

Phil Tyler
Chair, Hillside Mine Community Voice



20th September 2018

Mr. Greg Marshall
Director, Mining Regulation
Department for Energy and Mining
11 Waymouth St
Adelaide
SA 5000

Dear Greg

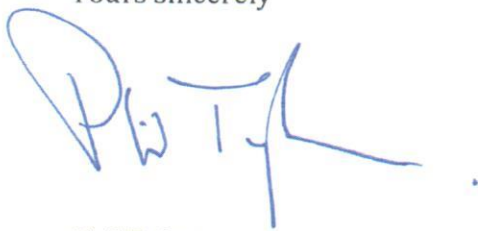
At the recent Hillside Mine Community Voice (HMCV) meeting held on Monday 10th September, there was a discussion regarding the Rex Minerals Hillside Mine Program for Environment Protection and Rehabilitation (PEPR) approval process, with representatives of Rex Minerals in attendance. At the meeting there was a suggestion, by the company, that the State Government could give conditional agreements to the PEPR subject to waivers and land agreements being in place before mining commenced. As a result of those discussions, members of HMCV have asked me to write to you asking for clarification of a number of questions.

- (1) What is the current status of the Rex Minerals PEPR for the Hillside Mine?
- (2) Will waivers be required prior to formal approval?
- (3) If yes, which waivers are required?
- (4) Does the Act allow for conditional agreement of the PEPR by the State Government, as an interim stage before granting final approval, and if it does, is this something the State Government is contemplating in regard to the Hillside Mine Program?
- (5) Is the public release of the PEPR the responsibility of the State Government or the company and at what stage of the process can the PEPR be released (eg at the point of conditional agreement or final approval)?
- (6) What are the legal requirements of the company to proceed to mine? For example, does the company need to go back to the State Government and show agreements are in place? And is it that stage at which formal approval is given?
- (7) If waivers are not required prior to formal approval, at what stage are they required? For example before construction or before mining.

- (8) What are the indicative or preferably, specific timeframes for your department to complete assessment of the PEPR following the department's formal feedback to Rex Minerals? Specifically HMCV members would like to understand once the State Government has received a response from the company to the department's formal feedback, the process and timing for formal approval of associated waiver agreements, the PEPR and the formal public release of the PEPR document. At what point in this process is Rex Minerals given the State Government's approval to proceed to construction and subsequently commence mining?
- (9) When is the approved PEPR formally released to the public (ie community, ASX)?
- (10) Who is responsible for releasing the formal approved document to the market and public (i.e. State Government or Rex Minerals)?

Members would appreciate a written response as soon as possible. Should you need clarification on the contents of this letter, please contact me on 0401 120 933 or pbtyler@bigpond.com.

Yours sincerely

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Phil Tyler
Chair
Hillside Mine Community Voice



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Doc No: 2018D041761

28 September 2018

Mr Phil Tyler
Chair, Hillside Mine Community Voice

Dear Phil

Thank you for your letter dated 20 September 2018 seeking clarification on a number of questions relating to the process for approval of the PEPR, and commencement of mining of the Hillside Mine.

In responding to your concerns, I firstly wish to clarify the current status of Rex's PEPR submission for the Hillside Mine:

- Rex formally submitted a proposed PEPR to the Department for Energy and Mining (DEM – formerly DPC) on 2 February 2018.
- Since that time, DEM has been progressing the assessment of the proposed PEPR, which has included seeking input from technical experts across government.
- On Monday 10 September, DEM sent Rex a detailed letter requiring revisions be made to the proposed PEPR, to address matters identified by DEM, EPA and DEW.
- Rex are now revising the proposed PEPR to address the revisions set out in the DEM letter.
- DEM will carry out a similar assessment process for subsequent re-submissions of the proposed PEPR. This may potentially result in a further request for revisions to the proposed PEPR.
- This process is likely to take some months to finalise, given the scale of the task.

The Departments position on the requirements for the Hillside Mine PEPR is set out in the Hillside Mine lease documents and are as follows:

- a) It is consistent with the Mining Lease Proposal (MLP). Particular consistency requirements are set out in the Department's letter, 'Hillside Mine - Assessment of Rex Minerals proposed change to operations post the grant of mining tenements under the Mining Act' (15 December 2016) This letter is available on the Department's website and has been attached for your convenience.
- b) It contains all of the information that the Act or Regulations say it must,
- c) Additional Conditions about the PEPR are complied with, and



- d) It addresses strategies and criteria to be adopted to measure environmental outcomes listed in the Sixth Schedule, and
- e) Access has been authorised to all land relevant for the operations described in the PEPR, in accordance with the Mining Act. This includes obtaining waivers for exempt land where mining operations are proposed. Evidence would need to be provided to DEM to satisfy this requirement.

The Minister (or his delegate) will only approve the PEPR if these requirements have been met.

In response to the concerns raised in your letter I provide the following advice:

- The information you have received in relation to the ability for Rex and DEM to reach an agreement on the PEPR without waivers in place is incorrect.
- The Mining Act does not allow for 'conditional' approval of the PEPR, or 'agreement' of the PEPR as an interim stage before granting final approval.
- DEM understands that Rex are continuing to draft a proposed PEPR that would be suitable for approval subsequent to the land access requirements being met.
- DEM will assess any future submission of a proposed PEPR but approval will be subject to meeting the requirements set out above.
- Should the PEPR be approved by the Minister (or a delegate within DEM), DEM will publically release the PEPR in accordance with the conditions of the Hillside Mining Lease.
- Rex may choose to publically release a proposed PEPR at any time prior to it being approved. Market announcements are the responsibility of the Company.
- Regulation 35 of the Mining Regulations 2011, requires the tenement holder to commence mining operations in accordance with the PEPR within 12 months after the PEPR has been approved, unless otherwise determined or agreed by the Minister,
- Prior to commencing operations, Rex must also gain an operating license under the Environment Protection Act, and pay the required rehabilitation liability bond to government.

I hope that this helps to clarify the Departments position in relation to Hillside Mine PEPR. If you require any further clarification, I am more than happy for our Regulatory staff to discuss this with you. Please contact Nathan Zeman, A/Deputy Director Mining Assessment on 8429 2494.

Yours sincerely



Greg Marshall
Director Mining Regulation

Attachment: Department letter, Hillside Mine – Assessment of Rex Minerals proposed change to operations post the grant of mining tenements under the Mining Act (15 December 2016)

15 December 2016

Mr Greg Hall
Project Director
Rex Minerals Pty Ltd
Level 19, 11 Waymouth Street
ADELAIDE SA 5000

Dear Mr Hall,

Re: Hillside Mine – Assessment of Rex Minerals Pty Ltd (Rex) proposed change to operations post the grant of mining tenements under the *Mining Act 1971* (SA)

The purpose of this letter is to provide Rex with a statement of the DSD's position on Rex's smaller scale start-up documentation, which is:

1. The letter from yourself to DSD dated 30 May 2016 with the following attachments;
 - Description of Mining Operations – Hillside Project Extended Feasibility Study;
 - Information supporting the gap assessment – EFS to ML;
 - Updated MLP Section 8 document showing changes;
 - Delta Impact Assessment Tables – EFS to ML;
2. Revised submission with technical appendices (provided on 16 September 2016).

Background

In September 2014, Rex was granted ML 6438, EML 6439 and MPL 146. Prior to this (on 08 August 2014), Rex issued an ASX announcement. The announcement stated that Rex would perform an Extended Feasibility Study for a smaller scale start-up.

On 16 April 2015, Rex wrote to the DSD regarding the process for notice and approval of Stage 1 of the smaller scale project. Rex acknowledged that "it must satisfy the DSD of the impacts of the two stage approach to Hillside", and sought DSD's advice on the process, the information required, and the timeline for this process.

In response, DSD wrote to Rex in May 2015 seeking a written submission that provided detailed assessment of the consistency of the proposed smaller scale staged start-up with the Mining Lease Proposal (the Proposal) and Response Document, and of the compliance with the terms and conditions of Rex's Mining Leases and Miscellaneous

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Purposes Licence. DSD informed Rex that DSD did not consider Rex's intention to submit a PEPR for Stage 1 only would be consistent with the Proposal and Response Document. DSD said that to be consistent, Rex must submit a PEPR which details plans and a sequence of mining and rehabilitation operations for all stages described in the Proposal.

On 02 July 2015, Rex wrote again to DSD seeking clarification of the DSD requirements for describing the life-of-mine plan in Rex's proposed PEPR. DSD responded to that letter on 29 July 2015, clarifying amongst other things that a PEPR submitted by Rex need not address in comprehensive detail all operations to be undertaken over the life of mine. Rather, the intent of DSD's earlier advice to Rex was that the PEPR must detail how any staging of the mine development must fit with the life-of-mine plan in the Proposal, and how the staged operations will ensure that the efficient and effective extraction of the Hillside Mine resource and compliance with the conditions and requirements of the Hillside tenements will not be compromised.

DSD assessment

DSD has reviewed Rex's May and September 2016 documentation, and assessed it against the Proposal and Response Document, and the terms and conditions of the Hillside tenements. DSD considers that if Rex were to present a PEPR detailing activities consistent with the May and September 2016 documentation, DSD could not recommend to the Minister or his delegate that they approve it. This is because the mining operations described in Rex's submissions are sufficiently different to those described in the Proposal and Response Document as to be inconsistent with them. The main features of Rex's submissions, which looked at holistically, are inconsistent with the mining operations authorised by the grant of ML 6438 are changes to the land access arrangements, being:

- a. Three new residential receptors and two additional agricultural properties that would be impacted by the changed mining operations, and who were not considered to be receptors that would be present during mining operations;
- b. Redding Road remaining open to the public during Stage 1 mining operations.

Additionally there is insufficient detail on how any staging of the mine development will fit with life-of-mine plan described in the Mining Proposal.

Without fettering the discretion of the Minister or his delegate, in summary terms, a consistent PEPR would need to address at least the following:

- Land access – Page 2-1 of the Proposal sets out that “*of the remaining land titles underlying the proposed ML ... Rex intends to purchase or come to an access and compensation agreement for these land parcels as they are required for the development of the mine*”. Evidence must be provided that Rex has purchased, has an option to purchase, has established access and compensation agreements for these land parcels, or the equivalent thereof to the Ministers satisfaction.

- Redding Road - The Proposal describes the requirement for Redding Road to be closed. Rex's documentation now proposes for Redding Road to remain open for the proposed smaller scale staged start-up. Evidence must be provided that Rex has adequately informed District Council of Yorke Peninsula about the conditions under which Redding Road would remain open, and the Council is agreeable to Redding Road remaining open during the Stage 1 of mining operations.
- Detail must be provided on how the staging of the mine development (including the sequence of mining and rehabilitation operations for all stages of operations) will fit with the life-of-mine plan described in the Proposal.

Again, without fettering the discretion of the Minister or his delegate, additional information to the content of the May and September submissions required in a PEPR submitted for approval under Section 70B of the Mining Act 1971 includes at least the following:

- Detail on surface water controls including detailed diversion drain designs and surface water modelling to demonstrate the achievement of the outcome relating to surface water inundation of 3rd party property and infrastructure (ML 6438 2nd Schedule Condition 24).
- Evidence that the new or additional environmental receptors identified by Rex and referred to in the Delta Impact Assessment have been consulted.
- Evidence that stakeholders (including as a minimum the new receptors, land owners near to the mine gate and Council) have been adequately informed of the proposed changes to operations, and any new or changed environmental impacts identified in the delta impact assessment.
- A summary of the results of consultation which includes evidence of reasonable efforts to have these results verified by the stakeholder who was consulted. This summary must include the views the stakeholder may have on the environmental outcomes associated with the new or changed environmental impacts.
- Demonstration that the relevant environmental outcomes are still appropriate subsequent to the consultation being undertaken on the proposed changes to operation.

Conclusion

DSD has previously informed Rex of its options in relation to the Hillside project - they are to either:

- submit a PEPR that is consistent with the Mining Proposal and Response Document (as outlined above); or
- apply for new or additional tenements, resulting in a new application process.

Both of these options will involve public consultation. In the case of a new tenement application, it will involve consultation undertaken by Rex and statutory consultation undertaken by the Minister.

Attached to this letter is the assessment report on which the DSD has formed its position. I invite you to consider the assessment report and the options outlined above.

I wish to remind Rex on the timelines for submission of a compliant PEPR by 16 September 2017.

I trust that this statement of the DSD position is helpful to Rex as it considers its way forward. After considering this letter and the assessment report, I request that Rex provides formal advice to my office by 1 February 2017 on how it intends to proceed.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Greg Marshall', is written over a horizontal line.

Greg Marshall
DIRECTOR MINING REGULATION

Attachment 1: DSD assessment report for the Rex Minerals Ltd submissions regarding the staged approach for development of the Hillside Copper Mine ML 6438