

Authorisation	Exploration licence EL6243 (Act 1992)
Licence Holder	<ol style="list-style-type: none">1. Narrabri Coal Pty Ltd (ACN: 107 813 963)2. Posco International Narrabri Investment Pty Ltd (ACN: 139 088 967)3. Narrabri Coal Australia Pty Ltd (ACN: 110 262 925)4. J-Power Australia Pty Ltd (ACN: 002 307 682)5. Kores Narrabri Pty Limited (ACN: 138 993 263)6. Upper Horn Investments (Australia) Pty Ltd (ACN: 129 190 281)
Legislation	Section 240AA and 240B of the <i>Mining Act 1992</i>
Decision maker	Anthony Keon Executive Director, NSW Resources Regulator Regional NSW

SECTION 240AA & 240B – REVOCATION OF SUSPENSION NOTICE

As authorised by Section 240AA and 240B of the *Mining Act 1992* (**Act**), I Anthony Keon, having delegated authority from the Secretary, Regional NSW, have decided to **revoke** suspension notice DOC19/705287 issued in relation **EL 6243** on 22 August 2020.

This revocation is effective from the date of this decision.

REASONS FOR DECISION

Legislation

1. Section 240AA(1) of the Act provides that the Secretary may, by written notice (a **suspension notice**), direct a responsible person to suspend (for such period as is specified in the direction or until further notice) all, or any specified, operations under an authorisation or suspend any activity approval relating to the operations if the Secretary considers that:
 - a. circumstances exist that could constitute a ground for cancellation of the authorisation under section 125(1)(b)-(g), 203(1)(b)-(e) or (h) or 233(1)(b)-(d), or
 - b. circumstances exist that could constitute a ground for cancellation of the authorisation under section 125(1)(h), 203(1)(i) or 233(1)(f), in relation to a breach of a direction under section 240 only.

2. Section 240B of the Act provides that the Secretary may vary or revoke a suspension notice by issuing a subsequent direction.
3. Section 363(2) of the Act provides that the Secretary may delegate any functions conferred under the Act to any person, except this power of delegation or any function delegated to the Secretary by the Minister. The Secretary has delegated the functions to issue a suspension notice (including its variation or revocation) to the Executive Director of the NSW Resources Regulator (**the Regulator**).

Requirements of suspension notice DOC19/705287

4. On 22 August 2019, I made the decision pursuant to section 240AA of the Mining Act 1992 (Act) to immediately suspend all operations on Exploration Licence 6243 (Act 1992) (EL 6243) with the exception of those activities required to maintain a safe workplace or to undertake environmental rehabilitation.
5. In making this decision, I advised the licence holders that consideration would be given to revoking the suspension notice once the licence holders had:
 - a. Commissioned a suitably qualified independent person, to the satisfaction of the Regulator, to conduct a review of the licence holders' systems and processes for meeting its compliance obligations under the Act for EL 6243.
 - b. Commissioned a suitably qualified independent person, to the satisfaction of the Regulator, to conduct a review of the management systems applying to the approval of work to be undertaken at EL 6243 (Activity approvals).
 - c. Submitted a detailed report, to the satisfaction of the Regulator, that details the key findings, corrective actions and recommendations arising from both reviews undertaken above (including copies of both reports).
 - d. Completed all corrective actions and recommendations arising from the reviews to the satisfaction of the Regulator.

Response to suspension notice

6. On 3 September 2019, Narrabri Coal Operations Pty Ltd (**Narrabri Coal**) wrote to the Regulator, on behalf of the licence holders, seeking endorsement to engage Umwelt (Australia) Pty Limited (**Umwelt**) to conduct the two reviews.
7. On 10 September 2019, the Regulator advised Narrabri Coal that it was satisfied with the selection. A draft scope of works was provided on 2 October 2019 and settled on 9 October 2019.

Reasons for decision

8. On 13 February 2020, Narrabri Coal provided the Regulator with Umwelt's final reports. Narrabri Coal further advised that it intended completing the remaining outstanding corrective actions and recommendations and have them verified by Umwelt.
9. On 13 March 2020, following a review of the reports provided, the Regulator replied, confirming its satisfaction with the findings and recommendations arising from the reviews.
10. On 26 May 2020, Narrabri Coal provided a copy of Umwelt's verification report and requested that consideration be given to revoking the suspension notice.
11. Following an assessment of the verification reports provided, on 27 July 2020 the Regulator requested a copy of the relevant documents referred to in Umwelt's verification report, including the training packages and training records. These records were provided on 28 July 2020.
12. A review of these documents identified some minor concerns, with these concerns being raised with Narrabri Coal on 3 August 2020.
13. Narrabri Coal responded to these concerns on 4 August 2020 with amendments being made to the Environmental Compliance Management document.

Considerations and findings

14. I am satisfied that a comprehensive review has been carried out by the Regulator in relation to the actions and documentation provided by the licence holders in response to the suspension notice.
15. In this respect I note that the licence holders have:
 - a. commissioned an independent person to conduct a review of its systems and process for ensuring compliance and for applying for activity approvals - with the auditor and audit scope of the reviews approved by the regulator
 - b. addressed the corrective actions and recommendations identified from those reviews
 - c. had the corrective actions independently verified.
16. I am also satisfied that the licence holders immediately suspended exploration activities on EL6243 following the issue of the suspension notice and have not undertaken any exploration activities since.
17. Accordingly, I am satisfied that the licence holders have met the requirements set out in the suspension notice, and it is therefore appropriate to revoke suspension notice DOC19/705387 issued in relation **EL 6243** on 22 August 2020. This revocation takes effect immediately.

Reasons for decision

18. Please note that the revocation of the suspension notice in no way precludes the Regulator from taking any other action against the licence holders in relation to this matter.

Date of decision: **10 August 2020**



Anthony Keon
Executive Director
NSW Resources Regulator

Note: In accordance with its Public Comment Policy, a copy of this decision will be published on the NSW Resources Regulator's website: www.resourcesregulator.nsw.gov.au