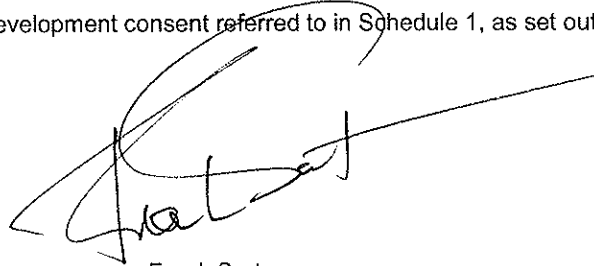


Notice of Modification

Section 96(2) of the *Environmental Planning and Assessment Act 1979*

I, the Minister for Planning, modify the development consent referred to in Schedule 1, as set out in Schedule 2.



Frank Sartor
Minister for Planning

Sydney

27th SEP 2006

2006

SCHEDULE 1

The development consent (DA No. 29/95) for the underground mine extensions now known as the Austar Coal Mine, which was granted by the Minister for Urban Affairs and Planning on 14 February 1996.

SCHEDULE 2

1. Delete Schedule 2 and replace with:

SCHEDULE 2

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
DEC	Department of Environment and Conservation
Department	Department of Planning
Director-General	Director-General of the Department of Planning, or delegate
DNR	Department of Natural Resources
DPI	Department of Primary Industries
EIS	Environmental Impact Statement
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
Privately-owned land	Land excluding land owned by a mining company, where: <ul style="list-style-type: none">• 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
RTA	Roads and Traffic Authority
SEE	Statement of Environmental Effects
Site	Land to which the DA applies

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;
 - (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;
 - (c) information from ERM clarifying the modification application MOD-49-4-2006, dated 13 July 2006; and
 - (d) 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.
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 21 years after the date it commences.

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 prepare and submit any management plan or monitoring program required by this consent on a progressive basis. Where a management plan and monitoring program is required before carrying out any development, or stage of development, the plans/programs may be prepared and submitted in relation to either discrete components of the project or for a specified time period.

SPECIFIC ENVIRONMENTAL CONDITIONS

SUBSIDENCE

General

7. The Applicant shall before carrying out any underground mining operations (except for longwall panels A1 and A2) that will potentially lead to subsidence of the land surface:
- prepare a Subsidence Management Plan (SMP) for those operations in accordance with the following DPI documents (or their latest versions or replacements):
 - New Approval Process for Management of Coal Mining Subsidence - Policy*; and
 - Guideline for Applications for Subsidence Management Approvals*,
 - inform all landowners whose land is proposed to be undermined as a result of the development about the procedures for rectification and compensation for subsidence effects on residences, farm buildings and structures; and
 - inform all landowners within the site, which are not undermined, about current and future longwall mining at the development,

to the satisfaction of the DPI.

Note: The Applicant has an existing approval from the DPI under section 138 of the Coal Mines Regulation Act 1982 for longwall panels A1 and A2. An application has been made to modify this approval to allow an increase in the height of coal extraction from 4.5 to 6.5 metres. All future longwall panels will be regulated under the SMP approval process for managing the impacts of coal mining subsidence under the Mining Act 1992.

8. Before carrying out any underground mining that will potentially lead to subsidence within the Aberdare State Forest, the Applicant shall prepare (and following approval implement) a Public Safety Management Plan for the Aberdare State Forest to the satisfaction of the DPI.

Property No 15

9. The Applicant shall:
- conduct detailed monitoring of subsidence over the western longwall areas (longwalls 13 to 19) in accordance with the requirements of the DPI and to the satisfaction of the Principal Subsidence Engineer;
 - in conjunction with the MSB, prior to commencement of longwall extraction, inform the owner/s of Property No. 15 of the:
 - predicted subsidence effects on the two operating broiler sheds, residence and farm buildings; dams and structures on Property 15;
 - procedures for rectification and compensation available under the *Mine Subsidence Compensation Act 1961* for damage to all surface improvements caused by subsidence;
 - procedures for rectification and compensation available under the *Mining Act 1992* for consequential losses to stock caused by subsidence; and
 - arrangements made in respect of a "pre-mining inspection" to be completed by the MSB.
 - monitor the storage capacity of all dams on the property immediately before, during, and after mining and, in the event of loss of water to the dams caused by subsidence, provide an alternative supply equal to, both in quality and quantity, the water supply that existed immediately prior to subsidence commencing, in accordance with the Applicant's Subsidence Management Plan.

Note: Property No 15 is shown on Figure 6.2 of the 1995 EIS for the development.

WATER QUALITY

Discharge Limits

10. Except as may be expressly provided by a DEC 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

11. Prior to 31 March 2007, or other date agreed by the Director-General, the Applicant shall prepare a Site Water Management Plan for the mine, in consultation with the DNR and the DEC, 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

12. 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

13. 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

14. 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 and Quorrobolong Creeks);
 - (c) reporting procedures; and
 - (d) 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

15. 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

16. 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; and
 - (c) disposal/neutralisation contingencies in the event that acid leachate problems emerge after the mine closes.

Groundwater Study

17. 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 DPI which includes a groundwater study and mine water disposal plan prepared in accordance with the requirements of the DPI and DEC.

NOISE AND VIBRATION

Impact Assessment Criteria

18. The Applicant shall ensure that the noise generated by the Infrastructure Upgrade Area identified in Figure 1.3 of the SEE referenced in condition 2 (c) does not exceed the noise impact assessment criteria in Table 1.

Table 1: Noise impact assessment criteria dB(A)

Day/Evening/Night <i>L_{Aeq(15 minute)}</i>	Land
35	All privately owned land

Notes:

a) 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 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 DEC 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.

b) 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 1, and a copy of this agreement has been forwarded to the Department and the DEC, then the Applicant may exceed the noise limits in Table 1 in accordance with the negotiated noise agreement.

Continuous Improvement

19. 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

20. Prior to 31 December 2006, the Applicant shall prepare a Noise Monitoring Program for the development to the satisfaction of the Director-General. This program must be implemented to the satisfaction of the Director-General and shall include quarterly attended noise monitoring, and a noise monitoring protocol for evaluating compliance with the noise impact assessment criteria in this consent.

Vibration Monitoring

21. Prior to longwall mining operations in Panel A1 retreating 150 metres, the Applicant shall install and maintain a 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

22. The Applicant shall ensure that the dust emissions generated by the development do not cause additional exceedances of the air quality impact assessment criteria listed in Tables 2, 3, and 4 at any residence on, or on more than 25 percent of, any privately owned land.

Table 2: 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 3: 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 4: 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

23. The Applicant shall:
- 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
 - 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

24. Prior to 31 December 2006, the Applicant shall prepare a detailed Air Quality Monitoring Program to the satisfaction of the Director-General. This program must be implemented to the satisfaction of the Director-General and must include an air quality monitoring protocol for evaluating compliance with the air quality impact assessment criteria in this consent.

METEOROLOGICAL MONITORING

25. 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

26. The Applicant shall:
- (a) investigate and report to the DPI 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 DPI, 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 DPI.

FLORA AND FAUNA

27. 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.
28. The Applicant shall:
- (a) undertake fauna surveys for bat species at undisturbed sites proposed for reject emplacement as may be required by the DEC;
 - (b) report results of any fauna surveys to the DEC; and
 - (c) carry out any necessary ameliorative measures requested by the DEC in relation to the findings of the fauna surveys.

HERITAGE

Aboriginal Heritage

29. Six months prior to commencing activities in undisturbed reject emplacement areas or the Cessnock No. 1 Colliery surface facilities, the Applicant shall undertake additional Aboriginal heritage surveys to the satisfaction of the DEC.

European Heritage

30. The Applicant shall:
- (a) 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;
 - (b) 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
 - (c) take all reasonable measures to protect the ring-barked tree referenced in the 2006 modification application, to the satisfaction of the Director-General.

Note: The land referred to in condition 30(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

31. The Applicant shall:
- (a) 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 the coal waste emplacement areas 3 and 4 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. All crossing works are to be completed prior to the commencement of operations in emplacement areas 3 and 4;
 - (b) provide a Type B intersection at the nominated entry to the Cessnock No 1 Colliery site. Such facility and location shall be determined in conjunction with Council and constructed prior to commencement of operations at the Cessnock No 1 Colliery site;
 - (c) prior to 31 December 2006, prepare a Construction Traffic Management Plan for the development to the satisfaction of Council.

- (d) prior to 31 March 2007, prepare a safety audit report for the following road level crossings of the South Maitland Railway:
- Vincent Street, Kitchener;
 - Cessnock Road, Kearsley;
 - off Cessnock Road, Neath; and
 - Mitchell Avenue, Weston
- to the satisfaction of the RTA.

ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING

Environmental Management Strategy

32. Prior to 31 March 2007, or other date agreed by the Director-General, the Applicant shall prepare an Environmental Management Strategy for the development to the satisfaction of the Director-General. This Strategy is to be implemented to the satisfaction of the Director-General and 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

33. Prior to 31 March 2007, or other date agreed by the Director-General, the Applicant shall prepare an 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

34. 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 project and compliance with the conditions of this approval.

Incident Reporting

35. 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

36. 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

37. 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) assess the various aspects of the environmental performance of the development, and its effects on the surrounding environment;
 - (c) assess whether the development is complying with the relevant standards, performance measures, and statutory requirements;
 - (d) review the adequacy of any strategy/plan/program required under this consent; and, if necessary; and
 - (e) recommend measures or actions to improve the environmental performance of the development, and/or any strategy/plan/program required under this consent.
38. Within 3 months of commissioning 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.

Updating Environmental Management Requirements

39. Within 3 months of the completion of the Independent Environmental Audit (see condition 37), the Applicant shall review, and if necessary revise, the Environmental Management Strategy, the Environmental Monitoring Program and all other environmental management plans and monitoring programs required under this consent to the satisfaction of the Director-General.

Community Consultative Committee

40. Prior to 31 December 2006, or other date agreed by the Director-General, the Applicant shall establish a Community Consultative Committee (CCC) to oversee the 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.

41. 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.
42. 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

43. From 31 December 2006, and during the life of the development thereafter, the Applicant shall place a copy of the following documents and information (and any subsequent revisions) required under this consent on its website:
- (a) this consent, as may be modified from time to time;
 - (b) all current environmental management plans, strategies and programs;
 - (c) the current Independent Environmental Audit;
 - (d) the current AEMR; and
 - (e) a summary of all environmental monitoring results (to be updated at least every 6 months), to the satisfaction of the Director-General.

Dispute Resolution

44. In the event that the Applicant, the Council or a Government agency/authority other than the Department, cannot agree on the specification or requirements applicable under this consent, the matter shall be referred by either party to the Director-General or if not resolved, to the Minister, whose determination of the disagreement shall be final and binding on the parties.
