

## Improvement Notice

### Issued under section 191 of the *Work Health and Safety Act 2011*

This notice requires the person (which includes a body corporate or other entity) to whom it is issued to remedy a contravention, or take action to prevent a likely contravention, of WHS laws as defined under section 5 of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* (WHS(M&PS) Act). Section 49 of the WHS(M&PS) Act can extend the circumstances of this notice.

Under section 210 of the *Work Health and Safety Act 2011* (WHS Act) the person to whom an Improvement Notice is issued must as soon as possible display a copy of the notice in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice. Maximum penalty of \$5,000 for an individual or \$25,000 for a body corporate. A person must not intentionally remove, destroy, damage or deface a notice displayed while the notice is in force. Maximum penalty of \$5,000 for an individual or \$25,000 for a body corporate.

The person to whom an Improvement Notice is issued must comply with the notice for the period specified. Maximum penalty of \$50,000 for an individual or \$250,000 for a body corporate.

**NOTICE No. NTCE0011060**

### **Part A: Notice issued to the following person**

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

This notice is given to you as a person who has control over the activity that is the subject of this notice.

### **Part B: Workplace details**

Mine Name: Broula King Gold Mine

Mine Address: 2713 Mid-Western Highway (Cowra-Grenfell)

(25km west of Cowra) BUMBALDRY NSW 2794

Workplace (location to which the notice relates): Broula King Mine - Tailings Storage Facility 1 (TSF1)

### **Part C: Ground for issuing**

I am an inspector under the WHS Act and I issue this notice because I believe that you have contravened the following provision(s) of the WHS laws in circumstances that make it likely the contravention will continue or be repeated:

Work Health and Safety Regulation 2017 - Clause 37 - Maintenance of control measures

### **Part D: Description**

Brief description of how the provision(s) has/have been contravened.

During an inspection at the Broula King Gold Mine on the 14 October 2022 it was identified that a large amount of water is stored on top of TSF1. Recent heavy rainfall of over 100mm in the first two weeks of October 2022 has contributed to the water accumulated on the TSF1. Heavy rainfall is forecast to continue in the area over coming months.

The design report of the Broula King Mine TSF 1 ( Broula King Gold Project - Tailings Storage Facilities - Design April 2003) requires operational control measures for water management on TSF1 to protect the TFS1 from catastrophic failure from overtopping. The design report requires that TSF1 have a 1.0 metre freeboard with diversion drains established to contain a 1 in 100 year rainfall event of 72 hours duration with a factor of safety of > 1.5. The design report also assigns a hazard rating for TSF 1 as "Low" and a contingency plan matrix is included.

### **Part E: Directions/recommendations**

Directions (if any) on the measures to be taken to remedy the contravention or prevent the likely contravention, or the matters or activities causing the contravention or likely contravention, to which the notice relates.

*(It is mandatory to comply with these directions)*

The Mine operator must ensure the following:

1. That the water currently stored on TSF1 is reduced to ensure that the 1.0 metre freeboard requirements is maintained and the hazard rating for TSF1 is maintained as "Low".
2. That a trigger action response plan (TARP) is prepared and implemented for TSF1 to replace the design report contingency plan matrix.
3. That drained and undrained stability assessments are undertaken by an competent person for the TSF1 that include a factor of safety calculation.

## **Part F: Compliance**

You are required to remedy the contravention or likely contravention or comply with this notice by: **20 Jan 2023**

**Note:** An inspector may, by written notice given to the person, extend the compliance period for the improvement notice, however the inspector may extend the compliance period only if the period has not ended.

## **Part G: Issue details**

Issued by inspector: Robert Alan Jay on 17 Oct 2022 13:49:11

Via Email: daryl.young@bk-enterprises.com.au to Daryl YOUNG

Other copies provided by email to: Robert Jay at robert.jay@regional.nsw.gov.au; Dan Howard at dan.howard@regional.nsw.gov.au

FORM: WWSA1911IN -N26

## **This information forms part of the Improvement Notice under section 191 of the *Work Health and Safety Act 2011***

If you have any queries about this notice please contact the issuing inspector in the first instance.

In relation to matters or the exercise of a power or function concerning a mining workplace or a coal workplace, the Regulator is the Secretary of the Department of Regional NSW.

### **Internal review of this decision**

As the person to whom this Improvement Notice has been issued, you (or eligible persons under section 223 of the WHS Act) can apply for an internal review of this decision to the Regulator. If you wish to apply for an internal review of the notice, an application must be made before the period specified on the notice for compliance has expired or within 14 days of the Improvement Notice being issued.

The operation of the Improvement Notice is stayed (i.e. suspended) once the application for review of decision is lodged. The stay remains in effect until a decision is made and whichever of the following is earlier - an external review is applied for or 14 days have elapsed since the person became aware of the decision of the Regulator.

### **How does a person apply for an internal review of a decision?**

An application must:

- be made using the form ***Application for internal review*** published on the regulator's website at <https://www.resourcesregulator.nsw.gov.au/safety-and-health/legislation/review-of-regulator-or-inspector-decisions>
- attach a copy of the notice for which any review is being sought
- set out clearly the reasons why the review is sought
- include your name, address and telephone number
- be sent to [cau@planning.nsw.gov.au](mailto:cau@planning.nsw.gov.au)

### **What happens next?**

Your application for internal review will be reviewed as soon as reasonably practicable and within 14 days of the application being received, unless additional information is required. You will receive written confirmation of the result of the internal review including the reasons for the decision.

### **External review**

An eligible person may apply to the Industrial Relations Commission (Commission) for an external review of the decision made on an internal review or for a review of an Improvement Notice issued by the Regulator. An external review application must be made within 14 days of the decision first coming to the applicant's notice or, if the Regulator is required by the Commission to give the person a statement of reasons, within 14 days after the day on which the statement is provided.

### **Privacy**

This information is collected by the Department of Regional NSW for the purposes of the WHS laws. The Department of Regional NSW will use this information for the purposes of law enforcement. This information may also be made available to other government agencies including SafeWork NSW.

### **Contact Details for the Department of Regional NSW, Resources Regulator**

**Phone: 1300 814 609**

**Email: [cau@planning.nsw.gov.au](mailto:cau@planning.nsw.gov.au)**

For a full list of offices see <https://www.resourcesregulator.nsw.gov.au/contact-us>

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