right to explore for the specified mineral group(s) within the exploration licence area, during the term of the licence. The purpose of exploration is to locate areas where mineral resources may be present, to establish the quality and quantity of those resources and to investigate the viability of extracting the resource. The granting of an exploration licence does not give any right to mine, nor does it guarantee a mining lease will be granted with the exploration licence area. |
| Key obligation                          | Key obligations have been identified using a risk-based approach. Requirement imposed on the Department in the exercise of the assessment, issuance and monitoring of compliance of Exploration Licences, Assessment Leases and Mining Leases, as well as the renewals and transfers of such titles.   |

<sup>1</sup> Resources & Geoscience website. Available: [https://www.resourcesandgeoscience.nsw.gov.au/miners-and-explorers/applications-and-approvals/mining-and-exploration-in-nsw/coal-and-mineral-titles#\\_types-of-authorities](https://www.resourcesandgeoscience.nsw.gov.au/miners-and-explorers/applications-and-approvals/mining-and-exploration-in-nsw/coal-and-mineral-titles#_types-of-authorities). Last accessed 3<sup>rd</sup> August 2019.

| Term                                       | Definition   |
|--|--|
| Machinery of Government <sup>2</sup>       | A Machinery of Government change occurs when the Government decides to change the way its responsibilities are managed. It can involve the movement of functions, resources and people from one agency to another.   |
| Mining Act                                 | <i>Mining Act 1992 (NSW)</i>   |
| Mining Lease <sup>1</sup>                  | A mining lease gives the holder the exclusive right to mine for specified minerals within the mining lease area during the term of the lease. In addition to allowing mining, a mining lease may permit prospecting operations and Ancillary Mining Activities (AMA) to be conducted in association with mining operations. A mining lease area may also include any associated infrastructure and must be consistent with the development consent area. |
| Mining Regulation                          | <i>Mining Regulation 2016 (NSW)</i>  |
| Petroleum (Onshore) Act                    | <i>Petroleum (Onshore) Act 1991 (NSW)</i>  |
| Petroleum (Onshore) Regulation             | <i>Petroleum (Onshore) Regulation 2016 (NSW)</i>   |
| Role                                       | Defines the group of permissions to which a user receives access within the respective IT system.  |
| Service Delivery Standards                 | Published timeframes in which Division of Resources & Geoscience commit to processing mining applications. These standards are in place to allow industry to manage operations and deadlines around the expected waiting times. These standards were introduced as part of the Government's Quality Regulatory Services initiative, applying to applications lodged from 1 July 2013.  |
| Service Organisation Controls (SOC) Report | Report to provide assurance over the controls at an organisation providing a service to the user (DRG) relating to information security, availability, processing integrity, confidentiality and/or privacy.   |
| System changes                             | Changes impacting the source code or configurations of the underlying system.  |
| Third-party risk framework                 | Strategy for identifying and managing risks relevant to relationships with third-parties, including risks managed by third-parties but owned by DRG.   |
| Triple bottom line                         | A sustainability framework that accounts for the impact organisations have economically, socially and environmentally as a measure of their success over time.   |

<sup>1</sup> Resources & Geoscience website. Available: [https://www.resourcesandgeoscience.nsw.gov.au/miners-and-explorers/applications-and-approvals/mining-and-exploration-in-nsw/coal-and-mineral-titles#\\_types-of-authorities](https://www.resourcesandgeoscience.nsw.gov.au/miners-and-explorers/applications-and-approvals/mining-and-exploration-in-nsw/coal-and-mineral-titles#_types-of-authorities). Last accessed 3<sup>rd</sup> August 2019.

<sup>2</sup> Australian Public Service Commission website. Available: <https://www.apsc.gov.au/machinery-government-mog-changes-what-mog-change>. Last accessed 8<sup>th</sup> August 2019.



# Executive Summary

# 1. Executive Summary

## 1.1 Background

The Division of Resources & Geoscience (DRG), a division within the Department of Planning, Industry & Environment (DPIE) plays a critical role in the management of mineral resources in New South Wales (NSW). DRG is divided into three functions, as follows:

- ▶ Resource Operations;
- ▶ Geological Survey of NSW; and
- ▶ Resources Policy, Planning & Programs.

Resource Operations within DRG are the primary team responsible for the administration of mining titles, which are categorised into the following types:

- ▶ Exploration Licences;
- ▶ Mining Leases; and
- ▶ Assessment Leases.

As can be seen from *Figure 1*, the volume of Exploration Licence applications and renewals far exceeds that of Mining Leases and Assessment Leases. DRG's workload, therefore, is concentrated more toward Exploration Licences, and the legislative requirements associated with these types of applications.

Further, *Figure 2* highlights that, of the 395 applications (both new and renewals) received by DRG between 1 April 2018 and 31 March 2019, 88% related to minerals, such as gold, silver, copper, zinc and lead, compared to 12% which related to coal.

DRG have implemented change over the last 18 months and are continuing to implement further changes to improve its operation. A key component of this is to implement a Titles Management System (TMS). TMS will support the implementation of processes developed as part of the Quality Management System (QMS), which is aligned to the principles outlined in the ISO 9001 Quality Management framework.

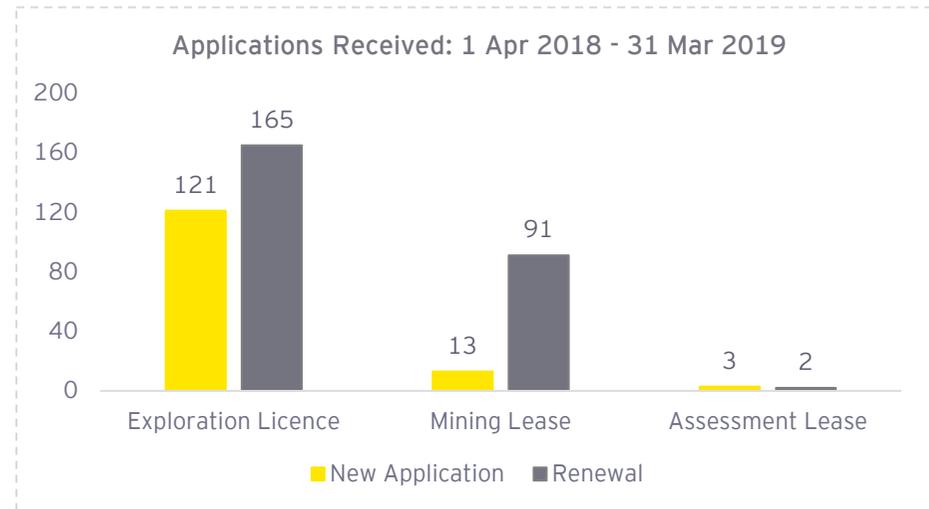


Figure 1: Mining title applications received by DRG between 1 April 2018 and 31 March 2019

Source: DRG Quarterly Performance Report Q4 2018 and Q1 2019 (manually prepared by DRG)

In November 2018, the former Secretary of the Department of Planning & Environment announced that she would engage a performance review of the mining titles administration process. This report provides the findings and recommendations associated with the outcomes of the work undertaken. The scope of work is summarised below (Section 1.4) and is detailed in full in *Appendix A*.

Applications Received: 1 Apr 2018 - 31 Mar 2019

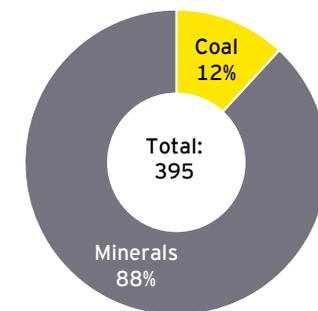
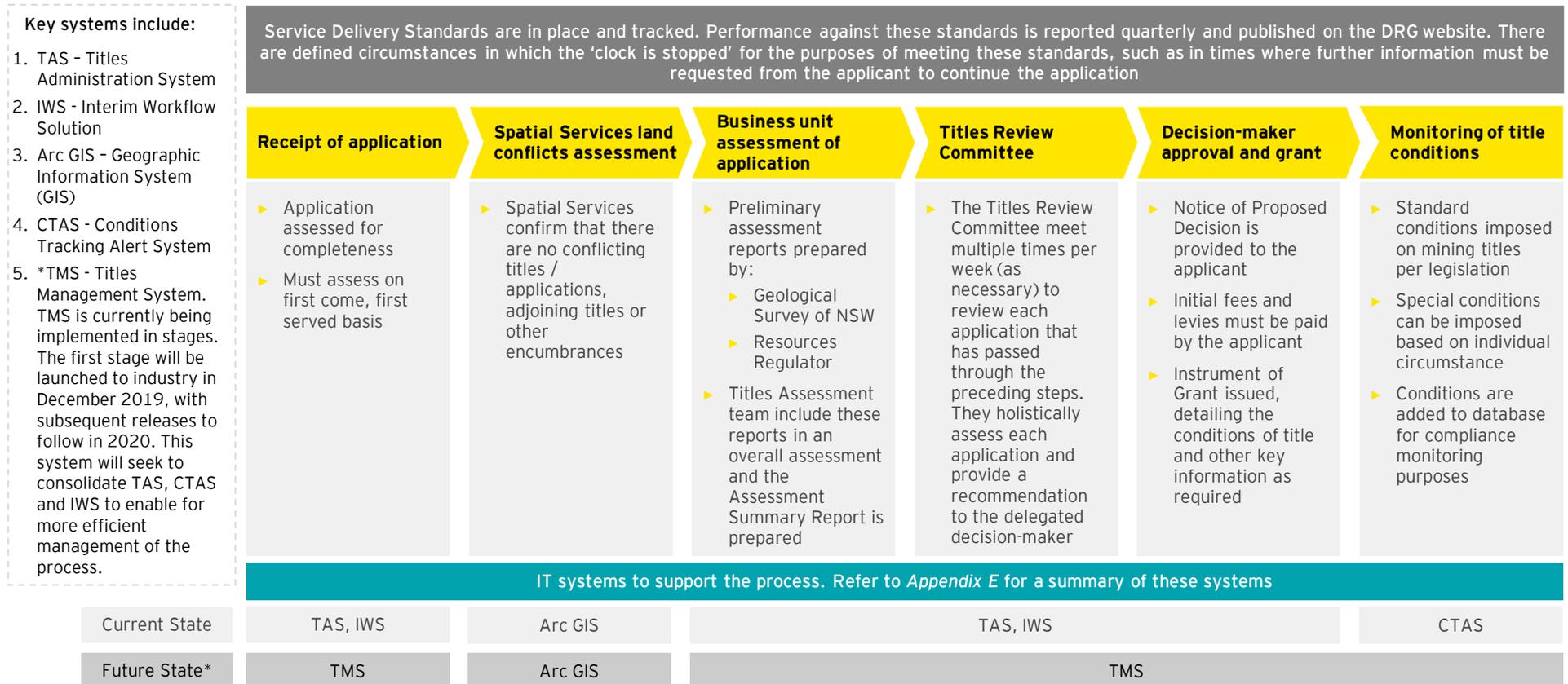


Figure 2: Proportion of coal and mineral related mining titles applications received between 1 April 2018 and 31 March 2019

Source: DRG Quarterly Performance Report Q4 2018 and Q1 2019

## 1.2 The mining titles administration process

The mining titles administration process is summarised in the diagram below:



### 1.3 Objective

The objectives of this engagement were to:

- ▶ Assess the design, and where appropriate, the operating effectiveness of key controls, within the process of administering the mining titles.
- ▶ Assess the processes and controls in the mining titles administration process to evaluate the design of key controls over spatial data.
- ▶ Assess the effectiveness of controls designed to ensure DRG complies with the key obligations within the *Mining Act 1992 (Mining Act)*, *Mining Regulation 2016 (Mining Regulation)*, *Petroleum (Onshore) Act 1991 (Petroleum (Onshore) Act)*, and *Petroleum (Onshore) Regulation 2016 (Petroleum (Onshore) Regulation)*.

### 1.4 Scope and approach

The summarised scope, as agreed with DPIE, to achieve the objectives as outlined in Section 1.3 (full scope, including agreed limitations of scope described in *Appendix A*) encompassed:

- ▶ Governance structures, processes and organisation framework to manage the assessment, issuance, monitoring of compliance to conditions, renewal and transfer of mining titles.
- ▶ Governance and controls to manage compliance with the key obligations of the *Mining Act*, *Mining Regulation*, *Petroleum Onshore Act* and *Petroleum (Onshore) Regulation*.
- ▶ Management of conflicts of interest, fraud and corruption prevention.
- ▶ Transparency and efficacy of the issuance and administration of mining authorisations and titles. This includes handling and receipting of mining titles fees and charges.
- ▶ Root causes affecting the performance of the management of mining titles. This considered structural, systemic, cultural and capacity issues.

- ▶ Processes and controls in the mining titles administration process to verify the validity and accuracy of spatial data.
- ▶ An understanding of key system controls, including user access, in relation to the spatial data storage systems and other key systems supporting the administration of mining title process.

This performance review was completed in compliance with *Treasury Policy Paper TPP 15-03 Internal Audit and Risk Management Policy for the NSW Public Sector* which stipulates the application of the latest Institute of Internal Auditors (IIA) International Standards for the Professional Practice of Internal Auditing in the NSW Public Sector.

Our work was divided into two main phases. Phase 1 was to assess the design effectiveness of key controls within the mining titles administration process. This included a risk assessment of the key IT systems utilised within the process, as well as a risk assessment of the legislation, as outlined in the scope, to identify key obligations.

Phase 2 focused on the sample testing of 25 applications, spanning across Exploration Licences, Assessment Leases and Mining Leases and included new applications, renewals and transfers of titles (refer to *Appendix D* for the breakdown of this sample). These applications were independently selected using a combination of a haphazard and targeted approach to gain sufficient coverage.

The testing period was from 1 February 2018 to 31 March 2019.

#### Key legislative obligations

Certain obligations relate to infrequent activities, or activities that have not yet occurred, such as tendering processes for Exploration Licences. These obligations were not included in the sample of key obligations that we tested for compliance.

The following obligations were agreed as out of scope for the purposes of this engagement:

- ▶ Obligations relating to the small-scale mining titles.
- ▶ Obligations that fall within the responsibility of the Resources Regulator.
- ▶ Whilst we reviewed the *Petroleum Onshore Act* and *Petroleum (Onshore) Regulation* and identified a number of key obligations, no

policies and procedures were reviewed relating to petroleum due to the low volume of petroleum related titles and no compliance testing was performed in relation to this legislation.

## 1.5 Summary of recommendations

This engagement has considered the improvements that have been implemented across DRG's structure and processes since May 2018 and has sought to identify gaps and further improvement opportunities in DRG's control environment. These have been considered in light of DRG's objective of improving its outcomes within a triple bottom line context.

We have reported findings and recommendations in four main areas: anti-fraud and corruption management; the mining titles administration process; DRG policies and procedures to support legislative compliance; and IT systems. We have summarised our findings and recommendations under each of these themes with the detail provided in Section 2.

### Anti-fraud and corruption management, including conflicts of interest (COI)

We recommend the following improvements to controls for managing fraud and corruption risks to be a priority:

- ▶ Strengthen individual COI declarations to be made by assessors of mining title applications for each application. This should be incorporated using TMS functionality where possible.
- ▶ Improve reporting to provide greater oversight to DRG. The technology in place to hold the COI register does not currently allow for automated and efficient reporting and requires upgrading.
- ▶ Execute a formal fraud and corruption risk assessment. Ensure that identified risks are captured in the DRG risk register and mitigating activities are documented and tracked.
- ▶ Enhance the fraud and corruption training program as it is currently targeted at the whole of DPIE and does not meet the specific fraud and corruption risks faced by DRG.

Due to the nature of the work conducted by DRG (and all other government approval authorities), there is an inherent risk of fraud, corruption and conflicts of interest. However, historically, appropriate

key controls have not been in place due to competing priorities of senior management resulting in reduced management attention and resource to manage these inherent risks.

DPIE Governance informed us of their intention to perform the DRG fraud and corruption risk assessment.

It is acknowledged that DPIE have established key foundational controls, including annual COI declarations whereby the approach to managing conflicts must be approved by the individuals' line manager as well as the development of a draft high-level training program. In addition, DRG have recently implemented a bespoke COI procedure requiring declarations to be made at the Titles Review Committee (TRC) meetings. Our sample testing (which did not include an investigation) did not identify fraud or corruption nor indicated such impropriety. However, further strengthening is required to manage the fraud and corruption risks faced by DRG.

### Mining titles administration process

Our recommendations to improve the controls over this process include:

- ▶ Enhance the documented justification for recommendations and decisions made by DRG in their assessment of mining title applications.
- ▶ Ensure documentation supporting decisions is stored in line with the record keeping policy to demonstrate compliance with key legislative obligations.
- ▶ Finalise and publish the criteria to evaluate minimum standards for technical and financial capability of applicants to carry out their proposed work programs as soon as possible. Additional resources may be required to complete this activity.
- ▶ Define and document the approach to manage compliance of title conditions to allow sufficient management oversight, monitoring and reporting to the Resources Regulator in a timely manner.

Mining applications are not transactional in nature and can be highly nuanced with professional judgement required to assess applications in line with the objectives of the *Mining Act and Regulation*. They often require time-consuming evaluation. This creates a challenge for DRG to

meet Service Delivery Standards given they receive approximately 100 applications per quarter on average. Therefore, robust controls are required to ensure DRG maintain the appropriate level of quality for each assessment. This includes controls to manage documentation retention to demonstrate DRG's compliance with key obligations within the *Mining Act* and *Regulation*.

### Legislation, policies and procedures

Upon a comparative assessment of the relevant legislation and DRG's policies and procedures to support compliance, we have identified the following key recommendations:

- ▶ Develop a compliance framework to facilitate DRG's compliance with its obligations under the *Mining Act*, *Mining Regulation*, *Petroleum (Onshore) Act* and *Petroleum (Onshore) Regulation*, ensuring this is managed as part of DPIE's overall compliance framework.
- ▶ Create a central repository containing up-to-date policies and procedures so that these are easily accessible and correct version control is maintained.
- ▶ Continue to focus on the implementation of the Quality Management System (QMS) to underpin the management of the DRG policy framework. This should also support many of the recommendations in this report.

There is currently a dispersed compliance policy framework in place with multiple documents that cover aspects of the key obligations within the legislation. Whilst it is acknowledged that work is underway to develop more holistic and integrated procedural documentation to support DRG's processes that will form part of the implementation of the QMS, this is an area that requires additional strengthening.

### IT systems

Our recommendations to improve controls across the key IT systems supporting the mining titles administration process encompass:

- ▶ Implement key controls over system changes to manage the risk of poor data integrity and quality.
- ▶ Enhance the framework for managing IT risks when a third-party vendor is involved.

The weaknesses in the current IT controls increase the risk of the loss of integrity of publicly available applications and data. The Titles Management System (TMS) is currently being implemented using a phased approach. This engagement did not include a full pre-implementation assessment of this system. However, the intended functionality of TMS when fully implemented - as identified through interviews - will support DRG in implementing the recommendations within this report, thus supporting better risk management.

## 1.6 Additional observations

### Role of Resources Regulator

It was observed that the Resources Regulator plays a role in both regulatory and approval functions. They are responsible for activity approvals under mining titles, including the calculation of the security deposit held by DPIE to cover the costs of rehabilitating mine sites. These approval functions currently performed by the Resource Regulator were previously under the remit of DRG, however, due to a previous functional realignment in May 2018, it was transferred to the Resources Regulator.

This could result in a perceived lack of independence of the Resources Regulator, potentially reducing public confidence in DPIE's role within the mining industry. We recommend DPIE consider:

- ▶ Transferring approval functions back to DRG to separate responsibilities for regulation from approval activities. This may also enable greater process efficiency, with activity approvals and security deposit calculations being incorporated into TMS functionality.

### Fieldwork observations

During our fieldwork, we spent time with DRG teams in Maitland and Sydney, interviewed 44 employees, reviewed a broad range of documentation and attended one Open Door Session (held quarterly whereby DRG employees can ask questions of Executive Management). We observed a number of actions that have been taken by management since May 2018, driven by a plan of key business improvement activities designed to enhance efficiency, transparency and quality of the mining

titles administration process. The plan is centred around three pillars of reform: (1) Structure, (2) Systems and (3) Culture

### **Structure**

- ▶ New appointments to key executive management positions, including the Deputy Secretary Resources & Geoscience, in conjunction with organisational structure improvements, including the creation of new positions, that have added skills, capability and executive-level capacity to support DRG delivery on its obligations.

### **Systems**

- ▶ DRG are currently developing TMS, which aims to improve control, efficient and transparency of the mining titles administration process. The first stage of the TMS will be launched to industry in December 2019, with subsequent releases to follow in 2020.
- ▶ The QMS will further support consistent and timely decision-making. Work is currently being undertaken to incorporate quality management principles into the mining titles administration process. Resource Operations appointed a QMS Manager in March 2019 to drive the continued implementation of this.

### **Culture**

- ▶ In June 2018, DRG developed a Cultural Roadmap to define the key activities and initiatives required to implement desired changes with respect to culture. The progress of this is being formally tracked.
- ▶ There is ongoing work to improve the DRG policy and procedural framework for the mining titles administration process, including the development of checklists for the decision maker, as well as the implementation of a bespoke DRG conflict of interest procedure to support the DPIE wide policy.

Several training sessions and workshops have been held across the branch, notably to enhance the DRG staff's understanding of what constitutes robust decision-making with respect to mining title assessments. Management also intend to run further workshops in consultation with the DPIE's Legal team.

### **Operational changes**

- ▶ In August 2018 and then again in July 2019, amendments were made to the Titles Review Committee Terms of Reference to reflect the ongoing evolution of the TRC, which aimed to increase the independence of the decision-maker in granting mining titles and enhancing the overall efficacy and effectiveness of this committee.

## 1.7 Overall management comment

DRG accepts all key observations, findings and recommendations within this report.

Robust and defensible decision making informed by complementary policies, processes and frameworks that support administrative and legislative compliance underpin the functions of the Division. DRG acknowledges that opportunities exist to strengthen the key areas noted in this report, particularly:

- ▶ Anti-fraud and corruption management;
- ▶ The mining titles administration process;
- ▶ DRG policies and procedures to support legislative compliance; and
- ▶ IT systems.

The Division is committed to enhancing its ability to deliver its core business functions. Over the duration of the review, the Resource Operations Branch has implemented and embedded a number of business and operational enhancements as part of its continuous improvement cycle. These enhancements have directly addressed some of the recommendations from this report.

DRG are already embedding or are in the process of implementing significant portions of business improvement initiatives and relate to:

### Training and education

Training and education empowers DRG staff to deliver its core business functions in alignment with divisional and departmental strategic plans. The DRG have invested in a number of targeted initiatives and programs to support the Division and its staff over the last 18 months.

It is imperative that the DRG exemplify the values and standards reflected in the PSC Code of Conduct and entrust staff with the responsibility of making decisions with the utmost degree of integrity and impartiality. DRG acknowledges the observations and recommendations proposed in section 2.1 anti-fraud and corruption

management, including conflicts of interest and is working with the DPIE Governance Branch team to:

- ▶ Strengthen the management of conflicts of interest across DRG, and
- ▶ Enhance its existing fraud and corruption training framework, including the capture of fraud and corruption risks for the division.

### Strengthening the robustness and rigour of the titles administration process

The efficacy of the inputs provided by the individual business areas that support the end to end titles assessment process has been strengthened over the last 18 months. This has informed the evolution of the qualitative analysis within the assessments undertaken and all supporting documentation, creating a more robust framework for defensible decision making across all applications. The DRG acknowledges the observations and recommendations in *section 2.2 mining titles administration process* and is committed to:

- ▶ Implementing further enhancements to the structure, operation and function of the Titles Review Committee (TRC) and strengthening the documented rationale for all recommendations and decisions.
- ▶ Prioritising and expediting the publication of statutory minimum standards to assess technical and financial capability to carry out the proposed work program associated with the application for an exploration licence.
- ▶ Strengthening the record keeping practices within the Division to support the fulfilment of administrative, regulatory and legislative obligations. The DRG leadership notes the absence of some assessment documentation as part of the sample size used by EY in their review may be a reflection of inconsistent record keeping practices. The implementation of a Quality management System will provide the necessary framework for ensuring appropriate record keeping and documentation standards. The implementation of a TMS will also ensure all related documentation to an application are securely and consistently stored.
- ▶ Developing a framework for managing DRG's component of a title holders' conformance obligations, including title and statutory

conditions under the *Mining Act 1992* and *Petroleum (Onshore) Act 1991*. Further regulatory reforms will also be implemented to streamline mining lease conditions and improve transparency.

- ▶ Implementing internal operational dashboard reporting functionalities as part of TMS to provide greater visibility and workload management capabilities for DRG management.

### **Systems, processes and ICT enhancements**

DRG acknowledges the importance of utilising contemporary, fit-for-purpose and integrated systems to support decision making and ensure adherence to its legislative, regulatory and policy obligations. During the course of this review, the Resources Operations Branch implemented a number of significant enhancements to its existing workflow management system and supporting processes. The DRG leadership group acknowledges the observations and recommendations in section 2.3 legislation, policies and procedures and is committed to process mapping, managing, and updating its policies and procedures to ensure continual adherence to legislative obligations through the implementation of a QMS.

DRG is also in the process of implementing a large-scale systems transformation program with the development of TMS, which will be underpinned by QMS principles. The TMS will provide a new digital enterprise workflow platform for exploration and mining titles management, including interfaces to make information more readily available to the community and industry. The system will replace legacy systems and provide modernised services required by the mining industry, improve operational efficiencies and provide a higher level of service to our customers. The DRG leadership acknowledges the observations and recommendations in section 2.4 IT systems and is committed to ensuring the delivery of a robust system with an appropriate level of internal controls to ensure the integrity of data, segregation of duties and full audit trail capabilities.

### **Embedding a positive workplace culture**

DRG has taken considerable steps over the course of the last 18 months to deliver a positive cultural transformative shift in its workplace environment and culture. This cultural shift has comprised of both formal programs delivered offsite to in-house initiatives to foster a more open, transparent and positive environment. This has created positive momentum towards a culture of inclusiveness, collaboration, innovation and professionalism, despite a challenging period driven by forces beyond its control.

A large, light gray, stylized number '2' is positioned on the left side of the slide, partially overlapping the text.

# Detailed Findings and Recommendations

## 2. Detailed Findings and Recommendations

### 2.1 Anti-fraud and corruption management, including conflicts of interest

#### 2.1.1 The management of conflicts of interest across the DRG requires strengthening

##### Observation

We have identified two areas requiring strengthening to support the effective management of conflicts of interest (COI).

##### Application specific declarations

From our sample testing, it was noted that DRG have not historically documented COI declarations as part of the assessment of individual mining title applications to support the impartiality of outcomes. Instead, DRG manage COI declarations through the central DPIE COI register, which requires that conflicts be declared annually or as they change. The plan to manage actual or potential conflicts of interest must then be approved by the individual's line manager. DRG have also recently implemented *Conflict of Interest Meeting Disclosure Procedure*, which requires COIs to be declared for key meetings and decisions relating to mining titles.

##### Oversight of COI management

DRG are supported by the DPIE's Governance team to manage fraud and corruption risk through management and oversight of the central COI register. Further, DPIE Governance provide DRG with a COI report, detailing employee declarations and management plans to provide oversight to executive management. However, we noted the following:

- ▶ The report is not distributed in accordance with any defined reporting cycle. It is only ad-hoc and on request of DRG.
- ▶ Four of 32 declarations made between May 2018 and January 2019 did not have approved COI management plans.
- ▶ DPIE Governance currently have no mechanism to gain oversight over the implementation of the COI management plans.

##### Potential impact

- ▶ Perceived or actual conflicts of interest arise that could lead to biased assessment of applications and reputational damage. Such conflicts could arise through:
  - ▶ Secondary employment or previous employment with a mining company;
  - ▶ Superannuation or shares in a mining company;
  - ▶ Family that are employed by a mining company or industry body; and/or
  - ▶ Membership of a mining group or body.
- ▶ Insufficient transparency and management of declared conflicts of interest due to inadequate information capture.

##### Root cause

###### *Information - Vision & objectives*

- ▶ COI declarations for individual mining title (and other approvals administered by the Department) applications has not been a requirement imposed by the Department.

###### *Resources - Tools and Systems*

- ▶ The current system that holds the conflicts of interest register does not allow efficient extraction and reporting of entries.

| Recommendation  | Management comments   |
|---|---|
| <p>2.1.1.1. Capture COI declarations and document how application assessors have managed conflicts during the assessment of mining title applications so that the Titles Review Committee and decision-maker are assured the inputs of their review are free of conflicted conclusions. This should be performed for each application and be incorporated using TMS functionality where possible.</p> | <p>2.1.1.1 - This recommendation is accepted by DRG and DPIE's Governance Branch.</p> <p>All staff have an obligation to identify and declare situations involving conflicts of interest (be they actual, perceived or potential), and have a plan in place to manage such situations that has been agreed with and monitored by their manager.</p> |
| <p>2.1.1.2. Enhance and embed periodic reporting (e.g. quarterly) of COI to the Deputy Secretary and Executive Directors of DRG to provide transparency over their teams' conflicts. Over time, a program of data analytics should be developed to identify trends in declarations to support ongoing policy development.</p>   | <p>DRG staff will meet these requirements as well as additional requirements specific to the mining titles process that involve needing to declare whether a conflict exists, and whether they are able to participate in the decision-making process for individual mining title applications.</p>   |
| <p>2.1.1.3. Consider incorporating the review of conflicts of interest into the Performance Development Plan Cycle to improve the approval of COI management plans by managers in a timely manner. Managers should also monitor the implementation of COI management plans with their staff on an ongoing basis.</p>  | <p>2.1.1.2 - This is noted and accepted by DPIE's Governance Branch.</p> <p>It is consistent with the intended approach for the broader Department. Work is underway to assess the practicable means of providing this support in an ongoing sense.</p>   |
|   | <p>2.1.1.3 - This recommendation is agreed in principle by DRG and DPIE's Governance Branch.</p> <p>DRG will explore incorporating reviewing the management of COI's as part of its performance development plan cycles.</p>  |

## 2.1.2 An ongoing, targeted training program for fraud and corruption prevention is required to be implemented

### Observation

The fraud and corruption training framework requires improvement within DRG to be targeted and scenario-based.

This will improve employees' understanding of what a conflict of interest is, how to manage it, and how to manage other fraud and corruption related risks that they face through exercising their public duty.

Specifically, we noted:

- ▶ Titles Assessment employees within DRG are often required to deal directly with mining agents, which can pose specific conflict of interest risks and it is essential that employees understand the information that can be divulged in any encounters with agents. Whilst DRG have responded to this by implementing training around how to deal with 'difficult people and conversations', fraud and corruption-related training will further support managing this particular risk.
- ▶ The recruitment process does not consistently perform criminal history checks and checks on qualifications, exposing the risk of deceit with respect to their criminal history and qualifications from prospective employees. This may indicate an individual who is more prone to engage in fraudulent or corrupt activity. Without a training framework to provide fraud and corruption knowledge and awareness, the recruitment process may not adequately support the prevention of fraud and corruption.
- ▶ Whilst all employees are required to undertake training when they begin employment relating to the Code of Ethics & Conduct, there is no mandatory regular or refresher fraud and corruption training.
- ▶ There is an opportunity for an enhanced formal communication strategy relating to fraud and corruption within DRG by senior leadership to set the tone from the top. This communication should continue to emphasise the existing whistleblowing reporting channels available in DPIE to report wrongdoing in a safe, confidential and anonymous way (if desired). Current whistleblower reporting channels include: reporting to designated PID officers, external whistleblowing hotline, Whispli system (using a secure and confidential digital form) and/or to external authorities.

### Potential Impact

- ▶ Individuals with actual, perceived or potential conflicts of interest are involved in decisions relating to the administration of mining titles, leading to impartial assessments and/or reputational damage.
- ▶ Employees cannot identify situations in which they are conflicted, or how to implement appropriate management strategies of identified conflicts.
- ▶ Employees and management are not educated to be able to manage specific fraud and corruption risks with which they are confronted.

### Root Cause

#### *Information - Expectations*

- ▶ Lack of senior management endorsement of a fit-for-purpose anti-fraud and corruption training program.

#### *Competencies - Knowledge*

- ▶ Lack of awareness of the full extent of fraud risks within DPIE.

It is acknowledged that management developed a draft training program for DPIE, which at the time of the fieldwork of this review, was still in draft. This includes the incorporation of training material from the Independent Commission Against Corruption (ICAC) and NSW Ombudsman for fraud and corruption prevention and Public Interest Disclosures (PID) training respectively. This training program has subsequently been approved.

| Recommendation   | Management comments  |
|--|--|
| <p>2.1.2.1. Enhance the fraud and corruption training program by:</p> <ul style="list-style-type: none"> <li>▶ Implementing periodic (e.g. annual or biannual) fraud and corruption training for DRG employees, including contractors.</li> <li>▶ Developing a program of targeted and scenario-based fraud and corruption training relevant to the needs of DRG, based on a risk assessment (refer to 2.1.3), if this is not captured sufficiently in the above.</li> </ul> <p>This should form part of the training program that has already been developed. Training participation should be tracked and reported to senior management.</p> <p>2.1.2.2. Create and deliver a fraud and corruption communication strategy to all employees within DRG from the Deputy Secretary and Senior Executive Managers to demonstrate DRG's commitment to controlling the risk of fraud and corruption. This communication should emphasise the current whistleblower reporting avenues to enable staff to report wrongdoing in a safe, confidential and anonymous way (if desired).</p> <p>2.1.2.3. Implement a set of business rules to define the circumstances in which a criminal history check, and a qualifications check should be performed and by whom. This should include:</p> <ul style="list-style-type: none"> <li>▶ A self-declaration by candidates of their criminal history;</li> <li>▶ A framework to identify higher risk roles that require an internal criminal history check to be undertaken; and</li> <li>▶ A review of certified/signed qualifications (by a Justice of the Peace) for those positions which state certain qualifications are required.</li> </ul> | <p>DRG, in consultation with DPIE's Governance Branch, accept these recommendations.</p> <p>2.1.2.1 - The Governance Branch is continuing to develop the fraud and corruption approach for DPIE, which will include awareness training addressing fraud and corruption in particular. As a standard approach, senior managers are made aware of opportunities for relevant public sector training opportunities as they arise. Current training and awareness from DPIE includes staff acceptance of and training in the Department's Code of Ethics and Conduct, including coverage of ethical behaviours and the core values of the Department. ICAC, the NSW Ombudsman and the IPAA also offer a number of fraud and corruption training options available to the wider public service that are supported by the Department and promoted to staff. Public Interest Disclosure training was delivered by the NSW Ombudsman on 5 November 2019 and was attended by 25 DRG staff.</p> <p>DPIE's Governance Branch (Ethics and Investigation Unit) launched the DPIE Public Interest Disclosure - Internal Reporting Framework July 2019. This has been supplemented by presentations to Deputy Secretaries and their leadership teams and is being followed up with awareness sessions across DPIE.</p> <p>The Unit will continue to work with the DRG to develop a fraud and corruption training program relevant to the needs and circumstances of the area.</p> <p>The role out of the DPIE Code of Ethics and Conduct in February 2020 will enhance values, expectations and standards across DPIE, including within DRG. Appropriate communication and training will support this initiative.</p> |

|  |  |
|--|--|
|  | <p>2.1.2.2 - The Governance Branch will work with the DRG Leadership to prepare a fraud communication strategy. This strategy will include specific guidance for relevant scenarios faced by the DRG staff. This communication will align with the DPIE Fraud and Corruption Control Plan and has a due date of June 2020.</p> <p>2.1.2.3 - DPIE's Workforce Resourcing unit within the People, Performance Culture Division has commenced action to address these recommendations. Existing processes relating to probity checking and pre-employment checking are currently under review. Business Rules to address recommendation 2.1.2.3 are to be completed and approved by Dec 2019.</p> |
|--|--|

### 2.1.3 Fraud and corruption (including conflict of interest) risks are currently not captured in the DRG Risk Register

|   |   |
|---|---|
| <p><b>Observation</b></p> <p>Fraud and corruption (including conflict of interest) risks are currently not captured in the DRG Risk Register to facilitate formalised reporting and escalation of such risks. Further, there has been no formal fraud and corruption risk assessment across DRG to identify and evaluate such risks.</p> <p>DPIE Governance did, however, inform us of their intention to perform a DRG fraud and corruption risk assessment.</p> | <p><b>Potential Impact</b></p> <ul style="list-style-type: none"> <li>▶ Lack of appropriate controls, reporting and escalation of fraud, corruption and conflicts of interest risk within DRG, leading to materialisation of such risks, causing reputational damage and financial loss.</li> </ul> <p><b>Root Cause</b></p> <p><i>Resources - Tools and People</i></p> <ul style="list-style-type: none"> <li>▶ Capacity constraints within the Governance team hindering ability to execute individual fraud and corruption risk assessments in conjunction with other competing priorities.</li> </ul> |
| <p><b>Recommendation</b></p> <p>2.1.3.1 Prioritise the execution of a fraud and corruption risk assessment across DRG and ensure identified risks are documented, reported and have mitigation plans developed.</p> <p>2.1.3.2 Develop an active Divisional Risk Register for DRG that aligns to the requirements of the DPIE <i>Managing Risk</i> policy.</p>  | <p><b>Management comments</b></p> <p>2.1.3.1 - DRG accepts this recommendation.<br/>DPIE's Governance Operations team is undertaking a fraud and corruption risk assessment for DRG. This is to be completed by December 2019.</p> <p>2.1.3.2 - DRG accepts this recommendation.<br/>DPIE's Governance Operations team is working with DRG management to review and refresh the Divisional Risk Register to ensure alignment with the DPIE Risk Management Policy This is to be completed by December 2019.</p>   |

## 2.2 Mining titles administration process

### 2.2.1 Enhance the documentation for recommendations and decisions made by the Titles Review Committee (TRC) and decision-maker respectively

#### Observation

There is a continued need to drive enhancement with respect to the documentation relating to the assessment of mining title applications.

Where documentation does not clearly capture the considerations and justification of the TRC and decision-maker's conclusions, DRG may not be in a position to support future challenges to decisions that have been made as a result of questions relating to inconsistent decision-making and perceptions of lack of due process undertaken to comply with the *Mining Act*.

Specifically, we noted:

- ▶ For seven of 23 relevant applications tested, the Resources Regulator identified historic compliance and/or financial capability issues relating to the applicant. However, these issues were not captured in the TRC recommendation component of the Assessment Summary and did not form part of the documented decision rationale. As such, the extent of evaluation of these issues by the TRC or decision-maker in their overall assessment was not clear.

This has implications with respect to meeting obligations contained within the *Mining Act*. Schedule 1B states that compliance history may be taken into account in considering an application and is a ground for refusal. However, the TRC recommendation component of the Assessment Summary does not sufficiently capture how varying compliance matters are considered and evaluated in finalising a recommendation.

- ▶ For three renewal applications tested, it was noted that whilst the special circumstances (which is a requirement of the *Mining Act* where the applicant seeks to renew over 50% of the land for exploration) were reviewed and accepted by the Geological Survey of NSW's assessment, this was not clearly documented in the TRC recommendation component of the Assessment Summary, which should capture all the key

#### Potential Impact

- ▶ Recommendations made by the TRC based on multiple inputs are inappropriate, leading to an inappropriate decision to grant or refuse a mining title application.
- ▶ Insufficient documented evidence to support valid reasoning for decisions, leading to reduced public confidence in cases of appeal.
- ▶ Non-compliance with requirements of the *Mining Act* resulting in legal ramifications and reputational damage.

#### Root Cause

##### *Information - Expectations and Standards*

- ▶ There is limited guidance on the required level of detail required for the Assessment Summary.

considerations the TRC has taken into account in formulating their recommendation to the decision-maker.

- ▶ One Assessment Summary Report reviewed was incomplete. As such, the holistic assessment performed by the TRC may not have included all relevant information, or information may not have been accurate, which could lead to an inappropriate recommendation and determination.
- ▶ During the testing period, DRG implemented a 'decision-maker checklist' as an additional tool to enable compliance. We tested three applications in which this control was implemented (from January 2019 onwards), however, we could not obtain evidence of the completed decision-maker checklist for two of these three applications.

The TRC consists of representation from each of the sections within the Resource Operations Branch, who are charged with assessing all applications holistically - having considered the specialist/technical assessments and providing a recommendation to the delegated decision-maker.

| Recommendation   | Management comments   |
|--|---|
| <p>2.2.1.1. Ensure that TRC recommendation component of the Assessment Summary is supported with more detailed and documented rationale, particularly any key issues from the technical assessments that would need to be taken into consideration by the decision-maker in making their decision.</p> <p>2.2.1.2. Define and communicate the standards to be adhered to, enabling the Assessment Summary to be a standalone document capturing the key considerations and confirmation of relevant adherence to legislative obligations.</p> <p>2.2.1.3. Update the TRC Terms of Reference to reflect recent changes to the formation and operation of the TRC and the more rigorous documentation requirements of assessments.</p> <p>2.2.1.4. Develop an operational policy to be used to guide decision-making with respect to historical compliance issues for applicants to support consistent and transparent decision-making. Adopt this framework and document the outcomes for each application, where relevant, in the Assessment Summary.</p> <p>2.2.1.5. Leverage functionality within TMS (once fully implemented) to ensure that the process cannot be continued until documentation is fully completed (e.g. including mandatory fields and workflow approvals).</p> <p>2.2.1.6. Reiterate the requirement of completing and retaining the decision-maker checklist to support DRG's compliance to legislative requirements.</p> | <p>2.2.1.1 - Recommendation complete.</p> <p>DRG has made a number of significant enhancements and improvements to the operation and function of the TRC since 2018. A key enhancement has been to the Assessment Summary itself and the level of detail now recorded in the 'TRC Recommendation' section. TRC has ensured a more complete and holistic rationale is captured and that any key issues from the technical areas (Geological Survey NSW and Resources Regulator) are fully documented and embedded into the TRC Recommendation to inform the Decision Maker. This increases the robustness, efficacy and consistency of all decisions.</p> <p>In reference to the 'Observation' in 2.2.1 relating to the Special Circumstances noted and accepted by the Geological Survey NSW not being adequately referenced in the TRC Recommendation section of the Assessment Summary, this practice has now been adopted by the TRC and included in their TRC Recommendation.</p> <p>In reference to the 'Observation' in 2.2.1 relating to an incomplete Assessment Summary being progressed for TRC consideration, DRG advises that all TRC members are provided with and consider all relevant information from each assessment area prior to finalising an Assessment Summary. The TRC has implemented new procedures that an Assessment Summary is not to be progressed unless fully complete. Additionally, automated workflow functionality in TMS will also ensure that an Assessment Summary cannot be progressed unless it is complete.</p> <p>2.2.1.2 - Recommendation complete.</p> <p>Since 2018, incremental improvements have been made to the end to end titles assessment process, including the operation and function of the TRC. The nature of the individual assessments and the overarching qualitative analysis that now supports the Assessment Summary has evolved since 2018 and the process is fully documented. These improvements will continue to be communicated to staff as part of our ongoing continuous improvement cycle.</p> |

2.2.1.3 - Recommendation complete.

The increased level of documented justification as noted in the recommendations above, and other baseline standards for the Assessment Summary have now been reflected in the TRC Terms of Reference, which have been updated in August 2018 and again in June 2019.

2.2.1.4 - DRG accepts this recommendation.

DRG will develop an operational policy by Q2 2020 to be used to inform decision-making when considering historical compliance issues for all applicants. This will support consistent and transparent decision-making. DRG to refer to any guidelines or other documents currently used by the DPIE in developing the operational policy.

In reference to the 'Observations' in section 2.2.1 regarding the extent to which non-compliance identified by the Resources Regulator was not adequately captured in the TRC Recommendation section of the Assessment Summary, DRG reiterates that the TRC, in forming their recommendation, holistically considers:

- ▶ The technical assessments of the various business areas that have provided input,
- ▶ The mandatory consideration with respect to the protection of the environment,
- ▶ The work program and financial capability of the applicant, and
- ▶ All previous history of non-compliance.

All instances of non-compliance are now acknowledged and captured in the TRC recommendation section of the Assessment Summary.

2.2.1.5 - DRG accepts this recommendation.

Progressing an application in TMS will not be possible until all documentation is attached against the relevant obligations for that stage of the application. This will ensure that all documentation requirements are met.

2.2.1.6 - Recommendation complete.

The secretariat function for TRC facilitates the progression of the Assessment Summary both prior to and post TRC. As part of the function, the Secretariat will ensure adherence to the decision maker checklist in progressing an Assessment Summary for approval. This ensures DRG's compliance to all legislative requirements.

The Chair of the TRC will ensure completing and retention of the decision-maker checklist.

## 2.2.2 Statutory minimum standards for financial and technical capability need to be finalised and published

### Observation

DRG should prioritise and expediate the publication of statutory minimum standards to assess technical and financial capability to carry out the proposed work program associated with the application for an exploration licence.

The delegated decision-maker has authority, per the *Mining Act*, to take into the account their opinion of whether such standards have been met. The absence of such standards gives rise to the potential for inconsistent decisions, which exposes DRG, and DPIE more widely, to reputational risk and legal appeals from applicants (where applications are refused).

DRG is currently drafting these minimum standards, including consulting with industry on its content, with a view to publishing by the end of 2019. However, given it is a key tool in enabling consistency of decision-making for determining mining titles and is currently absent from the decision-making framework, it should be prioritised.

Once drafted, checklists and assessment templates should be updated to capture whether applicants meet the standards.

### Potential Impact

- ▶ DRG does not have a clear basis for refusing applications with respect to financial or technical capability to fulfil the proposed work program. The absence of minimum standards may lead to inconsistent and opaque decision-making, - resulting in the potential for legal challenge and/or reputational damage.

### Root Cause

#### *Resources - People*

- ▶ The availability of adequate resources to develop statutory minimum standards for financial and technical capability to carry out the proposed work program has been a challenge for DRG. This task carries a significant workload, subject matter knowledge and requires extensive consultation with various industry stakeholders.

| Recommendation  | Management comments   |
|---|---|
| <p>2.2.2.1. Prioritise the finalisation of the statutory minimum standards for financial and technical capability to carry out the proposed work program through evaluating the current resource allocation and increasing this accordingly.</p>  | <p>2.2.2.1 - DRG accepts this recommendation.<br/>Developing minimum standards under the <i>Mining Act</i> is a priority of DRG. The Division has been progressing the development of the standards and will release a draft document for public consultation in 2019. Following the consultation period, DRG intends to finalise and implement the final and approved Minimum Standards in early 2020.</p> |
| <p>2.2.2.2. Develop and enhance existing checklists, assessment templates and/or internal procedural documentation to capture the items noted in the minimum standards. Applicants' achievements (or failures) to meet these standards should be clearly documented as part of the final recommendation and decision.</p> | <p>2.2.2.2 - DRG accepts this recommendation.<br/>The Resources Operations Branch within DRG will embed and reflect all standards from the agreed Minimum Standards document into existing checklists, assessment templates and internal procedure documentation as part of the revised assessment framework that supports the end to end titles assessment process.</p>                                    |

## 2.2.3 Record keeping practices to support the fulfilment of legislative obligations require improvement

### Observation

For multiple areas tested, we have identified instances where key documentation is not available to demonstrate the operation of controls that are designed to enable compliance with legislation. As such, we cannot assess whether certain key obligations within the *Mining Act* have been adequately considered and complied with.

The results from testing a sample of mining title applications, encompassed the following observations:

- ▶ The Spatial Services Identification sheet, which is used to document the identification of encumbrances and conflicts pertaining to specific applications, could not be obtained for eight applications tested. Given the *Mining Act* contains specific obligations relating to restrictions of granting Mining Leases over reserve land and with respect to dwellings, it is important that DRG's assessment of such encumbrances are clearly documented, demonstrating that this has been assessed by an appropriately qualified individual.
- ▶ Two Assessment Summary Reports could not be obtained. This report documents the key considerations throughout the assessment process and should be available to support the mining title application decision in the case of challenge or appeal.
- ▶ For five applications tested, preliminary assessment reports could not be obtained, therefore key aspects to support the detailed assessment were missing.
- ▶ For seven applications tested, no evidence could be obtained to demonstrate the application fee was paid prior to assessing an application.
- ▶ For two applications tested, no evidence could be obtained to demonstrate that associated fees and levies had been paid prior to the issue of the title.
- ▶ For six applications tested, no evidence could be obtained to determine whether the application was published in the Gazette.
- ▶ For one application tested, the notice of the Proposed Decision could not be obtained.

The above observations relate to key obligations within the *Mining Act* and therefore, in the absence of documentation that demonstrates DRG have adequately evaluated such implications, there remains the risk that they are exposed to legal ramifications, should their decision be challenged or appealed.

### Potential Impact

- ▶ Non-compliance with the *Mining Act* resulting in legal ramifications and reputational damage.
- ▶ Incomplete records leading to the inability to locate key information for business purposes or to fulfil requests under the *Government Information (Public Access) Act 2009*.
- ▶ Inconsistent records management practices leading to the leakage of sensitive information.
- ▶ Loss of critical business knowledge upon the departure of key individuals within the team.

### Root Cause

#### *Information - Expectations and Standards*

- ▶ There is a lack of guidance in place to define the records management requirements for the various types of activities within the mining title administration processes
- ▶ Lack of emphasis on the importance of records management.

| Recommendation   | Management comments  |
|--|--|
| <p>2.2.3.1. Define minimum documentation standards for recordkeeping purposes. Where certain documentation is not applicable, this should be recorded as such with sufficient justification. Examples of key documentation that should be accounted for include:</p> <ul style="list-style-type: none"> <li>▶ Evidence of the payment of application fees, as well as other fees and levies</li> <li>▶ Spatial Services Identification sheets</li> <li>▶ Evidence of Gazettal of applications and determinations</li> <li>▶ Preliminary assessment reports currently conducted by Resources Regulator and Geological Survey of NSW (including conflicts of interest declarations)</li> <li>▶ Assessment Summary reports (including conflicts of interest declarations)</li> <li>▶ Correspondence, such as Notices of Proposed Decisions, requests for additional information etc.</li> </ul> <p>2.2.3.2. Implement a monitoring control to review that the minimum record keeping standards have been met. This should be in the form of periodic spot checks to ensure records are retained in Content Manager 9 (DPIE's records management system) appropriately.</p> <p>2.2.3.3. Leverage TMS's functionality to ensure that all documentation requirements are built into the system workflow.</p> <p>Exceptions should be reported to the Executive Director Resource Operations and the Deputy Secretary Resources &amp; Geoscience in conjunction with the improved reporting protocols to be implemented as part of 2.2.5.</p> | <p>2.2.3.1 - Recommendation complete.</p> <p>It is noted that the requirements for recordkeeping per the <i>State Records Act 1998</i> are documented within higher order 'Cluster Records Management Policy'. To provide more meaningful direction to staff, a new procedure template within the DRG QMS framework has been developed which contains a 'Records' section describing the specific recordkeeping standard for the designated procedure.</p> <p>2.2.3.2 - DRG accepts this recommendation.</p> <p>DRG will be implementing an internal audit programme, including spot checks, to review effectiveness of implementation of processes and procedures. The development and initiation of the audit programme is targeted for 2020-21.</p> <p>2.2.3.3 - DRG accepts this recommendation.</p> <p>TMS will have a direct integration with DRG's record management system CM9. This will allow for all documentation required to support the end-to-end titles assessment function to be directly extract from and stored in CM9, as per the stages in TMS.</p> <p>Exceptions to required record keeping practices will be reported to the Executive Director and Deputy Secretary DRG as part of the improved reporting protocols embedded in DRG.</p> |

## 2.2.4 Develop a framework for managing and monitoring compliance of title conditions

### Observation

Currently, there is no defined process/procedure for monitoring and managing title holders' compliance to their respective title conditions. In the absence of such a framework, title holders' non-compliance may not be identified on a timely basis.

### Roles and responsibilities

At present, roles and responsibilities have not been clearly defined with respect to the activities to be undertaken by the DRG employees prior to referring potential non-compliance to the Resources Regulator for formal investigation.

### Reviewing mandatory reports submitted by title holders

There is currently no overarching review to ensure that key non-technical components of the various reports (including Exploration, Environmental and Incident reports) submitted by title holders is consistent. In the absence of such a check, title holders may submit factually inconsistent reports without detection by DRG. This risk is further exacerbated by the potential for reduced accountability of title holders that use a mining agent for reporting purposes. A declaration by the title holder that the information is accurate to the best of their knowledge is not currently required, which reduces the accountability of the title holder for reporting accurately in line with the conditions of their title.

### Maintaining the accuracy of the Conditions Tracking Alert System (CTAS)

Work has been undertaken to establish CTAS as a database to hold title conditions. However, continued emphasis needs to be placed on maintaining the accuracy of this database. Through testing we identified one instance from a sample of three months where there was a two-month delay in adding the title conditions to CTAS from the end of the month (i.e. when the report is generated) in which the title was granted.

### Potential Impact

- ▶ The Resources Regulator is not informed of non-compliance of title conditions on a timely basis, preventing appropriate action to be taken.
- ▶ Insufficient preliminary investigation executed by DRG, leading to excessive referrals to the Resources Regulator.
- ▶ Non-compliance with title conditions is undetected.
- ▶ Inconsistent, inaccurate or erroneous reporting submitted by title holders is undetected.

### Root Cause

#### *Resources - People and Time*

- ▶ Historically, no database was used to hold conditions. Significant time was invested in transferring conditions to CTAS over the last 12 months.

| Recommendation  | Management comments  |
|---|--|
| <p>2.2.4.1. Establish a framework to govern the monitoring and management of compliance against title holder’s conditions. This should include clear roles and responsibilities for:</p> <ul style="list-style-type: none"> <li>▶ Managing title conditions;</li> <li>▶ The overarching review of the key non-technical components of the reports required to be submitted per the conditions of title to ensure consistency and accuracy across the reports. This is not to replace the technical review performed on individual reports by the relevant specialist teams across DRG and Resources Regulator;</li> <li>▶ The review and assessment of information pertaining to specific conditions;</li> <li>▶ The steps to be taken to triage initial issues, escalation processes within DRG; and</li> <li>▶ Protocols for referrals to the Resources Regulator.</li> </ul> <p>2.2.4.2. Ensure title holders make a declaration that all information is accurate to the best of their knowledge. This should be signed by the title holder, even in instances where an agent completes the reports. This is to ensure accountability remains with the title holder.</p> <p>2.2.4.3. Execute periodic spot checks to determine whether issued titles have had their conditions added to CTAS and information relating to the compliance of such conditions is updated accordingly. Investigate the opportunity to automate this process through utilising the capability of TMS, once fully implemented.</p> | <p>2.2.4.1 - DRG accepts this recommendation.</p> <p>The Regulatory Conformance Team within the Resource Operations Branch (DRG) is developing a conformance framework that sets out the approach to managing conformance obligations (includes title conditions, statutory conditions and other legislative requirements under the <i>Mining Act 1992</i> and <i>Petroleum (Onshore) Act 1991</i>. The Framework will set out the risk-based approach to defining processes and procedures for monitoring and management of title holders’ conformance with obligations in order to identify any alleged non-conformances in a timely manner for referral to the Resources Regulator. The Framework will result in improved and embedded oversight of conformance activities across DRG to ensure consistent and effective monitoring and management.</p> <p>DRG is working with the Resources Regulator on the Operational Rehabilitation Reforms. The primary purpose of this project is to improve the regulation of mining rehabilitation via new conditions to be imposed by regulation. This regulatory reform will standardise mining lease conditions and improve transparency by making all mines subject to consistent conditions. The draft regulation, which will amend the current Mining Regulation 2016, is being drafted now and will soon be subject to public consultation.</p> <p>2.2.4.2 - DRG accepts this recommendation.</p> <p>DRG accepts the need for titleholders to be accountable for the information they are providing, noting that the <i>Mining Act 1992</i> does allow for appointed agents to lodge or serve information on behalf of a titleholder.</p> <p>Under the <i>Mining Act</i>, it is an offence to provide false or misleading information in purported compliance with the <i>Mining Act</i>. The titleholder must also ensure that an agent does not provide any false or misleading information. Further,</p> |

it is grounds for cancellation if false or misleading information is provided in or in connection with any report provided under the *Mining Act*.

Reflecting the provisions of the *Mining Act*, the declaration component of the standard templates for applications and some reports already requires the person lodging it to declare that the information is true and correct and that states that it is an offence under both the *Crimes Act* and the *Mining Act* to knowingly provide false or misleading information.

As all DRG reports are to be submitted via TMS (once developed), TMS, which will replace the existing templates, will include a more comprehensive declaration that is consistent with the provisions of the *Mining Act* and *Crimes Act 1900* regarding false or misleading information. DRG is actively working with the Resources Regulator to ensure a consistent and robust approach to declarations. The provisions around agency in the *Mining Act 1992* will also be considered as part of the legislative review commencing in 2020.

Given that the current approach to declarations and the existing offence provisions under the *Mining Act* already ensure accountability remains with the titleholder, the creation of an additional declaration (under the *Oaths Act 1900*) is not necessary [and creates administrative burden on government and industry]. However, DRG acknowledges that not all DRG reports are supported by the appropriate declaration. Accordingly, DRG will ensure that all reports submitted under the *Mining Act* are supported by an appropriate declaration. This work will be completed 31 March 2020.

2.2.4.3 - DRG accepts this recommendation.

Titles and their conditions in CTAS are updated from reports generated for the Titles Administration System (TAS). There is a quality control process in place to ensure that these titles and conditions are added to CTAS and an accuracy check is completed. There is also a process in place for checking conditions in CTAS for titles that are considered by the Titles

|  |  |
|--|--|
|  | <p>Review Committee. This check is to identify any special conditions that need to be addressed and that the conditions are in CTAS.</p> <p>Information relating to compliance with conditions is mostly held by the Resources Regulator in a separate system therefore a streamlined approach to the Division having access to this information is being investigated. Compliance outcomes from compliance functions conducted by the Division are also done in separate systems and by different teams therefore a streamlined approach to capturing this information in CTAS/TMS will be investigated.</p> <p>The TMS will include functionality to be able to manage conditions including adding conditions during the title assessment process. TMS will allow conditions to be added from a standard set for the title type and add any special conditions. DRG commits to undertake a periodic spot check in TMS over its first 12 months of operation to determine the currency of title conditions.</p> |
|--|--|

## 2.2.5 Enhance and embed the periodic operational dashboard reporting performed within Resource Operations

### Observation

Resource Operations do not currently have a finalised internal operational dashboard reporting capability for key activities associated with mining title administration activities in order to enable management to address bottlenecks with processes, non-compliance to service delivery standards or other risk areas.

It is acknowledged that ad-hoc reporting is undertaken to assist with workload management. These reports were being developed at the time of this review, and management intend to build similar reporting capability within TMS going forward. This is, firstly, to support clear prioritisation of open applications and to support the achievement of the published service delivery standards. Secondly, reporting with respect to cumbersome, ongoing issues will be incorporated into reporting to allow for clear escalation of issues to the Executive Director Resource Operations and Deputy Secretary DRG as necessary.

External reporting is performed quarterly with respect to volume of applications and determinations and to capture DRG's performance against the service delivery standards. DRG has previously published monthly Title Status Reports to assist title holders, investors, potential explorers and the community in monitoring exploration and mining title/tenement activity in NSW. However, this not been done since May 2018, which may result in a negative reputational impact on DRG.

### Potential Impact

- ▶ Lack of intervention from senior management in resolving crucial and/or ongoing issues, resulting in inappropriate determinations being made, non-compliance to service delivery standards and/or reputational damage.

### Root Cause

#### *Resources - People and Tools*

- ▶ Turnover in senior management, ongoing resource constraints and competing priorities (given volume of applications received) have hindered the ability to embed internal reporting capabilities.
- ▶ The Interim Workflow Solution currently being used does not enable efficient or automated reporting of activities.

## Recommendation

- 2.2.5.1. Embed internal operational reporting functionalities into the workflow management tool in order to manage and prioritise workloads, encompassing:
- ▶ Number of open applications.
  - ▶ Applications nearing service delivery standards deadlines.
  - ▶ Applications that have exceeded service delivery standards thresholds. These should be reported with additional KPIs in place to ensure that they remain high priority rather than being left in favour of other applications near the deadline.
  - ▶ 'Stop the clock' metrics, including justifications and ageing analysis.
  - ▶ Reporting of unusual, unique or unprecedented applications, to ensure there is visibility to enable senior management intervention as required.
  - ▶ Other noteworthy incidents, such as undue pressure from applicants and/or mining agents.
  - ▶ Exceptions noted relating to the monitoring control for records management per 2.2.3.
- 2.2.5.2. Consider the need to publish monthly Title Status Reports and if deemed to be unnecessary, remove the commitment from the website to manage the public's expectations. Alternatively, ensure these reports are published in line with the commitment detailed on the website.

## Management comments

- 2.2.5.1 - DRG accepts this recommendation. As part of the TMS staged release, full dashboard style operational reporting capabilities will be built into the internal TMS viewer. This will allow for greater visibility and enhanced reporting capabilities and support better workload management. It is intended that the dashboard style reporting will include but not be limited to:
- ▶ The number of open applications, by assessment date, stage, resource, and type,
  - ▶ KPI status, i.e. applications nearing service delivery standards deadlines, to allow for better prioritisation and management,
  - ▶ 'Stop the clock' metrics, including justifications and ageing analysis.
- 2.2.5.2 - This recommendation has now been resolved. DRG notes that monthly title status reports, and the commitment to publish them, have been removed from the website in September 2019 as part of the overall DRG website review. The public register will continue to be used as the primary means of attaining titles data.

## 2.2.6 Prohibit payment of application fees by cash or cheque

### Observation

DRG should not accept payment of application fees by cash or cheque to reduce the risk of fraud, bribery or theft. Currently, cash and cheque payments are accepted for mining title application fees.

The process to record transactions is manual and performed outside of any system. As such, there is no system-generated transaction listing that can be used to determine completeness of transactions when the cash records are reconciled. Prohibiting cash and cheques and ensuring all payments are processed via electronic funds transfer will allow DRG to more easily determine what fees have been paid and what are outstanding, while preventing any mishandling of cash or cheques.

### Potential Impact

- ▶ Fraud, bribery and/or theft of mining title application payments made via cash or cheque leading to financial loss and/or reputational damage.

### Root Cause

#### *Resources - Systems and People*

- ▶ Lack of a system in place to enable a controlled mechanism for accepting cash and cheques.
- ▶ Lack of appreciation of risk of such transactions due to relative infrequency.

| Recommendation  | Management comments  |
|---|--|
| <p>2.2.6.1. Prohibit the acceptance of cash or cheque by DRG staff for mining title application payments and communicate this to the community to be effective from a specific date. Alternatively, if accepting cash and cheques is necessary, controls should be put in place to ensure a complete transaction listing can be generated and reconciled against cash and cheques received, with management review and oversight. Internal audits should be performed cyclically to confirm ongoing operation of such controls.</p> | <p>2.2.6.1 - DRG accepts this recommendation.</p> <p>DRG supports the move to a fully electronic payment system, ensuring appropriate controls and an audit program is in place. With the exception of small-scale titles administered out of the Lightning Ridge office which routinely receives cash, one only one cash payment has been received by the Maitland office in respect of applications or other fees under the <i>Mining Act</i> in 2019 [Note: The front desk of the Maitland office sells maps and other publication for which cash is accepted]. Whilst some cheques are received, the vast majority of transactions are via direct deposit or credit card.</p> <p>Currently, there are no legislative requirements that allow DRG to refuse cash/cheque payments. Provisions to support electronic payment will be considered as part of the legislative review commencing in 2020, noting that any changes which prohibit payment by cash will need to be carefully considered in the context of small-scale titles. The Lightning Ridge office, in administrating small-scale titles, receives over \$1m in revenue a year, with majority of the payments made in cash. Not being able to accept cash payments would significantly affect the opal industry. In terms of cash/cheque reconciliations at Lightning Ridge, this is currently undertaken daily between the cash register, banking sheet and finance.</p> <p>The rollout of the TMS will alleviate some of the concerns associated with cash/cheque transactions, as there will be a move towards automated electronic payments as part of the end to end titles administration process. DRG will explore options to support electronic payments in the Lightning Ridge office.</p> |

## 2.3 Legislation, policies and procedures

### 2.3.1 The DRG policy and procedural framework requires simplification

#### Observation

Internal policies and procedures are distributed across many documents in various types and standards, including publicly available webpages, application forms and application documents. Assessors and decision-makers have no clear central repository, and in some instances, limited guidance, to refer to in respect of undertaking their duties.

Further, the existing policy and procedural documents are spread across various teams in DRG with no central team responsible for document/policy management. This heightens the risk of knowledge loss in the event key personnel leave and hinders new employees' ability to locate the correct policies and procedures.

Additionally, some documentation does not reproduce the key obligations in full or exactly specified in the legislation. While formalised documents are being drafted to support the decision-maker, the creation of these documents is on an *ad hoc* basis and creates a high reliance and dependency across several key DRG personnel for knowledge.

DRG are currently rolling out a Quality Management System (QMS), which is being developed using the principles outlined in the ISO 9001 Quality Management framework. The QMS is intended to act as a key mechanism to define the internal policies and procedures that should be leveraged to execute the process and should enhance the policy framework.

#### Potential Impact

- ▶ Non-compliance with the *Mining Act* and *Petroleum (Onshore) Act* (and their respective Regulations) due to a lack of guidance relating to key obligations, resulting in legal ramifications and reputational damage.
- ▶ Loss of critical business knowledge if key personnel leave and policies and procedures are not documented.

#### Root Cause

##### *Competencies - Knowledge*

- ▶ Historically, DRG did not have an up-to-date and rationalised policy framework to underpin their activities.

| Recommendation   | Management comments  |
|--|--|
| <p>2.3.1.1. Create a central repository of DRG policy and procedural documents to enable ease of access and management of policies and promote awareness of these requirements across DRG.</p>   | <p>DRG accepts these recommendations.</p>  |
| <p>2.3.1.2. Develop internal DRG policies and procedures specifically for internal use only as support for decision-makers with additional context and detail to the current Decision-Maker Checklists to ensure all key obligations and procedural requirements are available (i.e. capture and record the knowledge of the key DRG personnel). This policy development could be complemented by a centralised key obligation and compliance register to assist in prioritising which key obligations to address.</p>             | <p>2.3.1.1 - Action has commenced to create a central repository of operational policy and procedural documents to enable ease of access and management of policies.</p> <p>A broader piece of work relating to managing documented information will be rolled out across DRG through awareness, training and supporting materials.</p>  |
| <p>2.3.1.3. Continue to focus on the implementation of the QMS, ensuring the procedure consists, at a minimum, of:</p> <ul style="list-style-type: none"> <li>▶ Mechanism to communicate changes (i.e. new and superseded policies and procedures) to relevant stakeholders on a timely basis.</li> <li>▶ Defined review cycles for each document and monitoring over the execution of this.</li> <li>▶ The requirements for DPIE Legal to review and approve changes to DRG policies and procedures, where applicable.</li> </ul> | <p>2.3.1.2 - DRG is currently working on mapping the core processes that support decision makers in exercising their obligations. Also, associated procedures are also being scoped to support primary titles assessment functions under the <i>Mining Act 1992</i>.</p> <p>In addition, the development of a compliance obligation register (per ISO 9001:2015 clause 8.2.2) is targeted for development in 2020-21.</p>  |
|  | <p>2.3.1.3 - DRG supports the recommendation to continue to focus on the implementation of the QMS. The requirement to communicate changes, for defined periodic review timeframes and consideration of legal endorsement for changes to operational policies and procedures have been captured within DRG-BSR-001 Manage Documented Information and it's supporting procedures. Communication of these requirements form part of the broader rollout described in 2.3.1.1</p> |

## 2.3.2 Process to track legislative changes and compliance needs defining

### Observation

There is no formal process to review and update DRG policies and procedures relating to revised or new legislative requirements to ensure ongoing compliance. Without a clear process to track and update policy documents across DRG, outdated legislative and compliance requirements may result in inability to comply with new requirements.

Compliance requirements should be formally tracked and risk-assessed so that DRG have clarity on how they are meeting their most important legislative obligations, and what actions need to be taken to respond to changes in legislation or internal procedure to adapt and continue to remain compliant. Appropriate tracking and management of a 'key obligation register' will assist in facilitating an efficient and structured approach to understanding and managing DRG's obligations and facilitate visibility of appropriate delegation, process documentation and management.

### Potential Impact

- ▶ Non-compliance with the *Mining Act* and *Petroleum (Onshore) Act* (and their respective Regulations) resulting in legal ramifications and reputational damage.
- ▶ Loss of critical business knowledge if key personnel leave.

### Root Cause

#### *Competencies - Knowledge*

- ▶ Historically, DRG did not have an up-to-date and rationalised policy framework to underpin their activities.

| Recommendation  | Management comments   |
|---|---|
| <p>2.3.2.1. Prioritise key obligations within the relevant legislation based on frequency, risk, time and cost and map policy and procedural documentation to the obligations to demonstrate how they are met. Changes should be tracked and reflected in this document on an ongoing basis.</p> <p>2.3.2.2. Work with the DPIE Legal and Governance team to ensure these key obligations are managed within the DPIE Compliance Framework in order to proactively and effectively manage non-compliance risks.</p> | <p>DRG accepts these recommendations.</p> <p>2.3.2.1 DRG supports this recommendation and is currently working on mapping the core processes, and developing associated procedures, to support primary titles assessment functions under the <i>Mining Act 1992</i>. In addition, the development of a compliance obligation register (per ISO 9001:2015 clause 8.2.2) is targeted for development in 2020-21.</p> <p>2.3.2.2 - Both DPIE and DRG is committed to achieving the highest standards of ethical conduct and integrity in the workplace. DPIE's compliance objectives are set out in the Compliance Framework 2017 and the Legislative and Regulatory Compliance policy. An organisational compliance register was developed in April 2019 in consultation with the DPIE Governance Branch and details DRG's administrative and legislative obligations. The register will be reviewed regularly and as a result of applicable legislative and regulatory amendments, changes to NSW Government and Departmental policies, and instances of non-compliance.</p> |

### 2.3.3 No documented processes to manage “infrequent” activities

#### Observation

It is recognised that there are a number of obligations or requirements under the *Mining Act* which occur infrequently or have not yet occurred; for example, tenders have not been required for explorations licences. Also, it is recognised the *Petroleum (Onshore) Act* and *Petroleum (Onshore) Regulation* impose obligations on DRG, which are currently not addressed due to infrequency of activity, where no grants, renewals or transfers of petroleum titles have been determined since 2014.

However, as these obligations remain in the legislation and are legal requirements imposed on DRG, irrespective of frequency, policies should be developed and implemented to address these obligations. Alternatively, if management decide not to capture such obligations in policies and procedures, this decision should be clearly justified and documented, and subject to a periodical review by the Executive Director and/or Deputy Secretary to determine ongoing appropriateness.

#### Recommendation

2.3.3.1. Create a list (based on level of priority) to address and track undocumented processes required under all DPIE mining related legislation. This should capture the justification of undocumented processes and should also define review cycles for ongoing consideration.

#### Potential Impact

- ▶ Non-compliance with the *Mining Act* and *Petroleum (Onshore) Act* (and their respective Regulations) resulting in legal ramifications and reputational damage.
- ▶ Loss of critical business knowledge if key personnel leave.

#### Root cause

##### *Competencies - Knowledge*

- ▶ Historically, DRG did not have an up-to-date and rationalised policy framework to underpin their activities.

#### Management comments

2.3.3.1 - DRG accepts this recommendation.

DRG will capture undocumented infrequent processes required under the *Mining Act* and *Petroleum (Onshore) Act 1991* by Q2 2020. Refer above to 2.3.2.1. The development of the QMS will systematically review all procedures, including any procedural gaps relating to non-standard or infrequent process. These will be captured, classified and ranked based on priority and will include justification.

## 2.4 IT systems

### 2.4.1 Lack of segregation of duties between developers and those who have access to migrate system changes to production in MinView and TMS

#### Observation

MinView is a publicly accessible database that allows users to display and query exploration and mining titles information in an interactive web map. Further, whilst TMS is still in the process of being implemented, it is intended to replace TAS as the public register as well as the internal database for mining titles.

As such, these systems are (or will be) relied upon by prospective applicants to inform their business plans and applications for mining titles, as well as relied upon internally for administering applications and conditions monitoring.

We noted the following control weaknesses that impact segregation of duty controls over system changes within the development and production environment:

- ▶ For MinView, access to the development and production environments are restricted to the accounts with a private key for the DevOps system and the production system. We identified that three users (all DPIE employees) have this access and therefore can both develop and migrate changes in to production.
- ▶ During the implementation of TMS, we identified that one user had access to both develop and migrate changes into production.

These users have the ability to make changes to the systems, with no monitoring/review control to detect inappropriate changes, which could have an impact to the business operations and the completeness and accuracy of data. Incorrect data could lead to administrative issues internally, but also to reputational damage to DPIE where it fails to provide the public with quality data hindering their ability to make appropriate decisions.

#### Potential Impact

- ▶ Unauthorised and/or inappropriate changes which may have an impact to the systems functionalities and the accuracy of data, impacting the ability to rely upon this data to make informed decisions, both internally and by the public.

#### Root Cause

##### *Resources - People*

- ▶ Lean/small size of team rendering it impractical and inefficient to segregate such duties, resulting in users having conflicting roles.
- ▶ No monitoring control (periodic review of user activity) to compensate for conflicted access.

| <b>Recommendation</b>  | <b>Management comments</b>  |
|--|---|
| <p>2.4.1.1. Segregate the duties of those that can access the development environment and the production environment of MinView and TMS. If these conflicting duties cannot be segregated (e.g. due to the team size), a periodic system change monitoring control should be performed to mitigate the risk of inappropriate changes going undetected. The change monitoring control should consist of a formal review of all changes within the period to determine if they followed the change management process, underwent appropriate approvals and were implemented correctly.</p> | <p>2.4.1.1 - DRG accepts this recommendation.</p> <p>The TMS system will be embedded into the Resources Operations Branch for ongoing support and maintenance. There will be a clear distinction between the business unit that supports the TMS and the assessment teams. This will ensure a clear segregation of duties between those that can access the system for support and maintenance purposes and those that use it to support assessment activities.</p> <p>DRG will perform a reconciliation of user accounts for MinView and TMS. If users from both areas are identified, reviews should be undertaken to ensure processes and approvals were followed correctly.</p> |

## 2.4.2 No formal review of the Service Organisation Control (SOC) Report provided by the third-party supporting TMS

### Observation

The TMS application is supported by a third-party vendor (Pega) who manage backups, disaster recovery, business continuity planning, development of changes and database access for the TMS system. Whilst a Service Organisation Controls (SOC) report is in place, which provides assurance that third-parties are managing data security appropriately, it was noted that a formal review of the SOC report was not performed to ensure that:

- ▶ IT risks applicable to areas being managed by the third-party vendor (Pega) have been addressed sufficiently and controls are operating effectively and in line with DPIE controls framework.
- ▶ Complementary User Entity Controls (CUECs) are performed and confirmed to be operating effectively by DPIE.

CUECs are agreed upon controls within a SOC report, which are the responsibility of DPIE to perform. As such, it is crucial that the CUECs outlined in this report are reviewed and assigned to appropriate stakeholders for execution as required. In the absence of this, the risks may not be adequately controlled leading business continuity issues and/or potential data leakage/privacy issues.

### Potential Impact

- ▶ Business continuity issues, data privacy breaches and reduced data integrity for a key system that will be relied upon, once fully implemented, to administer mining titles.

### Root Cause

#### *Information - Expectations*

- ▶ Lack of controls oversight and unclear responsibilities in the performance of controls between third-party service providers and DPIE.

#### *Competencies - Knowledge*

- ▶ Third-party risk framework is not implemented within DPIE.

| Recommendation   | Management comments  |
|--|--|
| <p>2.4.2.1. Implement a third-party risk framework to review the TMS third-party vendor's controls in place to ensure that:</p> <ul style="list-style-type: none"> <li>▶ There is no leakage of data.</li> <li>▶ Sufficient logging of activities is in place.</li> <li>▶ Data is secured (through sufficient backup, disaster recovery and BCP controls)</li> </ul> <p>This should also consist of a formal review of the CUECs noted in the SOC report to ensure that these controls are assigned to appropriate control owners and are being undertaken as business as usual.</p> | <p>2.4.2.1 - DRG accepts this recommendation.</p> <p>TMS will utilise a single sign-on capability matched to relevant officers and their department equipment to prevent unwarranted logins. TMS will also utilise a third-party vendor for individual verification checks, ensuring no leakage of data, sufficient logging of activities, and data security,</p> <p>TMS will have full audit capabilities. As TMS uses PEGA systems that can log all activities in TMS, a full audit trail will be created for each instance an assessment case is opened, edited or viewed. These actions will be saved in the audit trail relevant to that assessment case.</p> <p>PEGA for TMS is offered as a Platform for Service, which includes data security, backup, data recovery and BCP controls.</p> |

### 2.4.3 Lack of segregation of duties where users have the ability to edit and verify their own data changes in the TAS Application

#### Observation

TAS is the database that holds key information pertaining to mining titles. Users enter information into this system to store key information relating to applications, determinations, cancellations, renewals and transfers. This information is critical as it also acts as the public register for mining titles.

However, it was identified that one 'role' in this system ('Standard\_Verify') allows those who are assigned it to both edit and verify data entries in this system. 51 users were found to have this role assigned to them, and this enables them to add and modify data directly in this system without system-enforced approval and without retrospective independent review. This increases the risk of inaccurate data that is publicly available and that is relied upon to make key decisions.

#### Potential Impact

- ▶ Inappropriate data changes may be made as the same user has access to edit the data and approve it without oversight from another user, resulting in the risk of insufficient data security.

#### Root Cause

*Resources - People and Systems*

- ▶ Inappropriate use of the 'Standard\_Verify' role, which allows access to both functions, and the lack of resource to re-design the access roles within the application in a timely manner.

| Recommendation  | Management comments  |
|---|--|
| <p>2.4.3.1. Segregate the conflicting duties between users who have the ability to edit data and those who have the ability to verify the data (i.e. approve and process inputted data). This can be actioned by redesigning the access roles to have separate roles to edit data and verify data in TAS. If the roles cannot be redesigned, then a monitoring control should be implemented. A periodic review of all user actions and transactions should be performed (using a system generated log), to ensure that all actions performed by users in TAS were appropriate.</p> | <p>DRG accepts these recommendations.</p> <p>2.4.3.1 - Full implementation of TMS will ultimately see a move away from TAS as the source of truth for titles data. The segregation of conflicting duties between users who have the ability to edit data and those who have the ability to verify the data will be negated by the implementation of a 'maker/checker' function in TMS. Every key decision by a 'maker' will require a corresponding 'checker' to verify and approve.</p> |
| <p>2.4.3.2. Ensure that permissions for internal users reflect the current organisational structure and allow for the continuation of current approval processes.</p>   | <p>2.4.3.2 - Permissions for internal users in TMS will applied on a request for the creation of a user account and will reflect the current organisational structure and delegations.</p>   |
| <p>2.4.3.3. Design and implement appropriate segregation of duties within TMS to ensure unauthorised additions and/or changes to mining titles data cannot be made.</p>   | <p>2.4.3.3 - Please see management response to recommendation 2.4.3.1 on how the 'maker/checker' function in TMS will alleviate the risk of unauthorised additions and/or changes cannot be made in TMS.</p>   |

## 2.4.4 Lack of a formal process to remove access of terminated users and users that have changed roles for TAS and Arc GIS

### Observation

There was no formal process to remove access to TAS and Arc GIS systems when a user is terminated or has changed roles. The removal of access is triggered by an HR Request being raised to IT from which network access (Active Director) is removed. The application layer access, however, is not removed as part of this process.

Further, there is no formal compensating monitoring control of changes to data to mitigate the risk of inappropriate application layer access. DRG are therefore exposed to operational and reputational risks as this data is relied upon both internally and by the public (in the case of TAS).

### Potential Impact

- ▶ Terminated users retain inappropriate access to TAS and Arc GIS, compromising the integrity of the data stored within these systems.
- ▶ Other employees use active accounts of leavers to disguise inappropriate/unauthorised changes made by them impacting data integrity.

### Root Cause

*Competencies - Knowledge*

- ▶ The risk identified was not considered when developing the process to remove access to key IT systems.

### Recommendation

- 2.4.4.1. Implement a formal process for the removal of TAS and Arc GIS application access.
- 2.4.4.2. Implement a monitoring control to identify instances where the process is not followed so it can be resolved in a timely manner.

### Management comments

DRG accepts these recommendations.

2.4.4.1 - DRG will update exit procedures to ensure that all application access to TAS and ArcGIS will be removed for departing staff. This will include a removal of all TAS and ArcGIS licences and relevant logon access. Such exit procedures will also apply to all TMS users.

2.4.4.2 - A review of all current access against staff that have left the department will be conducted to ensure any discrepancies are resolved in a timely manner.



# Appendices

## Appendix A Scope of Work

The detailed scope and approach are outlined below:

### 1. Scope

The scope for this performance review included:

- ▶ Governance structures, processes and organisation framework in place to manage the assessment, issuance, monitoring of compliance to conditions, renewal and transfer of mining titles.
- ▶ Governance and controls in place to manage compliance with the key obligations of the *Mining Act*, *Mining Regulation*, *Petroleum (Onshore) Act* and *Petroleum (Onshore) Regulation*.
- ▶ Management of conflicts of interest, fraud and corruption prevention.
- ▶ Transparency and efficacy of the issuance and administration of mining authorisations and titles. This includes handling and receipting of mining titles fees and charges.
- ▶ Root causes affecting the performance of the management of mining titles. This may include structural, systemic, cultural and capacity issues.
- ▶ Processes and controls in the mining titles administration process to verify the validity and accuracy of spatial data.
- ▶ An understanding of key system controls, including user access, in relation to the spatial data storage systems and other key systems supporting the administration of mining title process.
- ▶ Identification checks of applicants, including small-scale mining titles (note: this was an agreed addition to the original scope of work per discussion with the former Deputy Secretary Resources Regulator).

### Limitations on Scope

This performance review did not include the following areas:

- ▶ Testing of the operational effectiveness of IT system controls. This review only performed a risk assessment of technology risks and assess the design effectiveness of IT controls (where appropriate).
- ▶ A full pre-implementation review of TMS. Only the design of key IT general controls was assessed.
- ▶ Processes in relation to dispute resolution post the granting of mining titles.
- ▶ Provision of assurance on the accuracy and completeness of the spatial data sets used in the assessment and determination process.
- ▶ Assessment of compliance with the *Mining Act*, *Mining Regulation*, *Petroleum (Onshore) Act* and *Petroleum (Onshore) Regulation*. Rather, this review assessed the effectiveness of controls in place to meet key obligations within this legislation.
- ▶ Provision of legal advice in identifying key obligations within the *Mining Act*, *Mining Regulation*, *Petroleum (Onshore) Act* and *Petroleum (Onshore) Regulation*. (Note: Per the original scope document, DRG was to provide a Subject Matter Resource from their legal panel to assist with identifying these key obligations. However subsequently it was agreed that this would be executed independently by EY Law).
- ▶ Any relevant mining legislative and administrative requirements, other than the exploration and mining authorisation parts of the *Mining Act*, *Mining Regulation*, *Petroleum (Onshore) Act* and *Petroleum (Onshore) Regulation*.
- ▶ The process to administer small-scale mining titles, except for the process to check identity of applicants.

Due to the inherent limitations of any internal control structure, it is possible that fraud, error or non-compliance with laws and regulations may occur and not be detected. Further, the internal control structure, within which the control procedures that were subject to review, were not reviewed in its entirety and, therefore, no opinion or view will be expressed as to the effectiveness of the greater internal control structure.

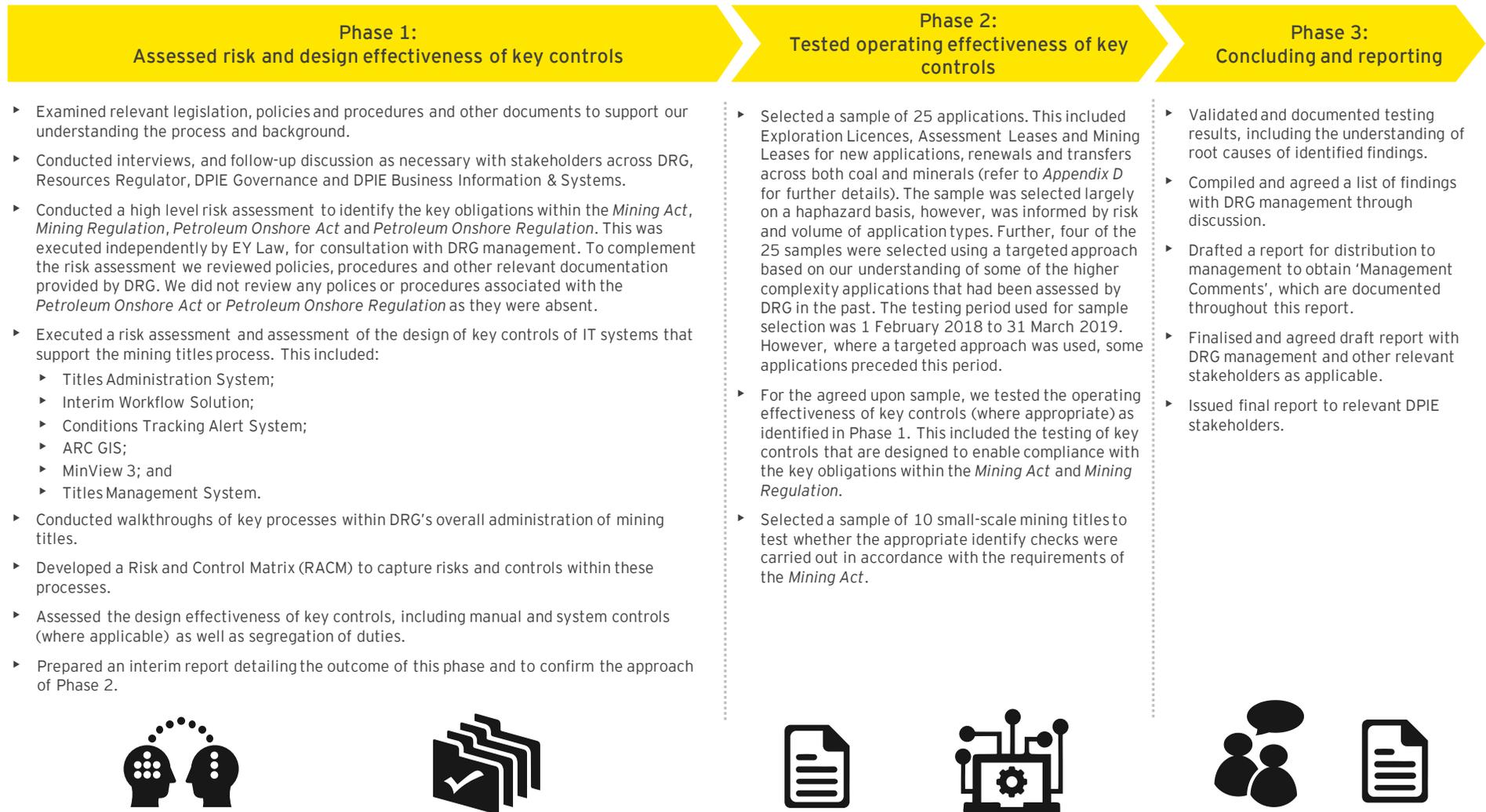
This performance review was not designed to detect all weaknesses in control procedures as it is not performed continuously throughout the period and the tests performed on the control procedures were on a sample basis. Any projection of the evaluation of control procedures to

future periods is subject to the risk that the procedures may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate.

This performance review was completed in full compliance with *Treasury Policy Paper TPP 15-03 Internal Audit and Risk Management Policy for the NSW Public Sector* which stipulates the application of the latest Institute of Internal Auditors (IIA) International Standards for the Professional Practice of Internal Auditing in the NSW Public Sector. This performance review will not be a reasonable assurance audit in accordance with *ASAE 3000 Assurance Engagements Other than Audits or Reviews of Historical Financial Information*.

## 2. Approach

The approach taken for this engagement was as follows:



## Appendix B Stakeholders Interviewed

We wish to acknowledge the input and cooperation we received from the following personnel during this engagement.

| #  | Title / Position                                 | Team  |
|----|--|---|
| 1  | Deputy Secretary, Resources & Geoscience         | Division of Resources and Geoscience (DRG)  |
| 2  | A/Executive Director Resource Operations         | Resource Operations, DRG                    |
| 3  | Executive Director, Resources Policy             | Resources Policy Planning and Programs, DRG |
| 4  | Executive Director, Geological Survey of NSW     | Geological Survey, DRG                      |
| 5  | Director, Operations Management                  | Resource Operations, DRG                    |
| 6  | Director, Regulation & Advice                    | Resource Operations, DRG                    |
| 7  | Acting Director, Title Assessments               | Resource Operations, DRG                    |
| 8  | Director, Resources Policy                       | Resources Policy Planning and Programs, DRG |
| 9  | Director, Strategic Resource Assessment & Advice | Geological Survey, DRG                      |
| 10 | Director, Land Use & Titles                      | Geological Survey, DRG                      |
| 11 | Manager, Funds and Levies                        | Resource Operations, DRG                    |
| 12 | Acting Manager, Title Assessments                | Resource Operations, DRG                    |
| 13 | Acting Manager, Title Assessments                | Resource Operations, DRG                    |
| 14 | Acting Manager, Titles and Customer Operations   | Resource Operations, DRG                    |
| 15 | Manager, Spatial Services                        | Resource Operations, DRG                    |
| 16 | Assessment Analyst Titles, Title Assessments     | Resource Operations, DRG                    |
| 17 | Senior Geospatial Officer                        | Geological Survey, DRG                      |
| 18 | Geoscience Data Systems Developer                | Geological Survey, DRG                      |
| 19 | Manager Geoscience Data Management & Delivery    | Geological Survey, DRG                      |
| 20 | [Former] Deputy Secretary, Resources Regulator   | Resources Regulator                         |
| 21 | Chief Compliance Officer                         | Resources Regulator                         |
| 22 | Director, Major Investigations                   | Resources Regulator                         |
| 23 | Director, Business Operations & Assurance        | Resources Regulator                         |

| #  | Title / Position                               | Team  |
|----|--|---|
| 24 | Director, Compliance Operations                | Resources Regulator                         |
| 25 | Manager, Compliance Coordinator                | Resources Regulator                         |
| 26 | Director Governance                            | DPIE Governance                             |
| 27 | Manager, Project Governance / Audit Management | DPIE Governance                             |
| 28 | Manager, Ethics and Integrity                  | DPIE Governance                             |
| 29 | Manager of Business Application Services       | Business Information and Services (BIS)     |
| 30 | Oracle Database Specialist                     | BIS   |
| 31 | Virtual Data Centre System Administrator       | BIS   |
| 32 | Systems Administrator                          | BIS   |
| 33 | Solution Architect                             | BIS   |
| 34 | Program Manager                                | BIS   |
| 35 | Test & Release Manager                         | BIS   |
| 36 | Head of Pega Centre of Excellence              | BIS   |
| 37 | Pega Technical Lead                            | BIS   |
| 38 | Principal Application Developer                | BIS   |
| 39 | Service Delivery Manager                       | IQ3 (Third party vendor for back up of TAS) |
| 40 | Operations Team Lead                           | IQ3   |
| 41 | IQ3 Consultant                                 | IQ3   |
| 42 | Executive Director, Human Resources            | Human Resources                             |
| 43 | Head of Recruitment, HR Business Partnering    | Human Resources                             |
| 44 | Director, HR Business Partnering               | Human Resources                             |

## Appendix C Key Documents Reviewed

The table below sets out the key documents we inspected during the execution of this engagement.

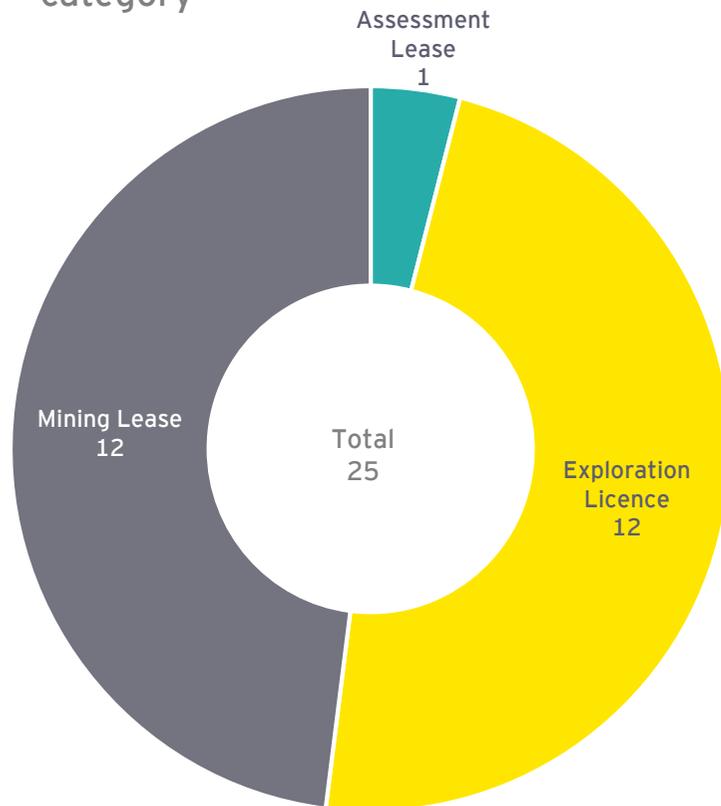
| #  | Document Name  |
|----|--|
| 1  | Mining Act 1992  |
| 2  | Mining Regulation 2016   |
| 3  | Petroleum (Onshore) Act 1991   |
| 4  | Petroleum (Onshore) Regulation 2016  |
| 5  | Policy on renewal of exploration licences for minerals November 2004 (Under review)                                  |
| 6  | Policy on renewal of exploration licences for coal (April 2013)  |
| 7  | End to end procedure for assessing exploration licence applications (2018)   |
| 8  | End to end checklist for mining lease application assessment (not dated)   |
| 9  | Significant provision checklist for mining lease grant and renewal (not dated)                                       |
| 10 | DRG Culture Roadmap 2018-19 (June 2018)  |
| 11 | Code of Ethics & Conduct Policy (November 2017)  |
| 12 | Disclosing Interest and Managing Conflict of Interest Policy (November 2017)   |
| 13 | Fraud & Corruption Control Policy (November 2017)  |
| 14 | Gifts, Benefits & Hospitality Policy (November 2017)   |
| 15 | Public Interest Disclosure Policy (December 2018)  |
| 16 | Secondary Employment & Private Interest Policy (March 2018)  |
| 17 | Managing Risk Policy (April 2018)  |
| 18 | DRG Risk Register (January 2019)   |
| 19 | Resources Regulator Risk Register (February 2019)  |
| 20 | Human Resources (Cluster Corporate Services) Risk Register (February 2019)   |
| 21 | Assessment reports completed by DRG and Resources Regulator for specific applications subject to review              |
| 22 | Titles Review Committee meeting minutes (and Assessment Summary Reports) for specific applications subject to review |
| 23 | Extracts from Conditions Tracking Alert System (CTAS) for specific titles under review                               |

| #  | Document Name  |
|----|--|
| 24 | Titles Review Committee Terms of Reference (August 2018)   |
| 25 | Checklists for Decision Maker for Exploration Licences, Assessment Leases and Mining Leases for new applications and renewals across both Coal and Minerals                                      |
| 26 | End-to-end procedure for assessing Exploration Licence Applications (2018)   |
| 27 | Draft MLA procedure (not dated)  |
| 28 | ELA Template Title Instrument of Grant (Minerals) (April 2017)   |
| 29 | Gazettal of Authorities procedure (2018)   |
| 30 | Procedure for Administering Security Deposits (December 2018)  |
| 31 | DOI ELA Template Title Instrument of Grant (Minerals) (not dated)  |
| 32 | Strategic Release Framework - Overview_Approved (not dated)  |
| 33 | Strategic Release Framework - Terms of Reference (not dated)   |
| 34 | Application to withdraw application objection (December 2017)  |
| 35 | Resources Regulator - Title Application Assessment (not dated)   |
| 36 | Application Form completed and received by DRG, including the application fee for specific application subjected to review   |
| 37 | Gazette for specific application subjected to review   |
| 38 | ID sheet completed and signed off for specific application subjected to review   |
| 39 | Completed Assessment Summary Report for specific application subjected to review   |
| 40 | Notification of Proposed Decision, payment of security deposit, grant fee (if applicable), admin levy and annual rental fee and Instrument of Grant for specific application subjected to review |
| 41 | Titles Conditions added into CTAS for specific titles under review   |
| 42 | Special Conditions approved by Legal, if applicable, for specific titles under review  |
| 43 | Aged Debtor Reports reviewed, approve and circulated, for specific period under review   |
| 44 | Security Deposit Reports reviewed and approved, for specific period under review   |
| 45 | 100 points ID check for specific small-scale mining titles under review  |
| 46 | Reconciliation Reports from TAS and SAP for months under review  |

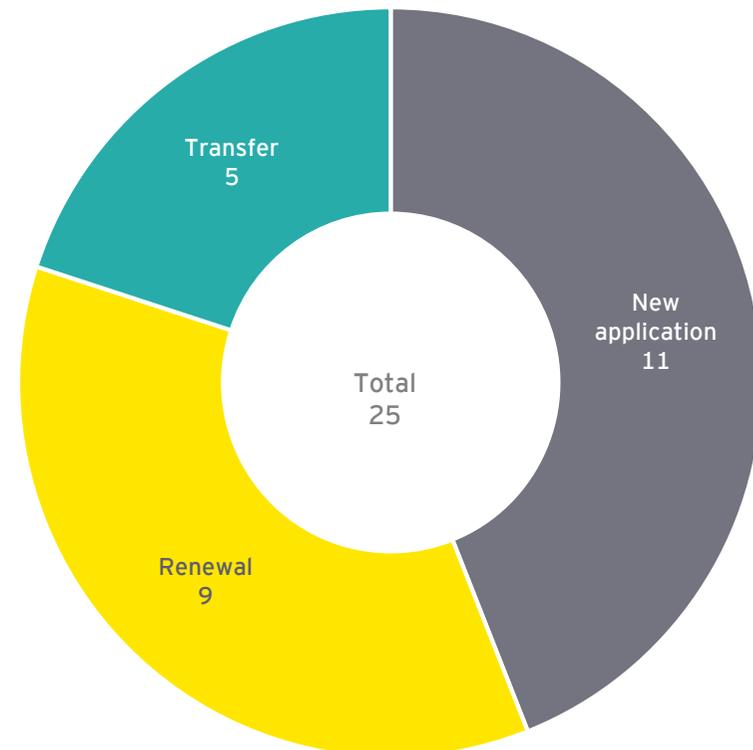
## Appendix D Sample of Mining Title Applications

The charts below show the 25 applications we sampled by type of mining title and by type of applications. As shown below, our sample focused on Exploration Licences, due to the larger volume received by DRG; and Mining Leases, which are higher risk due to the overall value of the title to the applicant. Our sample also focused predominantly on new applications and renewals, given the volume and higher risk associated with such applications.

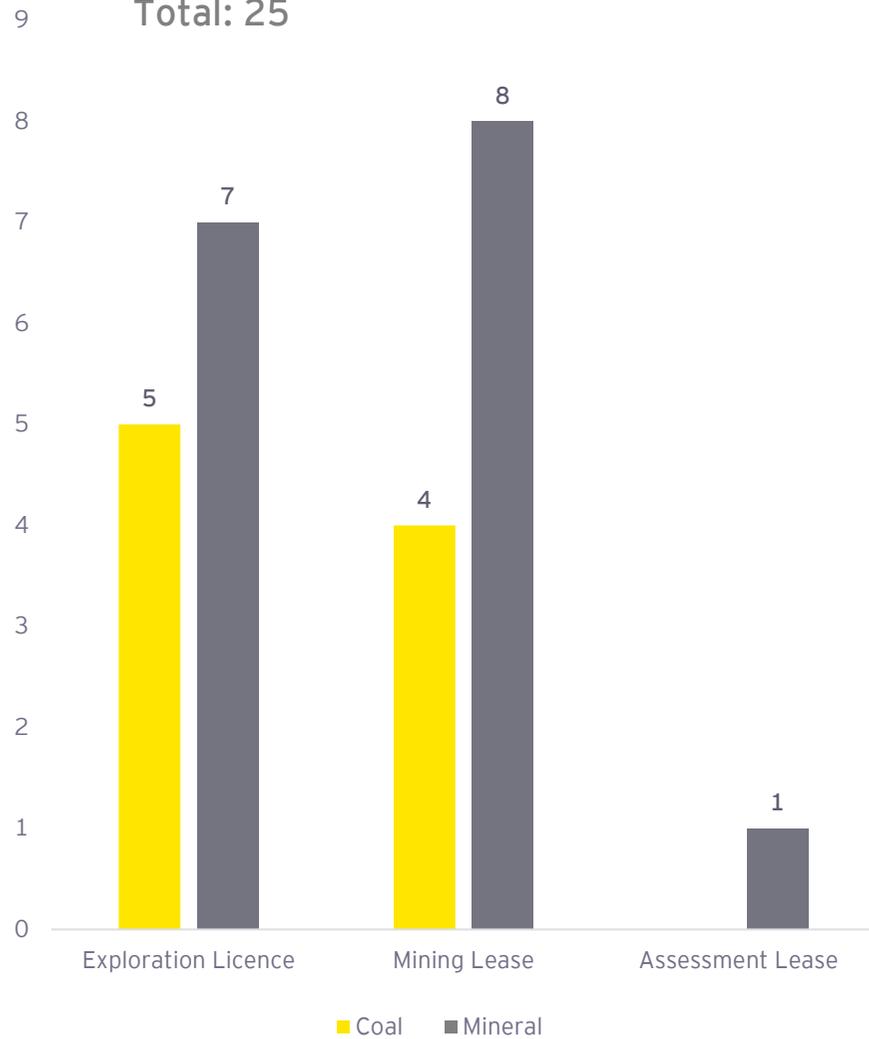
Applications sampled by mining title category



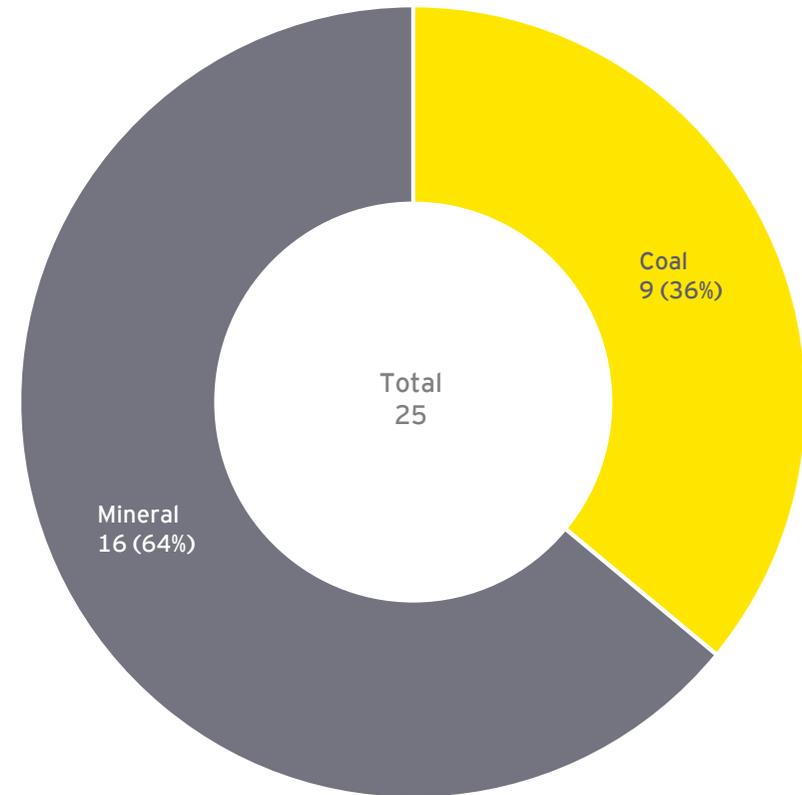
Applications sampled by type of application



Composition of applications sampled  
Total: 25



Composition of applications sampled:  
Coal and Minerals



## Appendix E Summary of IT Systems Supporting the Mining Titles Administration Process

The table below provides a summary of the IT systems that support the mining titles administration process, and which were subject to review in the engagement.

| IT system                                      | Summary  |
|--|--|
| <b>Titles Administration System (TAS)</b>      | TAS is the public register for mining titles and is used as a database to store metadata associated with applications and determinations.  |
| <b>Conditions Tracking Alert System (CTAS)</b> | CTAS is a SharePoint based tool used to hold and track conditions on granted mining titles.  |
| <b>Interim Workflow Solution (IWS)</b>         | IWS is a SharePoint based tool used to support DRG to manage the processing of applications and enable certain activity reporting.   |
| <b>Arc GIS</b>                                 | Arc GIS is an internally used system to support the identification of conflicts between existing titles and applications, and other encumbrances.  |
| <b>MinView 3 (MinView)</b>                     | MinView is a public facing system that allows users to display and query exploration and mining titles information in an interactive web map.  |
| <b>Titles Management System (TMS)</b>          | TMS is currently being implemented in stages and it is intended to be fully implanted by the end of 2019. This system will seek to consolidate TAS, CTAS and IWS to enable for more efficient management of the process, as well as proving enhanced capability to allow for improved reporting, great transparency and more control using workflows linked to delegations of authority. |

## Inherent Limitations

Due to the inherent limitations of any internal control structure, it is possible that fraud, error or non-compliance with laws and regulations may occur and not be detected. Further, the internal control structure, within which the control procedures that have been subject to review operate, has not been reviewed in its entirety and, therefore, no opinion or view is expressed as to its effectiveness of the greater internal control structure. A review is not designed to detect all weaknesses in control procedures as it is not performed continuously throughout the period and the tests performed on the control procedures are on a sample basis. Any projection of the evaluation of control procedures to future periods is subject to the risk that the procedures may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate.

We believe that the statements made in this report are accurate, but no warranty of completeness, accuracy or reliability is given in relation to the statements and representations made by, and the information and documentation provided by management and personnel. We have indicated within this report the sources of the information provided. We have not sought to independently verify those sources unless otherwise noted with the report. We are under no obligation in any circumstance to update this report, in either oral or written form, for events occurring after the report has been issued in final form unless specifically agreed with DPIE. The review findings expressed in this report have been formed on the above basis.

## Third-party reliance

This report is solely for the purpose set out in Appendix A of this report and is for the DPIE's information. This report is not to be used for any other purpose or distributed to any other party without Ernst & Young's prior written consent.

This review report has been prepared at the request of the DPIE and performed in accordance with our scope dated 21 February 2019. Other than our responsibility to the DPIE Audit and Risk Committee, neither Ernst & Young nor any member or employee of Ernst & Young undertakes responsibility arising in any way from reliance placed by a third-party, including but not limited to the DPIE's external auditor, on this review report. Any reliance placed is that party's sole responsibility.

Liability limited by a scheme approved under Professional Standards Legislation.

## EY | Assurance | Tax | Transactions | Advisory

### About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation is available via [ey.com/privacy](https://ey.com/privacy). For more information about our organization, please visit [ey.com](https://ey.com).

© 2019 Ernst & Young, Australia  
All Rights Reserved.

In line with EY's commitment to minimize its impact on the environment, this document has been printed on paper with a high recycled content.

Ernst & Young is a registered trademark.

Our report may be relied upon by Department of Planning, Industry and Environment for the purpose set out in Appendix A only pursuant to the terms of our engagement letter dated 21 February 2019. We disclaim all responsibility to any other party for any loss or liability that the other party may suffer or incur arising from or relating to or in any way connected with the contents of our report, the provision of our report to the other party or the reliance upon our report by the other party.

[ey.com](https://ey.com)