

Appendix 5

Copies of Native Title Information



National Native Title Tribunal

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keywords

Claimant application summary

Application name: Wiradjuri (Ben Bullen)

Application type: Claimant application

State/Territory: New South Wales

Date filed: 12/05/1997

Federal Court file no.: NSD6062/98

Tribunal file no.: NC97/9

Status: Finalised - Discontinued

Approx area size: 87.92 HA

Area description: Near Lithgow

ATSIC region(s): Sydney Regional Council

Representative A/TSI Body area (s): NSW Native Title Services Ltd

Local government region(s): City of Lithgow

Notification status: Notification Complete



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Native Title Applications

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For definitions of specific native title words and terms see the [Glossary](#)

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C.E.H. LITHGOW

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NSW DEPARTMENT OF MINERAL RESOURCES
Minerals and Energy House, 29-37 Christie Street
(P.O. Box 536), St Leonards, NSW 2065, Australia
Phone (02) 9901 8888 - Fax (02) 9901 8777
DX 3324 St Leonards

Our Ref: L98/0160

Tel: (02) 9901 8743

Fax: (02) 9901 8685

Email: fitzgerj@minerals.nsw.gov.au

Mr Noel Craven
Coalpac Pty Limited
"Astrolabe"
Rutherford Lane
LITHGOW NSW 2790

Dear Mr Craven,

**RE: COALPAC NATIVE TITLE AGREEMENT
NATIVE TITLE CLAIM - MINING LEASE APPLICATION NO 70**

I refer to previous correspondence.

I now enclose a duly executed counterpart of the Government Party Deed dated 18 August 1998. In accordance with the requirements of section 34 of the Native Title Act 1993 (Cth), I have forwarded a copy of same onto the National Native Title Tribunal.

I have forwarded a copy of the Deed onto the NSW Aboriginal Land Council together with a request that the registered claimant be notified of the successful outcome.

I note this now concludes the matter. Thank you for your assistance and please do not hesitate to contact me if you have any queries.

Yours faithfully,

A handwritten signature in black ink, appearing to read "John Fitzgerald".

John Fitzgerald
Legal Officer
20 August 1998

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THIS DEED is made on **18 August** 1998

BETWEEN

**THE HONOURABLE ROBERT DOUGLAS MARTIN, THE MINISTER FOR
MINERAL RESOURCES FOR AND ON BEHALF OF THE STATE OF NEW
SOUTH WALES ("government party")**

AND

WENDY LEWIS acting for and on behalf of herself, and all persons on whose
behalf the native title claim referred to in this Deed is made ("**native title party**").

AND

COALPAC PTY LIMITED A.C.N. 003 558 914 ("grantee party**")**

RECITALS

- A. The grantee party has made an application for the mining lease.
- B. If the grant of the mining lease affects native title it will be a permissible future act as defined in the Native Title Act 1993 (C'th).
- C. The government party has given notice of its intention to grant the mining lease in accordance with section 29 of the Native Title Act.
- D. The native title party has lodged with the National Native Title Tribunal a native title claim in relation to the land.
- E. The native title claim has been entered in the Register of Native Title Claims and the native title party is a registered native title claimant.
- F. The parties have negotiated under Subdivision B, Division 3, Part 2 of the Native Title Act in relation to the government party's intention to grant the mining lease.
- G. The native title party agrees to the grant of the mining lease and this Deed is entered into for the purpose of ensuring the validity of the mining lease under the Native Title Act.

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OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 In this Deed unless the contrary intention appears:

"ancillary agreement" means any existing or future agreement (including, without limitation, the agreement(s) (if any) noted in the Schedule) made between a native title party and the grantee party or any other person in connection with the grant of the tenement(s) and/or the grantee party exercising its rights and discharging its obligations under the tenement(s);

"mining lease" means the mining lease to be granted pursuant to the mining lease application under the Mining Act 1992 described in the Schedule;

"National Native Title Tribunal", "native title", "native title party", "permissible future act", "Register of Native Title Claims" and "registered native title claimant" have the same meaning as they have in the *Native Title Act*.

"native title claim" means an application for determination of native title described in the Schedule;

"subject land" means the land the subject of the mining lease application;

1.2 In this Deed, unless the contrary intention appears;

- (a) the word person includes a firm, body corporate, statutory corporation, an unincorporated association or an authority and a reference to a gender includes each other gender;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a person includes a reference to the person's executors; administrators, successors, substitutes (including but not limited to persons taking by novation) and assigns;
- (d) an agreement, representation or warranty on the part of, or in favour of, two or more persons binds or is for the benefit of them jointly and severally; and
- (e) a reference to anything is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them.
- (f) the expression "the native title party" includes each and every native title party in relation to the subject land and the grant of the mining lease.

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2. AUTHORITY TO ENTER INTO DEED

2. The native title party represents and warrants that all necessary authorisations have been obtained to enter into this Deed and this Deed is valid and binding and enforceable in accordance with its terms and against the native title party and all the persons on whose behalf the respective native title claim is made.

3. AGREEMENT TO GRANT OF MINING LEASE

3. The native title party:
- (a) agrees to the grant of the mining lease and to the grantee party exercising its rights and discharging its obligations under the mining lease; and
 - (b) acknowledges that this Deed is an agreement for the purpose of section 28(1)(d), section 31(1)(b) and section 34 of the *Native Title Act*.

4. LODGEMENT WITH THE NATIONAL NATIVE TITLE TRIBUNAL

4. The government party is authorised on behalf of the parties to give a copy of this Deed to the National Native Title Tribunal pursuant to section 34 of the *Native Title Act*.

5. COMPENSATION TO BE SET OFF

- 5.1 This clause 5 applies if the native title party:
- (a) receives or is entitled to receive from the grantee party or any other person any compensation, benefit or consideration ("compensation entitlement") whether under any ancillary agreement or otherwise; and
 - (b) makes any claim for compensation, damages or other relief whatsoever against the government party or any officer or agency of the government party ("compensation claim")
- in connection with the grant of the mining lease and/or the grantee party exercising its rights or discharging its obligations under the mining lease and their claimed effect on any native title rights of the native title party, whether the compensation claim arises under the *Native Title Act* or otherwise.
- 5.2 The native title party agrees that any compensation entitlement is to be taken into account in determining any compensation claim and is to be set off

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10. EFFECT UPON NATIVE TITLE RIGHTS

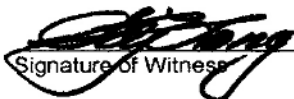
10. By entering into this Deed the rights (if any) of the native title party in connection with any native title held in relation to the subject land are not affected except as is provided for in, and to the extent necessary to give effect to, this Deed.

11. GENERAL

- 11.1 Each party agrees, at its own expense, on the request of another party, to do everything reasonably necessary to give effect to this Deed and the matters contemplated by it.
- 11.2 Each party will pay its own legal and other costs and expenses in connection with the preparation and completion of this Deed, except for stamp duty. The grantee party is to pay all stamp duty (including fines or penalties) payable on or with respect to this Deed.
- 11.3 This Deed is governed by the law in force in the State of New South Wales.

**SIGNED SEALED AND DELIVERED
BY THE HONOURABLE ROBERT
DOUGLAS MARTIN, THE MINISTER
FOR MINERAL RESOURCES FOR
AND ON BEHALF OF THE STATE
OF NEW SOUTH WALES**

in the presence of


Signature of Witness


Signature of Government Party

K.G. LONG JP
Name of Witness (block letters)

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THE COMMON SEAL OF
COALPAC PTY LTD ACN 003 558 914 WAS AFFIXED IN
THE PRESENCE OF:



Seal of Grantee Party

Signature of Witnesses

D. BARNSDALL

DIRECTOR

Noel Horner

DIRECTOR

N. F. CRAVEN

Names of Witnesses (block letters)

SIGNED SEALED AND
DELIVERED BY WENDY LEWIS

WIRADJURI
(Name of Native Title Party)
in the presence of:

Wendy Ann Lewis
Signature of Native Title Party

LE Gray
Signature of Witness

LESLIE EDWARD GRAY
Names of Witness
(block letters)

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DEED FOR GRANT OF MINING LEASE
Native Title Act 1993 (C'th)
Sections 28(1)(b) and 34

SCHEDULE

1. Mining Lease
Application Number : 70, Orange
Grantee Party : COALPAC PTY LIMITED
A.C.N.003 558 914
2. Native Title Claim : NC97/9
Native Title Parties : WENDY LEWIS on behalf of the
Wiradjuri people who are affiliated
with an area which includes part of
the land which is the subject of the
mining lease application
3. Ancillary Agreement :
Parties : COALPAC PTY LIMITED
A.C.N.003 558 914
WENDY LEWIS
Date :

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NEW SOUTH WALES ABORIGINAL LAND COUNCIL

17 August 1998

Astrolabe
Rutherford Lane
Lithgow
NSW 2790

Attention: Noel Craven

Dear Noel

re: Invincible Colliery Agreement

Please find attached a copy of the schedule which should be annexed to your copy of the Agreement.

Yours Sincerely

Andra Eisenberg
Legal Officer
Native Title Unit

9th Floor, 33 Argyle Street
Parramatta NSW 2150
PO Box 1125 Parramatta 2124

www.alc.org.au

Ph: (02) 9689 4444
Fax: (02) 9687 1234
D.X. 28308 Parramatta 2150

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SCHEDULE 1

