

# Notice of Modification

## Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, I modify the project approval referred to in Schedule 1, as set out in Schedule 2.

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A/Director  
Resource and Energy Assessments

Sydney

30 January

2019

### SCHEDULE 1

The development consent (DA 41/98), granted by the Minister for Urban Affairs and Planning for the Tritton Copper Mine Project on 1 September 1999.

### SCHEDULE 2

1. In the list of definitions, delete the definitions for 'AEMR', 'DRE', 'EIS', 'NOW', 'OEH', 'subject land' and 'subject development', and insert the following in alphabetical order:

Annual review  
Development  
DoI L&W  
DRG  
EA  
EIS

The review referred to in condition 6A of Schedule 2 of this consent  
The development described in the EIS  
Department of Industry – Lands & Water Division  
Division of Resources and Geoscience within the Department  
Environmental Assessment  
The Environmental Impact Statement titled *Tritton Copper Project - Environmental Impact Statement*, dated June 1998, prepared by R W Corkery & Co Pty Limited, as amended by the:

- Species Impact Statement, dated December 1998, prepared by Countrywide Ecological Service in conjunction with Greg Richards and Associates and Geoff Cunningham Natural Resource Consultants;
- modification application No.41/98 MOD - 1, dated 15 June 2004, and accompanying information prepared by Tritton Resources Limited;
- modification application No. 41/98 MOD - 2, dated 30 June 2005, and accompanying information prepared by Tritton Resources Limited;
- modification application No. 21\_3\_2007, dated 20 February 2007, and accompanying SEE for the *Proposed Surface Waste Rock Dump at the Tritton Copper Mine, Hermidale*, prepared by Tritton Resources Limited;
- modification application DA 41/98 MOD 4, dated 3 October 2007, and accompanying SEE for the *Tritton Expansion Project – Stage 2*, prepared by *Straits Resources Limited*, and the accompanying Response to Submissions prepared by *Straits Resources Limited* and received by the Department on 26 November 2007;
- modification application DA 41/98 MOD 5 and EA titled *Environmental Assessment for the Tritton Copper Mine Modification 5*, dated November 2014, and the associated Response to Submissions dated 19 January 2015, and additional information dated 26 February 2015; and
- modification application DA 41/98 MOD 6 and EA titled *Environmental Assessment for the Tritton Copper Mine Modification 6*, dated August 2018, and associated letters titled *Response to EPA Comments*, 8 November 2018, *Response to Dam Safety Committee Comments*, 23 November 2018, *Response to EPA Feedback on RTS*, 4 December 2018 and *Tritton Mine (DA 41/98 Modification 6) – Review of Traffic Activities*, 16 January 2019.

Feasible

Feasible relates to engineering considerations and what is practical to build or implement

Incident

A set of circumstances that causes or threatens to cause material harm to the environment

|                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Material harm     | Is harm that: <ul style="list-style-type: none"> <li>• involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial; or</li> <li>• results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000 (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)</li> </ul> |
| Minimise          | Implement all reasonable and feasible mitigation measures to reduce the impacts of the development                                                                                                                                                                                                                                                                                                                                                                                                         |
| Mining operations | Includes the removal and emplacement of waste rock; the processing, handling and storage of ore and tailings on site; and the transport of ore concentrate and tailings offsite                                                                                                                                                                                                                                                                                                                            |
| Mitigation        | Activities associated with reducing the impacts of the development                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Non-compliance    | An occurrence, set of circumstances or development that is a breach of this consent but is not an incident                                                                                                                                                                                                                                                                                                                                                                                                 |
| OEH               | Office of Environment and Heritage                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Reasonable        | Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements                                                                                                                                                                                                                                                                   |
| RR                | Resources Regulator within the Department                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Site              | As listed in Schedule 1 and shown in Appendix 1                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

2. Delete conditions 1 and 1A of Schedule 2, and replace with:

- (1) The Applicant must carry out the development:
- (i) generally in accordance with the EIS; and
  - (ii) in accordance with the conditions of this consent.

*Note: The general layout of the development is shown in Appendix 1.*

1A. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.

3. In condition 4 of Schedule 2, delete:

- 'DRE' and replace with 'DRG'; and
- 'Guidelines for the *Preparation of Mining Operations Plans* (Document 08060002.GUI) and replace with '*ESG3: Mining Operations Plan (MOP) Guidelines, September 2013*'.

4. Delete all references to:

- 'AEMR' or 'Annual Environmental Management Reports' and replace with 'Annual Review';
- 'NOW' and replace with 'DoI L&W'; and
- 'subject land' and replace with 'development site'.

5. In conditions 6(i), 9(d), 10, 23 and 43 of Schedule 2, delete 'DRE' or 'the DRE', and replace with 'the RR'.

6. In condition 6(iv) of Schedule 2, delete 'project' and replace with 'development'.

7. In condition 6(v) of Schedule 2, delete the words after 'Strategy' and replace with:

for the development, prepared in consultation with the EPA. The strategy must describe the air quality management system in detail and describe the measures that would be implemented to ensure compliance with condition 48 of schedule 2 of this consent.

8. In condition 6 of Schedule 2, delete the paragraph after condition 6(v).

9. Delete conditions 6A, 7(a), 7(b), 8, 8A and 8B of Schedule 2, and replace with:

## ANNUAL REVIEW

- 6A. By the end of March each year, unless the Secretary agrees otherwise, the Applicant must review the environmental performance of the development for the previous calendar year to the satisfaction of the Secretary. This review must:
- i) describe the development (including any rehabilitation) that was carried out in the past calendar year, and the development that is proposed to be carried out over the current calendar year;
  - ii) include a comprehensive review of the monitoring results and complaints records of the development over the past year, which includes a comparison of these results against the:
    - relevant statutory requirements, limits or performance measures/criteria;
    - monitoring results of previous years; and
    - relevant predictions in the EIS;
  - iii) identify any non-compliance over the last year, and describe what actions were (or are being) taken to ensure compliance;
  - iv) identify any trends in the monitoring data over the life of the development;
  - v) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and
  - vi) describe what measures will be implemented over the next year to improve the environmental performance of the development.

*Note: The Post Approval Requirements for State Significant Developments - Annual Review Guideline 2015, NSW Government, October 2015 (or its latest version) provides a reporting framework to integrate the reporting requirements of the Annual Review required by the Department under the development consent and the Annual Environment Management Report required under the Mining Lease.*

## REVISION OF STRATEGIES, PLANS AND PROGRAMS

- 6B. The Applicant must review and, if necessary, revise the strategies, plans or programs required under this consent to the satisfaction of the Secretary within 3 months of the:
- i) submission of an incident report under condition 7 of Schedule 2;
  - ii) submission of an audit report under condition 8 of Schedule 2; or
  - iii) any modification to the conditions of this consent.

Where this review leads to revisions in any such document, then within 6 weeks of the review the revised document must be submitted to the Secretary for approval.

## COMPLIANCE

7. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.
- 7A. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within 7 days after the Applicant becomes aware of any non-compliance with the conditions of this consent. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been done, or will be, undertaken to address the non-compliance.
- 7B. The Applicant must provide regular compliance reporting to the Department on the development in accordance with the relevant *Compliance Reporting requirements* (DPE 2018).

## INDEPENDENT ENVIRONMENTAL AUDIT

8. By 30 September 2021, and every 3 years thereafter, or as directed by the Secretary, the Applicant must commission and pay the full cost of an Independent Environmental Audit of the development. The audit must:
- i) be prepared in accordance with the relevant *Independent Audit Post Approval requirements* (DPE 2018);
  - ii) be led and conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Secretary;
  - iii) be carried out in consultation with the relevant agencies;
  - iv) assess whether the development complies with the relevant requirements in this consent, and any strategy, plan or program required under this consent; and

- v) recommend appropriate measures or actions to improve the environmental performance of the development and any strategy, plan or program required under this consent.

Within 3 months of commencing an Independent Environmental Audit, or unless otherwise agreed by the Secretary, a copy of the audit report must be submitted to the Secretary, and any other NSW agency that requests it, together with a response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations.

The recommendations of the Independent Environmental Audit must be implemented to the satisfaction of the Secretary.

- 10. In condition 9(a) of Schedule 2, delete 'conditions 1(g) and 1(h) of Schedule 2' and replace with 'the EIS'.

- 11. After condition 13 of Schedule 2, insert:

13A. The Applicant must:

- (i) ensure any water in the excavated cells drains away from the embankment walls of the Tailings Storage Facility;
- (ii) minimise the amount of time that excavated and stockpiled tailings are stored on site; and
- (iii) keep records of the amount of tailings that is extracted and exported from the site each year.

13B. Prior to commencing any works associated with Modification 6, unless the Secretary agrees otherwise, the Applicant must prepare a Tailings Extraction Management Plan for the development, to the satisfaction of the Secretary. This plan must:

- (a) be prepared by a suitably qualified expert approved by the Department and prepared in consultation with the EPA and the NSW Dams Safety Committee;
- (b) include:
  - (i) details of the tailings extraction process, including extraction, deposition, drying, storage, loading and on-site haulage activities;
  - (ii) details of the location and extent of the tailings stockpile area, the depth and permeability of the liner and the access points to this area;
  - (iii) an overview of the water and air quality management systems at the tailings storage facility;
  - (iv) a description of the measures that would be implemented to achieve the requirements of condition 13A of Schedule 2 of this consent;
  - (v) a trigger action response plan for dust management; and
  - (vi) a program to monitor and report on the effectiveness of the implementation of the measures in this plan.

The Applicant must implement the approved Tailings Extraction Management Plan.

- 12. In condition 16(iii) of Schedule 2, delete 'project' and replace with 'development'.

- 13. In condition 33 of Schedule 2:

- delete 'subject'; and
- insert 'and tailings' after 'waste rock'.

- 14. In condition 37A of Schedule 2:

- insert 'and tailings' after the first occurrence of 'waste rock';
- delete 'on public roads,' and replace with 'and tailings on public roads, including procedures to ensure that drivers implement safe driving practices.'
- insert 'and Council' after 'RMS'.

- 15. In condition 38 of Schedule 2, delete '6(a)' and replace with '6A'.

- 16. Delete condition 48 of Schedule 2, and replace with:

48. The Applicant must:

- (i) minimise the off-site dust emissions of the development;
- (ii) minimise any visible air pollution generated by the development;
- (iii) minimise surface disturbance on the site;
- (iv) ensure that trucks transporting tailings cover their loads during transportation at all times; and

- (v) define dust trigger levels and identify a plan to respond to any exceedances of the trigger levels.

17. In the note preceding condition 51 of Schedule 2, delete:

- 'DRE' and replace with 'the RR'; and
- '*Mines Inspection Act*' and replace with '*Work Health and Safety (Mines and Petroleum Sites) Act 2013*'.