

Final – as adopted by the CCC on the 7th December 2011

Newnes Kaolin sand quarry and mine

Schedule 5 Appendix 3 to the DA consent 329-7-2003 contains a flow chart which outlines the indicative Independent Dispute Resolution process which will commence with a referral to an Independent Dispute facilitator in consultation with Lithgow Council

Dispute Resolution Process

Step 1

Complainant to formally write to Newnes Kaolin (NK) setting out the nature of the dispute, and if required, identifying the person who has the authority to negotiate the dispute on behalf of the complainant, if the complainant does not wish to negotiate directly.

Step 2

Newnes Kaolin in consultation with the Department of Planning and Lithgow City Council must appoint an employee who is independent of the area, or issue, that the complaint relates to, to mediate the dispute with the complainant. The dispute party must be notified by NK of the name of the employee and contact details, who has been authorised to negotiate the dispute within five working days from the receipt of the written notice from the dispute party.

Step 3

The NK employee must contact the dispute party or their representative within ten working days after the dispute party has received notification under step 2 and arrange a time and place to meet and discuss the dispute. NK must negotiate in good faith with a view to reaching an agreement with the dispute party.

Step 4

In the event that resolution cannot be agreed between NK and the dispute party an independent mediator (or Independent Dispute Facilitator), appointed by the Department in consultation with Council, will be appointed.

This process will generally be in accordance with the flowchart attached.

The agreed independent mediator must be appointed within ten working days of one or both the parties determining their desire that mediation is to proceed.

Once the mediator is appointed then the mediation process must commence within ten days after the appointment of the mediator or at a later date mutually agreed by both parties.

The costs of the mediator are to be shared equally between both parties.

The mediator must:

- have a detailed understanding and experience of dispute resolution practice and procedures which do not involve litigation;
- have the capacity to determine the most appropriate dispute resolution procedures in the particular circumstances;
- have an understanding of the mining and quarrying industry or the capacity to quickly acquire such an understanding and not be associated either directly or indirectly with either NK or the dispute party.

Attached: flowchart of independent dispute resolution process