



**NSW  
Resources  
Regulator**

**COMPLIANCE AUDIT PROGRAM**

# **EL7714 MOUNTAIN TANK EXPLORATION PROGRAM**

**PGM Management Pty Ltd**



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# 1. Introduction

## 1.1. Background

Exploration licence 7714 (EL7714) was granted to PGM Management Pty Ltd in February 2011. The exploration area is in an agricultural area about 47 kilometres north-west of Cobar in Western NSW. The land within EL7714 forms part of the Mount Grenfell Historic Site under the control of the National Parks and Wildlife Service.

PGM commenced drilling on EL7714 in late 2016, drilling two holes. Gravity surveys have also been undertaken. In March 2020, PGM submitted an application for exploration activity approval for further drilling of the Mountain Tank prospect. This application was approved by the NSW Resources Regulator within the Department of Regional NSW in March 2020. Drilling had not commenced at the time of the audit.

As part of the compliance audit program, an audit of the exploration activities associated with the Mountain Tank project within EL7714 was undertaken by the Regulator on 1 October 2020.

## 1.2. Audit objectives

The objectives of the audit were to:

- undertake a compliance audit of the PGM Management Pty Ltd exploration activities against the requirements of the *Mining Act 1992* and the conditions of the exploration licence and activity approvals issued pursuant to that Act
- assess the operational performance of the exploration activities and the ability of the title holder and/or its operator to implement management systems and controls to provide for sustainable management of the operations.

## 1.3. Audit scope

The scope of the audit included:

- the exploration activities associated with the PGM Mountain Tank exploration project
- a review of documents and records pertaining to the exploration activities

- the assessment of compliance for the period commencing 1 July 2019 and ending 1 October 2020.

## 1.4. Audit criteria

The audit criteria against which compliance was assessed included:

- *Mining Act 1992*, specifically, Sections 5, 30, 140, 163C to 163E, 163G, 378D
- Mining Regulation 2016, specifically clauses 59 to 68
- Conditions attached to EL7714 (granted 23 February 2011 and renewed 17 June 2019)
- Exploration activities application (ESF4) dated 20 February 2020 and associated approval dated 19 March 2020
- *Exploration Code of Practice: Environmental Management* (Version 2, April 2017)
- *Exploration Code of Practice: Rehabilitation* (Version 2, April 2017)
- *Exploration Code of Practice: Community Consultation* (Version 1.1, May 2016)
- *Exploration Code of Practice: Produced Water Management, Storage and Transfer* (Version 2, April 2017)
- *Exploration Reporting: A guide for reporting on exploration and prospecting in New South Wales* (Version 2, March 2016)
- *Exploration Guideline: Annual activity reporting for prospecting titles* (Version 2a, April 2016) published by the (then) NSW Department of Industry, Skills and Regional Development, Division of Resources and Energy
- *ESG4: Guideline for preparing an environmental and rehabilitation compliance report* (Version 2.3, March 2019) published by the NSW Resources Regulator.

## 1.5. Publishing and disclosure of information

This audit report will be published on the Regulator's website consistent with Section 365 of the *Mining Act 1992*.

This audit report may be publicly disclosed consistent with the *Government Information (Public Access) Act 2009*.

## 2. Audit methods

The audit process involved the interview of site personnel, a review of documentation and samples of records provided by the title holder and/or operator to determine the level of compliance of the operations and assess the status of the operational performance. The audit process and methodology are described in more detail in the sections below.

### 2.1. Opening meeting

The opening meeting was held online on 1 October 2020. The audit team was introduced, and the scope of their responsibilities was conveyed to the auditees. The objectives and scope of the audit were outlined. The methods to be used by the team to conduct the audit were explained, including interview of personnel, review of documentation, examination of records and a site inspection to assess specific compliance requirements.

### 2.2. Site interviews and inspections

#### 2.2.1. Data collection and verification

All information obtained during the audit process was verified by the audit team where possible. For example, statements made by site personnel were verified by viewing documentation where possible. Where suitable verification could not be provided, this has been identified in the audit findings as not determined.

#### 2.2.2. Site inspections

Recent wet weather in the Cobar area resulted in the National Parks and Wildlife Service restricting access to the site. Given that no drilling or other ground disturbing exploration activities have been undertaken on the site in the last three years, a site inspection was not undertaken, and the audit was completed as a desktop assessment only.

### 2.3. Closing meeting

The closing meeting was held online on 1 October 2020. The objectives of this meeting were to discuss any outstanding matters, present preliminary findings and outline the process for finalising the audit report.

## 2.4. Compliance assessment definitions

The reporting of results from the compliance audit was determined based on the definitions presented below in Table 1.

Table 1 Audit assessment categories

ASSESSMENT	CRITERIA
<b>Compliance</b>	Sufficient and appropriate evidence is available to demonstrate the particular requirement has been complied with.
<b>Non-compliance</b>	<p>Clear evidence has been collected to demonstrate the particular requirement has not been complied with. There are three subcategories of non-compliance reflecting the severity and level of risk associated with the non-compliance:</p> <p><b>NC1</b> – the absence of planning or implementation of a required operational element which has the potential to result in a significant risk.</p> <p><b>NC2</b> – an isolated lapse or absence of control in the implementation of an operational element which is unlikely to result in a significant risk.</p> <p><b>NC3</b> – an administrative or reporting non-compliance which does not have a direct environmental or safety significance.</p> <p>Note: The identification of a non-compliance in this audit may or may not constitute a breach of, or offence under, the <i>Mining Act 1992</i>. Non-compliances identified in this audit report may be further investigated by the Regulator and regulatory actions may be undertaken.</p>
<b>Observation of concern</b>	<p>Where an auditee may be compliant at the time of the audit but there are issues that exist that could result in the potential for future non-compliance if not addressed.</p> <p>Observation of concern was also used where an issue may not have particular compliance requirements, but which was not conducive to good management or best practice.</p>
<b>Suggestion for improvement</b>	Where changes in processes or activities inspected or evaluated at the time of the audit could deliver improvement in relation to risk minimisation, sustainable outcomes and management practices.
<b>Not determined</b>	<p>The necessary evidence has not been collected to enable an assessment of compliance to be made within the scope of the audit.</p> <p>Reasons why the audit team could not collect the required information include:</p>

ASSESSMENT	CRITERIA
	<ul style="list-style-type: none"> <li>■ insufficient information on the file relating to the period covered by the audit or insufficient evidence collected to reach a conclusion</li> <li>■ the wording on the criteria (approval condition) meant that no evidence could be gathered, or it was too difficult to gather the evidence.</li> </ul> <p>A 'not determined' assessment was also made where the condition was outside of the scope of the audit.</p>
<p><b>Not applicable</b></p>	<p>The circumstances of the authorisation or title holder have changed and are no longer relevant (i.e. no longer mining, mining equipment and plant has been removed).</p> <p>An invoking element in the criteria was not activated within the scope of the audit.</p>

## 2.5. Reporting

Following the audit, the audit checklists were completed, and the audit notes were reviewed to compile a list of outstanding matters to be noted in the audit report. This report was prepared to provide an overview of the operational performance of the site in relation to the exploration activities and identify any non-compliances or observations of concern noted by the auditors during the documentation review and interviews.

The draft audit findings were forwarded to PGM Management for comment. Consideration was given to the representations made during the finalisation of the audit report as discussed in the audit findings.

## 3. Audit findings

### 3.1. Work program

Condition 1 of EL7714 requires the licence holder to carry out the operations described in the approved work program. Work program WP-EL7714-2019-2022 was approved by the (then) Division of Resources and Energy (DRE) on 17 June 2019 as part of the renewal of EL7714.

PGM was in year two of the approved work program (2020-2021). Proposed exploration activities for year one (2019-2020) included:

- completion of the Review of Environmental Factors (REF) report to the Office of Environment and Heritage
- completion of ESF4 application for exploration activity approval
- drill one or more holes on the program.

The REF and ESF4 applications were completed and exploration activity approval was granted by the Regulator in March 2020. Drilling was not commenced in year one and is unlikely to progress in year two, but it is acknowledged that there were delays in gaining approval for exploration activities and the negotiation of a land access agreement.

The work program for year two included the interpretation of gravity surveys and follow-up of any new trends. This work is progressing. PGM advised that further gravity and IP surveys are proposed in year three.

Exploration data is maintained by the PGM geologist and submitted to the Department's Mining Exploration and Geoscience (MEG) with the annual activity reports, as required, to demonstrate compliance with the work program.

### 3.2. Access agreements

Section 140 of the *Mining Act 1992* states, 'the holder of a prospecting title must not carry out prospecting operations on any particular area of land except in accordance with an access arrangement or arrangements applying to that area of land'. The access arrangement is required to be agreed in writing between the holder of the prospecting title and each landholder of that area of land.

PGM has negotiated a land access arrangement for mineral exploration with the NSW Minister for the Environment as the landholder of the Mount Grenfell lands. The land access agreement was noted to

include conditions for ground disturbance for drilling (condition 12) and for rehabilitation of the site (condition 13). Compliance with these conditions was not assessed as part of this audit.

### 3.3. Native title and exempted areas

Condition 2 of EL7714 requires the licence holder to obtain the prior written consent of the Minister before carrying out any activities on land on which native title had not been extinguished. Similarly, Section 30 of the *Mining Act 1992* requires the consent of the Minister before a licence holder undertakes any activities within an exempted area.

The land within EL7714 comprises several western land leases upon which native title is likely to have been extinguished. As a result, further approval under condition 2 of the title was not required.

Although the land is under the control and management of the National Parks and Wildlife Service and forms part of the Mount Grenfell historic site landholdings, NPWS has confirmed that the land within EL7714 is not part of the area reserved for the Mount Grenfell historic site. Therefore, the area does not fall within the definition of an exempted area and further approval under Section 30 of the Mining Act is not required.

### 3.4. Community consultation

Condition 3 of EL7714 requires the licence holder to carry out community consultation in relation to the planning and conduct of exploration activities. Community consultation is required to be carried out in accordance with the requirements of *Exploration Code of Practice: Community Consultation*.

An assessment against the mandatory requirements of the code of practice was undertaken as documented below.

#### 3.4.1. Risk assessment

Mandatory requirement 1 of the code of practice requires the title holder to conduct a risk assessment to identify and consider the range of opportunities and potential threats associated with community consultation and engagement.

A formal risk assessment has not been documented but an informal assessment against the guidance in Table 2 of the code of practice showed that the assessed activity impact level was low. The auditor concurs with this assessment. The lack of a documented community consultation risk assessment is raised as observation of concern no. 1. PGM should undertake and document a risk assessment as required by mandatory requirement 1 of the code.

### 3.4.2. Community consultation strategy

Mandatory requirement 2 requires the preparation of a community consultation strategy to manage the risks identified in the risk assessment. Mandatory requirement 3 sets out the requirements for preparation of the community consultation strategy.

PGM has not prepared a community consultation strategy in accordance with the mandatory requirements of the code. This is raised as non-compliance no. 1 because a documented community consultation strategy is a mandatory record required by mandatory requirement 5 of the code. An official caution was issued for the breach on 30 October 2020.

It is recommended that PGM prepare a community consultation strategy that:

- clearly identifies all key stakeholders including the landowner, native title groups and the general community
- describes how community consultation will be undertaken for each of the stakeholder groups, including how community consultation feedback will be monitored and responded to
- sets out mechanisms for revising the strategy where required.

### 3.4.3. Implementation and reporting

Mandatory requirement 4 requires the title holder to implement, monitor and report annually on the community consultation strategy.

Although PGM has not prepared a documented community consultation strategy (refer to section 3.4.2), evidence was available to demonstrate that PGM has generally implemented community consultation for the project. For example:

- stakeholder engagement records, mainly documented as diary notes
- land access agreement.

A reduced community consultation report for the 2019-2020 reporting year was submitted as part of the annual activity reporting required by condition 8 of EL7714. The report was reviewed by MEG and was found to be adequate. The 2019-2020 report was reviewed by the auditor and found to be generally consistent with the reporting guidance for reduced annual community consultation reports provided in Appendix 1 (Table 6) of the code of practice.

### 3.5. Exploration activity approvals

Section 23A of the *Mining Act 1992* requires the holder of an exploration licence to obtain an activity approval prior to carrying out assessable prospecting operations.

The drilling program undertaken in 2016 and the drilling program proposed for 2020 are assessable prospecting operations for which approval is required. Exploration activity applications were submitted and approved for each of these programs as follows:

- Exploration activities application (ESF4) dated 20 February 2020 and associated approval dated 19 March 2020
- Exploration activities application (ESF4) dated 13 September 2016 and associated approval dated 10 October 2016.

### 3.6. Environmental management

Condition 4 of EL7714 requires the licence holder to prevent or minimise, so far as is reasonably practicable, any harm to the environment arising from the activities carried out under the licence.

Condition 2 of the exploration activity approval requires the licence holder to carry out the activity in compliance with Part B of the *Exploration Code of Practice: Environmental Management*.

The drilling program approved in March 2020 has not commenced, so a site inspection and assessment against the mandatory requirements of the code of practice was not completed as part of the audit.

The title holder is reminded that mandatory requirement 12.1 of the code requires the title holder to monitor the risks associated with activities and, if the risk associated with an activity changes, implement revised environmental management controls. As suggestion for improvement no. 1, PGM should consider documenting an environmental risk assessment which considers the mandatory requirements of the code of practice. It is acknowledged that environmental controls were included in the REF prepared to support the application for exploration activity approval.

Further assessment and site inspections may be undertaken by the Regulator once the drilling program commences.

### 3.7. Security deposit

Condition 5 of EL7714 requires the licence holder to provide a security deposit to secure funding for the fulfilment of obligations under the licence.

The security amount required was \$10,000 which departmental records confirm is held. Given the small number of holes approved to be drilled, the exploration activity approval did not trigger any increase in the required security deposit.

## 3.8. Rehabilitation

Condition 6 of EL7714 requires the title holder to carry out rehabilitation of all disturbance caused by activities carried out under the licence in accordance with the requirements of the *Exploration Code of Practice: Rehabilitation*.

A desktop assessment against the mandatory requirements of the code of practice was undertaken for the 2020 drilling program as documented in the following sections.

### 3.8.1. Risk assessment

Mandatory requirement 1 requires the title holder to conduct a risk assessment to evaluate the range of potential threats and opportunities associated with rehabilitating disturbed areas to a condition that could support the intended final land use.

PGM advised that the rehabilitation risk assessment was done as an informal process, as part of the preparation of the REF. As suggestion for improvement no. 2, PGM should consider documenting the rehabilitation risk assessment process in accordance with the guidance material contained in the code of practice.

### 3.8.2. Rehabilitation objectives and completion criteria

Mandatory requirement 2 requires the title holder, no later than 14 days prior to the commencement of surface disturbing activities, to provide to the Secretary a copy of specific, measurable, achievable, realistic and time-bound rehabilitation objectives and completion criteria. For higher risk prospecting operations, a rehabilitation management plan is required to be prepared and submitted with the rehabilitation objectives and completion criteria.

The exploration activity approval application lodged by PGM indicated that the total surface disturbance area was less than 5 hectares. The drilling programs did not fall within the definition of a higher risk activity under the code of practice and a rehabilitation management plan was not required to be developed.

Rehabilitation objectives and completion criteria have not been submitted for the drilling program approved in March 2020, but drilling has not yet commenced. PGM should prepare rehabilitation

objectives and completion criteria using the guidance in Appendix 1 of the code and submit these to the Regulator at least 14 days before starting the drilling program.

### 3.8.3. Rehabilitation program

Mandatory requirement 3 requires that the title holder develop, implement and complete a rehabilitation program (which includes a monitoring program) to rehabilitate disturbed areas to a condition that can support the intended final land use. Mandatory requirement 4 requires that the title holder commence rehabilitation of a site as soon as reasonably practicable following the completion of activities on that site.

The two holes drilled in 2016 have been capped with the collar remaining in place for future use. The area surrounding each drill collar has been rehabilitated. PGM advised that rehabilitation of holes completed by others on previous tenements over the EL7714 area was being undertaken, although not specifically required by the conditions of EL7714.

## 3.9. Annual activity reporting

Section 163C of the *Mining Act 1992*, clause 59 of the Mining Regulation 2016 and condition 8 of EL7714 require the licence holder to submit an activity report annually within one calendar month following the grant anniversary date. Annual activity reports are required to be prepared in accordance with the *Exploration guideline: Annual activity reporting for prospecting titles*.

The annual exploration report for the 2019-2020 reporting year was submitted in March 2020 as required, along with the annual community consultation report. The annual environmental rehabilitation and compliance report and the revised work program were not submitted at this time. A notification sent from the Department's EROL system requesting the additional reports was reportedly not received by PGM and the reports were not submitted until September 2020, when the issue was raised as part of the audit. It is acknowledged that PGM is now compliant with the reporting requirement and may not have received the EROL notification. However, late reporting is technically a non-compliance with the reporting requirements and is raised as non-compliance no. 2. An official caution was issued for the breach on 30 October 2020.

PGM should ensure that all components of the annual activity report are submitted each year in accordance with the reporting guidelines.

## 3.10. Core and sample storage

Clause 65 of the Mining Regulation 2016 requires the holder of an authority to, so far as is reasonably practicable, collect, retain and preserve:

- all drill cores remaining after sampling
- characteristic samples of the rock or strata encountered in any drill holes.

All core and samples collected were required to be labelled, stored and managed in a manner that preserved the integrity of the core or samples.

PGM advised that core and samples from the previous drilling program in 2016 were stored at the drillers core yard in Cobar. PGM advised that no core has been disposed. Core collected during the proposed drilling program will also be stored at the Cobar core yard. An inspection of the core storage was not undertaken as part of the audit.

### 3.11. Record keeping

Sections 163D and 163E of the *Mining Act 1992* relate to the creation and maintenance of records required under the Act, the regulations, or a condition of title. Records must be kept in a legible form for production to any inspector and must be maintained for a period of four years after the expiry or cancellation of the title. Specific requirements for the types of records to be maintained for exploration activities are detailed in the mandatory requirements of the exploration codes of practice as follows:

- mandatory requirement 6 of the rehabilitation code of practice
- mandatory requirement 13.1 of the environmental management code of practice
- mandatory requirement 5 of the community consultation code of practice.

Records reviewed during the audit demonstrated that PGM has generally maintained most records as required by the licence conditions and the exploration codes of practice. Examples of records reviewed included:

- land access agreements
- annual activity reporting
- diary notes of consultation activities.

## 4. Compliance management

### 4.1. Identifying compliance obligations

Identifying compliance obligations is a critical step in the development of an effective compliance management system. Compliance obligations for an exploration project can include:

- regulatory requirements (for example, the *Mining Act 1992*)
- conditions imposed on the grant, renewal, or transfer of exploration licences
- exploration activity approvals
- exploration codes of practice
- specific commitments made by the organisation (for example, commitments made in the approved exploration activity application).

Once identified, compliance obligations should be reviewed periodically to identify any changes in those obligations (for example, changes in legislation).

PGM has identified some of the compliance requirements for exploration activities but non-compliances and observations of concern were identified during the audit. A more robust identification of compliance requirements and tracking of completion status may assist in preventing future non-compliances. As suggestion for improvement no. 3, PGM should consider using tools such as the Regulator's self-audit checklist for explorers, to increase familiarity with the compliance obligations and undertake its own compliance assessment.

### 4.2. Subcontractor management

Contractors are often used to undertake specialist tasks (for example, exploration drilling). Whilst the responsibility for compliance or the implementation of environmental controls is often passed to the contractor, the licence holder will retain accountability for compliance with its licence conditions and other compliance obligations. It is important that the licence holder exercises management control of its contractors by specifying contract requirements, providing oversight of contracted works, and evaluating the performance of the contractor during the contracted works.

PGM will use the services of a contract driller when the drilling program starts, but arrangements for contracted services have not yet been put in place.

### 4.3. Inspections, monitoring and evaluation

An effective inspection, monitoring and evaluation process is required to:

- monitor the implementation of the risk controls
- evaluate the effectiveness of those controls based on an assessment of inspection and monitoring data
- implement an adaptive management approach if monitoring shows that controls may be ineffective.

Inspections of the exploration licence area by the title holder are typically documented as diary notes. A formal inspection and monitoring program has not been documented, and given the small scale of the exploration works to date, a formal inspection and monitoring program may not be required. However, as suggestion for improvement no. 4, PGM should consider developing an inspection and monitoring program for drilling and rehabilitation works when those works are being undertaken.

### 4.4. Title holder response to draft audit findings

PGM was provided with a copy of the draft audit report and invited to submit a response to the draft audit findings.

PGM advised the Regulator that it had no significant issues with the draft report.

## 5. Audit conclusions

From the evidence reviewed during the audit, it was concluded that PGM has achieved a moderate level of compliance with the requirements of the exploration licence, exploration activity approval and the exploration codes of practice, for the elements reviewed during the audit. Wet ground conditions prevented access to the site and a site inspection could not be conducted. This prevented a full assessment of the compliance requirements and did not permit an assessment of rehabilitation performance.

Two non-compliances ranked NC3, one observation of concern, and four suggestions for improvement were identified during the audit as documented in Table 2, Table 3 and Table 4.

*Table 2 Summary of non-compliances*

NON-COMPLIANCE NO.	DESCRIPTION OF ISSUE	RECOMMENDATION
1 NC3	PGM has not prepared a community consultation strategy in accordance with mandatory requirements 2 and 3 of the community consultation code of practice. The strategy is required as a mandatory record under mandatory requirement 5 of the code.	<p>It is recommended that PGM prepares a community consultation strategy that:</p> <ul style="list-style-type: none"> <li>■ clearly identifies all key stakeholders including the landowner, native title groups and the general community</li> <li>■ describes how community consultation will be undertaken for each of the stakeholder groups, including how community consultation feedback will be monitored and responded to</li> <li>■ sets out mechanisms for revising the strategy where required.</li> </ul>

NON-COMPLIANCE NO.	DESCRIPTION OF ISSUE	RECOMMENDATION
2 NC3	The annual exploration report for the 2019-2020 reporting year was submitted in March 2020 as required, along with the annual community consultation report. The annual environmental rehabilitation and compliance report and the revised work program were not submitted at this time. A notification sent from the Department’s EROL system requesting the additional reports was reportedly not received by PGM and the reports were not submitted until September 2020, when the issue was raised as part of the audit.	PGM should ensure that all components of the annual activity report are submitted each year in accordance with the reporting guidelines.

Table 3 Summary of observations of concern

OBSERVATION OF CONCERN NO.	DESCRIPTION OF ISSUE	RECOMMENDATION
1	A formal community consultation risk assessment has not been documented but an informal assessment against the guidance in Table 2 of the code of practice showed that the assessed activity impact level was low.	PGM should undertake and document a community consultation risk assessment as required by mandatory requirement 1 of the code.

*Table 4 Summary of suggestions for improvement*

SUGGESTIONS FOR IMPROVEMENT	DESCRIPTION OF ISSUE
1	PGM should consider documenting an environmental risk assessment which considers the mandatory requirements of the code of practice.
2	PGM should consider documenting the rehabilitation risk assessment process in accordance with the guidance material contained in the code of practice.
3	PGM should consider using tools such as the Regulator’s self-audit checklist for explorers, to increase familiarity with the compliance obligations and undertake its own compliance assessment.
4	PGM should consider developing an inspection and monitoring program for drilling and rehabilitation works when those works are being undertaken.