

Authorisations	<ul style="list-style-type: none">1. Exploration Licence No. 8308 (Act 1992) (EL 8308)2. Exploration Licence No. 8309 (Act 1992) (EL 8309)3. Exploration Licence No. 8310 (Act 1992) (EL 8310)4. Exploration Licence No. 8311 (Act 1992) (EL 8311)5. Exploration Licence No. 8312 (Act 1992) (EL 8312)6. Exploration Licence No. 8385 (Act 1992) (EL 8385)7. Exploration Licence No. 8560 (Act 1992) (EL 8560)8. Exploration Licence No. 8648 (Act 1992) (EL 8648)9. Exploration Licence No. 8769 (Act 1992) (EL 8769)10. Exploration Licence No. 8865 (Act 1992) (EL 8865)11. Exploration Licence No. 9219 (Act 1992) (EL 9219)12. Exploration Licence No. 9221 (Act 1992) (EL 9221)13. Exploration Licence No. 9222 (Act 1992) (EL 9222)14. Exploration Licence No. 9223 (Act 1992) (EL 9223)
Licence Holder	RZ Resources Ltd ACN 160 863 892
Issue	Whether to amend the Mandatory Audit Condition
Legislation	Clause 12 of Schedule 1B of the <i>Mining Act 1992</i>
Decision maker	Peter Day Executive Director, NSW Resources Regulator Department of Regional NSW

DECISION TO VARY AN AUTHORISATION

As authorised by Clause 12 of Schedule 1B of the *Mining Act 1992* (**Act**), I Peter Day, having delegated authority from the Minister, have decided to **amend** the ‘Mandatory Audit Conditions’ currently imposed on EL 8308, EL 8309, EL 8310, EL 8311, EL 8312, EL 8385, EL 8560, EL 8648, EL 8769, EL 8865, EL 9219, EL 9221, EL 9222 and EL 9223 (**14 exploration licences**).

Reasons for decision

The amended condition states:

“Mandatory Audit Condition

Annual Audit

1. *By 1 September 2023, the licence holder must submit to the Secretary of the Department of Regional NSW (**Secretary**):*
 - a. *an **audit report**, completed by an auditor, independent to the licence holder, detailing the findings of the audit including any recommendations to the licence holder; and*
 - b. *a **supplementary report**, completed by the licence holder, responding to the findings and recommendations contained within the audit report.*
2. *The audit must:*
 - a. *For the period 1 September 2021 to 30 June 2023, provide information on the licence holder’s compliance with the Mining Act 1992 (**Act**) and Mining Regulation 2016 (**Regulation**) (or as amended, modified, or replaced from time to time), including all licence conditions or other obligations imposed under the Act and Regulation.*
 - b. *provide information on the effectiveness of any systems and processes in place for meeting compliance obligations under the exploration licence; and*
 - c. *recommend to the licence holder, measures, or actions to achieve compliance.*

Audit requirements

3. *The audit, including the preparation of the audit report, must be completed in accordance with current auditing standards ‘AS.NZS 19011:2018 – Guidelines for auditing management systems’ as updated, amended, modified or replaced from time to time.*
4. *The audit must be undertaken by a suitably qualified and experienced auditor. The auditor must hold a certification as a lead or principal environmental auditor, or similar, with a relevant accreditation body.*
5. *The auditor must be independent of the exploration licence and the licence holder, and free from any actual, potential, or perceived conflicts of interest.*
6. *At least 21 days before the auditor commences the audit, the licence holder must provide in writing to the Secretary:*
 - a. *the proposed auditor’s details, including the auditor’s qualifications, certifications, and experience,*
 - b. *the scope of the audit and audit criteria (including an itemised list of all licence conditions and other obligations imposed under the Act and Regulation to be audited), and*
 - c. *a declaration signed by the licence holder certifying the independence of the auditor to the exploration licence and licence holder.*
7. *The audit report must be accompanied by a declaration signed by the auditor:*
 - a. *setting out the auditor’s qualifications, certifications, and experience,*
 - b. *certifying the independence of the auditor to the exploration licence and licence holder, and*

Reasons for decision

- c. certifying that the report is accurate, and that the auditor has not knowingly included any false or misleading information in it or failed to include any relevant information in it.
- 8. The licence holder must provide all reasonable assistance to the independent auditor undertaking the audit.
- 9. The supplementary report must be accompanied by a declaration signed by the licence holder certifying that the holder has not knowingly provided any false or misleading information to the auditor and has provided all relevant information to the auditor.
- 10. The audit must be conducted at the expense of the licence holder.
- 11. The audit and supplementary reports (including supporting information) must be submitted by email to the Secretary at nswresourcesregulator@service-now.com, or as otherwise specified by the Secretary.

NOTE: A single audit report and supplementary audit report may be provided to the Secretary where there is more than one authorisation, held by the licence holder, subject to this Mandatory Audit Condition. Where a single report is provided, it must provide the required information on the licence holders compliance under Clause 2(a) for all authorisations.”

The amendment of the condition takes effect from **30 November 2022**.

REASONS FOR DECISION

Legislation – Variation of authorisation

- 1. Clause 12(1) of Schedule 1B of the Act provides that the relevant decision-maker may vary an authorisation (including the conditions of an authorisation).
- 2. Clause 12(2)(d) of Schedule 1B of the Act provides that a variation of an authorisation may include the amendment of a condition.
- 3. Clause 12(3) of Schedule 1B of the Act enables the authorisation to be varied on the initiative of the relevant decision-maker.
- 4. Clause 12(4) of Schedule 1B of the Act enables the authorisation to be varied at any time during its currency.
- 5. Clause 12(5) of Schedule 1B of the Act requires the decision-maker to:
 - (a) give the holder of the authorisation notice of the decision, and
 - (b) invite the making of submissions to the decision-maker about the proposed decision and provide at least 28 days to make a submission, and
 - (c) take into consideration any such submission after the submission period has expired.
- 6. Clause 12(6) of Schedule 1B of the Act requires the decision to be given in writing to the licence holder.

Reasons for decision

7. Section 363(1) of the Act provides that the Minister may delegate any functions conferred under the Act to another person.
8. The Minister has delegated the functions to vary an authority under Clause 12(1) of Schedule 1B of the Act to the Executive Director of the NSW Resources Regulator (**Regulator**).

Background

9. RZ Resources Ltd (ACN 160 863 892) (**RZR**) currently holds 14 exploration licences in NSW.
10. On 20 May 2021, Mandatory Audit Conditions were imposed on Exploration Licence Numbers 8308, 8309, 8310, 8311, 8312, 8385, 8560, 8648, 8769 and 8865 (Act 1992), with the condition to take effect from 24 May 2021.
11. On 21 July 2021, Exploration Licence Numbers 9219, 9221, 9222 and 9223 (Act 1992) were granted. Each of these three authorisations also contain Mandatory Audit Conditions as a special condition.
12. The Mandatory Audit Conditions for these 14 exploration licences continue to have effect on all 14 authorisations with the 2023 audit and supplementary audit reports due to be submitted to the Secretary of the Department of Regional NSW by 1 September 2023.
13. The Regulator has recently reviewed the mandatory audit condition applied across various authorisations.
14. As a result of this review, the Regulator has identified several amendments to provide more clarity around audit requirements with respect to the following:
 - The auditor's qualifications, experience, certification, and independence to the licence holder.
 - The audit scope and audit criteria (in particular, the requirement for the independent auditor to consider all conditions and obligations imposed under the Act and Mining Regulation 2016).
 - Submission of the audit and supplementary reports to the Secretary.
 - Removal of the 2021 audit requirement as the relevant period has passed.

Representations

15. In a letter dated 5 October 2022, Scott Murray, Acting Executive Director wrote to RZR inviting submissions in response to the proposed decision to amend the mandatory audit condition imposed on the 14 exploration licences. Submissions were due by no later than 5.00pm on 5 November 2022.
16. On 29 October 2022, Mr Logan Francis, the Chief Executive Officer for RZR provided an email response, stating "*RZ accept the proposed conditions*".

Reasons for decision

17. No further submissions were received from RZR.

Considerations and findings

18. I am satisfied that the requirements of clause 12(5) of Schedule 1B to the Act have been met and that RRL was provided an opportunity to make a submission in response to the proposed decision.
19. I note that RZR have accepted the proposed amended Mandatory Audit Condition.
20. I am satisfied that amendments to the mandatory audit condition are appropriate and provide further clarity about the audit requirements.

Conclusion

21. Based on the material before me, I have decided to vary the 14 authorisations by amending the Mandatory Audit Condition.
22. This decision takes effect from 30 November 2022.

Date of decision: **28 November 2022**

A handwritten signature in black ink that reads "Peter Day".

Peter Day
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