



**THE MOUNT LYELL MINING AND RAILWAY
COMPANY LIMITED (CONTINUATION OF
OPERATIONS) ACT 1987**

No. 20 of 1987

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AN ACT to authorize the Treasurer to issue out of the Consolidated Fund amounts to be paid to Renison Limited for the purpose of ensuring the deferral of closure of the Mount Lyell mine.

[Royal Assent 29 April 1987]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as *The Mount Lyell Mining and Railway Company Limited (Continuation of Operations) Act 1987*. Short title.

Commencement. 2—This Act shall commence on the day on which it receives the Royal assent.

Interpretation. 3—In this Act, unless the contrary intention appears—

“the Agreement” has the same meaning as in *The Mount Lyell Mining and Railway Company Limited (Continuation of Operations) Act 1985*;

“the Bi-partite Deed” means the deed, a copy of which is set out in Schedule 1, entered into by the Honourable Robin Trevor Gray being and as the Treasurer for the State of Tasmania for and on behalf of the State of Tasmania with Mount Lyell;

“Mount Lyell” means The Mount Lyell Mining and Railway Company Limited;

“Renison” means Renison Limited;

“the Tri-partite Deed” means the deed, a copy of which is set out in Schedule 2, entered into by the Honourable Robin Trevor Gray being and as the Treasurer for the State of Tasmania for and on behalf of the State of Tasmania with Renison and Mount Lyell.

Authorization for payments to Renison Limited.

4—(1) For the purposes of the Agreement as amended by the Bi-partite Deed and of the Tri-partite Deed, the Treasurer is, by this Act, authorized to pay to Renison—

(a) not later than 30th June 1987, amounts totalling \$8 000 000 in accordance with clause 6 of the Tri-partite Deed;

(b) within the period specified in clause 5 (1) of the Tri-partite Deed, such amounts as from time to time become due to be advanced to Renison under that clause in respect of—

(i) royalty under section 30 of the *Mining Act 1929* in respect of mining products won under Consolidated Mining Lease No. 30M/80; and

(ii) pay-roll tax payable by Mount Lyell under section 7 of the *Pay-roll Tax Act 1971*; and

(c) within the period specified in clause 8 (3) of the Tri-partite Deed, such amounts as from time to time become due to be re-advanced to Renison under that clause.

(2) The amounts payable under subsection (1) shall each be a charge on the Consolidated Fund and be paid out of that fund without further appropriation than this section.

SCHEDULE 1

Section 3

BI-PARTITE DEED

THIS DEED made the 30th day of March One thousand nine hundred and eighty-seven

BETWEEN THE HONOURABLE ROBIN TREVOR GRAY being and as the Treasurer for the time being for the State of Tasmania (hereinafter called "the Treasurer") which expression shall include his successors in office of the one part

AND THE MOUNT LYELL MINING AND RAILWAY COMPANY LIMITED a Company incorporated in the State of Victoria and having its registered office at Number 150 Queen Street, Melbourne (hereinafter called "the Company") of the other part

WHEREAS the Company is the holder of Consolidated Mining Lease Number 30M/80 ("the lease") the term whereof expires on 30th June 1991 or the date of completion of the rehabilitation programme (being the programme stipulated in Schedule 1 to an agreement made 16th April 1985 between the parties hereto which agreement comprises Schedule 1 to The Mount Lyell Mining and Railway Company Limited (Continuation of Operations) Act 1985), whichever is the earlier.

AND WHEREAS the Company and the Treasurer have agreed that the term of the lease shall be extended as hereinafter provided.

NOW IT IS HEREBY AGREED AS FOLLOWS:—

1. The lease will continue until 30th June 1996 or the date of completion of the rehabilitation programme, whichever is the earlier.
2. With the exception of the variation effected by clause 1 hereof, the agreement referred to in the first recital hereto is confirmed.
3. (i) This Deed and all ancillary matters relating thereto shall be governed by and construed in accordance with the law for the time being of the State of Tasmania.
- (ii) Any dispute or difference arising out of this Deed shall be referred to Arbitration pursuant to the provisions of the Commercial Arbitration Act 1986 of the State of Tasmania or any statutory modification or re-enactment thereof for the time being in force.

IN WITNESS WHEREOF these presents have been duly executed the day and year first hereinbefore written.

SIGNED SEALED AND DELIVERED
by THE HONOURABLE ROBIN TRE-
VOR GRAY being and as the Treasurer
for the time being of the State of Tasmania
in the presence of:

M. J. VERTIGAN

Secretary

THE COMMON SEAL of THE MOUNT
LYELL MINING AND RAILWAY
COMPANY LIMITED was hereunto
affixed by authority of the Directors in
the presence of:—

J. M. McCRORY

Secretary

ROBIN GRAY

Treasurer

C. N. DAVISON

Director

B. E. WAUCHOPE

Director



SCHEDULE 2

Section 3

TRI-PARTITE DEED

THIS DEED made the 30th day of March One thousand nine hundred and eighty-seven

BETWEEN THE HONOURABLE ROBIN TREVOR GRAY being and as the Treasurer for the time being for the State of Tasmania (hereinafter called "the Treasurer") which expression shall include his successors in office of the first part

AND RENISON LIMITED a Company incorporated in the State of Victoria and having its registered office at Number 150 Queen Street, Melbourne (hereinafter called "Renison") of the second part

AND THE MOUNT LYELL MINING AND RAILWAY COMPANY LIMITED a Company incorporated in the State of Victoria and having its registered office at Number 150 Queen Street, Melbourne (hereinafter called "Mount Lyell") of the third part

WHEREAS:—

- A. Renison is sub-lessee from Mount Lyell of Consolidated Mining Lease Number 30M/80 and it is the intention of both Renison and Mount Lyell, as evidenced by their execution of these presents, that Renison will continue as sub-lessee until 30th June 1996 or completion of mining of the 50 and 60 Series stopes, whichever is the earlier.
- B. Mount Lyell conducts the mining operations on Consolidated Mining Lease Number 30M/80 as agent for Renison and it is the intention of both Mount Lyell and Renison, as evidenced by their execution of these presents, that Mount Lyell will continue so to do until 30th June 1996 or completion of mining of the 50 and 60 Series stopes, whichever is the earlier.
- C. The parties hereto have agreed on the provision by the Treasurer of certain advances and on certain other matters in relation to the continued operation of the mine, as hereinafter appears.
- D. The parties hereto are the parties to a deed made between them on 16th April 1985 ("the 1985 Deed") and have also agreed certain variations and additions to the terms of that deed as hereinafter appears.

NOW IT IS HEREBY AGREED AS FOLLOWS:—

DEFINITIONS

1. (1) In this Deed:—

"Advance Payment" means the amount of \$3,400,970 referred to in clause 3 hereof or so much thereof as has not, at any time, been allocated against royalties payable under the 1985 Deed.

“copper price equivalent” means the sum obtained by dividing Renison’s sales revenue (being the prices received by Renison after realisation charges) for copper, gold and silver produced from the mine by the number of sales tonnes of copper produced calculated at the conclusion of any continuous period of six consecutive months commencing on or after 1st July 1987.

“employment levels” means the number of full-time workers employed at the mine.

“Financial Year” means a period of 12 calendar months commencing on 1st July 1987 or any anniversary thereof.

“long-term bond rate” means the average of the weighted average yields for Commonwealth Treasury Bonds maturing as close as possible to 10 years from the last business day of each calendar month of the period for which interest is to be determined as published for the Wholesale Market in the Australian Financial Review (and being a summary of bond dealer trades reported to the Reserve Bank of Australia).

“1989 NPV” means the sum of \$10 million.

“1994 NPV” means the amount determined from time to time in accordance with Schedule 1.

“operating expenditure” in respect of any Financial Year means the total of all costs necessarily incurred during that period in respect of production at the mine including but not limited to:

- (i) interest on overdraft accommodation or on other borrowings (with the exception of advances and amounts deferred hereunder) to the extent that amounts are overdrawn or borrowed for expenditure that is necessary for or attributable to production at the mine;
- (ii) the value of items of stock consumed from store, being in respect of each item the cost based on the cost system in use at the mine as shown in the stock records;
- (iii) the cost actually incurred in respect of:—
 - (a) major overhauls;
 - (b) power;
 - (c) freight and other transport costs associated with the shipment of concentrates;
- (iv) audit services;
- (v) insurance, including workers’ compensation insurance;
- (vi) rents on leases;
- (vii) telecommunications;
- (viii) rates and taxes;
- (ix) income tax chargeable on the taxable income from the operations of the mine (other than income tax arising on the sale of capital assets, including stores, the proceeds of sale of which are not included in operating revenue);
- (x) capital expenditure as incurred estimated at \$17,860,000 (or such higher amount as Renison and the Treasurer may agree) in the period from 16th March 1987 to the completion of mining of the 50 and 60 Series stopes;
- (xi) payments to employees on termination of employment;
- (xii) charges for management services;
- (xiii) royalties payable under the 1985 Deed after the date of the payment referred to in clause 3;
- (xiv) payments made pursuant to clause 8 (2);

- (xv) royalties payable under section 30 of the Mining Act 1929 in respect of mining products won under the lease and pay-roll tax under section 7 of the *Pay-roll Tax Act* 1971;
- (xvi) such other costs as the Treasurer may from time to time in writing approve.

“operating revenue” in respect of any Financial Year means the total of all moneys received or entitled to be received in respect of mining the lease in such period being:—

- (i) amounts arising from the sale on or after 1st July 1987 of all mining products from the mine;
- (ii) all amounts received by way of subsidy or other production incentive allowances payable in respect of the mine under any Act or agreement with the Commonwealth of Australia or the State of Tasmania;
- (iii) all sums received by way of payments of interest other than interest on moneys which are not derived from the mine;
- (iv) the advances from the Treasurer pursuant to clauses 5 and 6 and any re-advances thereof pursuant to clause 8 (3);
- (v) the proceeds of the sale of plant and equipment of the mine acquired on or after 6th February 1985 (but excluding moneys representing the proceeds of the sale of other capital assets, including stores, of the mine).

“residual cash flow” in respect of a Financial Year means the difference between operating expenditure and operating revenue for that year.

“50 and 60 Series stopes” means the mining reefs and proposed excavations in the lease as shown in Schedule 2.

“the lease” and “lease” means the Consolidated Mining Lease Number 30M/80.

“the mine” and “mine” means the mine operated by Mount Lyell on behalf of Renison under the lease.

- (2) Headings in this Deed are included for convenience only and shall not affect the construction or interpretation thereof.
 - (3) A reference to a clause is to a clause of this Deed and a reference to a sub-clause where no nominate clause precedes it, is a reference to the relevant sub-clause of the clause in which the reference appears.
 - (4) The Schedules to this Deed shall be deemed to be and shall be read and construed as one with this Deed.
2. Renison hereby covenants with the Treasurer:—
- (1) to use its best endeavours to work the lease until the date of completion of mining of the 50 and 60 Series stopes or 30th June 1996 whichever is the earlier save as is provided by clauses 10 and 11;
 - (2) unless the Treasurer otherwise agrees, to maintain employment levels at the mine within 10% of those stipulated in Schedule 3, and
 - (3) to supply to the Treasurer such financial and other information as he may reasonably require from time to time in connection with Renison’s covenants and obligations hereunder.
3. (1) Renison will on the execution hereof but in any event no later than 30th June 1987 make an advance payment to the Treasurer of \$3,400,970 on account of royalties payable pursuant to the 1985 Deed.

- (2) Clause 5 (2) of the 1985 Deed shall cease to have effect on and from the date on which the Advance Payment is made.
4. (1) The Treasurer will, as royalties become due and payable under the 1985 Deed, allocate so much of the Advance Payment as may be necessary to satisfy such royalties.
- (2) The Treasurer will, immediately prior to each allocation of the Advance Payment under sub-clause (1), credit Renison with interest on the Advance Payment at the long-term bond rate for the period from the date of the immediately prior allocation (or from the date on which the Advance Payment was made, if there has been no prior allocation) to the date on which the relevant allocation is to be made.
- (3) Interest credited to Renison under sub-clause (2) shall be offset against interest payable by Renison to the Treasurer pursuant to clause 8.
5. (1) The Treasurer hereby agrees that within seven days of the date on which any payment is made by Renison or Mount Lyell, as the case may be, in respect of a Financial Year commencing on or after 1st July 1987 of:—
- (i) royalty under section 30 of the Mining Act 1929 in respect of mining products won under the lease, or
 - (ii) pay-roll tax under section 7 of the Pay-roll Tax Act 1971
- the Treasurer will advance to Renison an amount equal to the sum of the amounts so paid by it, repayable as provided in clause 8.
- (2) Renison or Mount Lyell will pay the Treasurer any balance of the amounts advanced under sub-clause (1) on the earlier of 30th June 1994 and the date of cessation of mining operations on the lease.
6. The Treasurer will on the execution hereof but in any event no later than 30th June 1987 advance to Renison:—
- (1) the sum of \$5 million and
 - (2) the further sum of \$3 million,
- each of which shall be repayable as provided in clause 8.
7. (1) The advances to be made under clause 6 and any re-advance thereof under clause 8 will bear interest at the long-term bond rate.
- (2) In the case of the advance referred to in clause 6(1) and any re-advance thereof under clause 8 interest shall run from 1st July 1989 and shall be calculated annually at each subsequent 30th June on the outstanding balance at the preceding 1st July Provided that in the event a payment has been made by Renison pursuant to clause 8 during the relevant Financial Year in reduction of the amount advanced under clause 6(1) or any re-advance thereof, interest shall abate on the amount so paid on and from the date of payment.

- (3) In the case of the advance referred to in clause 6 (2) and any subsequent re-advance thereof under clause 8 interest shall run from the date on which such advance or re-advance, as the case may be, is made. The first calculation of interest shall be made as at 30th June 1988 on the full amount advanced with subsequent calculations being made at each subsequent 30th June on the outstanding balance at the preceding 1st July Provided that in the event a payment has been made by Renison pursuant to clause 8 during the relevant Financial Year in reduction of the amount advanced under clause 6 (2) or any re-advance thereof, interest shall abate on the amount so paid on and from the date of payment.
 - (4) There shall be offset against the amount of interest calculated pursuant to this clause the amount of interest credited to Renison pursuant to clause 4 (2) and the balance ("net interest") shall be paid by Renison as provided in clause 8.
8.
 - (1) Renison will as soon as practicable but in any event within 42 days after the end of each financial year commencing on or after 1st July 1987 determine, in accordance with the method described in Schedule 1 hereto, the 1994 NPV and will furnish the Treasurer with a statement of the 1994 NPV and a copy of the statement of operating revenue and operating expenditure (certified by statutory declaration) on the basis of which the determination of the 1994 NPV was made.
 - (2) In the event that the 1994 NPV determined in any year as provided in sub-clause (1) exceeds the 1989 NPV, Renison will, within 7 days after determination thereof, pay to the Treasurer whilst and to the extent that any amounts remain owing hereunder so much of 50% of the residual cash flow for the year ended 30th June immediately preceding the date of determination as may be paid without reducing the 1994 NPV below the 1989 NPV and the Treasurer shall apply moneys so paid to him first in reduction of the amounts advanced under clause 5 (1); second in reduction of the existing loan of \$604,157.00 owed by Mount Lyell to the Treasurer; third in satisfaction jointly of the net occupation fee payable under clause 9 and the net interest calculated as provided in clause 7; fourth in reduction of the advance referred to in clause 6 (2) and fifth in reduction of the advance referred to in clause 6 (1).
 - (3) In the event that Renison has made one or more payments under sub-clause (2) and a subsequent 1994 NPV is less than the 1989 NPV, the Treasurer will within seven days after his receipt of the statements referred to in sub-clause (1) re-advance to Renison so much of the payment or payments previously made by it hereunder as is required to restore that 1994 NPV to equality with the 1989 NPV.
 - (4) Re-advances made by the Treasurer pursuant to sub-clause (3) shall, where the circumstances permit, be made and shall be allocated by the parties so as to restore the liability to the Treasurer of Renison or Mount Lyell, as the case may be, in the reverse order to which payments made by Renison under sub-clause (2) have discharged or reduced such liabilities.

9. Mount Lyell will, for each financial year in the period from 1st July 1990 to the earlier of 30th June 1994 and the date of cessation of mining operations on the lease, pay The Hydro-Electric Commission ("HEC") an occupation fee determined at the end of each such year by applying to the sum of \$5 million the long-term bond rate during that year. The occupation fee for the financial year 1993/94 or the financial year during which mining operations cease, whichever is the earlier, will be reduced by the residual value to the HEC of any amounts expended after 16th March 1987 for other than routine and/or emergency maintenance of the Lake Margaret Power Scheme which expenditure is necessitated by the proposed operation of the Scheme by Mount Lyell beyond 1989. The agreement to be entered into between Mount Lyell and the HEC will provide that such amounts and the basis for determining their residual values are to be agreed between Mount Lyell and the HEC prior to the incurring of the expenditure or, in default of agreement thereon, determined by arbitration.

The amount of any occupation fee so paid shall not be regarded for the purposes of the agreement between Mount Lyell and the HEC as a cost incurred by Mount Lyell in operating the Lake Margaret Power Scheme.

10. Renison shall be discharged from its covenant and obligation to continue operation of the mine:—
- (1) if the fulfilment of that commitment is rendered impossible by the occurrence of any natural calamity, or as a result of war, or action of any government, or inability to obtain labour brought about by circumstances beyond Renison's control and provided that it shall have used all reasonable endeavours to overcome or minimize the effect of any such circumstances or events; or
 - (2) if the copper price equivalent calculated at any time in a financial year is less than the figure set out opposite that financial year in Schedule 4.
11. In the event that Renison determines, for reasons other than those set out in clause 10 to cease operations at the mine prior to 1st July 1993, it will pay the Treasurer in accordance with the following schedule:—

Date of Cessation of Mining Payment

Prior to end December 1987	\$6.0 million	}	Less, in each case, the total of all amounts previously paid under clause 8 (2) in respect of clauses 6, 7 and 9 and not subsequently re-advanced under clause 8 (3)
Between 1.1.88 and 30.6.88	\$5.0 million		
Between 1.7.88 and 30.6.89	\$4.0 million		
Between 1.7.89 and 30.6.90	\$3.0 million		
Between 1.7.90 and 30.6.91	\$2.0 million		
Between 1.7.91 and 30.6.92	\$1.0 million		
Between 1.7.92 and 30.6.93	\$0.5 million		
On or after 1.7.93	Nil		

12. Notwithstanding the provisions of clauses 10 and 11, Renison's covenant and obligation to use its best endeavours to continue operation of the mine shall not be discharged unless and until Renison has entered into and engaged in full consultation with the Treasurer.

13. (1) (i) This Deed and all ancillary matters relating thereto shall be governed by and construed in accordance with the law for the time being of the State of Tasmania.
 (ii) Any dispute or difference arising out of this Deed shall be referred to Arbitration pursuant to the provisions of the Commercial Arbitration Act 1986 of the State of Tasmania or any statutory modification or re-enactment thereof for the time being in force.
 (2) Copies of Renison's statements of operating revenue and operating expenditure and of financial and other information as required to be furnished hereunder shall be transmitted by certified post to

The Under Treasurer,
 State Treasury,
 Executive Building,
 Franklin Square,
 Hobart.

IN WITNESS WHEREOF these presents have been duly executed the day and year first hereinbefore written.

SIGNED SEALED AND DELIVERED
 by THE HONOURABLE ROBIN TRE-
 VOR GRAY being and as the Treasurer
 for the time being of the State of Tasmania
 in the presence of:

M. J. VERTIGAN

Secretary

ROBIN GRAY
 Treasurer

THE COMMON SEAL of RENISON
 LIMITED was hereunto affixed by author-
 ity of the Directors in the presence of:—

J. G. MITCHELL

Secretary

B. E. WAUCHOPE
 Director

THE COMMON SEAL of THE MOUNT
 LYELL MINING AND RAILWAY
 COMPANY LIMITED was hereunto
 affixed by authority of the Directors in
 the presence of:—

J. M. McCRORY

Secretary

C. N. DAVISON
 Director
 B. E. WAUCHOPE
 Director

SCHEDULE 1

The method for the calculation of the "1994 NPV" will comprise 4 stages as follows:

1. calculation of the residual cash flow for each Financial Year up to and including the year ended 30th June immediately prior to the date on which the calculation is being made,
2. deflating each such residual cash flow to 31st December 1987 values,
3. calculating the net present value of each deflated residual cash flow by discounting at 12% per annum, and
4. adding together the net present values so calculated from the year ending 30th June 1988 onwards, the total thereof being the 1994 NPV.

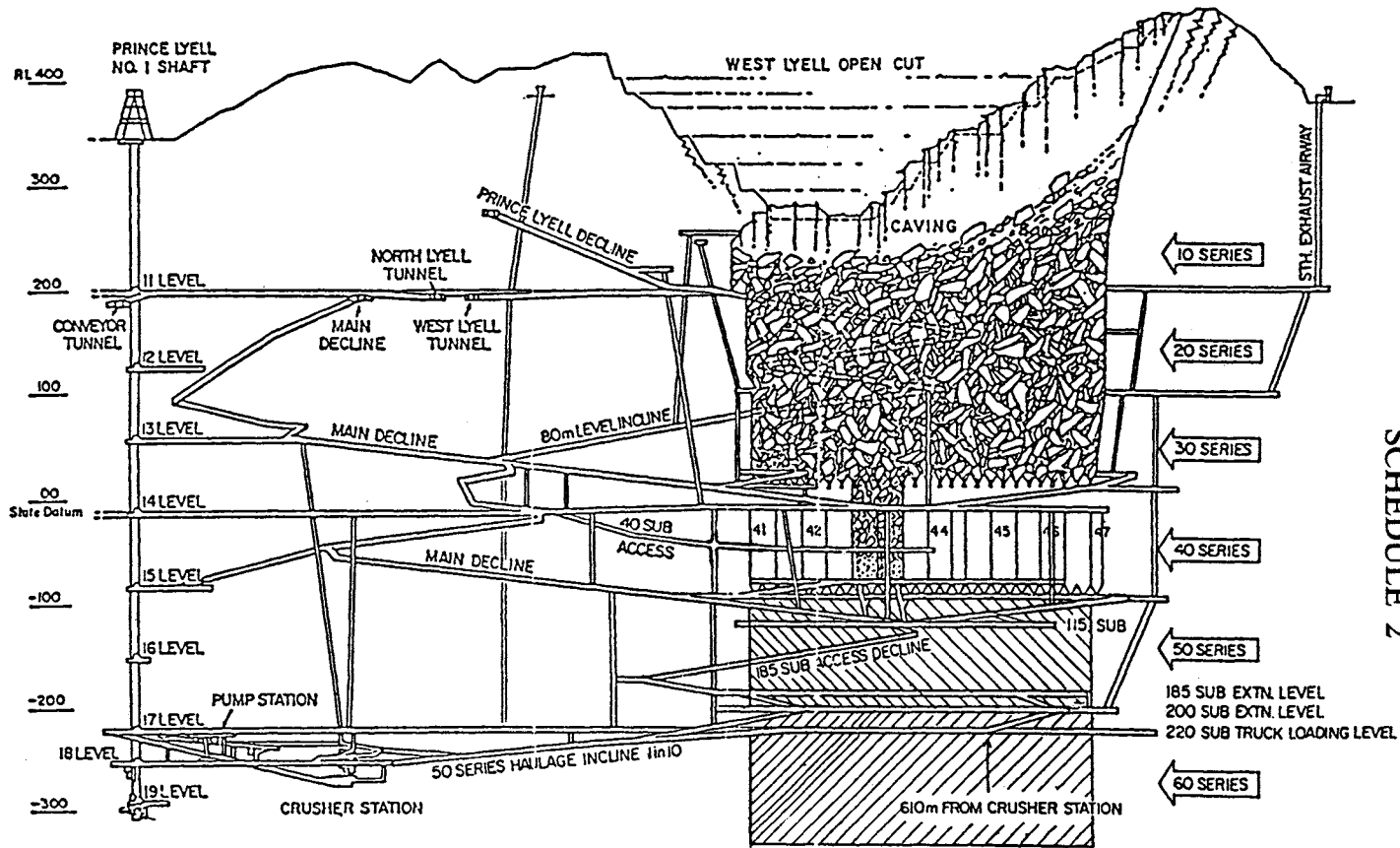
The deflator to be adopted for reducing the residual cash flow to real terms (31st December 1987 values) shall be the Consumer Price Index (CPI) as published by the Australian Bureau of Statistics (Catalogue No. 6401) for Hobart. The base CPI deflator shall be the average of the published index for each of the 4 quarters of the year ending 30th June 1988. All subsequent residual cash flows will be deflated on an annual basis as follows:

$$\text{Deflated annual residual cash flow} = \frac{\text{RCF}}{\text{ACPI}}$$

where RCF = the residual cash flow for the relevant Financial Year and
where ACPI = average CPI for the relevant Financial Year divided by average CPI for year ending 30th June 1988.

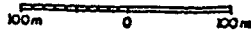
The net present value of each deflated residual cash flow will be calculated by dividing such deflated residual cash flow by a discount factor determined from the following table:—

<i>Financial Year</i>	<i>Discount Factor</i>
1987/88	1.000
1988/89	1.120
1989/90	1.254
1990/91	1.405
1991/92	1.574
1992/93	1.762
1993/94	1.974
1994/95	2.211
1995/96	2.476



SCHEDULE 2

LONGITUDINAL PROJECTION
PRINCE LYELL MINE



SCHEDULE 3

(Clause 2 (2))

<i>Financial Year</i>	<i>Number of Employees</i>
1987/88	516
1988/89	493
1989/90	473
1990/91	449
1991/92	443
1992/93	418
1993/94	398

SCHEDULE 4

(Clause 10 (2))

<i>Financial Year</i>	<i>Copper Price Equivalent</i>
1987/88	\$A1,748
1988/89	\$A1,880
1989/90	\$A1,769
1990/91	\$A1,734
1991/92	\$A1,856
1992/93	\$A2,042
1993/94	\$A2,250

