

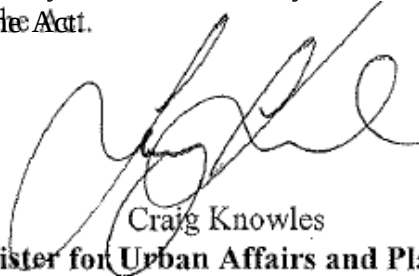
INSTRUMENT OF CONSENT

SCHEDULE 1

DETERMINATION OF DEVELOPMENT APPLICATION NO 29/95
BY THE MINISTER, PURSUANT TO SECTION 91 OF
THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

I, the Minister for Urban Affairs and Planning, pursuant to Section 91 of the Environmental Planning and Assessment Act 1979 ("the Act") and clause 8 of the State Environmental Planning Policy No.34 – Major Employment Generating Development, determine the development application ("the application") referred to in Schedule 1 by granting consent to the application subject to the conditions set out in Schedules 2 to 5.

The reason for the imposition of conditions generally is to minimise any adverse effects from the development, consistent with the objectives of the Act.


Craig Knowles
Minister for Urban Affairs and Planning

Sydney, 14.2.96, 1996 File No. N91/00241/004

Application made by: Newcastle Wallsend Coal Company Pty Limited ("the Applicant").

To: The Minister for Urban Affairs and Planning ("the Minister").

In respect of: Subsurface area of part of Consolidated Mining Lease No 2, surface areas either Newcastle Wallsend Coal Company Pty Limited owned or held under the following leases: part of Consolidated Coal Lease No 728, Mining Purposes Lease No 233, Mineral Leases Nos 1157 and 1283, Mining Lease No 1345 as contained within the following DPs -

<u>Parish of Ellalong</u>	<u>Parish of Cessnock</u>	<u>Parish of Pokolbin</u>
2/755225	Pt 21755215	Area 1 1/87087
Pt 1 & Pt 2/775718	1/65829	Pt 1/69968
19/755225		
4/755225		
12/755225		
13/755225		
249/755225		
Areas 3 & 4 8/69968		
10/69968		
11/69968		
13/69968		

For the following: Construction and operation of underground coal mine extensions, associated facilities and reject disposal areas ("the development").

Development Application: DA 29/95 lodged with Department of Urban Affairs and Planning (DUAP) on 17 August, 1995 accompanied by an Environmental Impact Statement ("EIS") prepared by HLA-Envirosciences Pty Ltd dated August 1995.

- 1) To ascertain the date upon which the consent becomes effective, refer to section 93 of the Act.
- 2) To ascertain the date upon which the consent is liable to lapse, refer to section 99 of the Act.
- 3) Section 97 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within 12 months after receipt of notice.

Green type represents June 2008 modification (MOD 2)

Blue type represents May 2009 modification (MOD 3)

Red type represents December 2010 modification (MOD 4)

Pink type represents April 2012 modification (MOD 5)

DEFINITIONS

AEMR	Annual Environmental Management Report
Applicant	Austar Coal Mine Pty Ltd, or its successors
CCC	Community Consultative Committee
Council	Cessnock City Council
DA	Development Application
Day	Day is defined as the period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
Department	Department of Planning and Infrastructure
Director-General	Director-General of the Department of Planning and Infrastructure, or delegate
DRE	Division of Resources and Energy, within the Department of Trade and Investment, Regional Infrastructure and Services
EA (MOD 5)	The Environmental Assessment for DA29/95 MOD 5, including: - the letter from Austar Coal Mine Pty Limited dated 13 January 2012; <i>Austar Coal Mine Stage 2 – Longwall A5a Variation to Commencing End</i> prepared by Mine Subsidence Engineering Consultants and dated December 2011; - the Response to Submissions document from Austar Coal Mine Pty Limited dated 9 March 2012; and <i>Longwall A5a Extension Flood and Drainage Assessment</i> by Umwelt (Australia) Pty Ltd and dated March 2012.
Environmental consequences	The environmental consequences of subsidence impacts, including: damage to built features; loss of surface flows to the subsurface; loss of standing pools; adverse water quality impacts; development of iron bacterial mats; cliff falls; rock falls; damage to Aboriginal heritage sites; impacts to aquatic ecology; ponding
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
Evening	Evening is defined as the period from 6pm to 10pm
Land	Land means the whole of a lot in a current plan registered at the Land Titles Office at the date of this consent
MOP	Mining Operations Plan
MSB	Mine Subsidence Board
Night	Night is defined as the period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
NOW	NSW Office of Water within the Department of Primary Industries
Privately-owned land	Land excluding land owned by a mining company, where: - a private agreement does not exist between the Applicant and the land owner; and - there are no land acquisition provisions requiring the Applicant to purchase the land upon request from the land owner
RMS	Roads and Maritime Services
Safe, Serviceable and Repairable	Safe – no danger to uses; Serviceable – available for its intended use

SEE	Repairable – damaged components repaired economically
Site	Statement of Environmental Effects
Stage 2 mining area	Land to which the DA applies
Stage 3 mining area	The area of the site which includes longwalls A3 – A5a, as shown in Appendix 2
Subsidence	The area of the site which includes longwalls A7 – A19, as shown in Appendix 2 of Project Approval 08_0111
Subsidence effects	The totality of subsidence effects, subsidence impacts and environmental consequences of subsidence impacts
Subsidence impacts	Deformation of the ground mass due to mining, including all mining-induced ground movements, including both vertical and horizontal displacement, tilt, strain and curvature
	Physical changes to the ground and its surface caused by subsidence effects, including tensile and shear cracking of the rock mass, localised buckling of strata caused by valley closure and upsidence and surface depressions or troughs

SCHEDULE 2 ADMINISTRATIVE CONDITIONS

Obligation to Minimise Harm to the Environment

1. The Applicant shall implement all practicable measures to prevent and/or minimise any harm to the environment that may result from the construction, operation, or rehabilitation of the development.

Terms of Consent

2. The Applicant shall carry out the development generally in accordance with the:
 - (a) DA 29/95 and accompanying Environmental Impact Statement prepared by HLA Envirosciences Pty Limited, dated August 1995 (August 1995 EIS);
 - (b) modification application MOD-49-4-2006 and accompanying Statement of Environmental Effects, titled *Austar Coal Mine Section 96 Modification*, prepared by Environmental Resources Management Australia Pty Ltd (ERM) and dated April 2006 (April 2006 SEE), and information from ERM clarifying the modification application MOD-49-4-2006, dated 13 July 2006;
 - (c) modification application DA29/95 – Mod 2 and accompanying Statement of Environmental Effects, titled *Austar Coal Mine Statement of Environmental Effects Section 96 Modification Stage 2 Longwall Panels A3-A5*, prepared by Austar Coal Mine and dated September 2007 (September 2007 SEE); and
 - (d) modification application DA 29/95 – MOD 3 and the accompanying Statement of Environmental Effects prepared by Austar Coal Mine Pty Ltd and dated April 2009;
 - (e) modification application DA 29/95 – MOD 4 and the accompanying Environmental Assessment prepared by Umwelt (Australia) Pty Ltd and dated July 2010;
 - (f) modification application DA 29/95 – MOD 5 and EA (MOD 5); and
 - (g) the conditions of this consent.

If there is any inconsistency between the above documents, the latter document shall prevail over the former to the extent of the inconsistency. However, the conditions of this consent shall prevail over all other documents to the extent of any inconsistency.

3. The Applicant shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - (a) any reports, plans, strategies, programs or correspondence that are submitted in accordance with this consent; and
 - (b) the implementation of any actions or measures contained in these reports, plans, strategies, programs or correspondence.

Operation of Plant and Equipment

4. The Applicant shall ensure that all plant and equipment used at the site is:
 - (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

Limits on Approval

5. This consent lapses on 14 February 2017.

Note: This condition does not affect the operation of section 95 of the EP&A Act.

Management Plans/Monitoring Programs

6. With the approval of the Director-General, the Applicant may submit any management plan or monitoring program required by this consent on a progressive basis.
7. Following any modification to this consent, or if directed by the Director-General, the Applicant shall review and if necessary revise all relevant management and monitoring strategies, plans and programs required under this consent to the satisfaction of, and within a timeframe approved by, the Director-General.

SCHEDULE 3 SPECIFIC ENVIRONMENTAL CONDITIONS

ACQUISITION UPON REQUEST

1. Upon receiving a written request for acquisition from the landowner of land listed in Table 1, the Applicant shall acquire the land in accordance with the procedures in conditions 3 to 5 of Schedule 4:

Table 1: Land subject to acquisition upon request

Property A03a - Duff	Property A04a – Bukanmain Pty Limited
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However, the Applicant is not required to acquire the land listed in Table 1 if:

- (a) the Applicant has a current written negotiated agreement with the landowner in regard to the management of subsidence-related impacts, and a copy of this agreement has been forwarded to the Department by the Applicant; or
- (b) the landowner has agreed to the MSB purchasing the land under the *Mine Subsidence Compensation Act 1961*; or
- (c) a request for acquisition has not been made following completion of mining in longwalls A3 to A5, and the MSB determines that the residence/s on the land listed in Table 1 remains safe, serviceable and repairable.

Notes:

- *To avoid any uncertainty in regard to condition 1(c), the Applicant is required to act on any request for acquisition by a landowner listed in Table 1 unless the residence/s on the land has been declared to be safe, serviceable and repairable by the MSB after mining has been completed in longwalls A3 to A5.*
- *For more information on the references to land used in this condition see Figure 9 of Appendix C to the September 2007 SEE prepared for longwalls A3 to A5.*

SUBSIDENCE

Subsidence Impact Assessment Criteria

2. If the subsidence generated by the development results in damage to any residence on privately-owned land (excluding the land listed in Table 1) that in the opinion of the MSB exceeds safe, serviceable and repairable criteria, the Applicant shall, upon receiving a written request for acquisition from the landowner, acquire the land in accordance with the procedures in conditions 3 to 5 of Schedule 4.

However, the Applicant does not have to act on any such request if:

- (a) the Applicant has a current written negotiated agreement with the landowner in regard to the management of subsidence-related impacts, and a copy of this agreement has been forwarded to the Department by the Applicant; or
- (b) the landowner has agreed to the MSB purchasing the land under the *Mine Subsidence Compensation Act 1961*.

Subsidence Management Plan

3. The Applicant shall revise the approved Subsidence Management Plan for the Stage 2 mining area to include longwall A5a, to the satisfaction of DRE. The revised plan must:
 - (a) include a mine plan for the relevant area;
 - (b) integrate ongoing management of previously mined areas;
 - (c) include management, monitoring and contingency plans for all man-made and natural features which may experience subsidence effects, subsidence impacts or environmental consequences, including:

- built structures;
 - farm dams;
 - watercourses;
 - groundwater;
 - terrestrial flora and fauna and ecology (including any threatened species and their habitats); and
 - Aboriginal cultural heritage;
- (d) be approved by the Director-General of DRE prior to the commencement of extraction of longwall A5a; and
- (e) be implemented, following approval, to the satisfaction of the Executive Director, Mineral Resources.

Public Safety Management Plans

4. The Applicant shall:
- (a) before carrying out any underground mining that will potentially lead to subsidence within the Werakata State Conservation Area, the Applicant shall prepare (and following approval implement) a Public Safety Management Plan for the Werakata State Conservation Area; and
 - (b) before carrying out any underground mining that will potentially lead to subsidence at Nash Lane, the Applicant shall prepare (and following approval implement) a Public Safety Management Plan for Nash Lane, to the satisfaction of the DRE.

WATER QUALITY

Discharge Limits

5. Except as may be expressly provided by a EPA Environmental Protection Licence, or in accordance with section 120 of the *Protection of the Environment Operations Act 1997*, the Applicant shall not discharge any water from the site.

Site Water Management Plan

6. Prior to mining commencing in panel A3, or other date agreed by the Director-General, the Applicant shall revise its Site Water Management Plan for the mine, in consultation with the NOW and the EPA, and to the satisfaction of the Director-General. This plan shall be implemented to the satisfaction of the Director-General, and must include:
- (a) a Site Water Balance;
 - (b) an Erosion and Sediment Control Plan;
 - (c) a Surface Water Monitoring Program;
 - (d) a Ground Water Monitoring Program; and
 - (e) a Surface and Ground Water Response Plan.

Site Water Balance

7. The Site Water Balance must:
- (a) include details of:
 - sources of water;
 - water use on site;
 - water management on site;
 - off-site water transfers or discharges;
 - reporting procedures; and
 - (b) describe measures to minimise water use by the development.

Erosion and Sediment Control

8. The Erosion and Sediment Control Plan must:
 - (a) be consistent with the requirements of Landcom's *Managing Urban Stormwater: Soils and Construction* manual;
 - (b) identify activities that could cause soil erosion and generate sediment;
 - (c) describe measures to minimise soil erosion and the potential for transport of sediment downstream;
 - (d) describe the location, function and capacity of erosion and sediment control structures; and
 - (e) describe what measures would be implemented to maintain the structures over time.

Surface Water Monitoring

9. The Surface Water Monitoring Program must include:
 - (a) surface water assessment criteria;
 - (b) a program to monitor surface water flows and quality (particularly in Black, Cony and Quorrobolong Creeks);
 - (c) a program to monitor water levels in farm dams within the subsidence zone;
 - (d) a program to monitor channel stability in Quorrobolong and Cony Creeks;
 - (e) reporting procedures; and
 - (f) a protocol for the investigation, notification and mitigation of identified exceedances of the surface water criteria that are related to the development (particularly in respect of acid mine drainage and acid leachate).

Groundwater Monitoring

10. The Groundwater Monitoring Program must include:
 - (a) ground water impact assessment criteria;
 - (b) a program to monitor the volume and quality of ground water seeping into the underground mine workings;
 - (c) a program to monitor ground water levels and quality; and
 - (d) a protocol for the investigation, notification and mitigation of identified exceedances of the ground water impact assessment criteria.

Surface and Ground Water Response Plan

11. The Surface and Ground Water Response Plan must include:
 - (a) the procedures that would be followed in the event of any exceedance of the surface or groundwater impact assessment criteria, or other identified impact on surface or groundwater;
 - (b) measures to mitigate, remediate and/or compensate any identified impacts (including measures to mitigate and/or compensate potentially affected landowners for any loss of surface water flows in local creeks or farm dams); and
 - (c) disposal/neutralisation contingencies in the event that acid leachate problems emerge after the mine closes.

Groundwater Study

12. The Applicant shall, in the event it selects the Cessnock No. 1 Shaft at Kalingo as the ventilation shaft site for the mine, submit a report to the Director-General and the DRE which includes a groundwater study and mine water disposal plan prepared in accordance with the requirements of the DRE and EPA.

NOISE AND VIBRATION

Impact Assessment Criteria

13. The Applicant shall ensure that the noise generated by the Infrastructure Upgrade Area identified in Figure 1.3 of the April 2006 SEE does not exceed the noise impact assessment criteria in Table 2.

Table 2: Noise impact assessment criteria dB(A)

Day/Evening/Night $L_{Aeq(15 \text{ minute})}$	Land
35	All privately owned land

Notes:

- Noise from the development is to be measured at the most affected point or within the residential boundary, or at the most affected point within 30 metres of a dwelling (rural situations) where the dwelling is more than 30 metres from the boundary, to determine compliance with the $L_{Aeq(15 \text{ minute})}$ noise limits in the above table. Where it can be demonstrated that direct measurement of noise from the development is impractical, the Department and the EPA may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.
- The noise emission limits identified in the above table apply under meteorological conditions of:
 - wind speeds of up to 3 m/s at 10 metres above ground level; or
 - temperature inversion conditions of up to 3°C/100m, and wind speeds of up to 2 m/s at 10 metres above ground level.

However, if the Applicant has a written negotiated noise agreement with any landowner of the land listed in Table 2, and a copy of this agreement has been forwarded to the Department and the EPA, then the Applicant may exceed the noise limits in Table 2 in accordance with the negotiated noise agreement.

Continuous Improvement

14. The Applicant shall:
- implement all reasonable and feasible noise mitigation measures;
 - investigate ways to reduce the noise generated by the development; and
 - report on these investigations and the implementation and effectiveness of these measures in the AEMR, to the satisfaction of the Director-General.

Noise Monitoring

15. The Applicant shall implement the approved Noise Monitoring Program for the development to the satisfaction of the Director-General. This program must include quarterly attended noise monitoring and a noise monitoring protocol for evaluating compliance with the noise impact assessment criteria in this consent.

Vibration Monitoring

16. The Applicant shall implement the approved Vibration Monitoring Program for the development to the satisfaction of the Director-General. This program must be capable of recording ground vibrations on the surface emanating from underground mining activities.

AIR QUALITY

Impact Assessment Criteria

17. The Applicant shall ensure that the dust emissions generated by the Infrastructure Upgrade Area identified in Figure 1.3 of the April 2006 SEE do not cause additional exceedances of the air quality impact assessment criteria listed in Tables 3, 4 and 5 at any residence on, or on more than 25 percent of, any privately-owned land.

Table 3: Long term impact assessment criteria for particulate matter

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	Annual	30 µg/m ³

Table 4: Short term impact assessment criterion for particulate matter

Pollutant	Averaging period	Criterion
Particulate matter < 10 µm (PM ₁₀)	24 hour	50 µg/m ³

Table 5: Long term impact assessment criteria for deposited dust

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 g/m ² /month	4 g/m ² /month

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 2003, AS 3580.10.1-2003: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.

Operating Conditions

18. The Applicant shall:
- (a) ensure any visible air pollution generated by the development is assessed regularly, and measures taken to minimise air quality impacts on privately-owned land; and
 - (b) implement all practicable measures to minimise the off-site odour and fume emissions generated by the mine's ventilation system or any spontaneous combustion at the development,
- to the satisfaction of the Director-General.

Monitoring

19. The Applicant shall implement the approved Air Quality Monitoring Program for the development to the satisfaction of the Director-General. This program must include an air quality monitoring protocol for evaluating compliance with the air quality impact assessment criteria in this consent.

METEOROLOGICAL MONITORING

20. The Applicant shall ensure that there is a suitable meteorological station operating in the vicinity of the development in accordance with the requirements in Approved Methods for Sampling of Air Pollutants in New South Wales and to the satisfaction of the Director-General.

REJECT EMPLACEMENT

21. The Applicant shall undertake reject emplacement in accordance with the current Mining Operations Plan as updated and approved by DRE from time to time. If reject emplacement in Areas 1, 3 and 4 as described in the August 1995 EIS is proposed, the Applicant shall:
- (a) investigate and report to the DRE on the possibility of disposing all reject into one emplacement area, at least 12 months before reject emplacement into the disturbed mining areas is complete;
 - (b) provide a report on the geotechnical investigations and engineering specifications for emplacement areas 1, 3 and 4 to the DRE, and the Director-General at least 6 months prior to commencement of reject emplacement in these areas; and
 - (c) commence use of emplacement areas 1, 3 and 4 only after consultation with the Council and approval by the DRE.

FLORA AND FAUNA

22. The Applicant shall:
- (a) take all reasonable measures to protect native vegetation from damage during construction except where trees, shrubs and other vegetation are removed for approved works; and
 - (b) salvage all useable trees and shrubs for reuse in controlling erosion and/or site rehabilitation.
23. The Applicant shall:
- (a) undertake fauna surveys for bat species at undisturbed sites proposed for reject emplacement as required by the EPA;
 - (b) report results of any fauna surveys to the EPA;
 - (c) undertake a monitoring program of riparian vegetation along Quorrobolong and Cony Creeks in the area of longwalls A3 to A5a with particular reference to River Flat Eucalypt Forest EEC; and
 - (d) carry out any necessary ameliorative measures requested by the EPA in relation to the findings of the fauna surveys and riparian vegetation monitoring program, to the satisfaction of the EPA.

HERITAGE

Aboriginal Heritage

24. Six months prior to commencing activities in undisturbed reject emplacement areas to use Cessnock No. 1 Colliery surface facilities, the Applicant shall undertake additional Aboriginal heritage surveys to the satisfaction of the EPA.
- 24A. The Applicant shall prepare and implement an Aboriginal Cultural Heritage Management Plan for the Stage 2 mining area to the satisfaction of the Director-General. The plan must:
- (a) be prepared by a suitably qualified archaeologist in consultation with EPA and the relevant Aboriginal groups, and be submitted to the Director-General for approval prior to the commencement of extraction of longwall A5a; and
 - (b) include a program/procedures for:

- salvage and management of Aboriginal sites within the Stage 2 mining area;
- monitoring and management of Aboriginal sites within the Stage 2 mining area;
- managing the discovery of any new Aboriginal objects or skeletal remains discovered during the project;
- undertaking additional archaeological surveys on any areas subject to extensive remediation activities; and
- ongoing consultation with and involvement of the Aboriginal communities in the conservation and management of Aboriginal cultural heritage on the site.

Note: This plan can be incorporated into the Aboriginal Cultural Heritage Management Plan required under the Project Approval for the Stage 3 mining area (08_0111).

European Heritage

25. The Applicant shall:

- undertake a Heritage Impact Assessment of the site and prepare a Heritage Management Plan, in consultation with the Council, for the approval of the Heritage Council of NSW prior to re-commencing any mining activities at the Cessnock No 1 Colliery surface facilities at Kalingo;
 - make application under section 132 of the *Heritage Act 1977* for any works proposed to be undertaken on or under Lot 1, DP 87087 and Part Lot 1, DP 69968 County Northumberland, Parish Heddon; and
 - take all reasonable measures to protect the ring-barked tree referenced in the April 2006 SEE,
- to the satisfaction of the Director-General.

Note: The land referred to in condition 25(b) is currently subject to a section 130 order under the Heritage Act 1977 to prevent harm to buildings, works, relics etc of the South Maitland Railway, gazetted 16 September, 1983.

TRAFFIC AND TRANSPORT

26. The Applicant shall:

- prior to the commencement of operations in reject emplacement areas 3 and 4 (as described in the August 1995 EIS), provide to the satisfaction of the Council and the RTA and at its own cost, a crossing over Wollombi Road (Main Road 218) in the vicinity of these coal waste emplacement areas with respect to type and sight distance in accordance with AS2890-1. Such crossing shall consist of pavement and bitumen seal extending at least 30 metres either side of Main Road 218; and
- provide a Type BA intersection at the nominated entry to the Cessnock No 1 Colliery site. The intersection type and location shall be determined in conjunction with Council and constructed prior to commencement of operations at the Cessnock No 1 Colliery site.

27. The Applicant shall:

- prior to 31 December 2008, or as otherwise agreed with the Director-General, undertake upgrade works to the road level crossing at Vincent Street, Kitchener, as recommended in *Austar Coal Mine Pty Limited Report on Four Rail Level Crossings in Cessnock LGA Stage 5 Road Safety Audit* (GHD March 2007); and
- prior to 30 June 2009, use its best endeavours to undertake upgrade works at the following road level crossings as recommended in *Austar Coal Mine Pty Limited Report on Four Rail Level Crossings in Cessnock LGA Stage 5 Road Safety Audit* (GHD March 2007):
 - Cessnock Road, Kearsley;
 - Neath Road, Neath; and
 - Mitchell Avenue, Weston,

in consultation with the South Maitland Railway, and to the satisfaction of the Council and

the RMS.

SCHEDULE 4

ADDITIONAL PROCEDURES FOR SUBSIDENCE MANAGEMENT

NOTIFICATION OF LANDOWNERS

1. Prior to 31 June 2008, the Applicant shall notify the landowners of land listed in Table 1 in writing that they have the right to require the Applicant to acquire their land in accordance with condition 1 of Schedule 3 and conditions 3 to 5 below.
2. Prior to 31 June 2008, the Applicant shall notify all landowners whose land may be subject to subsidence as a result of the development about the procedures for rectification and compensation for subsidence effects on residences, farm buildings, agricultural land and other infrastructure under the Mining Act 1992 and the *Mine Subsidence Compensation Act 1961*.

LAND ACQUISITION

3. Within 3 months of receiving a written request from a landowner with acquisition rights as specified in Condition 1 or Condition 2 of Schedule 3, the Applicant shall make a binding written offer to the landowner based on:
 - (a) the current market value of the landowner's interest in the property at the date of this written request, as if the property was unaffected by the development the subject of the development application, having regard to the:
 - existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
 - presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date, but excluding any improvements that have resulted from the implementation of measures implemented by the MSB;
 - (b) the reasonable costs associated with:
 - relocating within the Cessnock local government area, or to any other local government area determined by the Director-General;
 - obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is required; and
 - (c) reasonable compensation for any disturbance caused by the land acquisition process.

However, if at the end of this period, the Applicant and landowner cannot agree on the acquisition price of the land, and/or the terms upon which the land is to be acquired, then either party may refer the matter to the Director-General for resolution (see Appendix 1).

Upon receiving such a request, the Director-General shall request the President of the NSW Division of the Australian Property Institute to appoint a qualified independent valuer or Fellow of the Institute, to consider submissions from both parties, and determine a fair and reasonable acquisition price for the land, and/or terms upon which the land is to be acquired.

Within 14 days of receiving the independent valuer's determination, the Applicant shall make a written offer to purchase the land at a price not less than the independent valuer's determination.

If the landowner refuses to accept this offer within 6 months of the date of the Applicant's offer, the Applicant's obligations to acquire the land shall cease, unless otherwise agreed by the Director-General.

4. The Applicant shall bear the costs of any valuation or survey assessment requested by the independent valuer, or the Director-General and the costs of determination referred above.
 5. If the Applicant and landowner agree that only part of the land shall be acquired, then the Applicant shall pay all reasonable costs associated with obtaining Council approval for any plan of subdivision (where permissible), and registration of the plan at the Office of the Registrar-General.
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SCHEDULE 5

ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING

Environmental Management Strategy

1. The Applicant shall implement the approved Environmental Management Strategy for the development to the satisfaction of the Director-General. This Strategy must:
 - (a) provide the strategic context for environmental management of the development;
 - (b) identify the statutory requirements that apply to the development;
 - (c) describe in general how the environmental performance of the development would be monitored and managed during the development;
 - (d) describe the procedures that would be implemented to:
 - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
 - receive, handle, respond to, and record complaints;
 - resolve any disputes that may arise during the course of the development;
 - respond to any non-compliance;
 - manage any cumulative impacts;
 - respond to emergencies; and
 - (e) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the development.

Environmental Monitoring Program

2. The Applicant shall undertake monitoring in accordance with the approved Environmental Monitoring Program for the development, to the satisfaction of the Director-General. This program must consolidate the various monitoring requirements of this consent into a single document.

Environmental Manager

3. Prior to carrying out any development, the Applicant shall employ a suitably qualified and experienced Environmental Manager, whose appointment has been endorsed by the Director-General, for the duration of the development to oversee the environmental performance of the development and compliance with the conditions of this approval.

Incident Reporting

4. Within 7 days of detecting an exceedance of the limits/performance criteria in this consent, the Applicant shall report the exceedance/incident to the Department (and any relevant agency). The report must:
 - (a) describe the date, time, and nature of the exceedance/incident;
 - (b) identify the cause (or likely cause) of the exceedance/incident;
 - (c) describe what action has been taken to date; and
 - (d) describe the proposed measures to address the exceedance/incident.

Annual Reporting

5. Each year, the Applicant shall submit an Annual Environmental Management Report (AEMR) to the Director-General and the relevant agencies. This report must:
 - (a) identify the standards and performance measures that apply to the development;
 - (b) describe the works carried out in the last 12 months;
 - (c) describe the works that will be carried out in the next 12 months;
 - (d) include a summary of the complaints received during the past year, and compare this to the complaints received in previous years;
 - (e) include a summary of the monitoring results for the development during the past year;
 - (f) include an analysis of these monitoring results against the relevant:

- impact assessment criteria/limits;
 - monitoring results from previous years; and
 - predictions in the EIS and/or SEE;
- (g) identify any trends in the monitoring results over the life of the development;
- (h) identify any non-compliance during the previous year; and
- (i) describe what actions were, or are being, taken to ensure compliance.

Independent Environmental Audit

6. Prior to 31 December 2008, and every 3 years thereafter, unless the Director-General directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
- (a) be conducted by suitably qualified, experienced, and independent expert/s whose appointment has been endorsed by the Director-General;
 - (b) include consultation with the relevant agencies;
 - (c) assess, in respect of the requirements of this consent and any relevant mining lease or environment protection licence, the environmental performance of the development and its effects on the surrounding environment;
 - (d) assess whether the development is complying with relevant standards and performance measures specified in these approvals (including under any strategy, plan or program required under these approvals) and with other statutory requirements;
 - (e) review the adequacy of strategies, plans or programs required under these approvals; and, if necessary,
 - (f) recommend measures or actions to improve the environmental performance of the development, and/or any strategy, plan or program required under these approvals.

Note: This audit team must be led by a suitably qualified auditor and include experts in the fields of subsidence, surface water, groundwater, noise and air quality.

7. Within 6 weeks of completing this audit, or as otherwise agreed by the Director-General, the Applicant shall submit a copy of the audit report to the Director-General with a response to any recommendations contained in the audit report.
8. Within 3 months of submitting the audit report to the Director-General, the Applicant shall review and if necessary revise the strategies/plans/programs required under this consent, to the satisfaction of the Director-General.

Community Consultative Committee

9. The Applicant shall establish and maintain a Community Consultative Committee (CCC) to oversee the ongoing environmental performance of the development. The CCC shall:
- (a) be comprised of:
 - 2 representatives from the Applicant, including the person responsible for environmental management at the mine;
 - at least 1 representative from Council; and
 - at least 3 representatives from the local community,
 whose appointment has been approved by the Director-General in consultation with the Council. The local community representative positions will be re-appointed every two years unless otherwise agreed by the Director-General;
 - (b) be chaired by an independent chairperson, or council representative, whose appointment has been approved by the Director-General;
 - (c) meet at least 4 times a year, or as otherwise approved by the Director-General;
 - (d) review the Applicant's performance with respect to environmental management and community relations;
 - (e) undertake regular inspections of the mine operations;

- (f) review community concerns or complaints about the mine operations, and the Applicant's complaints handling procedures; and
- (g) provide advice to:
 - the Applicant on improved environmental management and community relations, including the provision of information to the community and the identification of community initiatives to which the Applicant could contribute;
 - the Department regarding the conditions of this consent; and
 - the general community on the performance of the mine with respect to environmental management and community relations; and
- (h) be operated generally in accordance with any guidelines the Department may publish in regard to the operation of Community Consultative Committees for mining developments.

Note: The CCC is an advisory committee. The Department and other relevant agencies are responsible for ensuring that the Applicant complies with this consent.

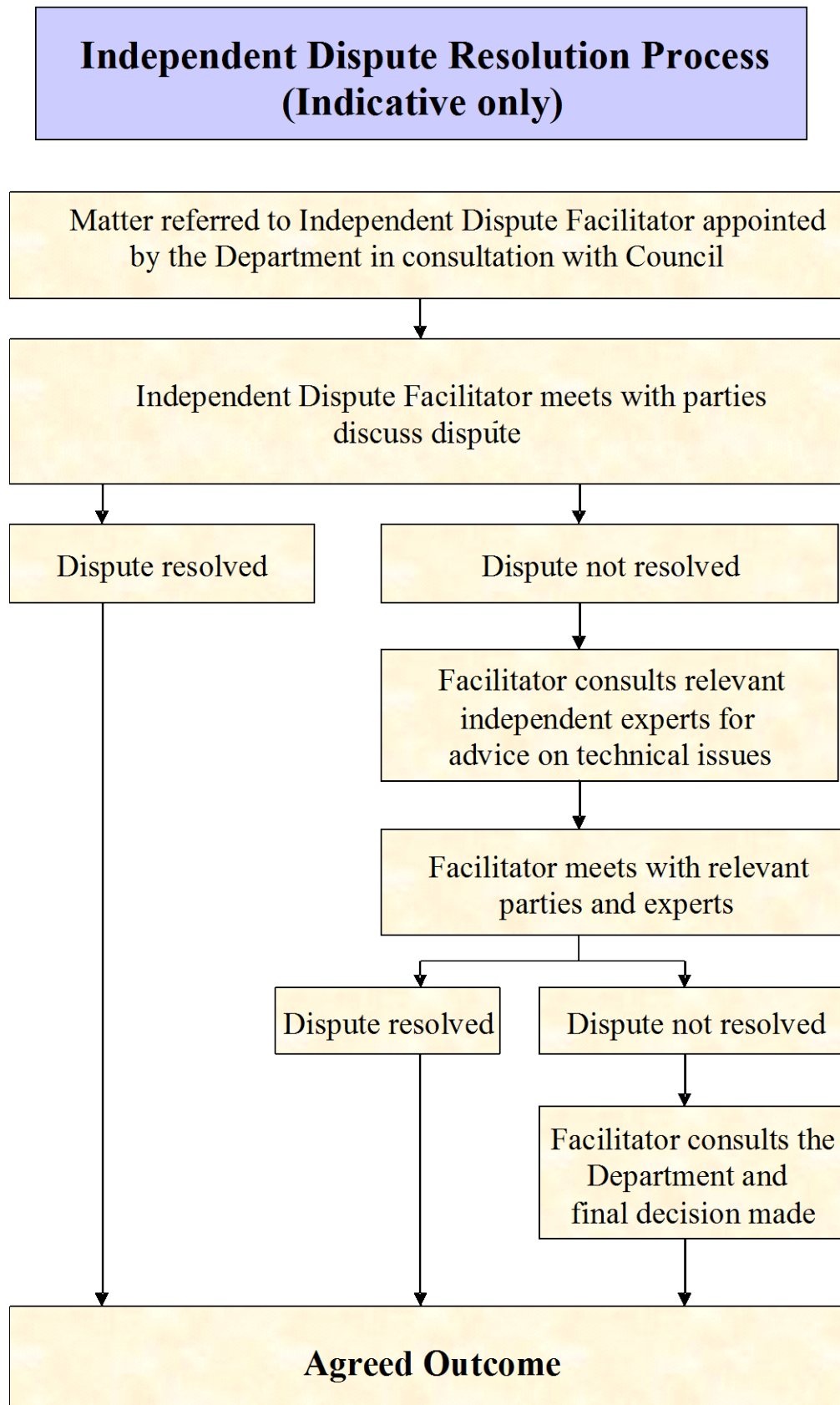
- 10. The Applicant shall fulfil all responsibilities set out for companies in the CCC guidelines, including at its own expense:
 - (a) ensuring that 2 of its representatives attend CCC meetings;
 - (b) regularly providing the CCC with reports and other information on the environmental performance and management of the development;
 - (c) providing meeting facilities for the CCC, if the CCC requests;
 - (d) arranging site inspections for the CCC, if the CCC requests;
 - (e) taking minutes of the CCC meetings, if the CCC requests;
 - (f) making these minutes available to the public; and
 - (g) responding to any advice or recommendations the CCC may have in relation to the environmental management or community relations.
- 11. The Applicant shall fund the payment of invoices received to facilitate the general purposes and functioning of the CCC up to \$2,000 each year until the cessation of operations under the consent.

Note. The contribution is to be indexed according to the CPI at the time of each payment. The first payment shall be made by the date of the first CCC meeting.

Access to Information

- 12. By 30 April 2008, and thereafter within 3 months of the approval of any strategy/plan/program required under this consent (or any subsequent revision of these strategies/plans/programs), or the completion of the audits or AEMRs required under this consent, the Applicant shall:
 - (a) provide a copy of the relevant document/s to the relevant agencies and CCC; and
 - (b) put a copy of the document/s on its website.
- 13. By 30 April 2008, and thereafter during the life of the development, the Applicant shall:
 - (a) include a copy of this consent, as may be modified from time to time, on its website;
 - (b) provide a full summary of monitoring results required under this consent on its website; and
 - (c) update this summary on a regular basis (at least every 3 months).

APPENDIX 1
INDEPENDENT DISPUTE RESOLUTION PROCESS



APPENDIX 2 STAGE 2 MINING AREA

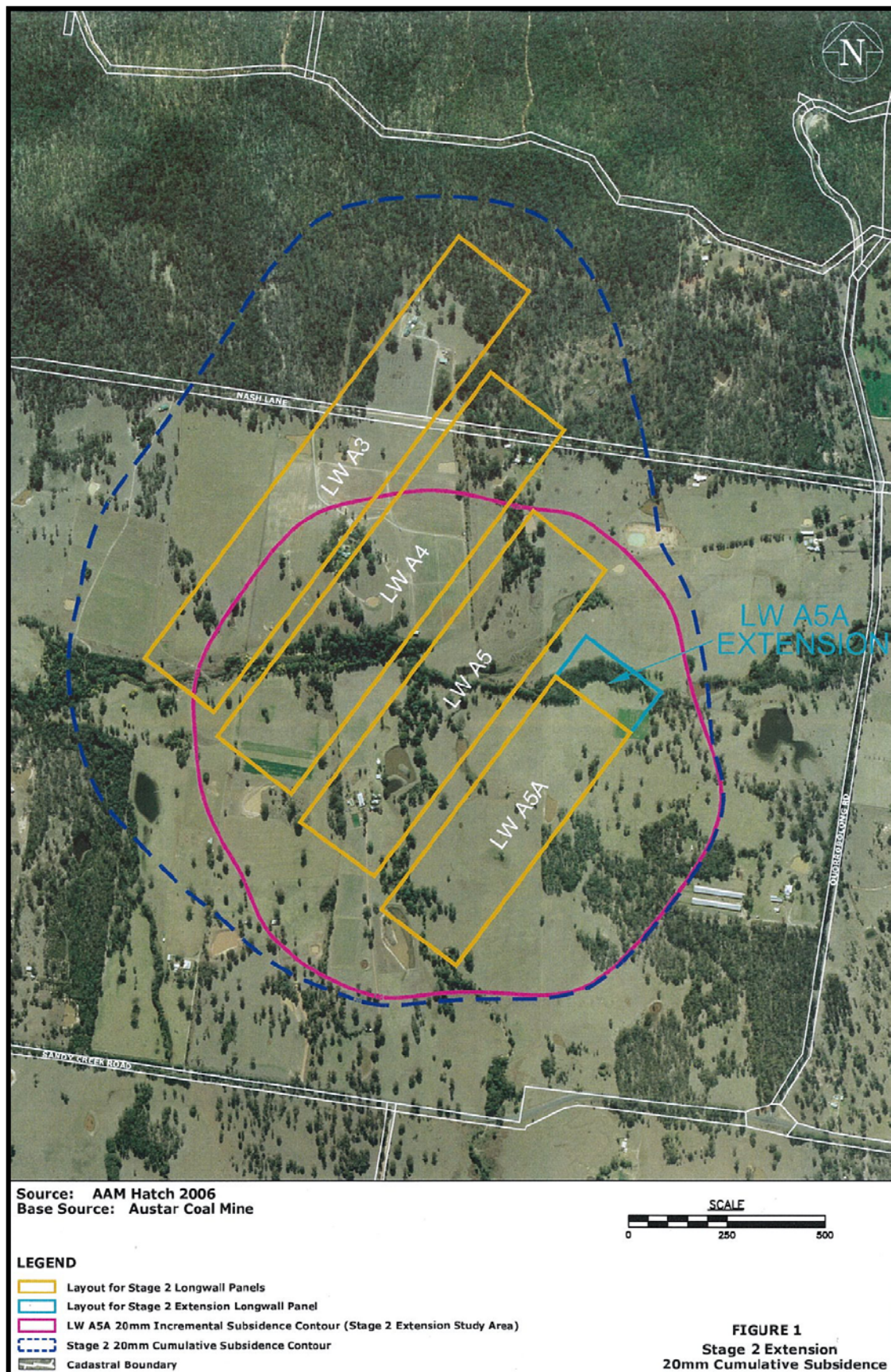


Figure 1: Layout of Stage 2 longwall panels