

Terms of Reference for Independent Monitoring Committee – Revision 1

Objective

The overarching objective for the Independent Monitoring Committee (IMC) is to satisfy the conditions of Orica's Environment Protection Licence¹ by providing expert appraisal of Orica's performance so that Orica can be held accountable for the operations of the Groundwater Treatment Plant.

Its aim is to provide technical guidance to the Botany Groundwater Community Liaison Committee (CLC) and the broader Botany community.

In order to achieve this, the proposed Terms of Reference for the Independent Monitoring Committee are described below:

Scope of Independent Monitoring Committee (IMC)

- I. The IMC will provide independent technical advice to the CLC with respect to Orica's compliance with the Determination Conditions for the Botany Groundwater Cleanup Project Environmental Impact Statement (GCP EIS). By receiving this independent technical advice, the CLC will be more scientifically informed and therefore better placed to discuss technical matters with Orica. The broader public will have access to the IMC through the CLC process.
- II. The IMC will have access to all public reports and all raw data in relation to the GTP and other relevant elements captured within the conditions of approval for the GTP. These will include (but may not be limited to) reports relating to the following:
 - hydraulic containment
 - contaminant containment
 - emissions (to air, water, sewer or land, and noise and odour)
- III. The IMC can request that additional data be collected (or collect its own data) with the scope agreed between Orica and the CLC, and with the expense of this additional data collection being met by Orica.
- IV. It is envisaged that the IMC will deal from time to time directly with Orica and its consultants while completing a task and will keep a record of the contact and inform the CLC of these interactions.
- V. The IMC may, from time to time, and as directed by the CLC produce written reports commenting on issues raised by the CLC and the data collected in relation to those issues. The issues of concern should relate directly to the requirements of the conditions of approval for the GTP, or related environmental concerns.
- VI. The CLC's Representative will act as chair of the IMC, and is responsible for ensuring that the appropriate member(s) of the IMC attend CLC meetings to ensure technical issues/concerns from the community can be considered by the IMC in its undertakings, and to present outcomes of report/data reviews.
- VII. The IMC will meet as a full committee to review performance generally after each full IMC meeting with the CLC or on an as needs basis as determined by the CLC. These meetings may also include an additional member of the CLC as nominated by the CLC. Some work by the committee is also likely to be undertaken by individuals of the committee rather than by the full committee.

- VIII. The IMC will be consulted by Orica in conjunction with the CLC in the selection of the independent auditor (as required by the GCP EIS Determination) to conduct the validation audits.
- IX. If Orica engages an IMC member to conduct work directly for Orica, Orica is to advise the CLC and the IMC member is to provide a brief written report to the CLC on the services provided to Orica.

Membership

- X. Orica and the CLC must be satisfied that each member of the IMC can provide genuinely independent and open-minded counsel, to ensure that he/or she is able to make unbiased technical assessments of the GTP and its operation.
- XI. The technical experts are to be appropriately qualified and endorsed by both Orica and the community (represented by the CLC).
- XII. It is envisaged that the IMC will consist of the CLC's Representative and two core members and a number of auxiliary members. The core members skill set are required to meet the needs of the CLC and includes the following two specific areas of expertise:
- Technology evaluation: plant design, operation and performance (process engineering)
 - Assessing hydrogeochemistry, hydrogeology
- XIII. The CLC's Representative can request additional expertise from auxiliary members as required. Specialist expertise is likely to be required from time to time in the following areas:
- Expert in thermal oxidation processes and dioxin impacts
 - Assessing human health risk
 - Environmental chemistry
 - Statistical analysis
 - Knowledge of air, water, land, sewer quality guidelines
 - Communication skills
- XIV. The CLC's Representative on the IMC is not required to have the skills as described in XI and XII above.
- XV. The IMC will be supported by a secretariat to assist in administrative matters as required. Orica will provide this support if required.
- XVI. The core and auxiliary members of the IMC will be appointed for different periods (to be agreed with the nominees) to ensure continuity of expert information to the CLC and community. This period can be extended subject to agreement between Orica and the CLC.
- XVII. If a core or auxiliary member of the IMC wishes to resign from the IMC they are expected to give reasonable notice (at least 4 weeks), so a replacement can be selected as per the protocols described in items X, XI and XII above. Orica and the CLC shall make best endeavours to engage a suitable replacement within the meeting cycle of the CLC (i.e., 3 months).
- XVIII. If, in the event an IMC member does not perform consistent with any of the Terms of Reference, then the IMC member can be dismissed and replaced at any time by the CLC as outlined in the contract with the IMC member.

Budget, invoicing and reporting

- XIX. Orica will initially make available a budget of \$100,000 per annum to fund the IMC Budget. The CLC may seek additional Orica funding – either by requesting a supplementary amount for unspecified purposes or by asking for a specific budget for a specific additional task.
- XX. The individual experts of the IMC will invoice to Orica personally at the completion of a specific task. The CLC will review both the work and invoice prior to approving payment from the IMC Budget. Orica will honour the payment (as long as it is within the agreed budget allowance), and pay directly to the individual experts via electronic funds transfer.
- XXI. The CLC's Representative on the IMC will act as liaison between the IMC and Orica on issues in relation to invoicing.
- XXII. All invoices need to specify detail of the work done. Orica is not obliged to pay for work outside these Terms of Reference (e.g. advocacy support), and each consultant will sign an agreement acknowledging that such work will not be compensated.
- XXIII. Orica will provide a quarterly financial report, for presentation to the CLC at the quarterly meetings, of expenditure breakdown and year-to-date expenditure.

Dispute resolution process

- XXIV. In the event of a dispute between the CLC and the IMC (or a member of it), the Independent Chair of the CLC will mediate between the disputing parties. If resolution is not forthcoming the parties will consider other options such as using a registered mediator to help resolve the conflict.

Review

- XXV. It is intended that the Terms of Reference be a living document and will be reviewed from time to time by the CLC and Orica and amended as appropriate to ensure it remains relevant and in line with the GCP EIS Determination Conditions. Orica and the CLC will agree revisions of the Terms of Reference. Additional community consultation workshops will not be undertaken, unless requested by the CLC, to make these revisions.

Conduct of meetings and interaction

- XXVI. The manner in which IMC meetings will be conducted and the IMC's interaction with the CLC will be reviewed from time to time by the CLC as appropriate.

ⁱ DEC Determination

Orica's commitment was formalised by DEC in its determination of the GTP EIS:

"E10 Independent Monitoring Committee

E10.1 The licensee must establish and service an Independent Monitoring Committee with technical and community representatives. The licensee must provide monitoring information and reports and consult with this Committee as required by the relevant conditions of this licence

Note: The Independent Monitoring Committee may be formed by the licensee by expanding the existing Community Liaison Group currently established and serviced by the licensee".