

ENFORCEABLE UNDERTAKING

Environment Protection and Biodiversity Conservation Act 1999

Section 486DA

Undertaking to the Minister for Sustainability, Environment, Water, Population and Communities given for the purposes of section 486DA

by

Springvale Coal Pty Limited (ACN 052 096 769)

and

Centennial Angus Place Pty Limited (ACN 101 508 945)

1. Person giving undertaking

The persons giving the undertaking are Springvale Coal Pty Limited (***Springvale Coal***) and Centennial Angus Place Pty Limited (***Centennial Angus Place***).

Springvale Coal is giving the undertaking in its capacity as the Manager of the Springvale colliery. Springvale Coal manages the Springvale colliery pursuant to the Springvale Joint Venture Agreement for and on behalf of the owners of the Springvale colliery, Centennial Springvale Pty Limited and Springvale SK Kores Pty Limited. Springvale Coal has registered offices at: Level 18, 1 Market Street, Sydney NSW 2000.

Centennial Angus Place is giving the undertaking in its capacity as the Manager of the Angus Place colliery. Angus Place manages the Angus Place colliery pursuant to the Springvale Joint Venture Agreement for and on behalf of the owners of the Angus Place colliery, Centennial Springvale Pty Limited and Springvale SK Kores Pty Limited. Centennial Angus Place has registered offices at: Level 18, 1 Market Street, Sydney NSW 2000.

2. Preamble

The Springvale and Angus Place collieries are underground coal mines located near Lithgow in NSW. These collieries are adjacent to one another, as depicted in **Figure 1**.

Coal mining at the Angus Place colliery has been undertaken by long wall mining methods since circa 1979, and since circa 1995 at the Springvale colliery.

Combined groundwater from these collieries, can be discharged through Springvale colliery's licensed discharge points 4 and 5 in an emergency under Environment Protection Licence 3607.

Groundwater from the Angus Place colliery only can be discharged through Angus Place colliery's licensed discharge point 6 in an emergency under Environment Protection Licence 467.

The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) commenced operation on 16 July 2000. When the EPBC Act came into operation, Springvale Coal and Centennial Angus Place held all requisite "specific environmental authorisations" (as defined in section 43A(2) of the EPBC Act) to lawfully operate the Springvale and Angus Place collieries.

The Springvale and Angus Place collieries contain stratum which are contiguous to the Temperate Highland Peat Swamps on Sandstone threatened ecological community. The Temperate Highland Peat Swamps on Sandstone ecological community was listed as "endangered" under the EPBC Act on 12 May 2005.

Since the listing of the Temperate Highland Peat Swamps on Sandstone ecological community, Springvale Coal and Centennial Angus Place have varied and obtained "environmental authorisations" (as defined in section 43A(2) of the EPBC Act), relevantly, including the following.

- (a) Springvale colliery was issued with Environment Protection Licence 3607 on 8 June 2000 under the *Protection of the Environment Operations Act 1997* (NSW). Environment Protection Licence 3607 was varied on 3 October 2006 for the addition of two emergency groundwater discharge points (being licensed discharge points 4 and 5) to be used in the event that there was a failure in the overland mine discharge water pipeline running from the Springvale colliery to the Wallerawang Power Station.
- (b) Centennial Angus Place was granted a Part 3A Project Approval on 13 September 2006 pursuant to section 75J of the *Environmental Planning and Assessment Act 1979* (NSW) for the "Angus Place Coal Project" (Project Application Number 06_0021).

Consequently, the Minister for Sustainability, Environment, Water, Population and Communities considers that section 43A of the EPBC Act no longer applies to the Springvale and Angus Place collieries.

3. Breach of the EPBC Act

The Minister considers that Springvale Coal and Centennial Angus Place have contravened the EPBC Act in that, contrary to section 18(6) of the EPBC Act, Springvale Coal and Centennial Angus Place have undertaken an action (being coal mining, and/or related mine groundwater discharge, at the Springvale and Angus Place collieries) without approval. The Minister considers that this action has had a significant impact on Temperate Highland Peat Swamps on Sandstone, specifically:

- (a) Narrow Swamp;

- (b) East Wolgan Swamp; and
- (c) Junction Swamp

These swamps are part of the threatened ecological community Temperate Highland Peat Swamps on Sandstone listed as “endangered” under the EPBC Act, and are also depicted in **Figure 1**.

4. The Undertaking

Without conceding that it has breached the EPBC Act or any other Act, but acknowledging that the Minister considers that the action has had a significant impact on Temperate Highland Peat Swamps on Sandstone, Springvale Coal and Centennial Angus Place hereby undertake, for the purposes of section 486DA of the EPBC Act, to pay the total sum of \$1,450,000 to the Fenner School of Environment and Society, Australian National University, for the purpose of undertaking a Research Program, the terms of which are set out in **Attachment A**.

Payment of the total lump sum for the Research Program will be made within 30 days of execution of this undertaking.

Oversight of the Research Program will be provided by a Research Program Steering Committee which will be established in accordance with the Terms of Reference at Schedule 2 of **Attachment A**.

The Minister acknowledges and agrees that, on the basis that Springvale Coal and Centennial Angus Place will fulfill the requirements of this undertaking, the Minister will not pursue further action against Springvale Coal or Centennial Angus Place in relation to the activities, works and impacts affecting Narrow Swamp, East Wolgan Swamp and Junction Swamp referred to in this undertaking.

5. Reporting

Springvale Coal and Centennial Angus Place will report the whole or any part of payment described in clause 4 to the Department of Sustainability, Environment, Water, Population and Communities by sending a letter to the Assistant Secretary of the Compliance and Enforcement Branch, Department of Sustainability, Environment, Water, Population and Communities, GPO Box 787, Canberra, ACT, 2601.

Other reporting will be in accordance with the Research Program Agreement, refer **Attachment A**.

6. Acknowledgement

Springvale Coal and Centennial Angus Place acknowledge that:

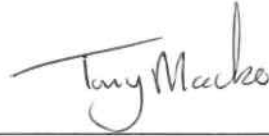
- (a) the Minister will make this undertaking available for public inspection including on a public register;

- (b) the Minister and/or the Commonwealth may from time to time publicly refer to this undertaking through, but not limited to, media releases.

Signed by Springvale Coal Pty Limited by:



Signature of Director



Signature of ~~Director~~/Secretary

STEVE BRACKEN

Name of Director (print)

Tony Macko

Name of ~~Director~~/Secretary (print)

Signed by Centennial Angus Place Pty Limited by:



Signature of Director



Signature of ~~Director~~/Secretary

STEVE BRACKEN

Name of Director (print)

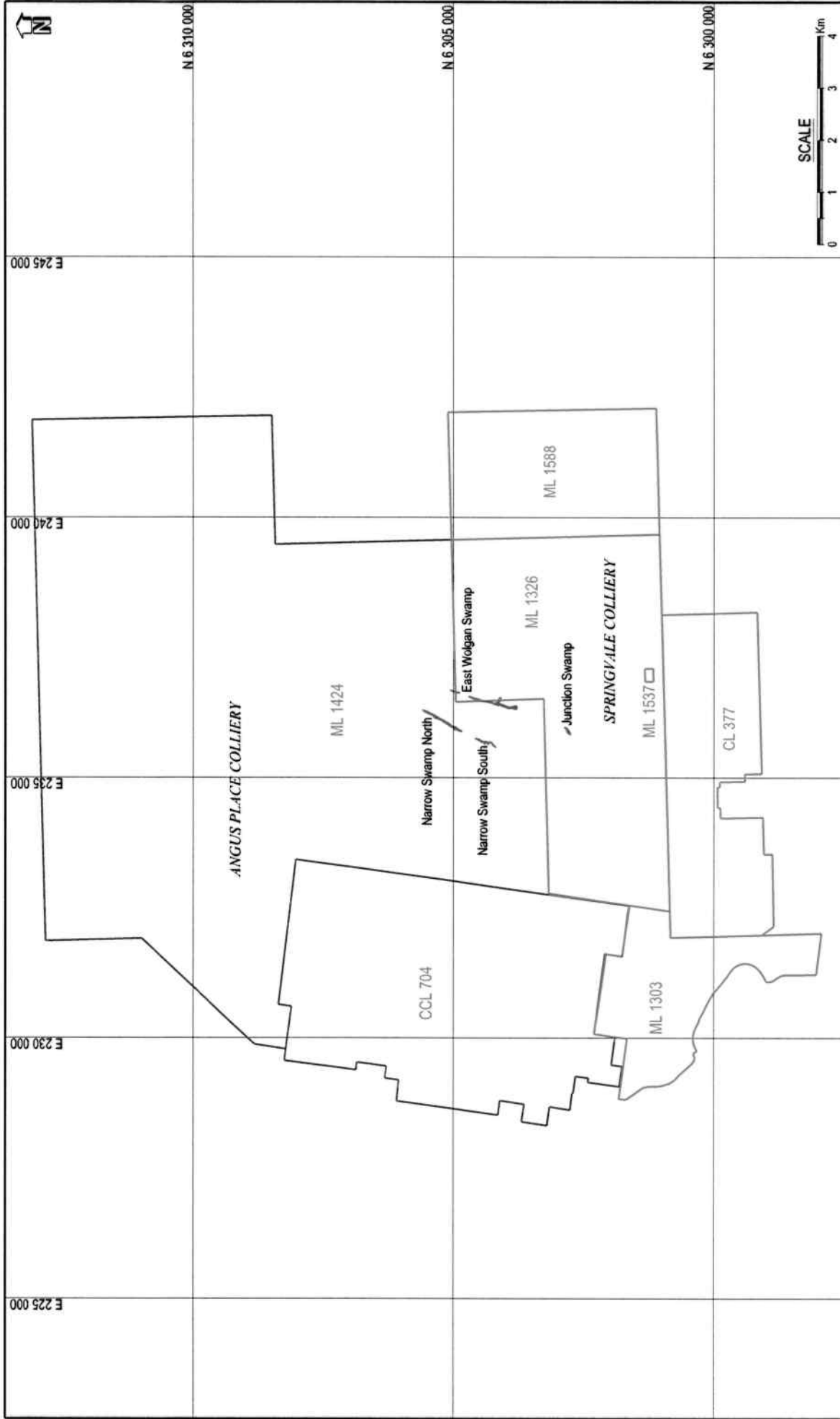
Tony Macko

Name of ~~Director~~/Secretary (print)

Accepted by the Minister for Sustainability, Environment, Water, Population and Communities under section 486DA of the Environment Protection and Biodiversity Conservation Act 1999 on this 12 day of October 2011.



Signature of TONY BURKE



LEGEND

Swamp Area

Mining Lease

NOTES

1. Springvale titles are mining leases ML 1326, ML 1588, ML 1537, CL 377 and ML 1303.
2. Angus Place titles are mining leases ML 1424 and CCL 704.

This document is confidential
It must not be disclosed to the public
without the written approval of the
relevant authority. Breach of this condition
may constitute an offence under the
Environmental Protection Act 1986.

LOCATION

SVC / APC

Liitgow

SEAM

DRAWN P.J.M.

CHECKED

APPROVED

SCALE

Not to Scale

ENFORCEABLE UNDERTAKING

FIGURE 1



DATE: 26-Nov-2010

PC3517