



**Office of
Environment & Heritage**
NSW National Parks & Wildlife Service



Mr Howard Reed
A/Director – Mining and Industry
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Mr Reed,

RE: AUSTAR COAL PROJECT – MINE PLAN MODIFICATION (08_0111 MOD 2)

As you aware, Austar is seeking planning approval for the above modification.

Austar wrote to the Office of Environment and Heritage on the 5th of August 2011 seeking to obtain landowner's consent for the modification as it relates to Werakata State Conservation Area (SCA), in accordance with clause 8F of the Environmental Planning and Assessment Regulation.

I have attached a copy of the response provided to Austar for your information.

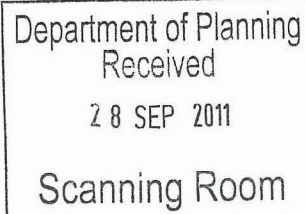
In addition, you should also be aware that the OEH appears to have no record of receiving a request for landowner's consent associated with the existing Stage 3 planning approval. You may wish to consider this issue further.

In the meantime, the OEH will continue to focus on the current request for landowner's consent. As noted in the response to Austar, the OEH will provide advice to the Minister in this regard once all the information on the proposal is available.

Yours sincerely

 23/9/11

TOM BAGNAT
Regional Manager Central Coast Hunter Range
Coastal Branch
National Parks and Wildlife Service



COPY



**NSW National Parks
and Wildlife Service**

Mr Gary Mulhearn
Environmental Coordinator
Austar Coal
Locked Bag 806
Cessnock NSW 2325

Your reference: Austar Stage 3
Modification- Land Owners
Consent Werakata SCA
Our reference: DOC11/35887
Contact: Steve Wright, 0265745531

Dear Gary

Thank you for your letter of 5th of August 2011, requesting land owners consent with respect to the Stage 3 Modification proposal as it applies to Werakata State Conservation Area.

It is understood that the proposal involves modification of the project approval for Stage 3 granted in September 2009. I also understand that Austar has formally lodged the modification proposal with the Department of Planning and Infrastructure.

On this basis, I can confirm that landowner's consent will be required for the modification proposal, in accordance with cl.8F of the *Environmental Planning and Assessment Regulation 2000* for those parts of the proposal that are within the Werakata State Conservation Area.

I can also advise that the Minister for the Environment is the relevant landowner for the purposes of cl.8F. It will therefore ultimately be a matter for the Minister to determine whether to grant landowner consent.

As you would be aware, cl.8F provides that landowner consent may be obtained at any time before the determination of the planning application.

At this time the Office of Environment and Heritage (OEH) is not in a position to provide advice to the Minister in relation to your request. The OEH will do so once there has been an opportunity to consider all matters relevant to the proposal as it relates to the Werakata SCA. That will include a review of the environmental assessment report and any amendments to the project that Austar may make after public exhibition. In summary, the OEH will prepare advice to the Minister once the final form of the proposal is confirmed and likely implications for the SCA are clear.

As you would also be aware, the OEH has interests in the project both as land manager and in the context of broader environmental outcomes. The National Parks and Wildlife Service and Environment Protection and Regulation Group will liaise closely with respect to any likely issues or impacts affecting the State Conservation Area that arise during review of the overall proposal.

Department of **Environment and Climate Change** NSW



Y909

Should you have any questions in regards to your request for landowner consent please contact Ranger Steve Wright on (02) 65745531.

Yours sincerely

A handwritten signature in black ink, appearing to read 'T. Bagnat', with a stylized flourish at the end.

TOM BAGNAT
Regional Manager
Central Coast Hunter Range Region