

Our ref: OUT22/11559

Steve O'Donoghue

Director – Resource Assessments
NSW Department of Planning and Environment

Email: stephen.odonoghue@planning.nsw.gov.au

15 August 2022

Subject: **McPhillamys Mine – Specific Purpose Access Licence (SPAL) Information Package**

Dear Mr O'Donoghue,

I refer to your request for advice sent on 28 July 2022 to the Department of Planning and Environment (DPE) Water about the above matter.

The information package prepared by Regis Resources is proposed to support a future application for a Specific Purpose Access Licence (SPAL) under the *Water Management Act 2000*.

DPE Water has reviewed the information package and requests Regis Resources address several matters and amend the information accordingly prior to submitting a formal licence application. The matters relate to the following:

- That all external documentation used to support the application is provided and that statements or conclusions are justified with relevant information in the application.
- Further detail be provided of the methodology used to determine the SPAL volume, and to confirm whether climate change has been factored in to determining the volume and associated impacts.
- Further detail be provided of the impact assessment to understand whether more than minimal harm will occur to the water source. This is to address the surface water and groundwater source and the associated users and dependent ecosystems.

Notwithstanding these points, DPE Water has not identified any critical barriers to a successful application for a SPAL, providing that:

- it is for the purpose of enabling water to be taken for McPhillamys Gold Mine from the Belubula River above Carcoar Dam water source,
- the volume sought is the minimum required to meet the purpose for which the SPAL would be granted, and
- the granting of the SPAL will result in no more than minimal harm to the water source.

The assessment and determination of a SPAL application will also need to meet other statutory requirements, such as consultation with Native Title Service and consideration of any advice provided.

DPE Water also identified the following points relevant to implementation of the proposed approach that may represent a risk and need to be considered further.

- Should the SPAL be granted, the ability to link the SPAL to a work via a dealing application is only permitted in a limited range of circumstances set out in Clause 20(3) of the Access Licence Dealing Principles Order 2004 (ALDP). This needs to be discussed further with WaterNSW as the agency responsible for dealings.
- The information package has referred to a proposal to offset impacts to Carcoar Dam through the purchase of regulated entitlement and that obtaining high security entitlement could be challenging. The proponent is yet to actively seek the necessary entitlement and there is uncertainty as to how the proponent intends to proceed should this not be possible.

Please see attachment A for more detail.

Should you have any further queries in relation to this submission please do not hesitate to contact DPE Water Assessments water.assessments@dpie.nsw.gov.au or to the following coordinating officer within DPE Water:

Tim Baker – Senior Project Officer
E: Tim.Baker@dpie.nsw.gov.au
M: 0428 162 097

Yours sincerely

A handwritten signature in blue ink, appearing to read "M Isaacs".

Mitchell Isaacs
Chief Knowledge Officer
Department of Planning and Environment: Water

Attachment A

Detailed advice to DPE Planning & Assessment regarding the McPhillamys Mine SPAL information package

1.0 Supporting information

1.1 Recommendation

Regis Resources should:

- clearly justify statements made in the supporting information and include all copies or excerpts of external documentation.
- provide further details of how the volume of water requested in the SPAL application was calculated.
- confirm whether the modelling of requested volumes and associated impacts has taken into consideration climate change.
- ensure the supporting information clearly represents the potential impacts to the water source, which includes both surface water and groundwater. This is to include water users whether stock and domestic, irrigation or town water supply, in addition to dependent ecosystems. The area between the project site and Carcoar Dam, in addition to further downstream or other parts of the water source as affected needs to be included.

1.2 Explanation

- A SPAL application will be considered separate to previous referral processes within the SSD development assessment framework. Therefore, any references in the application information to conclusions or outcomes in external documents need to be supported with the provision of those documents/excerpts. Where large documents are being referenced, the key sections need to be documented and the key points detailed. This includes not only documents produced by Regis Resources but those in correspondence with DPE Water/DPE Planning or reports produced by DPE Water. Such documents were referenced in Section V of the document reviewed.
- The detailed methodology used to calculate the volume requested is required to understand the rationale used, and to support an assessment of the requirement that the volume is the minimum amount required.
- The supporting information package did not identify whether the influence of climate change had been addressed.
- The information package is focused on hydrological impacts in Carcoar Dam and species of conservation significance. The assessment of minimal harm on the water source however needs to consider all parts of the water source and the dependent species and habitats that may be impacted.

2.0 General SPAL application and implementation information

2.1 Completion of Application Form

- Applications must be completed on the approved form which is available from [How to apply for a water access licence | Water \(nsw.gov.au\)](#). The application guide and details of relevant application fees are also available through this link. Please note: the application form has been updated, so section titles presented in the draft application form do not match the updated form.
-

- Section D of the application concerns the “Water access licence details”. In this section the applicant must specify the volume sought (as a whole number) at D4.
- Regis Resources has indicated that two separate SPALs may be required. One for the Tailings Storage and one for the Clean Water diversion. The intention to apply for two separate SPALs is supported as different conditions may apply to each SPAL.
- Completed application forms can be emailed to waterlicensing.servicedesk@dpie.nsw.gov.au

2.2 SPAL implementation

- Current legislation would not permit the trade of entitlement to or from these SPALs. Other restrictions to the ability to undertake dealings may also apply.
- If granted, these SPALs would be subject to the same allocation account rules as other unregulated river WALs in the water sharing plan area.
- If granted these SPALs would need to nominate a work via a 71W dealing to “Change a Water Access Licence (WAL)” through an application to WaterNSW. It is noted that Clause 20(3) of the Access Licence Dealing Principles Order 2004 (ALDP) prohibits 71W dealings for SPALs, except in a limited range of circumstances (most relevantly in this case, including if “all works or extraction points nominated by the licence would only supply the same property or contiguous properties that are owned or occupied by the same landholder”). It is unclear if or how this restriction would apply to the McPhillamys SPAL. WaterNSW as the agency responsible for the consideration of all WAL dealings should be consulted on this issue.

2.3 Future SPAL applications

- Under current legislation an applicant may continue to make applications for SPALs as long as it can be demonstrated that:
 - it is for the purpose of enabling water to be taken for McPhillamys Gold Mine from the Belubula River above Carcoar Dam water source,
 - the volume sought is the minimum required to meet the purpose for which the SPAL would be granted, and
 - the granting of the SPAL will result in no more than minimal harm to the water source.

2.4 Future SPAL management

- When a SPAL is no longer required it is to be surrendered to the Minister. Alternately, the Minister may reduce the entitlement or cancel the SPAL if it is deemed that the purpose for which the SPAL was originally issued no longer exists.

End Attachment A