

Enforceable Undertaking

Environmental Protection Act 1994 (Qld)

New Acland Coal Pty Ltd

The commitments in this undertaking are offered to the
Department by the above person or entity.

ENFORCEABLE UNDERTAKING
Environmental Protection Act 1994
Section 507

1. The commitments in this Undertaking are offered to the Chief Executive of the Department of Environment and Science (the Department) by New Acland Coal Pty Ltd Level 16, 175 Eagle Street, Brisbane, Queensland 4000.

2. **DEFINITIONS**

In addition to the terms defined elsewhere in this undertaking, the following definitions are used

Act means the *Environmental Protection Act 1994*.

Stage 2 EA means the environmental authority EPML00335713 issued on 20 May 2022.

Department is the Chief Executive of the Department of Environment and Science.

EA means the environmental authority for mining activities on ML50216 and ML50170 as amended from time to time.

Landowner means Acland Pastoral Co. Pty Ltd ACN 009 888 395.

NAC means New Acland Coal Pty Ltd ACN 081 022 380.

Preservation Covenant Land means those parts of Lot 65 on RP25514 Lot 40 on Crown Plan AG262 and Lot 63 on Crown Plan AG262 identified on **Figure B**, Annexure C.

Mine means the New Acland Coal Mine located in the Darling Downs.

ML means Mining Leases as defined under the *Mineral Resources Act 1989* (Qld).

Preservation Covenant means an instrument of covenant registered under Division 4A of the *Land Title Act 1994* (Qld) for purposes of preserving a native plant or natural or physical feature of the lot that is of cultural or scientific significance.

Proceedings means a legal or other action or proceeding.

Rehabilitation means the process of reshaping and revegetating land to restore it to a stable landform, including associated backfilling of voids, movement of topsoil, erosion stabilisation and associated maintenance and monitoring activities.

Undertaking means this enforceable undertaking made pursuant to Chapter 10, Part 5 of the Act.

3. **BACKGROUND**

- 3.1 New Acland Coal Pty Ltd (NAC) currently operates the Mine, which is a 5.2 million tonnes (saleable coal) per annum open cut mine on ML 50170 and ML 50216 under the Stage 2 EA.
- 3.2 The Mine is located in southern Queensland, approximately 14 km north northwest of Oakey and 35 km northwest of Toowoomba.

4. **ALLEGED CONTRAVENTION**

- 4.1 It is alleged by the Department that NAC carried out unauthorised disturbance of land for the purposes of mining in the area identified as West Pit and in part of South Pit which extends south of the area known as Bottle Tree Hill (the south west portion of South Pit located on ML 50216) (**the Areas**) in contravention of the Act.

5. **CIRCUMSTANCES OF THE ALLEGED CONTRAVENTION**

5.1 The Department alleges that:

- (a) NAC carried out disturbance of land for mining activities in the Areas; and
- (b) those mining activities, while identified in the Plans of Operations for the Mine submitted to the Department from January 2016 were not permitted under the Stage 2 EA.

6. **STATEMENT OF COMMITMENT**

6.1 NAC has ceased disturbing land for mining activities in the Areas under the Stage 2 EA and will not undertake any further disturbance in these Areas, except for the purposes of Rehabilitation, or unless otherwise authorised under the environmental authority for the Mine.

6.2 For the purposes of section 507 of the Act, NAC undertakes that the actions set out in this Undertaking will be implemented to prevent the alleged contravention from reoccurring. NAC will commit the funding required to undertake the actions required by the Undertaking in the required timeframes. NAC will commit to measures set out in this Undertaking and reviewing staff skills and training in order to prevent the alleged contravention from reoccurring.

7. **OBJECTIVES**

7.1 The Undertaking is a binding agreement and the objectives of the Undertaking are to:

- (a) ensure mining activities at the Mine are carried out in accordance with the EA;
- (b) minimise the risks to the receiving environment and the community from mining activities carried out in the Areas; and
- (c) deliver benefits to the environment and local community.

8. **UNDERTAKING**

Rehabilitation for Native Vegetation and Fauna Habitat

8.1 NAC must lodge an application for an amendment of the EA with the Department no later than 12 weeks from the date the Undertaking takes effect to vary the rehabilitation criteria for the mining lease (ML50216). The purpose of the amendment is to provide for an elevated standard of rehabilitation post mining, to enable the establishment of a vegetated habitat that will be suitable for koala and other fauna and connect to existing habitat areas.

8.2 The application for amendment of the EA must apply to vary the Schedule E - Land (relating to final land use and rehabilitation) for ML50216 to provide for rehabilitation of the area identified in **Figure A**, Annexure A:

- (a) for a post mine land use (PMLU) of native vegetation and fauna habitat, as shown on **Figure A** in Annexure A;
- (b) for PMLU to achieve the Rehabilitation Acceptance criteria contained in **Table A**, Annexure B; and
- (c) to commence progressively when land becomes available for rehabilitation

Delivering benefits to the environment and community

8.3 NAC undertakes to the Department to enhance the protection of the environment through long term protection of the area known as Bottle Tree Hill identified on **Figure B**, Annexure C by

way of a Preservation Covenant on terms consistent with the Conservation Zone Management Plan dated January 2014 as relates to Bottle Tree Hill.

8.4 NAC must:

- (a) within 6 weeks of the date from which this Undertaking takes effect, have provided the State of Queensland, represented by the Department of Environment and Science with a copy of proposed terms of a Preservation Covenant aimed at directly preserving a native animal or plant pursuant to section 97A(3)(b)(i) the *Land Title Act 1994* (Qld);
- (b) within 3 months of the date from which this Undertaking takes effect, obtain a survey plan of the Preservation Covenant Land of the areas the subject of the Preservation Covenant;
- (c) within 12 months of the date from which this Undertaking takes effect:
 - (i) procure the Landowner to execute a Preservation Covenant over the Preservation Covenant Land in favour of the State of Queensland represented by the Department of Environment and Science; and
 - (ii) use best endeavours to obtain registration of the Preservation Covenant under the *Land Title Act 1994* (Qld) in relation to the Preservation Covenant Land.

Improvements in environmental performance

- 8.5 Within 4 weeks of the date on which this Undertaking takes effect, NAC must revise its Permit to Disturb system to ensure that parts of the mining leases which are not to be disturbed by mining activities (because, for example, they are located within an exclusion area under the EA) are clearly identified and provide a copy of that Permit to Disturb to the Department.

Reporting under the Undertaking

- 8.6 NAC acknowledges that it bears the responsibility for demonstrating compliance with this Undertaking, and evidence to demonstrate compliance with each respective Undertaking action outlined in paragraphs 8.1, 8.3, 8.4 and 8.5 will be provided to the Department within ten (10) business days after the completion date.
- 8.7 NAC undertakes to provide a report to the Department every three (3) months from the date this undertaking takes effect, regarding the status of each undertaking set out in paragraphs 8.1, 8.3, 8.4 and 8.5 above. Within one (1) month of completion of all actions under this undertaking, a final report describing how the terms of the Undertaking were achieved is to be provided to the Department.
- 8.8 The evidence provided to demonstrate compliance with this Undertaking will be retained by NAC until advised by the Department that this Undertaking has been completely discharged.
- 8.9 NAC acknowledges that any failure to meet the due date in this Undertaking will result in the matter being escalated and may lead to enforcement action.
- 8.10 NAC acknowledges that the Department may undertake other compliance monitoring activities to verify the evidence and compliance with a commitment of this Undertaking, and NAC agrees to cooperate with the Department in any investigation or compliance activity in respect of the Undertaking such as site access and provision of documents upon reasonable notice.

9. **WHY THE UNDERTAKING IS A MORE APPROPRIATE RESPONSE THAN A COURT PROCEEDING**

- 9.1 The alleged contravention has ceased and this Undertaking is a commitment by NAC to take active steps to address the Department's concerns in respect of the alleged contravention as well as delivering benefits to the environment and community.
- 9.2 There have been no convictions or findings of guilt under the Act in respect of NAC's mining activities.
- 9.3 NAC has cooperated with the Department in respect of its investigation and have been open and transparent with the Department in its dealings.
- 9.4 This is an improved overall outcome than a court imposed sanction such as a fine and better achieves the objects of the Act.
- 9.5 This undertaking is a more efficient means of resolving the matter as it will save the parties time and resources associated with court proceedings.

10. **ABILITY TO COMPLY WITH THE UNDERTAKING AND MEET THE PROJECTED COSTS**

- 10.1 NAC has the financial ability to comply with the Undertaking.
- 10.2 In the event of insolvency or external administration of NAC it will notify the Department of the specific circumstances and its capacity to comply with the outstanding terms of the Undertaking. In the event that ML50216 is transferred before this Undertaking has been discharged, NAC will advise any transferee of the existence of this Undertaking and provide a copy of this correspondence to the Department.

11. **ACKNOWLEDGEMENTS**

- 11.1 NAC acknowledges that the Department:
- (a) may issue a media release on execution of this Undertaking referring to its terms and to the concerns of the Department which led to its execution;
 - (b) may refer publicly to this Undertaking (including in newspapers or media releases); and
 - (c) will publish this Undertaking on its website.
- 11.2 NAC acknowledges that the Department's acceptance of this Undertaking does not affect the Department's power to investigate a contravention, issue warnings, issue penalty infringement notices, issue statutory notices and/or bring proceedings against NAC and/or take any other enforcement action in relation to any other and/or subsequent contravention or alleged contravention of the Act that is not the subject of this Undertaking. This is regardless of whether or not the subsequent contravention or alleged contravention involves section 426 of the Act.
- 11.3 NAC acknowledges that this Undertaking does not affect the rights or remedies available to any other person or entity nor does it affect any statutory obligations under the Act.
- 11.4 As provided under section 508(2) of the Act, NAC acknowledges that the Department's acceptance of this Undertaking means that the Department will not commence proceedings against NAC in relation to the alleged contraventions the subject of this Undertaking, if NAC is fully complying, or has fully complied with this Undertaking.
- 11.5 NAC acknowledges that if it withdraws the Undertaking before it has been fulfilled, proceedings may be brought against it for the alleged contraventions the subject of this Undertaking.

- 11.6 NAC acknowledges that failure to comply with any of the terms of this Undertaking may result in the Department seeking other actions against NAC in accordance with the Act.
- 11.7 NAC acknowledges that this Undertaking takes effect when the Department gives NAC notice of the decision to accept the Undertaking.
- 11.8 NAC acknowledges that this Undertaking may only be withdrawn, varied, amended or suspended in accordance with the process in the Act.
- 11.9 NAC acknowledges that any public communication regarding any of the actions contained in this Undertaking must clearly link the actions to the Undertaking.

12. **CONTACT DETAILS**

- 12.1 Any written notification to the Department pursuant to this undertaking is to be provided to:

Name: Pollution Hotline
Email: pollutionhotline@des.qld.gov.au
Address: GPO Box 2454, Brisbane, Queensland, Australia, 4001
Telephone: 1300 130 372

- 12.2 Any written notification to NAC pursuant to this undertaking it to be provided to:

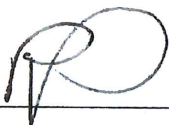
Name: Company Secretary - New Hope Group
Email: cosec@newhopegroup.com.au
Address: Level 16, 175 Eagle Street Brisbane QLD 4000
Telephone: (07) 3418 0500

13. **EXECUTION**

This undertaking is executed by:

Executed on behalf of New Acland Coal Pty Ltd:

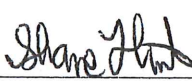
- by a New Acland Coal Pty Ltd delegate, who certifies his/her authority to sign;
- in the presence of a witness



Delegate, Robert Bishop, Director, New
Acland Coal Pty Ltd

15/06/2022

Date

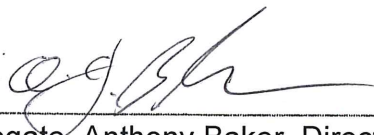


Witness

SHANE FLINT

Full name [print]

Accepted by the Administering
Authority pursuant to section 507 of
the *Environmental Protection Act*
1994



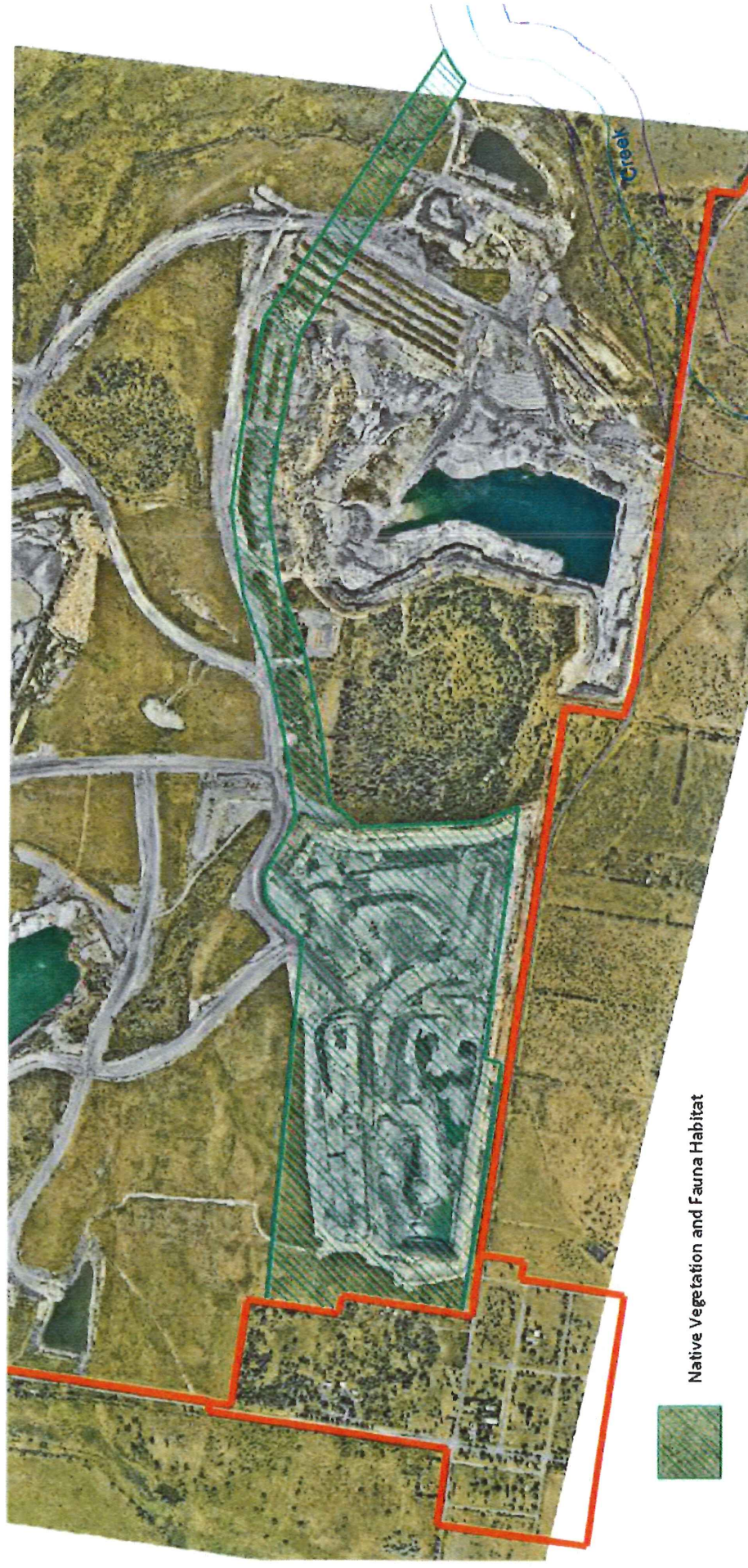
Delegate, Anthony Baker, Director (Compliance)
Department of Environment and Science

Date:

23/06/2022

Annexure A - Area for PMLU of Native Vegetation and Fauna Habitat

Figure A



Annexure B

Table A Rehabilitation Criteria

Post Mine Land Use	Rehabilitation Goal	Rehabilitation Objectives	Indicators	Completion Criteria
Native vegetation and fauna habitat	Safe	Site safe for humans and animals	Stable surface	Monitoring / observation demonstrates safe site
	Non-polluting	Minimise erosion	Runoff control measures (contour banks etc) effective in managing erosion	No structural erosion present
	Stable	Rehabilitation is geotechnically stable in the long term	Groundcover to be established and persistent	Slope <20% >50% established and persistent groundcover
	Self-sustaining	Able to sustain an agreed final land use	Vegetation to comprise a mixture of known koala food tree species	Tree species diversity ≥3 from the following species • Poplar Gum (E. populnea) • Mountain coolibah (E. orgadophila) • Blue Gum (E. tereticornis) • Grey Box (E. microcarpa) • Fuzzy Box (E. conica) • Gum Top Box (E. moluccana) • Narrow - leaved Grey Box (E. pilligaensis)

Post Mine Land Use	Rehabilitation Goal	Rehabilitation Objectives	Indicators	Completion Criteria
				Chinchilla white gum (E. argophloia) Canopy cover of greater than 10% Declared weed <5%

Annexure C - Preservation Covenant Area of Bottle Tree Hill

Figure B

