

Issued to

BROULA KING JOINT VENTURE PTY LTD (ACN: 113 348 459)

PO Box 9551 Deakin A.C.T. 2600

Attention: The Proper Officer**Variation to Notice**

The notice(s) identified below are varied pursuant to section 240B of the *Mining Act 1992*. You are required to comply with the directions of this notice NTCE0011470, in place of the directions identified in the notice(s) below.

NTCE0010434 NTCE0010434: Variation replacing | NTCE0009088

Originally sent: 12 Jul 2022

Issued by: Matthew Newton

Via Registered Post:

Postal Tracking number RPP44 63800 09400 22084 66608

Background

- A. The Resources Regulator (**Regulator**) within the Department of Regional NSW has responsibility for the administration and enforcement of the *Mining Act 1992* and associated regulations.
- B. Broula King Joint Venture Pty Ltd (You) is the holder of Authorisation ML 1617 (1992) which is in force.
- C. You are a responsible person in relation to the Authorisation within the meaning of section 239E(1) of the *Mining Act 1992* because You are a holder of the Authorisation.
- D. Broula King Joint Venture Pty Ltd (BKJV) was issued a notice by the Resources Regulator 09 July 2019, NTCE0002871 to Prepare and submit a report completed by a suitably qualified independent expert that details the findings of the site-based performance and risk assessment into the tailings dam wall on ML 1617 (1992). This Report was to be prepared to the satisfaction of the Regulator and must include:
 - i. Geochemical characterisation analysis of the tailings dam wall;
 - ii. An assessment of the source of leachate emanating from the tailings dam;
 - iii. Strategies that minimise oxidation rate and isolate higher risk materials from exposure;
 - iv. Strategies that minimise potential for transport of oxidation products from source to receiving environment;
 - v. Strategies that contain and treat acid and metals drainage to minimise risk of significant off-site impacts;
 - vi. Closure and capping strategy options, and
 - vii. Geotechnical assessment of the tailings dam wall.
- E. On 19 December 2020 the Regulator received the '*Technical Report, Broula King Gold Mine: Stage 2 Geochemistry Assessment*', dated 17 December 2020 and prepared by

- RGS Environmental Pty Ltd (RGS 2020), commissioned by R.W. Corkery & Co. Pty Ltd (RW Corkery) on behalf of BKJV (Our Reference: RR20/173169, MAAG0009446) in response to issues raised in NTCE0002871.
- F. The RGS 2020 report identified the likely source of leachate emanating from the Tailings Storage Facility (TSF) wall is the near surface materials on the TSF wall itself and believes reprofiling the final TSF wall to the preferred design slope and implementing a cover system will contain and treat the drainage of acid and metals/metalloids to minimise the risk of significant off-site impacts.
- G. Report received 29 March 2021 and dated 28 November 2020, derived from the Broula King Gold Mine revised Mining Operation Plan (MOP) Appendix 1d, '*Broula King Mine Site, Tailings Storage Facility Embankment, Acid Mine Drainage Containment, November 2020*' report prepared by Trevor Clark & Associates (TCA 2020) is referenced in the RGS 2020 report recommendations.
- H. Recommendations made in the RGS 2020 report are as follows:
- i. A cover system should be used to isolate any PAF TSF wall rock materials from atmospheric oxidising conditions in line with that described in TCA 2020. As part of closure planning, the cover system should be extended to cover tailing materials. This approach should limit the potential for sulfidic materials to react and reduce the potential for acid generation and potential liberation of soluble metals/metalloids into any seepage at the site.
 - ii. Until the cover system is completed and water quality meets release criteria, seepage water collecting in Sediment Basin 5 should continue to be returned to the TSF for evaporation.
 - iii. The proposed changes to the surface drainage system at the site should be implemented.
 - iv. Dynamic geochemical tests (such as kinetic leach column tests) on specific sample materials should be considered when the site is operational.
- I. Works proposed in the TCA 2020 report aim to address the Acid Mine Drainage (AMD) percolating from the TSF wall and create a final batter slope of 3 to 1 in line with the original preferred design slope (TCA 2003) of the TSF dam wall.
- J. Notice NTCE0009088 was issued by the Regulator to Broula King Joint Venture Pty Ltd on 1 November 2021.
- K. Direction 2 of NTCE0009088 (Progress Report due 17 December 2021) was assessed as 'Failed to Comply'. Following an investigation by the Regulator, Broula King Joint Venture Pty Ltd was issued with an 'Official Caution' letter (Our Reference: LETT0007394, issued 12 July 2022) for the non-compliance with Condition 2 of NTCE0009088. The Progress Report required by this Direction was submitted on 20 January 2022 (Our Reference: AREQ0024951).
- L. Direction 3 of NTCE0009088 (Progress Report due 31 March 2022) was assessed as 'Finalised Satisfactorily'.
- M. A letter received from Daryl Young of Broula King Joint Venture Pty Ltd dated 26 May 2022 (Our Reference: AREQ0028653) requested an extension of time to comply with Direction 1 of NTCE0009088, with a requested due date of 28 December 2022.
- N. Following assessment of the extension request (Item M), the Regulator decided to issue NTCE0010434 as a Variation to NTCE0009088. The issuing of the variation notice did not represent the Regulator's endorsement that the other issues and

extenuating circumstances as outlined in the extension request were deemed as reasonable justification to support the extension.

- O. NTCE0010434 was issued by the Regulator to Broula King Joint Venture Pty Ltd on 12 July 2022.
- P. Direction 2 of NTCE0010434 (Progress Report: due 1 September 2022) was assessed as 'Finalised Satisfactorily'.
- Q. A letter dated 14 September 2022 from Daryl Young of Broula King Joint Venture Pty, received on 19 September 2022 (Our Reference: AREQ0032654) requested a further extension of time to comply with Direction 1 of NTCE0010434, with a requested due date of 30 June 2023.
- R. Following assessment of the extension request (Item Q), and a meeting between the Regulator and Daryl Young of Broula King Joint Venture Pty Ltd on 15 December 2022, the Regulator has decided to issue NTCE0011470 as a Variation to NTCE0010434. The due date for Direction 1 has been extended to 31 December 2023 taking into account the legal issues which are impacting access to land and clay material.
- S. It is the view of the Regulator that there remains an adverse risk to the environment until the TSF is remediated in accordance with the recommendations contained in the RGS 2020 report (Item H).

The background above provides information on key relevant events. It is not intended to be a comprehensive summary of all communications between you and the Department. Other facts not recited above may be relevant.

Directions

In accordance with section 240 of the *Mining Act 1992*, I, Greg Kininmonth, an Inspector duly appointed under section 361 of the *Mining Act 1992*, direct Broula King Joint Venture Pty Ltd ('you') to act in accordance with the following directions by the specified date for compliance listed for each direction in respect of any land or water within the boundaries of the authorisation under the *Mining Act 1992*, identified as ML1617.

1 Pursuant to section 240 (1)(c)

Date for compliance: 31 December 2023
5:00pm

Direction:

Submit a report prepared by a suitably qualified geotechnical engineer that validates that the works nominated in the '*TECHNICAL REPORT, Broula King Gold Mine: Stage 2 Geochemistry Assessment*, dated 17 December 2020 and prepared by RGS Environmental Pty Ltd (RGS 2020) and the '*Broula King Mine Site, Tailings Storage Facility Embankment, Acid Mine Drainage Containment, November 2020*' report prepared by Trevor Clark & Associates (TCA 2020) have been completed. The report must validate that the works have achieved the following:

- i. Reprofiting of the TSF wall to the nominated "2020 Encapsulated Profile" nominated in Drawing no. M/BK/TSF_CE-1120 (TCA 2020).
- ii. Install the nominated cover system to effectively encapsulate PAF on the existing TSF wall.
- iii. Construction of a long-term stable landform over the TSF wall that supports the final landuse approved for this domain. The final landform design must take into account design criteria for closure of tailings facilities provided in ANCOLD Guidelines on Tailings Dams, July 2019, and the ICMM Global Tailings Standard, August 2020.

Note: It is the responsibility of the Authorisation Holder to ensure that all works required to comply with this Direction are as approved within the relevant Project Approval or Development Consent and all necessary approvals, consents or permits required under the relevant NSW or Commonwealth regulations have been obtained prior to carrying out the works. Specifically, the Authorisation Holder should review requirements specified under the Dam Safety Act 2015, the Work Health & Safety (Mines and Petroleum Sites) Act 2013, and associated Regulations. Furthermore, consideration should also be given to the prevention of pollution of waters under s.120 of the Protection of the Environment Operations Act 1997 POEO Act 1997, with relation to sediment control or changes to surface water management and the Environmental Planning and Assessment EP&A Act 1979 for works required under consent (i.e. sourcing of clay or capping material).

2 Pursuant to section 240 (2A)

Date for compliance: 31 March 2023
5:00pm

Direction:

Prepare and submit a progress report on the measures/actions undertaken to address Direction 1 of this Notice to the Regulator.

As a minimum the report must include the following:

1. A summary of all works undertaken to commence the remediation of the TSF
2. Information detailing the progress of seeking any approvals required under other relevant legislation in order to complete the TSF remediation works
3. Progress with sourcing construction material (e.g. clay) required to complete the remediation works on the TSF
4. A Forward plan for completion of works required by Direction 1 detailing key milestones and due dates.

Submit the report, identifying NTCE0011470 in the email subject line, to nswresourcesregulator@service-now.com

3 Pursuant to section 240 (2A)

Date for compliance: 30 June 2023 5:00pm

Direction:

Prepare and submit a progress report on the measures/actions undertaken to address Direction 1 of this Notice to the Regulator.

As a minimum the report must include the following:

1. A summary of all works undertaken to commence the remediation of the TSF
 2. Information detailing the progress of seeking any approvals required under other relevant legislation in order to complete the TSF remediation works
 3. Progress with sourcing construction material (e.g. clay) required to complete the remediation works on the TSF
 4. A Forward plan for completion of works required by Direction 1 detailing key milestones and due dates.
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Submit the report, identifying NTCE0011470 in the email subject line, to nswresourcesregulator@service-now.com

4 Pursuant to section 240 (2A)

Date for compliance: 30 September 2023
5:00pm

Direction:

Prepare and submit a progress report on the measures/actions undertaken to address Direction 1 of this Notice to the Regulator.

As a minimum the report must include the following:

1. A summary of all works undertaken to commence the remediation of the TSF
2. Information detailing the progress of seeking any approvals required under other relevant legislation in order to complete the TSF remediation works
3. Progress with sourcing construction material (e.g. clay) required to complete the remediation works on the TSF
4. A Forward plan for completion of works required by Direction 1 detailing key milestones and due dates.

Submit the report, identifying NTCE0011470 in the email subject line, to nswresourcesregulator@service-now.com

Issue Details

Issued by: Greg Kininmonth, an Inspector duly appointed under Section 361 of the *Mining Act 1992*

Dated this day of 21 Dec 2022

Via Registered Post:

Postal Tracking number RPP44 63800 09400 46401 54600

Warning and Information

Failure to comply

It is an offence under section 240C of the *Mining Act 1992* to fail to comply with this direction without a reasonable excuse.

The maximum penalty for this offence is, for a corporation, \$1,100,000 and a further \$110,000 for each day the offence continues, and, for a natural person, \$220,000 and a further \$22,000 for each day the offence continues.

If you fail to comply with this direction, the Minister may take any action necessary to give effect to the direction including authorising another person to carry out those activities and recover the costs and expenses so incurred from you or applying to the Court for an injunction directing you to comply with this direction.

Other action

The serving of this direction and the matters required of you pursuant to this direction in no way preclude, hinder or otherwise restrain the Minister, Secretary or Department from taking further action against you (and the holder of the authorisation to which this direction relates, if you are not the holder of the authorisation) including by commencing legal proceedings.

General

The words and expressions used in this direction have the same meaning as they have in the *Mining Act 1992*.

This notice does not exempt you from any requirement to obtain any further statutory approval, licence or permit that may be required to authorise the completion of the directions in this notice.

Any information collected is for the purposes of the *Mining Act 1992*.

Regulator Contact Information

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PO BOX 344, HRMC NSW 2310

Ph: 1300 814 609

Email: nswresourcesregulator@service-now.com