

Media Statement

7 November 2024

REGIS SEEKS JUDICIAL RELIEF FROM MINISTER PLIBERSEK'S BLAYNEY GOLD MINE DECISION

Regis Resources, the proponent of the McPhillamys Gold Project (**McPhillamys** or **the Project**), today filed an originating application in the Federal Court of Australia, seeking judicial review and relief in respect of a decision made by the Federal Minister for Environment and Water, the Hon. Tanya Plibersek MP to declare protection over part of McPhillamys. The decision was made under Section 10 of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cwth) (**ATSIHP Act**) and prohibits nearly all activity on a large area of the project site, where a key piece of infrastructure was proposed. The impacted area is largely freehold land near Blayney in NSW, owned by Regis Resources.

If Regis' application for a judicial review is successful, the company will be seeking a declaration from the Federal Court of Australia:

- that the Section 10 Declaration is legally invalid,
- that the Section 10 Application be redetermined by a different Minister to Minister Plibersek,
- an award of costs to Regis for legal proceedings.

The court application outlines several issues and alleged failures in the way the Minister's decision was made, including grounds relating to procedural fairness and critical findings of fact that were mistaken. The application ultimately alleges that the declaration made by the Minister is legally invalid.

The ATSIHP Act requires that the Minister receives a report covering a range of important matters relevant to the decision to be made, including the particular significance of the area to Aboriginal Heritage (Section 10 Report). Regis understands that the Section 10 Report prepared by an external expert found there was insufficient evidence for the Minister to be satisfied that the specified area is of "particular significance", within the meaning of the ATSIHP Act. Importantly, Regis understand that it recommended the Minister not make a Section 10 Declaration. Regis alleges that the Minister failed to properly consider this report.

The Minister also received entirely new claims of Aboriginal heritage after the Section 10 Report was prepared in May 2022 and failed to either treat these claims as a new, separate Section 10 application or to request the new claims be reviewed and tested in an updated Section 10 Report. The Minister has also not provided Regis with all of the information upon which the Minister relied in making the Section 10 Declaration.

Regis contends that the Minister failed to consider the clear advice of the Orange Local Aboriginal Land Council (OLALC) that the area is not a significant Aboriginal area, as per the ATSIHP Act. As has been reported in recent times, members of OLALC have also disputed significant elements of the claimed Dreaming story underpinning the evidence in the Minister's Statement of Reasons.

Crucially, Regis considers that a critical mistake of fact was made when the Minister found the Section 10 Declaration would only mean the approved location for the construction of the tailings storage facility could not be used, and Regis could obtain approval for a different option without significant additional expenditure and/or time being needed - or as claimed afterwards by the Minister "Crucially, my decision is not to stop the mine".

To the contrary, the Project has been rendered unviable in its current approved form and to advance any realistic and approvable alternative would require further extensive investigations and studies along with new state and federal approvals processes. It is estimated this could take between 5 to 10 years.

The Section 10 Declaration has also effectively prohibited any activity in the declared area “in a manner inconsistent with Aboriginal tradition” amongst other prohibitions. Regis considers that the uncertainty associated with the Section 10 Declaration means that it is legally invalid.

Given that Regis considers that the Minister could not now bring an open mind to redetermining the Section 10 Application, one element of the judicial relief sought is that the decision be referred for redetermination by a different Minister.

Regis Resources CEO & Managing Director Jim Beyer said, “None of the extensive expert evidence produced during the years long processes we went through to approve the McPhillamys Project and respond to the Section 10 Application indicated there was Aboriginal cultural heritage that could not be appropriately managed.”

“In the weeks following the Minister’s decision, it has become clear that key findings made by the Minister regarding Aboriginal cultural heritage are vigorously disputed. We consider that neither the Minister nor the Department properly listened when Regis informed them of the clear consequences for the project of making such a wide-ranging and indiscriminate declaration.”

“As the Minister has not agreed to revoke the Section 10 Declaration, we are now seeking judicial review and relief from the decision. Our hope is that the Federal Court will find that the Section 10 Declaration is legally invalid and that an alternative decision maker will properly evaluate the claims before them before making a new decision.”

-ENDS-

Note to Editors: In accordance with the legal process required to be followed for Regis Resources to obtain judicial review and relief from Minister Plibersek’s decision, the two key parties interested in maintaining the Section 10 Declaration (being the original Section 10 applicant and the Wiradyuri Traditional Owners Central West Aboriginal Corporation (WTOCWAC)), who are named nearly 20 times in the Minister’s Statement of Reasons) are included as the second and third respondents to the proceedings.

Regis Resources does not intend to seek costs against either of these parties.

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This Media Statement is authorised for release by Managing Director and CEO of Regis Resources, Jim Beyer