

Compliance audit program

EL6243 Narrabri Coal Exploration Project

Narrabri Coal Pty Ltd

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1. Introduction

1.1. Background

Exploration licence 6243 (1992) was granted to Narrabri Coal Pty Ltd in May 2004. The exploration area was about 24 kilometres north-west of Boggabri in northern NSW. EL6243 is held jointly by:

- Narrabri Coal Pty Ltd (main holder)
- J-Power Australia Pty Ltd
- Kores Narrabri Pty Ltd
- Narrabri Coal Australia Pty Ltd
- Posco International Australia Holdings Pty Ltd
- Upper Horn Investments (Australia) Pty Ltd.

An application for renewal of EL6243 was lodged in May 2019 but the renewal was not determined by the department until 29 September 2023. In accordance with the provisions of section 117 of the *Mining Act 1992*, EL6243 continued to have effect even though the expiry date in 2019 had passed. As a result, until 29 September 2023 when the new title conditions took effect, Narrabri Coal continued to operate in accordance with the previous set of licence conditions.

As part of the compliance audit program, an audit of the exploration activities associated with the exploration projects within EL6243 was undertaken on 30 May 2024 by the Resources Regulator within the Department of Primary Industries and Regional Development.

1.2. Audit objectives

The objectives of the audit were to:

- undertake a compliance audit of the Narrabri Coal exploration activities against the requirements of the *Mining Act 1992* and the conditions of the exploration licences and activity approvals issued pursuant to that Act.
- assess the operational performance of the exploration activities and the ability of the licence holder and/or its operator to implement management systems and controls to provide for sustainable management of the operations.

1.3. Audit scope

The scope of the audit included:

- the exploration activities associated with the Narrabri coal exploration project including:
 - exploration activities within EL6243 including a selected sample of exploration drillholes
 - borehole sealing and rehabilitation activities for selected drilling activities undertaken since May 2022

- a review of documents and records pertaining to the exploration operations for the period commencing 1 June 2022 and ending 30 May 2024.

1.4. Audit criteria

The audit criteria against which compliance was assessed included:

- *Mining Act 1992*, specifically, Sections 5, 30, 140, 163C to 163E, 163G, 378D
- Mining Regulation 2016, specifically clauses 59 to 68
- Conditions attached to EL6243 (granted 21 May 2004 and renewed 29 September 2023)
- Assessable prospecting operations application dated 13 December 2023 for surface to seam boreholes at 7 drill sites using air hammer drilling and diamond coring. Temporary drill pads to be established at each drill site. Approval dated 2 February 2024 (APO0001638)
- Exploration code of practice: Environmental management (Version 4, June 2021 and Version 5, March 2022)
- Exploration code of practice: Rehabilitation (Version 4, June 2021 and Version 5, March 2022)
- Exploration code of practice: Community consultation (Version 2.0, October 2022 and Version 2.1, May 2023)
- Exploration code of practice: Produced water management, *Storage and Transfer* (Version 3, September 2017, Version 4, June 2021 and Version 5, March 2022)
- Exploration reporting: A guide for reporting on exploration and prospecting in New South Wales (Version 3, October 2021 and Version 4, January 2022)
- Exploration Guideline: Annual activity reporting for prospecting titles (Version 3.0, December 2020 and Version 4, October 2022) published by Department of Regional NSW

1.5. Publishing and disclosure of information

This audit report was published on the Regulator's website consistent with:

- Section 365 of the *Mining Act 1992*
- Resources Regulator's [Public comment policy](#)
- *Government Information (Public Access) Act 2009*.

2. Audit methods

The audit process involved the interview of site personnel, a review of documentation and samples of records provided by the licence holder and/or operator to determine the level of compliance of the operations and assess the status of the operational performance. The audit process and methodology are described in more detail in the sections below.

2.1. Opening meeting

An opening meeting was held onsite on 30 May 2024. The audit team was introduced, and the scope of their responsibilities was conveyed to the auditees. The objectives and scope of the audit were outlined. The methods to be used by the team to conduct the audit were explained, including the interview of personnel, review of documentation, examination of records and a site inspection to assess specific compliance requirements.

2.2. Site interviews and inspections

2.2.1. Data collection and verification

Where possible, documents and data provided during the audit process were reviewed electronically on the day. Several documents were unable to be reviewed on the day and were provided following the remote audit.

All information obtained during the audit process was verified by the audit team where possible. For example, statements made by site personnel were verified by viewing documentation and records, including site photographs, where possible. Where suitable verification could not be provided, this has been identified in the audit findings as not determined.

2.2.2. Site inspections

A site inspection was undertaken of the following exploration operations in EL6243:

- NC672C drilled in 2017, rehabilitated in 2020, not yet signed off
- NC805L drilled 2019, rehabilitated in 2020, not yet signed off
- NC821C and NC828L drilled from the same drill pad, including access track to holes, rehabilitated in 2020, not yet signed off
- NC671 rehabilitated in 2020, not yet signed off
- NC675C and NC803L drilled from the same drill pad, rehabilitated in 2020, not yet signed off.

2.3. Closing meeting

A closing meeting was held on site on 30 May 2024. The objectives of this meeting were to discuss any outstanding matters, present preliminary findings and outline the process for finalising the audit report.

2.4. Compliance assessment definitions

The reporting of results from the compliance audit was determined based on the definitions presented below in Table 1.

Table 1 Compliance assessment definitions

Assessment	Criteria
Compliance	Sufficient and appropriate evidence is available to demonstrate the particular requirement has been complied with.
Non-compliance	<p>Clear evidence has been collected to demonstrate the particular requirement has not been complied with. There are three subcategories of non-compliance reflecting the severity and level of risk associated with the non-compliance:</p> <p>NC1 – the absence of planning or implementation of a required operational element which has the potential to result in a significant risk.</p> <p>NC2 – an isolated lapse or absence of control in the implementation of an operational element which is unlikely to result in a significant risk.</p> <p>NC3 – an administrative or reporting non-compliance which does not have a direct environmental or safety significance.</p> <p>Note: The identification of a non-compliance in this audit may or may not constitute a breach of, or offence under, the <i>Mining Act 1992</i>. Non-compliances identified in this audit report may be further investigated by the Regulator and regulatory actions may be undertaken.</p>
Observation of concern	<p>Where an auditee may be compliant at the time of the audit but there are issues that exist that could result in the potential for future non-compliance if not addressed.</p> <p>Observation of concern was also used where an issue may not have particular compliance requirements, but which was not conducive to good management or best practice.</p>
Suggestion for improvement	Where changes in processes or activities inspected or evaluated at the time of the audit could deliver improvement in relation to risk minimisation, sustainable outcomes and management practices.
Not determined	<p>The necessary evidence has not been collected to enable an assessment of compliance to be made within the scope of the audit.</p> <p>Reasons why the audit team could not collect the required information include:</p> <p>insufficient information on the file relating to the period covered by the audit or insufficient evidence collected to reach a conclusion</p> <p>the wording on the criteria (approval condition) meant that no evidence could be gathered, or it was too difficult to gather the evidence.</p> <p>A ‘not determined’ assessment was also made where the condition was outside the scope of the audit.</p>
Not applicable	The circumstances of the authorisation or licence holder have changed and are no longer relevant (e.g. no longer mining, mining equipment and plant has been removed).

Assessment	Criteria
	An invoking element in the criteria was not activated within the scope of the audit.

2.5. Reporting

Following completion of the audit, the audit checklists were completed, and audit notes were reviewed to compile a list of outstanding matters to be noted in the audit report. This report was prepared to provide an overview of the operational performance of the site in relation to the exploration activities and identify any non-compliances or observations of concern noted by the auditors during the documentation review and interviews.

The draft audit findings were forwarded to Narrabri Coal for comment. Consideration was given to the representations made during the finalisation of the audit report as discussed in the audit findings.

3. Audit findings

3.1. Work program

Condition 54 of the 2015 renewal and Condition 1 of the 2023 renewal of EL6243 required the licence holder to carry out the operations described in the approved work programs. Before September 2023, the work program was described in the renewal justification statement submitted with the application for renewal in 2014. Work program WP-EL6243-2023-2029 was approved as part of the 2023 renewal.

The renewal of EL6243 in 2019 was delayed due to an investigation into non-compliances, which resulted in suspension of operations on EL6243 and prosecution of Narrabri Coal for the breaches. Very limited exploration operations have occurred on EL6243 since 2020.

A review of the 2022 and 2023 annual geological reports identified exploration activities focussed on desktop review of existing data, geological interpretation and modelling, and technical reviews of the Narrabri underground mine stage 3 extension project which encompasses part of EL6243.

Renewal of EL6243 was granted in September 2023. Narrabri Coal was in the first year of the renewal period and had completed work to identify and plan a drilling program.

Exploration data was noted to be maintained by the Narrabri Coal geologists and submitted to NSW Resources with the annual activity reports as required.

3.2. Access arrangements

Section 140 of the *Mining Act 1992* stated, 'the holder of a prospecting title must not carry out prospecting operations on any particular area of land except in accordance with an access arrangement or arrangements applying to that area of land'. The access arrangement was required to be agreed in writing between the holder of the prospecting title and each landholder of that area of land.

Evidence was provided to confirm that a written land access and compensation agreement was in place for the exploration activities undertaken on EL6243 within the state forest. All other land within EL6243 was owned by Whitehaven Coal (the parent company of Narrabri Coal) but land access agreements were in place with the leaseholders of the Whitehaven owned land. It was noted Narrabri Coal mapped where land access agreements were in place or were in negotiation as part of its geographic information system (GIS).

3.3. Native title and exempted areas

Condition 2 of EL6243 required the licence holder to obtain the prior written consent of the Minister before carrying out any activities on land on which native title had not been extinguished. Similarly, Section 30 of the *Mining Act 1992* required the consent of the Minister before a licence holder undertook any activities within a State Conservation Area.

Narrabri Coal completed the right to negotiate process in 2010 and obtained Ministers consent to prospecting operations being conducted on any land or waters on which native title exists. No further approvals were required under condition 2.

It was noted Narrabri Coal previously sought ministerial consent for exploration operations in the state forest as an exempted area under section 30 of the *Mining Act 1992*. Due to a change to section 30 in 2022, such approvals were no longer required.

3.4. Community consultation

Conditions 5 and 6 of the 2015 renewal and Condition 3 of the 2023 renewal of EL6243 required the licence holder to carry out community consultation in relation to the planning and conduct of exploration activities. Community consultation was required to be carried out in accordance with the requirements of Exploration code of practice: Community consultation.

An assessment against the mandatory requirements of the code of practice was undertaken as documented in the following sections.

3.4.1. Risk assessment

Mandatory requirement 1 of the code of practice required the licence holder to conduct a risk assessment to identify and consider the range of opportunities and potential threats associated with community consultation and engagement.

Narrabri Coal prepared a community consultation risk assessment for its exploration operations. The risks identified focussed on the impacts of the exploration on the community rather than the risks associated with consultation and engagement. As suggestion for improvement number 1, Narrabri Coal should consider reviewing the community consultation risks with reference to the objectives for consultation (i.e. the risk assessment should focus on what risks need to be managed in order for effective and inclusive consultation to take place to achieve the objectives for consultation).

3.4.2. Community consultation strategy

Mandatory requirement 2 required the preparation of a community consultation strategy to manage the risks identified in the risk assessment. Mandatory requirement 3 set out the requirements for preparation of the community consultation strategy.

Narrabri Coal prepared a community consultation strategy for the exploration activities on EL6243. A review of the strategy confirmed it generally addressed the mandatory requirements of the code of practice. For example:

- objectives for the strategy were documented in section 2
- a description and analysis of stakeholders was documented in section 5
- consultation activities were described in section 7
- processes for feedback and response were described in section 8.

It was noted there was no process to regularly review and revise the strategy documented in the consultation strategy. Narrabri Coal had informal processes in place to review the strategy when preparing annual community consultation reports. As suggestion for improvement number 2, Narrabri Coal should consider formalising the process for reviewing and revising the strategy and document this as part of the community consultation strategy.

3.4.3. Implementation and reporting

Mandatory requirement 4 required the licence holder to implement, monitor and report annually on the community consultation strategy.

Records were available to confirm implementation of the consultation strategy. For example, the quarterly meetings of the Narrabri Mine community consultative committee included exploration operations, bi-annual meetings were held with the local Aboriginal groups, and Whitehaven Coal maintained a community team in Gunnedah to assist with consultation and engagement. Records of consultation activities were observed to be maintained in an electronic consultation and engagement database.

Up until the change to the code of practice in October 2022, annual community consultation reports were prepared and submitted by Narrabri Coal, generally in accordance with the reporting guidance in Appendix 2 of the code of practice. Since October 2022, annual community consultation reports were prepared and were available on the Narrabri Coal website (e.g. the 2023 annual community consultation report).

3.5. Exploration activity approvals

Section 23A of the *Mining Act 1992* required the holder of an exploration licence to obtain an activity approval prior to carrying out assessable prospecting operations.

Evidence was available to confirm that exploration activity approvals were sought and granted for exploration activities. Exploration activity approvals granted during the audit scope period included:

- Assessable prospecting operations application dated 13 December 2023 for surface to seam boreholes at 7 drill sites using air hammer drilling and diamond coring. Temporary drill pads to be established at each drill site. Approval dated 2 February 2024 (APO0001638).

This drilling was initially planned to be completed in May and June 2024. Narrabri Coal lodged a modification to the application in May 2024 to delay the drilling program until January 2026.

Narrabri Coal obtained activity approvals for previous drilling projects. In 2019, non-compliances against an activity approval were identified by the Regulator and a notice to suspend operations on EL6243 was issued in August 2019. The suspension was lifted in August 2020. No on ground exploration operations were conducted after the suspension was lifted.

3.6. Environmental management

Condition 9 of the 2015 renewal and condition 4 of the 2023 renewal of EL6243 required the licence holder to prevent or minimise so far as is reasonably practicable, any harm to the environment arising from the activities carried out under the licence. The Exploration code of practice: Environmental management did not apply to the previous drilling in 2018-2019 and no further drilling had taken place. An assessment against the requirements of the code was not undertaken as part of the audit.

The 2015 renewal of EL6243 included conditions 10 to 25 and conditions 28 to 29 relating to environmental management of exploration operations. Given no exploration operations were

conducted during the audit scope period, an assessment against these conditions was not completed.

3.7. Security deposit

Condition 46 of the 2015 renewal and condition 5 of the 2023 renewal of EL6243 required the licence holder to provide a security deposit to secure funding for the fulfilment of obligations under the licence.

The security deposit required for EL6243 was \$1,454,000 which department records confirm was held. Observations made on site during the site inspection confirmed that the security held was adequate for the drilling programs completed.

3.8. Rehabilitation

Condition 37 of the 2015 renewal of EL6243 required all disturbance resulting from prospecting operations to be rehabilitated to the satisfaction of the Minister. Condition 6 of the 2023 renewal of EL6243 required the licence holder to carry out rehabilitation of all disturbance caused by activities carried out under the licence in accordance with the requirements of the Exploration code of practice: Rehabilitation.

The application of the Exploration code of practice: Rehabilitation did not apply to EL6243 until the 2023 renewal. No exploration activities requiring rehabilitation were undertaken since the condition was imposed. An assessment against the mandatory requirements of the code of practice was not undertaken for the exploration activities.

The drilling completed in 2018 and 2019 was rehabilitated in 2020. Narrabri Coal had not sought confirmation from the Regulator that rehabilitation was satisfactory. Narrabri Coal developed a rehabilitation tracker as part of its GIS data hub. Rehabilitation monitoring was undertaken to monitor progress against rehabilitation completion criteria. Photos were maintained of each hole to demonstrate progress of rehabilitation over time.

An inspection of a random sample of holes drilled in 2019 and rehabilitated in 2020 was undertaken during the audit. Rehabilitation was observed to be progressing well at each site inspected. Figure 1, Figure 2, Figure 3, Figure 4 and Figure 5 show the progress of rehabilitation at holes inspected.

Figure 1 Rehabilitation of drill hole NC805L, that was drilled in 2019



Figure 2 Rehabilitation of drill holes NC821C and NC828L, drilled in 2019



Figure 3 Rehabilitation of drill hole NC671C, that was drilled in 2019



Figure 4 Rehabilitation of access track to drill holes NC821C and NC828L



Figure 5 Rehabilitation of drill holes NC675C and NC803L, drilled in 2019



3.9. Reporting

Section 163C of the *Mining Act 1992*, clause 59 of the Mining Regulation 2016 and condition 8 of EL6243 required the licence holder to submit an activity report annually within one calendar month following grant anniversary date. Annual activity reports were required to be prepared in accordance with the Exploration guideline: Annual activity reporting for prospecting titles. This guideline only applied to the 2024 annual report. Clause 60 of the Mining Regulation 2016 required the submission of a partial relinquishment report

During the audit scope period, Narrabri Coal submitted reports comprising:

- annual geological report
- community consultation report (up to October 2022).

For the 2022 and 2023 reporting years, EL6243 was not subject to condition 8 and annual activity reports were not required. Annual geological reports were required for both years and were submitted.

Part of EL6243 was relinquished upon grant of mining lease ML1839. Narrabri Coal prepared and submitted a partial relinquishment report in April 2023 for the area relinquished.

Generally, reports were found to be in accordance with the NSW Resources and/or Resources Regulator templates and guidance material.

3.10. Core and sample storage

Clause 65 of the Mining Regulation 2016 required the holder of an authority to, so far as is reasonably practicable, collect, retain and preserve:

- all drill cores remaining after sampling
- characteristic samples of the rock or strata encountered in any drill holes.

All core and samples collected were required to be labelled, stored and managed in a manner that preserved the integrity of the core or samples.

Given that no exploration drilling was conducted during the audit scope period, an inspection of core and sample storage was not conducted.

3.11. Record keeping

Sections 163D and 163E of the Mining Act 1992 related to the creation and maintenance of records required under the Act, the regulations, or a condition of title. Records must be kept in a legible form for production to any inspector and must be maintained for a period of 4 years after the expiry or cancellation of the title. Specific requirements for the types of records to be maintained for exploration activities were detailed in the mandatory requirements of the exploration codes of practice as follows:

- mandatory requirement 6 of the rehabilitation code of practice
- mandatory requirement 13.1 of the environmental management code of practice

- mandatory requirement 5 of the community consultation code of practice.

Records reviewed during the audit demonstrated that Narrabri Coal had generally maintained records as required by the licence conditions and the exploration codes of practice. It was noted that relevant documents and records were readily retrievable upon request.

Examples of records reviewed included:

- land access agreements
- GIS system, including rehabilitation tracker
- permit to work system
- drilling records, including cementing and sealing records
- monitoring data
- field maps
- rehabilitation records, including photographs
- inspection records
- CCC meeting minutes
- community consultation records in the Borealis database.

4. Compliance management

4.1. Identifying compliance obligations

Identifying compliance obligations is a critical step in the development of an effective compliance management system. Compliance obligations for an exploration project can include:

- regulatory requirements (for example, the *Mining Act 1992*)
- conditions imposed on the grant, renewal, or transfer of exploration licences
- exploration activity approvals
- exploration codes of practice
- specific commitments made by the organisation (for example, commitments made in the approved exploration activity application).

Once identified, compliance obligations should be reviewed periodically to identify any changes in those obligations (for example, changes in legislation).

Narrabri Coal had a history of significant non-compliances on EL6243 that resulted in suspension and prosecution in 2019-2020. Since then, Narrabri Coal significantly improved its compliance management systems. There were comprehensive and robust systems in place for managing activity approvals and rehabilitation obligations which were the subject of previous non-compliances.

4.2. Contractor management

Contractors are often used to undertake specialist tasks, for example, exploration drilling. Whilst the responsibility for compliance or the implementation of environmental controls is often passed to the contractor, the licence holder will retain accountability for compliance with its licence conditions and other compliance obligations. It is important that the licence holder exercises management control of its contractors by specifying contract requirements, providing oversight of contracted works, and evaluating the performance of the contractor during the contracted works.

Narrabri Coal used contractors for some works associated with the exploration operations on EL6243. Given no exploration operations were conducted during the audit scope period, an assessment of contractor management activities was not completed.

4.3. Inspections, monitoring and evaluation

An effective inspection, monitoring and evaluation process is required to:

- monitor the implementation of the risk controls
- evaluate the effectiveness of those controls based on an assessment of inspection and monitoring data
- implement an adaptive management approach if monitoring shows that controls may be ineffective.

It was noted Narrabri Coal had developed systems and processes for inspections and monitoring of exploration operations. The implementation of the GIS data hub and rehabilitation tracker provided a comprehensive and robust system for managing inspections and monitoring data.

5. Audit conclusions

From the evidence reviewed during the audit, it was concluded Narrabri Coal had significantly improved its compliance management systems and processes. Evidence was available to demonstrate that comprehensive and robust systems and processes were developed to identify and manage compliance requirements. It was observed that records were being maintained as required to demonstrate compliance.

Narrabri Coal were compliant with the requirements of the exploration licence for the elements reviewed during the audit. No non-compliances were identified during the audit.

Two suggestions for improvement were identified as summarised in Table 2.

Table 2 Summary of suggestions for improvement

Suggestion for Improvement No.	Description of Issue
1	Narrabri Coal should consider reviewing the community consultation risks with reference to the objectives for consultation (i.e. the risk assessment should focus on what risks need to be managed for effective and inclusive consultation to take place to achieve the objectives for consultation).
2	Narrabri Coal should consider formalising the process for reviewing and revising the community consultation strategy and document this as part of the strategy.