Modification of Development Consent

Section 4.55(2) of the Environmental Planning and Assessment Act 1979

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.

Stephen O'Donoghue Director Resource Assessments

Sydney- 30 September 2021

SCHEDULE 1

The development consent (DA 14/98), granted by the Minister for Urban Affairs and Planning for the Cowal Gold Project on 26 February 1999.

SCHEDULE 2

1. In the list of DEFINITIONS, delete the following terms and their definitions: 'BCD', 'DoEE', 'DRG', 'Fisheries NSW', 'NRAR' and 'RMS' and insert the following in alphabetical order:

| BCS | Biodiversity, Conservation and Science Directorate within the Department |
|---------------------------------|--|
| Cowal Gold Operations | The combined operations of the Open Cut Operations and the Underground Mine Development |
| DPI Fisheries | NSW Department of Primary Industries Fisheries |
| DSNSW | Dams Safety NSW |
| Heritage NSW | Heritage NSW in the Department of Premier and Cabinet |
| Resources Regulator | NSW Resources Regulator within the Department of Regional NSW |
| Open Cut Operations | The approved open cut mining operations and associated development as shown on the figure in Appendix 2 |
| Operation | The operation of the development, but does not include commissioning, trials of equipment or the use of temporary facilities |
| TfNSW | Transport for NSW |
| Underground Mine Development | Underground mining operations and associated development approved under development consent SSD 10367 as shown on the figure in Appendix 2 |

2. Delete the definition of "Mining operations", and replace with:

Includes the removal and emplacement of waste rock; the processing and handling of ore and the storage of tailings on site; and the transport of ore concentrate offsite

- 3. In the definition of "EIS':
 - a. In the second and third last dot points, delete "and" after "Limited;"
 - b. In the second last dot point, delete the full stop after "Limited" and replace with ";";

- c. In the last dot point, after "Limited", delete the full stop and replace with "; and"; and
- d. after the last dot point, insert:
 - modification application (MOD 16) dated 30 September 2020, submitted by Evolution Mining (Cowal) Pty Limited, and additional information provided by the Applicant on 26 April 2021, 12 May 2021, 20 May 2021 and 22 September 2021 in support of the application.
- 4. Delete all references to:
 - a. "BCD", and replace with "BCS", except in conditions 3.1(a)(ii) and 3.1(c);
 - b. "DoEE";
 - c. "DRG", and replace with "Resources Regulator";
 - d. "Fisheries NSW", and replace with "DPI Fisheries";
 - e. "NRAR"; and
 - f. "RMS", and replace with "TfNSW".
- 5. In condition 1.1, after the word "EIS", delete the word "SIS,".
- 6. Delete the full stop after condition 1.1(a)(ii), and insert:

"; and

(iii) in accordance with all written directions of the Planning Secretary made under condition 1.1(b)".

- 7. Delete condition 1.1 (b) and 1.1(c) and replace with:
 - (b) Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
 - (i) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (ii) the implementation of any actions or measures contained in any such document referred to in paragraph (a).
 - (c) The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and the document/s listed in condition (a)(i). In the event of an inconsistency, ambiguity or conflict between any of the document/s listed in condition (a)(i), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.
- 8. In condition 1.2 (a), delete "2032" and replace with "2040".
- 9. In condition 1.2(c) (vii), replace "245" with "246".
- 10. Delete condition 1.7, including the note, and replace with:
 - (a) With the approval of the Planning Secretary, the Applicant may:
 - prepare and submit any strategy, plan or program required by this consent on a staged basis (if a clear description is provided as to the specific stage and scope of the development to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program);
 - (ii) combine any strategy, plan or program required by this consent (if a clear relationship is demonstrated between the strategies, plans or programs that are proposed to be combined);
 - update any strategy, plan or program required by this consent (to ensure the strategies, plans and programs required under this consent are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the development); and
 - (iv) combine any strategy, plan or program required by this consent with any similar strategy, plan or program required by other consents for the Cowal Gold Operations.
 - (b) If the Planning Secretary agrees, a strategy, plan or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.
 - (c) If the Planning Secretary agrees, a strategy, plan or program may be staged without addressing particular requirements of the relevant condition of this consent if those requirements are not applicable to the particular stage.

- 11. Delete condition 2.1.
- 12. In condition 2.4(a), delete the first paragraph and replace with:

The Applicant must rehabilitate the site in accordance with the conditions imposed on the mining leases(s) associated with the development under the *Mining Act 1992*. The rehabilitation must be generally consistent with the proposed rehabilitation objectives described in the EIS (and shown conceptually in the figure in Appendix 3), as amended by the approved rehabilitation strategy (see condition 3.8) and must comply with the objectives in Table 1.

13. Delete condition 2.4(c), and replace with:

The Applicant must prepare and implement a Rehabilitation Management Plan in accordance with the conditions imposed on the mining lease(s) associated with the development under the *Mining Act 1992*. The plan must:

- (i) describe how the rehabilitation of the site would be integrated with the biodiversity offset strategy for the development;
- (ii) include geotechnical analysis and review of ongoing open pit development, the management of the integrated waste and continued monitoring of the lake protection bund;
- (iii) include detailed performance and completion criteria for evaluating the performance of the rehabilitation of the site, and triggering remedial action (if necessary);
- describe the measures that would be implemented to ensure compliance with the relevant conditions of this consent, and address all aspects of rehabilitation including mine closure, final landform (including final voids) and final land use;
- (v) include a program to monitor, and report on the effectiveness of the measures, and progress against the detailed performance and completion criteria; and
- (vi) build to the maximum extent practicable on the other management plans required under this consent.
 - **Note:** The Rehabilitation Management Plan may be combined with a Mining Operations Plan, or similar plan, required under the mining lease granted for the development.
- 14. In conditions 3.1(a)(ii) and 3.1(c), replace all references to "BCD" with "Heritage NSW".
- 15. In condition 3.4(b1), in the note to the condition, replace:
 - a. (f) with (c); and
 - b. (g) with (d).
- 16. Delete conditions 4.1, 4.2, 4.3, 4.4, 4.5 and 4.6, including headings, and replace with:

4.1 Water Supply

- (a) The Applicant must ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of the development to match its available water supply.
- (b) The Applicant must report on water extracted from the Cowal Gold Operations each year (direct and indirect) in the Annual Review, including water taken under each water licence.

Note: Under the Water Act 1912 and/or the Water Management Act 2000, the Applicant is required to obtain all necessary water licences for the development, including during rehabilitation and post mine closure.

4.2 Compensatory Water Supply

- (a) The Applicant must provide a compensatory water supply to any landowner of privately-owned land whose rightful water supply is adversely and directly impacted (other than an impact that is minor or negligible) as a result of the Cowal Gold Operations, in consultation with DPIE Water, and to the satisfaction of the Planning Secretary.
- (b) The compensatory water supply measures must provide an alternative long term supply of water that is equivalent, in quality and volume, to the loss attributable to the Cowal Gold Operations. Equivalent water supply should be provided (at least on an interim basis) as soon as practicable after the loss is identified, unless otherwise agreed with the landowner.
- (c) If the Applicant and the landowner cannot agree on whether the loss of water is attributed to the Cowal Gold Operations or the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Planning Secretary for resolution.
- (d) If the Applicant is unable to provide an alternative long term supply of water, then the Applicant must provide compensation, to the satisfaction of the Planning Secretary.

(e) However, conditions 4.2(a) to 4.2(d) do not apply if the Applicant has a compensatory water agreement with the owner/s of the land and the Applicant has advised the Department in writing of the terms of this agreement.

Notes:

- The Water Management Plan (see condition 4.4) is required to include trigger levels for investigating potentially adverse impacts on water supplies.
- The burden of proof that any loss of water supply is not due to mining impacts rests with the Applicant.
- For the avoidance of doubt, the Applicant is not required to provide compensatory water supplies under this consent if equivalent compensatory water supplies are provided under the consent for the Underground Mine Development.

4.3 Water Management Performance Measures

(a) The Applicant must ensure that the Cowal Gold Operations complies with the performance measures in Table 2.4.

| Table 2.4: Water | management perfo | rmance measures |
|------------------|------------------|-----------------|
| | | |

| Feature | Performance Measure |
|--|--|
| Water management – General | Maximise water recycling, reuse and sharing opportunities |
| | Minimise the need for make-up water from external supplies, particularly the use of higher quality water used by other land users |
| | • Design, install, operate and maintain water management infrastructure in a proper and efficient manner |
| | Minimise risks to the receiving environment and downstream water users |
| Aquifers | Negligible impacts to alluvial and fractured rock aquifers caused by the Cowal Gold Operations beyond those predicted in the EIS, including: |
| | negligible change in groundwater levels beyond those predicted; |
| | negligible change in water quality beyond those predicted; |
| | negligible impact to other groundwater users; and |
| | no exceedance of the minimal impact considerations in the NSW Aquifer Interference Policy |
| Lake Cowal and other surface water resources | Negligible impacts to Lake Cowal and other surface water resources caused by the Cowal Gold Operations beyond those predicted in the EIS, including: |
| | negligible change in lake volume; |
| | negligible change in surface water quality; and |
| | negligible impact to other surface water users |
| Borefields | Implement all reasonable and feasible measures to ensure that extraction of groundwater from the borefields does not result in exceedances of established mitigation trigger response levels |
| | Negligible impact to other groundwater users caused by the extraction of water from the borefields by the Applicant |
| Up-Catchment Diversion System (UCDS) | Maximise, as far as reasonable and feasible, the diversion of all clean water around disturbed areas |
| Internal Catchment Drainage System (ICDS) | Storages are suitably designed, installed and maintained to ensure no discharge of mine water or sediment-laden water outside the ICDS |
| | • Storages are suitably designed, installed and maintained to minimise the migration of pollutants due to discharges within the ICDS |

| Feature | Performance Measure |
|--|--|
| | • Storages are suitably designed, installed and maintained to minimise permeability, and prevent or minimise the migration of pollutants due to seepage |
| Flood mitigation | Design, install and maintain the lake isolation system to exclude exchange of water between the ICDS and Lake Cowal for all flood events up to and including the Probable Maximum Flood Negligible change to off-site flood regime, including flows, levels, storage capacity or velocities |
| Chemical and hydrocarbon storage | Chemical and hydrocarbon products to be stored in bunded areas in accordance with the relevant Australian Standard |
| Groundwater dependent ecosystems | Negligible environmental consequences to groundwater dependent ecosystems Negligible environmental consequences to fish and aquatic habitat |

4.4 Water Management Plan

The Applicant must prepare a Water Management Plan for the Cowal Gold Operations to the satisfaction of the Planning Secretary. This plan must:

- (a) be prepared by a suitably qualified and experienced person/s whose appointment has been endorsed by the Planning Secretary;
- (b) be prepared in consultation with DPIE Water, EPA, FSC, DPI Fisheries, DSNSW and Resources Regulator;
- (c) be submitted to the Planning Secretary for approval prior to commencing any construction works associated with the Underground Mine Development and/or Modification 16 as described in the EIS, unless the Planning Secretary agrees otherwise;
- (d) include a:
 - (i) <u>Site Water Balance</u> that:
 - includes details of:
 - predicted inflows and outflows;
 - sources and security of water supply, including contingency planning for various climate scenarios and allocations;
 - preferential water supply to prioritise internal and poorer quality water supplies over external and higher quality water supplies;
 - measures to ensure that average extraction of water from the borefields does not exceed the relevant performance measures in Table 2.4;
 - water use and management;
 - o any off-site water transfers; and
 - reporting procedures, including the annual preparation of an updated site water balance; and
 - investigates and implements all reasonable and feasible measures to minimise water use;
 - (ii) <u>Surface Water Management Plan</u>, that includes:
 - detailed baseline data on surface water flows and quality in Lake Cowal and other waterbodies (including Bland Creek and Sandy Creek) that could be affected by the Cowal Gold Operations;
 - a detailed description of the water management system, including the;
 - Up-Catchment Diversion System;
 - Internal Catchment Drainage System; and
 - Lake Isolation System;
 - detailed objectives and performance criteria, including trigger levels for investigating any potentially adverse impacts associated with the Cowal Gold Operations for:
 - o the water management system;
 - o downstream surface water flows and quality;
 - downstream flooding impacts;
 - o water supply for other water users; and
 - lake, stream and riparian health;
 - a program to monitor and evaluate:

- compliance with the relevant performance measures in Table 2.4 and the performance criteria established above;
- \circ the effectiveness of the water management system;
- surface water flows and quality, stream and riparian health in Lake Cowal and other waterbodies (including Bland Creek and Sandy Creek) that could be affected by the Cowal Gold Operations;
- o downstream flooding impacts;
- stability of the Lake Isolation System; and
- o impacts on water users;
- reporting procedures for the results of the monitoring program; and
- a plan to respond to any exceedances of the performance measures or performance criteria, and mitigate any adverse surface water impacts of the Cowal Gold Operations, including contingency strategies for addressing:
 - any discharge of pollutants from on-site water storages, tailings dams, emplacements, infrastructure and processing areas (including pipelines and borefield infrastructure); and
 - any identified impacts to Lake Cowal and other waterbodies;
- (iii) <u>Groundwater Management Plan</u>, that includes:
 - detailed baseline data on groundwater levels, yield and quality in the region that could be affected by the Cowal Gold Operations, including privately-owned groundwater bores and groundwater dependent ecosystems;
 - a detailed description of the groundwater management system, including measures to ensure that long term average extraction from the borefields remains within the levels predicted in the EIS and/or below applicable trigger levels;
 - detailed objectives and performance criteria, including trigger levels for investigating any
 potentially adverse impacts associated with the Cowal Gold Operations for:
 - o the groundwater management system;
 - local and regional aquifers;
 - groundwater users bores;
 - o groundwater inflows to the mining operations;
 - seepage/leachate from water storages, tailings dams, emplacements, infrastructure and processing areas, and final void; and
 - o groundwater dependent ecosystems;
 - a program to monitor and evaluate:
 - compliance with the relevant performance measures listed in Table 2.4 and the performance criteria established above;
 - o the effectiveness of the groundwater management system;
 - o groundwater inflows to the mining operations;
 - o any localised enhanced groundwater inflows associated with faults or other structures;
 - seepage/leachate from water storages, tailings dams, emplacements, infrastructure and processing areas, and final void, including migration over the short and long term;
 - background changes in groundwater yield/quality against mine-induced changes;
 - impacts of the Cowal Gold Operations on:
 - local and regional aquifers;
 - Lake Cowal and other waterbodies;
 - groundwater supply of potentially affected landowners;
 - groundwater dependent ecosystems; and
 - reporting procedures for the results of the monitoring program; and
 - a plan to respond to any exceedances of the performance measures or performance criteria, and mitigate any adverse groundwater impacts of the Cowal Gold Operations, including contingency strategies for addressing:
 - seepage/leachate of pollutants from on-site water storages, tailings dams, emplacements, infrastructure and processing areas, and final void;
 - any localised enhanced groundwater inflows associated with faults or other structures;
 - any exceedance of trigger levels at the borefields; and
- (iv) a program to validate the water balance and groundwater model for the Cowal Gold Operations every 3 years, and compare against monitoring results with modelled predictions.
 - **Note:** The groundwater monitoring program should provide for additional nested monitoring bores within Lake Cowal, as recommended by DPIE Water in its advice to the Department dated 29 April 2021, and by the independent groundwater expert engaged by the Department (advice dated 20 May 2021).
- (e) The Applicant must implement the Water Management Plan as approved by the Planning Secretary

17. In condition 5.4, in the note, delete "the" after "responsibility of".

- 18. In condition 6.1(a):
 - a. Replace "by the development" with "from the Cowal Gold Operations".
 - b.Add the following to Table 3:Particulate matter < 2.5 μm (PM2.5)</td>Annuala 8 μg/m³
 - c. Add the following to Table 4: Particulate matter < 2.5 μm (PM_{2.5}) 24 hour ^b 25 μg/m³
- 19. In condition 6.1(a), in the notes to the condition, replace:
 - a. "Total impact" with "Cumulative impact"; and
 - b. "Development" with "Cowal Gold Operations".
- 20. In condition 6.1(b), replace all references to "development" with "Cowal Gold Operations".
- 21. In condition 6.1(c), replace all references to "development" with "Cowal Gold Operations".
- 22. In condition 6.3(b), after word "day", insert "for the Open Cut Operations".
- 23. In condition 6.3(e), replace "development" with "Cowal Gold Operations".
- 24. In condition 6.4(c), Table 7, delete "Westlea".
- 25. In condition 6.4(c):
 - a. Replace "development" with "Cowal Gold Operations";
 - b. Delete "LAeq(15min)" from the Table 8 caption.
 - c. Insert "LAeq(15min)" in the column heading after "Day/Evening/Night";
 - d. Insert a new column in Table 8 titled "Night LAF max" and the value "52" for all lands;
 - e. Delete the paragraph after Table 8 starting with "Noise generated by" and replace with:

"Noise generated by the Cowal Gold Operations is to be measured in accordance with the relevant requirements and exemptions (including certain meteorological conditions) of the *Noise Policy for Industry* (EPA, 2017). The noise enhancing meteorological conditions determined by monitoring at the meteorological station required under condition 6.2 and as defined in Part D of the *Noise Policy for Industry* (EPA, 2017) apply to the noise criteria in Table 8."

- 26. In condition 6.4(e), replace "development" with "Cowal Gold Operations".
- 27. In condition 6.4(e)(i), replace the words "carrying out any development under this consent" with "commencing any construction works associated with the Underground Mine Development and/or Modification 16 as described in the EIS".
- 28. In condition 6.5(b)(i), replace "of the development" with "from the Cowal Gold Operations".
- 29. In condition 6.5(b)(iv), replace "associated with the development" with "at the Cowal Gold Operations".
- 30. In condition 7.1(d):
 - a. replace the words "Prior to commencing construction of works associated with Modification 14, unless the Planning Secretary agrees otherwise, t" and replace with "T";
 - b. Replace "development" with "Cowal Gold Operations"; and
 - c. Replace ", and include" with "and be submitted to the Planning Secretary for approval prior to commencing any construction works associated with the Underground Mine Development and/or Modification 16 as described in the EIS, unless the Planning Secretary agrees otherwise. The plan must include:"

31. In condition 9.1(b), replace:

- a. "July" with "March"; and
- b. "development" with "Cowal Gold Operations".

32. In condition 9.1(c):

- a. Delete sub condition (ii) and replace with "(ii) the submission of a non-compliance or incident notification under condition 9.3(a) or 9.3(b) below"; and
- b. In sub condition (v), replace "(c)" with "(b)".
- 33. Delete the paragraph below condition 9.1(c)(v), and replace with:

"the suitability of existing strategies, plans and programs required under this consent must be reviewed by the Applicant.

If necessary, to either improve the environmental performance of the development or cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review."

- 34. In condition 9.1(d)(i):
 - a. replace "development" with "Cowal Gold Operations";
 - b. replace "Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects (Department of Planning, 2007, or its latest version)." with "Department's Community Consultative Committee Guidelines: State Significant Projects (2019 or its latest version); and"
 - c. in the last bullet point, replace "mine" with "Cowal Gold Operations".
- 35. In condition 9.2(a)(i):
 - a. Replace "development" with "Cowal Gold Operations";
 - b. replace all bulleted paragraphs and the Note with the following:
 - be prepared in accordance with the *Independent Audit Post Approval Requirements* (2020 or as amended from time to time);
 - be led and conducted by a suitably qualified, experienced and independent team of experts (including ecology and rehabilitation experts) whose appointment has been endorsed by the Secretary;
 - be carried out in consultation with the relevant agencies, BSC and the CEMCC;
 - assess whether the development complies with the relevant requirements in this consent, and any strategy, plan or program required under this consent; and
 - recommend appropriate measures or actions to improve the environmental performance of the development and any strategy, plan or program required under this consent.
- 36. Delete condition 9.2(a)(ii).
- 37. Replace condition 9.3 (a) and (b) with the following: (a) <u>Incident Notification</u>

The Planning Secretary must be notified in writing via the Major Projects website 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. Subsequent notification requirements must be given, and reports submitted in accordance with the requirements set out in Appendix 8.

(b) <u>Non-Compliance Notification</u>

The Planning Secretary must be notified in writing via the Major Projects website within seven days after the Applicant becomes aware of any non-compliance. A non-compliance 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, or will be, undertaken to address the non-compliance.

Note: A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

38. Replace Appendix 2 with:

APPENDIX 2 GENERAL LAYOUT OF THE DEVELOPMENT



Proposed underground development
 Mining lease (ML1535)
 Mining lease (ML1791)
 DA14/98 approved surface disturbance
 Indicative integrated waste landform perimeter
 Electricity transmission line
 Water supply pipeline
 Saline groundwater supply bore
 Rail line
 Main road
 Underground development elements
 Mod 16 surface elements
 Approved surface elements

Project area

Evolution Mining Cowal Gold Operations Environmental impact statement Figure ES3



39. Replace Appendix 3 with:



APPENDIX 3 BIODIVERSITY OFFSETS AND CONCEPTUAL REHABILITATION STRATEGY

LEGEND Existing Offset Area (Voluntary Planning Agreement to be registered on the title of the lands) Proposed Offset Area (Biobanking Agreement to be registered on the title of the lands) Remnant Vegetation Enhancement Program Area (Management of these areas would be maintained for the term of Evolution's tenure of the land)

Source: Evolution (2018); © NSW Department of Finance, Services & Innovation (2017) Orthophoto: Evolution (Oct 2017) CGO PROCESSING RATE MODIFICATION Conceptual Final Landform and Proposed Final Land Use Areas

Figure 5-1

40. Delete Appendix 5

41. Insert new Appendix 8:

APPENDIX 8

INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

- A written incident notification addressing the requirements set out below must be submitted to the Planning Secretary via the Major Projects website within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition 9.3 or, having given such notification, subsequently forms the view that an incident has not occurred.
- 2. Written notification of an incident must:
 - a. identify the development and application number;
 - b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - c. identify how the incident was detected;
 - d. identify when the Applicant became aware of the incident;
 - e. identify any actual or potential non-compliance with conditions of consent;
 - f. describe what immediate steps were taken in relation to the incident;
 - g. identify further action(s) that will be taken in relation to the incident; and
 - h. identify a project contact for further communication regarding the incident.
- 3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
- 4. The Incident Report must include:
 - a. a summary of the incident;
 - b. outcomes of an incident investigation, including identification of the cause of the incident;
 - c. details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - d. details of any communication with other stakeholders regarding the incident.

End of Modification

(DA 14/98 MOD 16)