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Department of Regional NSW



Compliance audit program

ML 1773 and ML1825 – Pineleigh Quarry

Tastex Pty Ltd

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1. Introduction

1.1. Background

Mining Lease 1773 (1992) (ML1773) was granted to Tastex Pty Ltd on 20 July 2018. Mining Lease 1825 (1992) (ML1825) was granted to Tastex Pty Ltd on 11 January 2022.

As part of the compliance audit program, an audit of the mining operations associated with the Pineleigh Quarry was undertaken on 11 May 2023 by the Resources Regulator within the Department of Regional NSW.

1.2. Audit objectives

The objectives of the audit were to:

- undertake a compliance audit of the Tastex Pty Ltd mining operations against the requirements of the *Mining Act 1992* and the conditions of the mining leases issued pursuant to that Act.
- assess the operational performance of the mining operations and the ability of the licence holder and/or its operator to implement management systems and controls to provide for sustainable management of the operations.

1.3. Audit scope

The scope of the audit included:

- The mining activities associated with the Pineleigh Quarry including:
 - mine development within ML1773 and ML1825
 - rehabilitation activities associated with mining activities.
- A review of documents and records pertaining to the mining and exploration activities
- The assessment of compliance for the period commencing 1 May 2021 and ending 11 May 2023.

1.4. Audit criteria

The audit criteria against which compliance was assessed included:

- *Mining Act 1992*, specifically Sections 5, 6, 163C to 163E, 163G, 378D
- Mining Regulation 2016, specifically clauses 59 to 68
- Conditions attached to ML1773 (granted on 20 July 2018)
- Conditions attached to ML1825 (granted 11 January 2022)
- Guideline: Rehabilitation cost estimate (Version 4, August 2021)
- ESG3: Mining operations plan (MOP) guidelines (September 2013)
- Format and Guideline for the Preparation of an Annual Environmental Management Report: Small mine version (2012)

- Exploration Reporting: A guide for reporting on exploration and prospecting in New South Wales (Version 3, October 2021 and Version 4, January 2022)

1.5. Publishing and disclosure of information

This audit report was published on the Regulator’s website consistent with:

- Section 365 of the *Mining Act 1992*
- Resources Regulator’s [Public comment policy](#)
- *Government Information (Public Access) Act 2009*.

2. Audit methods

The audit process involved the interview of site personnel, a review of documentation and samples of records provided by the licence holder and/or operator to determine the level of compliance of the operations and assess the status of the operational performance. The audit process and methodology are described in more detail in the sections below.

2.1. Opening meeting

An opening meeting was held onsite on 11 May 2023. The audit team was introduced, and the scope of their responsibilities was conveyed to the auditees. The objectives and scope of the audit were outlined. The methods to be used by the team to conduct the audit were explained, including the interview of personnel, review of documentation, examination of records and a site inspection to assess specific compliance requirements.

2.2. Site interviews and inspections

2.2.1. Data collection and verification

Where possible, documents and data provided during the audit process were reviewed electronically on the day. Several documents were unable to be reviewed on the day and were provided following the remote audit.

All information obtained during the audit process was verified by the audit team where possible. For example, statements made by site personnel were verified by viewing documentation and records, including site photographs, where possible. Where suitable verification could not be provided, this has been identified in the audit findings as not determined.

2.2.2. Site inspections

A site inspection was undertaken of the quarrying operations on ML1773 and the area for expansion in ML1825.

2.3. Closing meeting

A closing meeting was held on site on 11 May 2023. The objectives of this meeting were to discuss any outstanding matters, present preliminary findings and outline the process for finalising the audit report.

2.4. Compliance assessment definitions

The reporting of results from the compliance audit was determined based on the definitions presented below in Table 1.

Table 1 Compliance assessment definitions

Assessment	Criteria
Compliance	Sufficient and appropriate evidence is available to demonstrate the particular requirement has been complied with.
Non-compliance	<p>Clear evidence has been collected to demonstrate the particular requirement has not been complied with. There are three subcategories of non-compliance reflecting the severity and level of risk associated with the non-compliance:</p> <p>NC1 – the absence of planning or implementation of a required operational element which has the potential to result in a significant risk.</p> <p>NC2 – an isolated lapse or absence of control in the implementation of an operational element which is unlikely to result in a significant risk.</p> <p>NC3 – an administrative or reporting non-compliance which does not have a direct environmental or safety significance.</p> <p>Note: The identification of a non-compliance in this audit may or may not constitute a breach of, or offence under, the <i>Mining Act 1992</i>. Non-compliances identified in this audit report may be further investigated by the Regulator and regulatory actions may be undertaken.</p>
Observation of concern	<p>Where an auditee may be compliant at the time of the audit but there are issues that exist that could result in the potential for future non-compliance if not addressed.</p> <p>Observation of concern was also used where an issue may not have particular compliance requirements, but which was not conducive to good management or best practice.</p>
Suggestion for improvement	Where changes in processes or activities inspected or evaluated at the time of the audit could deliver improvement in relation to risk minimisation, sustainable outcomes and management practices.
Not determined	<p>The necessary evidence has not been collected to enable an assessment of compliance to be made within the scope of the audit.</p> <p>Reasons why the audit team could not collect the required information include:</p> <p>insufficient information on the file relating to the period covered by the audit or insufficient evidence collected to reach a conclusion</p> <p>the wording on the criteria (approval condition) meant that no evidence could be gathered, or it was too difficult to gather the evidence.</p> <p>A 'not determined' assessment was also made where the condition was outside the scope of the audit.</p>
Not applicable	<p>The circumstances of the authorisation or licence holder have changed and are no longer relevant (e.g. no longer mining, mining equipment and plant has been removed).</p> <p>An invoking element in the criteria was not activated within the scope of the audit.</p>

2.5. Reporting

Following completion of the audit, the audit checklists were completed, and audit notes were reviewed to compile a list of outstanding matters to be noted in the audit report. This report was prepared to provide an overview of the operational performance of the site in relation to the mining operations and identify any non-compliances or observations of concern noted by the auditors during the documentation review and interviews.

The draft audit findings were forwarded to Tastex for comment. Consideration was given to the representations made during the finalisation of the audit report as discussed in the audit findings.

3. Audit findings

3.1. Mining lease conditions

3.1.1. Rehabilitation

Condition 2 of ML1773 required the lease holder to rehabilitate any disturbance resulting from the mining operations to the satisfaction of the Minister.

The mining operations at Pineleigh Quarry were observed to be conducted within ML1773. The quarry commenced operations in 2018. The quarry was actively worked and there were no areas available for rehabilitation.

3.1.2. Mining operations plan

Condition 3 of ML1773 required the lease holder to carry out mining operations in compliance with an approved mining operations plan (MOP). This condition remained in force on ML1773 until July 2023.

Tastex prepared and submitted a MOP in July 2018 using the small mines template. This MOP was approved by the Regulator in July 2018 and was valid until July 2025.

A revised MOP was prepared to incorporate the expanded area in ML1825 in 2022. This MOP was refused by the Regulator because ML1825 had not yet been granted and was still a mining lease application. It was also noted that ML1825 was not subject to the MOP condition and the quarry would be transitioning to the Schedule 8A requirements from July 2023. The original MOP remained in force to cover the existing quarry operations.

Observations made during the site inspection (Figure 1 and Figure 2) confirmed that quarry operations were generally undertaken in accordance with the description of operations in the MOP.

Figure 1 Pineleigh Quarry pit



3.1.3. Security deposit

Condition 7 of ML1773 and condition 2 of ML1825 required the lease holder to provide and maintain a security deposit to secure funding for the fulfilment of obligations under the mining lease.

The security amount required for ML1773 was \$10,000, which department records confirmed was held. The security amount required for ML1825 was \$10,000, which department records confirmed was held.

Pineleigh Quarry was a very small quarry that commenced operations in 2018. Observations made on site during the site inspection confirmed that the security held was adequate for the mining operations in progress.

3.1.4. Co-operation agreement

Condition 8 of ML1773 and condition 3 of ML1825 required the lease holder to make reasonable attempts to enter into a co-operation agreement with the holders of any overlapping titles.

A search of the Minview database and department records confirmed there were no overlapping titles for either ML1773 or ML1825. A co-operation agreement was not required.

3.1.5. Assessable prospecting operations

Condition 4 of ML1825 required the leaseholder to have development consent or the prior written approval of the Minister before carrying out any assessable prospecting operations on the lease area.

Tastex has not carried out any assessable prospecting operations over the past 2 years. The requirements under condition 4 have not been triggered and no applications for assessable prospecting operations have been required. The resource was well defined and further exploration was not required.

3.2. Schedule 8A requirements

The Schedule 8A requirements commenced on 2 July 2021. Clause 31A (2) of the Mining Regulation 2016 included transitional arrangements for any mining lease that was in force on the commencement day of the Schedule 8A provisions. For a large mine, the new provisions would not apply until 12 months after the commencement day. For a small mine, the new provisions would not apply until 24 months after the commencement day of the Schedule 8A requirements.

ML1773 was granted in July 2018. It was a mining lease that was in force on the commencement day. Pineleigh Quarry was a small mine so the requirements of Schedule 8A did not apply to the mining lease until July 2023. No assessment of compliance against the Schedule 8A requirements was undertaken for ML1773.

ML1825 was granted in January 2022 and, as such, was not a mining lease in force on the commencement day. The Schedule 8A provisions applied to ML1825 from the day of grant. An assessment of compliance against the Schedule 8A requirements was undertaken for ML1825, as documented in the following sections.

3.2.1. Multiple mining leases

Clause 3 of Schedule 8A allowed a leaseholder to make application to have multiple mining leases relating to the same mine treated as a single lease for the purposes of Part 2 of Schedule 8A. At the time of the audit, Tastex had not made application to treat ML1773 and ML1825 as a single lease for the purposes of Part 2 of Schedule 8A.

3.2.2. Environmental management

Clause 4 required a lease holder to prevent, or if that is not reasonably practicable, minimise any harm to the environment arising from activities carried out under the mining leases.

The mining operations of the Pineleigh Quarry were carried out on ML1773. No mining operations were in progress on ML1825, which was granted to permit a future expansion of operations of the quarry. No environmental harm was observed on ML1825. It was observed that most of the area of ML1825 was still in use and cropped by the land holder.

3.2.3. Rehabilitation

Clause 5 required rehabilitation to occur as soon as reasonably practicable after disturbance. Pineleigh Quarry was a very small quarry with all mining operations confined to ML1773 at the time of the audit. No rehabilitation was required for ML1825 because no mining operations had taken place. Most of the area of ML1825 was observed to be still in use and cropped by the landholder (Figure 3).

Figure 3 ML1825 ploughed and cropped by the landholder, south of the main quarry on ML1773



3.2.4. Final land use

It was noted that the original development consent for the Pineleigh Quarry from Forbes Shire Council (DA2018/3) did not specify the final land use. This consent was modified by Forbes Shire Council in June 2019 (DA2018/3/2) to permit the expansion of the quarry into ML1825.

The final land use for the Pineleigh Quarry was specified in Appendix 1 of the MOP - Final (mine closure) Rehabilitation and Outcomes. Most of the mine site was proposed to revert to its former use as a grain farm and grazing property. The final void was proposed to remain as a farm dam.

No works were undertaken to advance the final land use given that the quarry was operational and looking to expand.

3.2.5. Rehabilitation risk assessment

Clause 7 required the lease holder to conduct a rehabilitation risk assessment that identified, assessed and evaluated the risks that need to be addressed to achieve the rehabilitation objectives and completion criteria for the mine.

Tastex documented a brief risk assessment in section 3 of the MOP. This risk assessment focused on the environmental management of the quarry rather than risks to rehabilitation. This was raised as observation of concern no. 1. Tastex should document a comprehensive risk assessment that identified the risks to rehabilitation. The rehabilitation risks identified were noted to be limited in nature. As suggestion for improvement no. 1, identifying and relating rehabilitation risks to the rehabilitation objectives and completion criteria would provide Tastex with a more robust framework for managing rehabilitation risks.

3.2.6. Rehabilitation documents

Under clause 8 of Schedule 8A, Division 3 (clauses 9 to 16) did not apply where the security deposit required under the mining lease is less than or equal to the minimum deposit prescribed by the Act. It was noted the security required for ML1825 was the minimum security prescribed by the Act. As such, the provisions of clauses 9 to 16 of Schedule 8A did not apply to Pineleigh Quarry and rehabilitation documents were not required to be prepared.

No further assessment was undertaken against clauses 9 to 16 of Schedule 8A for ML1825.

3.2.7. Records management

Sections 163D and 163E of the *Mining Act 1992* related to the creation and maintenance of records required under the Act, the regulations, or a condition of title. Records must be kept in a legible form for production to any inspector and must be maintained for a period of four years after the expiry or cancellation of the title. Clause 17 required the lease holder to create and maintain records to demonstrate compliance with the requirements of Schedule 8A, Part 2.

Generally, Tastex was maintaining records to demonstrate compliance with relevant requirements. Given the small scale of the quarry and the fact it is not required to prepare or submit rehabilitation documents, there are few records required to be kept. Records reviewed during the audit included:

- Pineleigh Quarry MOP
- risk assessment
- development consents from Forbes Shire Council
- royalty and rents and levies records.

3.2.8. Reporting on non-compliance

Clause 18 required the lease holder to provide the Minister with a written report detailing any non-compliance with any conditions of the mining lease, or a requirement of the Act or Regulation, relating to the mining activities.

Tastex had not notified the Regulator of any non-compliances associated with the mining operations. It was noted that non-compliances with Schedule 8A conditions and with reporting conditions under section 163C of the Act were identified during the audit.

Failure to report these non-compliances was due to the lease holder not being familiar with the requirements, with mining leases ML1773 and ML1825 having different conditions, and confusion with the transition to the Schedule 8A requirements.

3.2.9. Nominated contact person

Clause 19 required the lease holder to nominate a contact person for the mining lease and provide contact details for that person.

Tastex had not nominated a contact person for ML1825. This was raised as non-compliance number 1. Tastex should nominate a contact person using the forms provided in the Regulator portal.

3.3. Reporting

3.3.1. Annual exploration reporting

Section 163C of the *Mining Act 1992* and clause 59 of the Mining Regulation 2016 required the preparation and submission of an annual report, which provided full particulars of all exploration and other operations or activities conducted during the 12-month period.

No reports for either ML1773 or ML1825 were submitted. The Pineleigh Quarry manager said no exploration was undertaken, so there was nothing to report.

Failure to lodge annual reports was raised as non-compliance number 2. Tastex should prepare and submit annual reports for both leases as required, including nil reports.

3.3.2. Annual rehabilitation reporting

Condition 3 of ML1773 required the lease holder to prepare and submit a rehabilitation report annually. The report must provide a detailed review of the progress of rehabilitation against the performance measures and criteria established in the MOP.

Tastex had not prepared or submitted annual reports for ML1773. This was raised as non-compliance number 3. Tastex should prepare and submit an annual rehabilitation report for ML1773 until the condition ceases to have effect on 2 July 2023.

For ML1825, annual reporting was not required because the requirements of clauses 9 to 16 of Schedule 8A did not apply to the lease.

4. Compliance management

4.1. Identifying compliance obligations

Identifying compliance obligations is a critical step in the development of an effective compliance management system. Compliance obligations for an exploration project can include:

- regulatory requirements (for example, the *Mining Act 1992*)
- conditions imposed on the grant, renewal, or transfer of exploration licences
- exploration activity approvals
- exploration codes of practice
- specific commitments made by the organisation (for example, commitments made in the approved exploration activity application).

Once identified, compliance obligations should be reviewed periodically to identify any changes in those obligations (for example, changes in legislation).

Tastex had a basic understanding of the compliance requirements for ML1773. A MOP was prepared and approved for the Pineleigh Quarry, and the quarry was operating generally in accordance with the MOP. Tastex did not have a good understanding of the compliance obligations for ML1825, which was subject to the standard conditions listed in Schedule 8A Part 2.

Non-compliances were identified during the audit because Tastex had not clearly identified its compliance obligations and did not have systems and processes in place to manage them. This was raised as observation of concern number. 2. Tastex should identify the compliance obligations for each mining lease and develop systems or processes to manage those requirements. The self-audit checklist for miners, published on the Regulator’s webpage, would be a useful resource to assist Tastex to identify the compliance obligations.

4.2. Contractor management

Contractors are often used to undertake specialist tasks, for example, exploration drilling. Whilst the responsibility for compliance or the implementation of environmental controls is often passed to the contractor, the licence holder will retain accountability for compliance with its licence conditions and other compliance obligations. It is important that the licence holder exercises management control of its contractors by specifying contract requirements, providing oversight of contracted works, and evaluating the performance of the contractor during the contracted works.

Tastex advised that contractors were not used for quarrying operations. Contractor management was not reviewed during the audit.

4.3. Inspections, monitoring and evaluation

An effective inspection, monitoring and evaluation process is required to:

- monitor the implementation of the risk controls

- evaluate the effectiveness of those controls based on an assessment of inspection and monitoring data
- implement an adaptive management approach if monitoring shows that controls may be ineffective.

Tastex did not have systems and processes in place to manage its compliance obligations. As suggestion for improvement number 2, development and implementation of some basic systems to inspect and monitor the implementation and effectiveness of environmental management or rehabilitation risk controls would be beneficial. This would ensure that quarry operations can be managed to achieve successful rehabilitation outcomes.

5. Audit conclusions

From the evidence reviewed during the audit and observations made during the site inspection, it was concluded that the quarry operations undertaken by Tastex were generally well managed. Non-compliances were identified due to a lack of understanding of the compliance requirements. These non-compliances were of an administrative nature and did not pose an environmental or rehabilitation risk for the site.

Three non-compliances, two observations of concern, and two suggestions for improvement were identified as summarised in Table 2, Table 3 and Table 4. It was noted that the allegations of non-compliance were sustained by the Regulator but it was determined to take no further enforcement action.

Table 2 Summary of non-compliances

Non-compliance No.	Description of Issue	Recommendation
1	Tastex had not nominated a contact person for ML1825 as required by clause 19 of Schedule 8A Part 2.	Tastex should nominate a contact person using the forms provided in the Regulator portal.
2	No annual exploration reports for either ML1773 or ML1825 were submitted as required by section 163C of the <i>Mining Act 1992</i> and clause 59 of the <i>Mining Regulation 2016</i> .	Tastex should prepare and submit annual reports for both leases as required, including nil reports.
3	Tastex had not prepared or submitted annual reports as required by condition 3(f) of ML1773.	Tastex should prepare and submit an annual rehabilitation report for ML1773 until the condition ceases to have effect on 2 July 2023.

Table 3 Summary of observations of concern

Observation of Concern No.	Description of Issue	Recommendation
1	Tastex documented a brief risk assessment in section 3 of the MOP. This risk assessment focused on the environmental management of the quarry rather than risks to rehabilitation.	Tastex should document a comprehensive risk assessment that identified the risks to rehabilitation.
2	Non-compliances were identified during the audit because Tastex had not clearly identified its compliance obligations and did not have systems and processes in place to manage them.	Tastex should identify the compliance obligations for each mining lease and develop systems or processes to manage those requirements.

Table 4 Summary of suggestions for improvement

Suggestion for Improvement No.	Description of Issue
1	Identifying and relating rehabilitation risks to the rehabilitation objectives and completion criteria would provide Tastex with a more robust framework for managing rehabilitation risks.
2	Development and implementation of some basic systems to inspect and monitor the implementation and effectiveness of environmental management or rehabilitation risk controls would be beneficial. This would ensure that quarry operations can be managed to achieve successful rehabilitation outcomes.