

From: JOHNSTON Peta [Peta.Johnston@des.qld.gov.au]
Sent: Monday, 15 January 2018 3:56 PM
To: DLO DES
Subject: Minister request: New Acland Mine

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: DLO REQUEST, Environment

Hi Andrea,

The Minister would like a briefing note for noting re: New Acland Mine decision being made on 14 February 2018 – timeframe and how the department will be briefing relevant stakeholders (who, what, how), and when does it need to be announced. Due to MO 25/1/18.
thanks

Peta Johnston | Senior Departmental Liaison Officer
Office of the Director-General
Department of Environment and Science

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SECURITY CLASSIFICATION: UNCLASSIFIED

BRIEFING NOTE – MINISTER

Subject **Matters of Concern for the Lock the Gate Alliance**

Approval required by 9 February 2018, as the Alliance has requested advice to be received by 14 February 2018.

RECOMMENDATION

It is recommended that the Minister:

- **note** the information provided below regarding Lock the Gate Alliance's (the Alliance) concerns
- **sign** the attached letter of response to sch4p4(6) Personal information of the Alliance (**Attachment 1**).

BACKGROUND

- The Carmichael mine is an approved, large-scale thermal coal mine, located northwest of Clermont, which is owned and operated by the Adani Group (Adani). The mine is yet to be constructed.
- Colton coal mine is an approved project for a small thermal coal operation located near Maryborough, owned by the New Hope Group. The mine is yet to be constructed.
- Ebenezer mine is a coal mine located west of Ipswich, currently producing a small amount of bentonite and undertaking rehabilitation activities from historic coal mining. Coal mining is not currently occurring at the site.
- Applications for unconventional resource activities within the Channel Country Strategic Environmental Area (SEA) are assessed by the Department of Environment and Science (DES) on a case-by-case basis. Activities in these areas may also require assessment against the *Regional Interests Planning Act 2014* (RPI Act), which is administered by the Department of Local Government, Racing and Multicultural Affairs (DLGRMA).
- The previous Government commenced reforms to the financial assurance framework including rehabilitation policy reforms, that this Government continues to progress.

KEY ISSUES

- The Carmichael mine is a concern for the Alliance due to it being thermal coal that will be burned for energy generation (climate change and the effect on the Great Barrier Reef), proposed large production rate and impacts to the protected Black-throated Finch.
- The Alliance also has concerns regarding the financial health of Adani and the potential financial risk to the State if rehabilitation is not carried out.
- The Colton coal mine is an issue for the Alliance due to concerns that water releases from the mine present a risk to the Mary River, Fraser Island and the Great Sandy Strait.
- The Ebenezer mine is of interest to the Alliance due to concerns that rehabilitation is not being undertaken adequately, which could increase the likelihood of the mine becoming abandoned, leaving the State with the rehabilitation liability.
- Unconventional gas development within the Channel Country SEA is an issue for the Alliance due to potential for impacts to land and water (including rivers, wetlands and floodplains).
- The Alliance also has concerns regarding stakeholder engagement in this area (Traditional Owners and landholders). Activities within SEAs are assessed through the RPI Act and authorised under regional interests development approvals.
- An environmental authority issued by DES must not be inconsistent with a regional interests development approval issued by DLGRMA.

ELECTION/CABINET/PUBLIC COMMITMENTS/LEGISLATION

- In relation to the authorisation of unconventional gas activities within the Channel Country SEA, the Alliance has alleged an election commitment that 'A re-elected Labor government will work with traditional owners, stakeholders and communities to ensure the State's pristine rivers are protected.'

FINANCIAL IMPACTS

- There are no financial impacts.

CONSULTATION

- DES has previously provided communication to the Alliance regarding the Carmichael, Colton and Ebenezer mines.
- Both DES and the Queensland Treasury led Project Management Office for the Financial Assurance Framework Reforms have had ongoing consultation with the Alliance during the development of the proposed financial assurance and rehabilitation frameworks.

COMMUNICATIONS/MEDIA OPPORTUNITIES

- The Alliance has generated media interest across all of these issues.
- There have been significant media and public interest in the financial assurance and rehabilitation reforms, the New Acland Coal Mine Stage Three Expansion Project and the Adani Carmichael Coal Mine.

FUTURE STEPS

- N/A.

Endorsed

Noted / Approved / Not Approved

sch4p4(6) Personal inf

Jamie Merrick (or Senior Director
on behalf of)
Director-General

08/02/18

Leeanne Enoch (or Chief of Staff on behalf of)
**Minister for Environment and the Great Barrier Reef,
Minister for Science and Minister for the Arts**

12/02/18

Minister or Director-General comments

Electorates: Scenic Rim (Ebenezer mine), Burdekin (Carmichael mine), Condamine (New Acland mine), Maryborough (Colton mine), and Gregory and Warrego (Channel Country)



Minister for Environment and the Great Barrier Reef,
Minister for Science and Minister for the Arts

Ref CTS 01533/18

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Queensland 4001 Australia
Telephone +61 7 3719 7140
Email environment@ministerial.qld.gov.au

13 FEB 2018

sch4p4(6) Personal information

Lock the Gate Alliance
15 Lamington Street
NEW FARM QLD 4001

Dear sch4p4(6) P

Thank you for your letter of 20 December 2017 regarding the New Acland Coal Mine Stage Three Expansion Project and the key issues of concern for the Lock the Gate Alliance.

Regarding the New Acland Coal Mine Stage Three Expansion Project, you have asked that I intervene to ensure that the Department of Environment and Science (the department) does not consider New Acland Coal Pty Ltd's (New Acland Coal) 'new material' in making its final decision on the environmental authority (EA) amendment application. Under the *Environmental Protection Act 1994* (the EPA), the decision in respect of an application for an EA, or amendment to an EA, is one for the chief executive of the department or their delegated decision-maker. The weight to be given to material put before the decision-maker in respect of New Acland Coal's application is a matter for the decision-maker. It would be inappropriate for me to intervene in the decision-maker's exercise of their statutory discretion.

I am advised however, that the submission of new groundwater modelling information by New Acland Coal to the department occurred through a decision-making process adopted by the chief executive in relation to New Acland Coal's EA amendment application. The process was undertaken to assist the decision-making process and to afford an opportunity to stakeholders to put further material and submissions before the decision-maker. The process recognises that under the EPA, the primary means by which evidence and submissions are presented is through the Land Court objections hearing. The process was not intended to duplicate nor supplant the Land Court process.

As you may be aware, in addition to New Acland Coal's application for judicial review of the Land Court's recommendation regarding New Acland Coal's mining lease and EA applications, New Acland Coal applied for a stay of the operation of the Land Court's decision. The Court refused the stay application. As a result, the chief executive is required to proceed to decide the EA amendment application in accordance with the timeframes prescribed in the EPA. I am advised that the final decision on the EA amendment application must be made by 14 February 2018. Accordingly, the chief executive is not in a position to await the outcome of the judicial review application before making the final decision on the EA amendment application. I am confident that the chief executive will proceed to make the decision on the EA application in accordance with the requirements of the EPA.

In relation to the other issues of concern raised, I can advise that this Government will continue to progress the reforms to the financial assurance framework and rehabilitation policy reforms that were commenced under the previous Government. I note that both the department and the Project Management Office for the Financial Assurance Framework Reforms have had ongoing consultation with the Lock the Gate Alliance during the development of these frameworks. I encourage your continued participation and input into these processes.

I note your concerns regarding protection of the biodiversity and environmental values of the Channel Country. As I am sure you are aware, applications for EAs that authorise resource activities within a Channel Country Strategic Environmental Area are assessed on a case-by-case basis and may also be subject to assessment against the *Regional Planning Interests Act 2014* (the RPI Act), administered by the Department of Local Government, Racing and Multicultural Affairs. If a regional interests development approval under the RPI Act is required, the conditions on the relevant EA must not be inconsistent with the regional interests development approval.

With regard to your concerns about EA conditioning of new projects, the department ensures that all EA applications are assessed to the highest standards under the EPA. This includes provisions for public comment, as was the case for the Colton coal mine. Additionally, the Colton coal mine was subject to further independent assessment by the Land Court during 2016.

In relation to the Ebenezer mine, I appreciate your concerns regarding the site's rehabilitation. The department advises me that coal mining has not occurred at the site for more than 10 years and departmental officers continue to engage with the EA holder regarding its rehabilitation obligations. The EA holder has indicated its intent to progressively rehabilitate the mine during the next five years in accordance with its EA conditions and the EPA. The department will continue to actively monitor this rehabilitation progress.

If you require any further information, please contact Ms Kerynne Birch, Director, Coal and Central Queensland Compliance of the department by email at kerynne.birch@des.qld.gov.au or on telephone (07) 4987 9385.

Yours sincerely



Leeanne Enoch MP
Minister for Environment and the Great Barrier Reef,
Minister for Science and Minister for the Arts

CTS 01533/18

GENERAL CORRESPONDENCE

REQUEST FORM

MINISTERIAL OFFICER

Minister's Office reference: MIN/18/ 84

Minister's Office to complete

☐ Dan Lato (CoS)	☐ Angus Sutherland (SPA) <i>Dej</i>
☐ Virginia Dale (PA)	☐ URGENT (Due Date / /)

Date: 08/ 01/ 18

☒ Environment ☐ National Parks ☐ Science ☐ Arts ☐ Corporate

ACTION REQUESTED

SIGN OFF BY

- ☒ Letter of Response & Correspondence Brief (if required) *Yes*
- ☐ Contact by Phone within 48 hours
- ☐ Dot point brief
- ☐ Meeting Brief
- ☐ Refer to other Minister/MP
- ☐ Refer to Department
- ☐

- ☒ Minister
- ☐ Chief of Staff
- ☐ Ministerial Office Interim response required
- ☐ Noted no action required



Brief note with draft letter.

DEPARTMENT ACTION: DLO to complete

DLO Received: 10 / 1 / 18 Dept Reference: CTS 01533/18

Reply Due to ESU/ DLO : ___/___/___ DG Office: ___/___/___ Mins Office: ___/___/___

ODG / DLO Comments:

ESR CACQC DDG

If you require any further assistance regarding this request, please contact the relevant Department Liaison Officer.

Luke Moore

From: sch4p4(6) Personal @lockthegate.org.au>
Sent: Wednesday, 20 December 2017 2:23 PM
To: Environment
Subject: Congratulations, Urgent update re departmental process for New Acland Stage 3
Attachments: 201217 Lock the Gate Ltr Hon L Enoch.pdf

Dear Ms Enoch,

Please see my correspondence attached.

Warm regards,

sch4p4(6) Personal information

Lock the Gate Alliance
www.lockthegate.org.au/

sch4p4(6) Perso

sch4p4@lockthegate.org.au

A: 3/15 Lamington St, New Farm 4005

Workdays: Monday - Thursday



LOCK THE GATE ALLIANCE

AUSTRALIANS WORKING TOGETHER TO PROTECT OUR LAND, WATER, AND FUTURE

sch4p4(6) Personal information

On behalf of Lock the Gate Alliance
15 Lamington St
New Farm 4001

By email: sch4p4@lockthegate.org.au

The Hon. Leeanne Enoch
Minister for Environment and Science
1 William Street
Brisbane, Q, 4000

20 December, 2017

Dear Ms Enoch,

RE: Congratulations, urgent update re departmental process for New Acland Stage 3

Firstly, congratulations on your re-election and appointment to the Environment, Great Barrier Reef, Science and Arts portfolios in the new Labor Government. Your appointment will no doubt deliver a fresh approach and we hope to continue and build on the very constructive relationship we enjoyed with the previous Minister, Stephen Miles.

By way of an introduction, the Lock the Gate Alliance is a national community-based organisation made up of over 120,000 supporters and more than 260 local groups who are concerned about unsafe coal and gas mining. These groups are located in all parts of Australia and include farmers, traditional custodians, conservationists and urban residents.

Our mission is to protect Australia's natural, cultural and agricultural resources from inappropriate mining and to educate and empower all Australians to demand sustainable solutions to food and energy production.

In regards to our work in Queensland and the intersection with the new Department of Environment and Science, there are three main issues:

1. Mine rehabilitation and financial assurance reforms;
2. Protecting the biodiversity of the rivers, wetlands and floodplains in the Channel Country; and
3. Environmental authority conditioning of a range of mining, petroleum and gas projects.

I have attached a one page overview document to further outline these key areas of work.

In respect to mine approvals and conditioning, there is the urgent and immediate matter of the Land Court's historic recommendation that the environmental authority for the New Acland coal mine Stage 3 expansion be refused.

Since the Land Court's findings, in addition to the orthodox legal avenue of seeking a judicial review of the Land Court's decision, New Acland Coal Pty Ltd has submitted new information to the then Department of Environment and Heritage Protection (DEHP) that seeks to wholly replace the groundwater evidence considered by the Land Court in making its recommendation.

The relevant provisions of the *Environmental Protection Act (1994)* do not provide for such new factual material to be submitted at the 'last minute' – instead, the proponent should re-apply if it wishes to have the new material assessed. As such, your Department is considering putting weight on new evidence that has not been:

- subject to any public submissions, as per the usual environmental impact assessment process;
- evaluated by the Coordinator General; or
- considered within the legal safeguards of the Land Court process.

The Department's potential consideration of this new assessment material is in danger of supplanting the Land Court's independent statutory role in assessing the merits of the relevant application material. It involves a significant risk of the Department stepping beyond its statutory powers and of denying interested persons natural justice. Further, it would critically undermine the proper legal process and would therefore compromise the community objection rights the Palaszczuk Government properly restored.

Notwithstanding the pending judicial review, the Department of Environment and Science is now poised to make its final decision on the environmental authority application by mid-February 2018, before the Supreme Court proceedings are decided.

With respect to New Acland Stage 3, given the seriousness of the current situation, we request that you urgently intervene to ensure that your Department does not consider the new material in making its final decision by 14 February 2018, and that it upholds the integrity of the Land Court by refusing the EA.

We would appreciate the opportunity to meet with you at the earliest opportunity in January 2018 to discuss both the Acland situation and the other matters raised in this correspondence.

Warm regards,

sch4p4(6) Personal information

Lock the Gate Alliance

Attachment 1: Lock the Gate's work and the Environment and Science portfolio

In regard to mine rehabilitation and financial assurance reforms, Lock the Gate has taken the lead in providing community input into the reform process to date working closely with the Environmental Defender's Office Queensland, WWF, the Mackay Conservation Group and the QLD Conservation Council. We are very supportive of the continuation of these reforms and look forward to engaging in the process in 2018 once the new Government re-commits to continuing the work under the inter-departmental committee chaired by Treasury. As the process progresses and the details of the reforms becomes clearer, we would hope to engage directly with you on specific policy and process matters that, based on what we know to date, may require further review and refinement. We look forward to working closely with you and your office on the mine rehabilitation reform process.

In regard to protecting the biodiversity and functionality of the Channel Country system, we look forward to engaging with you and the relevant Departmental officials in the process that ensures this unique river system is protected. Through our membership and relationship with the Western Rivers Alliance, we strongly support engaging traditional owners and local landholders in discussions going forward. We are very confident that the rivers, wetlands and floodplains can be protected in a manner that will ensure the sustainability of the area's pastoral industry.

Based on a detailed understanding of the unconventional gas industry, we strongly believe that shale and other unconventional gas development is incompatible with maintaining the ecological functionality of the Channel County's rivers, wetlands and floodplains. Thus, these areas need to be protected before any further consideration of gas exploration. We understand that the relevant legislation, the Regional Planning Interests Act is the responsibility for the Minister for Local Government. We are hoping to work closely with you and your Department to ensure the realisation of Labor's election commitment, *"A re-elected Labor government will work with traditional owners, stakeholders and communities to ensure the State's pristine rivers are protected"*.

Equally, we believe shale gas exploration and production are incompatible with agricultural, biodiversity, tourism and community values of the Wide Bay, Burnett regions and look forward to working with you along with the Minister for Natural Resources, Mines and Energy to develop policy that would rule out development of the Shale Gas industry in that region.

In regard to conditioning various gas and mining projects, we look forward to ensuring that all new projects are assessed to the highest standards and that in the case of mining, the new rehabilitation and financial assurance reforms are rigorously applied. We note Labor's election commitment that, if it proceeds, the Adani Carmichael Project will be required to *"provide the full financial assurance payable under our proposed financial provisioning scheme and enter into a Progressive rehabilitation and Closure Plan.... including progressive rehabilitation milestones and restrictions on final voids"*. In addition to the Carmichael proposal there are a range of other mines that we hope to discuss with the Department (including Ebenezer and Colton) to ensure these mine sites are held to World's Best Practice standards in assessment (Colton) and rehabilitation (Ebenezer).

Subject New Hope Group – Queensland Based Projects.

Points of relevance

Overview

- The New Hope Group (New Hope) has interests in 10 coal mining projects in Queensland:
 - two active projects: New Acland and Jeebropilly Coal Mines
 - two projects in closure and decommissioning: New Oakleigh and Chuwar Coal Mines
 - two projects with approvals but have not commenced: Elimatta and Colton Coal Mines
 - one project approved but not operating: New Lenton Coal Mine
 - three projects which are undergoing feasibility studies: Taroom, Collingwood and Woori coal projects.

New Acland Coal Mine

New Acland Coal Mine (operational)

- Located 35 kilometres northwest of Toowoomba and 15 kilometres north of Oakey.
- Commenced coal production in October 2002.
- Currently extracting approximately 5.2 million tonnes of thermal coal per annum.

New Acland Coal Mine Stage Three Expansion Project

- On 31 May 2017, the Queensland Land Court handed down its recommendation to refuse the draft environmental authority (EA) for the New Acland Coal Mine Stage Three Expansion Project and reject the associated mining lease applications.
- The Department of Environment and Science (the department) must make a final decision on the EA on or before 14 February 2018.
- The final EA decision will likely be subject to a judicial review application regardless of whether the EA for the project is approved or refused.
- From September 2017 through to January 2018, the department undertook a process to receive any relevant additional information and submissions from New Acland Coal Pty Ltd (New Acland), a subsidiary of New Hope, and the Land Court objectors to ensure natural justice was afforded to all parties. This process has been subject to significant criticism.
- On 15 June 2017, New Acland applied to the Supreme Court seeking judicial review to have the Land Court's recommendation set aside. The matter has been listed for a five day hearing from 19-23 March 2018.

Jeebropilly Coal Mine (operational)

- Located 10 kilometres southwest of Ipswich central business district.
- Commenced operations in 1982.
- Currently extracting approximately 1 million tonnes of thermal coal per annum.
- New Hope has predicted final coal production to occur in mid to late 2019.
- Ipswich City Council has made public comment on not wanting coal mining to continue in the Ipswich local government area.
- New Hope is reviewing the post-mining land use options for Jeebropilly, to better align post-mining land uses to the planning scheme for Ipswich City Council. Discussions between the department and New Hope are ongoing.

Colton Coal Mine (yet to commence operations)

- Located 12 kilometres north of Maryborough.
- EA granted 15 December 2016.
- Mining leases granted 30 April 2017.
- Operations at the site cannot commence until the department receives a plan of operations and associated financial assurance from New Hope.

SECURITY CLASSIFICATION: UNCLASSIFIED

DOT POINT BRIEFING NOTE – MINISTER

- The extraction rate will be up to 1.5 million tonnes of coking coal per annum.
- Colton Coal Mine has a project life predicted to be 10 years.

Elimatta Coal Mine (yet to commence operations)

- Located 120 kilometres northwest of Chinchilla in the Surat Basin.
- EA granted 10 June 2016.
- Mining leases have not been granted.
- Project cannot commence until mining leases are granted, a plan of operations submitted, and the associated financial assurance provided.
- Project life of 40 years, average extraction rate of 7.2 million tonnes of thermal coal per annum.
- Project is dependent upon the construction of the Surat Basin Rail Line.

New Lenton Coal Mine (EA granted, but site not operational)

- Located 115 kilometres southwest of Mackay in the Bowen Basin.
- EA granted for one mining lease.
- Approved for extraction of two million tonnes per annum of a mixture of coking and thermal coal.
- An application for an additional mining lease was lodged on 6 June 2011 with the Department of Natural Resources, Mines and Energy (NRME). An EA amendment for the inclusion of the additional mining lease on the EA has not been submitted.

Acquisition of four mining leases from Peabody Energy Australia's Burton Coal Mine

- Burton Coal Mine, owned by Peabody Energy Australia (Peabody Energy), is in a care and maintenance status and not producing coal.
- In September 2017, New Hope commenced the acquisition of four mining leases from Burton Coal Mine.
- In November 2017, New Hope applied to NRME to have the four mining leases transferred to New Hope. NRME has not yet approved this transfer.
- In December 2017, the department approved an application to de-amalgamate the Burton Coal Mine EA to create a separate EA for the four mining leases being transferred to New Hope.
- Until the transfer of the four leases is approved by NRME, Peabody Energy remains the holder of the EA.
- Peabody Energy, on behalf of New Hope, has submitted a plan of operations for the four mining leases to undertake exploration drilling.
- New Hope has not provided a date for potential resumption of mining on the four leases.

Chuwar Coal Project (under closure and rehabilitation)

- Located five kilometres north of Ipswich central business district.
- Mining ceased in 1984.
- Rehabilitation of disturbance of a 20 hectare area completed in August 2017.
- Activities occurring on-site include maintenance and monitoring of the rehabilitated areas.
- The EA cannot be relinquished until the rehabilitation has achieved the final acceptance criteria.

New Oakleigh Coal Mine (under closure and rehabilitation)

- Located 16 kilometres west of Ipswich central business district.
- Mining ceased in 2013.
- Rehabilitation of disturbance of a 273 hectare area is 80% complete.
- Completion of remaining rehabilitation is pending negotiations and settlement with the local historic rail society and resolution of land access issues.
- Activities occurring on-site include maintenance and monitoring of the rehabilitated areas.

SECURITY CLASSIFICATION: UNCLASSIFIED

DOT POINT BRIEFING NOTE – MINISTER

- The EA cannot be relinquished until the rehabilitation has achieved the final acceptance criteria.

Taroom Coal Project (feasibility investigation / acquiring approvals)

- Located in the Surat Basin, 310 kilometres southwest of Rockhampton.
- A new open-cut coal mine, average coal extraction rate of eight million tonnes of thermal coal per annum over a 25 year project life.
- Connected by a 31 kilometre rail line spur to the Surat Basin Rail Line.
- The project was acquired from other proponents in February 2015.
- Coordinated project declaration cancelled in June 2015 at the request of New Hope.
- New Hope to prepare an environmental impact statement (EIS) for the project.

Collingwood Coal Project (feasibility investigation / acquiring approvals)

- Located in the Surat Basin, 320 kilometres southwest of Rockhampton.
- A new open-cut coal mine, average coal extraction rate of six million tonnes of thermal coal per annum over a 20 year project life.
- A new open-cut coal mine connected by a seven kilometre rail line spur to the Surat Basin Rail Line.
- The project was acquired from other proponents in February 2015.
- Coordinated project declaration cancelled June 2015 at the request of New Hope.
- New Hope to prepare an EIS for the project.

Woori Coal Project (feasibility investigation/acquiring approvals)

- Located in the Surat Basin, 300 kilometres northwest of Brisbane and 15 kilometres south of Wandoan.
- A new open-cut coal mine, average coal extraction rate of six million tonnes per annum, over a 15 year project life.
- The project was acquired from other proponents in February 2015.
- In March 2013, the previous proponent requested the project be withdrawn from the EIS assessment process.
- New Hope is preparing for a new EIS process.

CONFIDENTIAL – FOR MINISTER'S INFORMATION ONLY

A controversial decision by the department regarding New Acland Coal Mine is due to be made by 14 February 2018. In light of this pending decision and the possible perception risk of a meeting prior to this decision (in the eyes of the Land Court objectors and the general public), the department does not recommend a meeting with New Hope Group representatives at this time.

From: DLO DES [DLO.DES@des.qld.gov.au]
Sent: Tuesday, 13 February 2018 11:29 AM
To: BIRCH Kerynne
CC: DLO DES; Corro DES ESR CaCQC
Subject: Chief of Staff response re CTS 02743/18 - Clarification re comments on Briefing Note re New Acland

Hi Kerynne

Please see Dan's response below. Not sure if that helps you? Whomever did the verbal briefing may be able to assist?

Regards

Andrea

Ms Andrea Kerridge

Departmental Liaison Officer - Environment

Office of the Director-General

Department of Environment and Science



E dlo.des@des.qld.gov.au

T 07 3330 6263

Level 32, 1 William Street, Brisbane QLD 4000

GPO Box 2454, Brisbane QLD 4001

From: Daniel Lato [mailto:Daniel.Lato@ministerial.qld.gov.au]
Sent: Tuesday, 13 February 2018 11:25 AM
To: DLO DES <DLO.DES@des.qld.gov.au>
Cc: BIRCH Kerynne <Kerynne.Birch@des.qld.gov.au>
Subject: RE: CTS 02743/18 - Clarification re comments on Briefing Note re New Acland

Hi Andrea,

This is in regards to verbal briefing the Minister had in regards to a councillor being on call to help sch4p4(6) Personal should the need arise.

Cheers,

Dan.

From: DLO DES [<mailto:DLO.DES@des.qld.gov.au>]
Sent: Tuesday, 13 February 2018 11:19 AM
To: Daniel Lato <Daniel.Lato@ministerial.qld.gov.au>
Cc: BIRCH Kerynne <Kerynne.Birch@des.qld.gov.au>; DLO DES <DLO.DES@des.qld.gov.au>
Subject: CTS 02743/18 - Clarification re comments on Briefing Note re New Acland

Good morning Dan

I understand the New Acland is a hot issue at the moment but when you get a chance, can you please look at the attached Minister comments on the New Acland briefing note.

Can you please clarify?

Regards

Andrea



Ms Andrea Kerridge

Departmental Liaison Officer - Environment

Office of the Director-General

Department of Environment and Science

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SECURITY CLASSIFICATION: UNCLASSIFIED

BRIEFING NOTE – MINISTER

Subject **Communications Plan for Final Decision on New Acland Mine Stage Three Expansion Project**

Noting of this brief is requested by 2 February 2018.

RECOMMENDATION

It is recommended that the Minister:

- **note** the Communications Plan for the final decision on the New Acland Mine Stage Three Expansion Project (the Project).

BACKGROUND

- New Acland Coal Pty Ltd operates the existing New Acland Coal Mine - an open-cut, thermal coal operation located near the town of Acland, which is approximately 14 kilometres northwest of Oakey and 35 kilometres northwest of Toowoomba.
- The Project proposes the expansion of the existing mine.
- On 31 May 2017, the Land Court handed down its recommendation to refuse the draft Environmental Authority (EA) for the Project and reject the associated mining lease applications.
- The Department of Environment and Science (DES) is now required to make a final decision to approve or refuse the EA amendment application for the project by 14 February 2018.
- The *Environmental Protection Act 1994* (the EPA) does not require notification of the final decision on an EA application following the Land Court objections hearing.
- If the decision is to approve the EA, the EA must be issued to the applicant within five business days of the date of decision.
- Once the EA is issued, a copy must be placed in the public register and made available for access by the public.
- In this matter, the parties to the Land Court objections hearing are stakeholders who should be informed of the decision by DES. This includes the applicant and the 33 EPA objectors. Background history on this matter is contained in **Attachment 1**.

KEY ISSUES

- A Communications Plan has been prepared to inform all parties to the Land Court objections hearing of the final EA decision. It comprises two Communications Strategies (**Attachments 2 and 3**).
- **Attachment 2** specifies the Communications Strategy that applies to all objectors and the applicant, [sch4p4(6) Personal information] This strategy includes options for both potential outcomes (approval or refusal of the EA).

[sch4p4(6) Personal information]

- The objectives of the Communications Plan are to ensure:
 - the decision is communicated to all stakeholders simultaneously
 - the identity of the delegated decision-maker is protected
 - DES is proactive in releasing a statement to the media regarding the decision.

ELECTION/CABINET/PUBLIC COMMITMENTS/LEGISLATION

- The final decision on the EA for the Project is subject to the requirements of the EPA.
- The Communications Plan is not a requirement of the EPA but is considered necessary due to the sensitivity surrounding the final decision on the EA.

FINANCIAL IMPACTS

- Funding will be provided from within existing divisional budget.

CONSULTATION

- Corporate Communications has been consulted regarding the content of the Communications Plan.

COMMUNICATIONS/MEDIA OPPORTUNITIES

- There has been media interest regarding the final decision on the EA.
- Media interest may be negative or positive regardless of whether the EA is approved or refused.
- Corporate Communications has been consulted regarding a proposed media statement and will continue to assist in drafting and dissemination of the media release.

FUTURE STEPS

- DES is due to make a decision on the final EA by 14 February 2018.
- Actions in the Communications Plan commence prior to the decision on the final EA.

Endorsed

sch4p4(6) Personal information

Jamie Merrick
Director-General

21/2/18

Noted / Approved / Not Approved

Leeanne Enoch (or Chief of Staff on behalf of)
Minister for Environment and the Great Barrier Reef,
Minister for Science and Minister for the Arts

07/02/2018

Minister or Director-General comments

please provide detail re: communication strategy at next DG meeting

sch4p4(6) Personal information

Electorates: Electorate of Condamine

CONFIDENTIAL – FOR MINISTER'S INFORMATION ONLY

- The stakeholders will be informed of the final decision regarding the EA for the New Acland Coal Mine via email or letter by 1 pm on the date of decision.

sch4p4(6) Personal information

- The proposed process and timings outlined in this briefing note are accurate at the time of drafting. Given the required date of decision remains two weeks away, the Communications Plan may be subject to change. Any changes made will be conveyed through an updated briefing note and attachments.

SECURITY CLASSIFICATION: UNCLASSIFIED
BRIEFING NOTE – MINISTER

Subject **Final Decision on New Acland Mine Stage Three Expansion Project**

Approval required by 22 January 2018

RECOMMENDATION

It is recommended that the Minister:

- **Note** that a final decision on the environmental authority (EA) amendment application (the application) for the New Acland Coal Mine Stage Three Expansion Project (the project) is required to be made by a delegate from the Department of Environment and Science (DES) by 14 February 2018.
- **Note** that the decision will likely be subject to judicial review application regardless of whether the application is approved or refused.
- **Note** that in the event the application is approved, the EA will only take effect upon grant of the related mining leases. The subsequent decision regarding the approval or refusal of the related mining leases is required to be made by the Minister administering the *Mineral Resources Act 1989* (MR Act).

BACKGROUND

- New Acland Coal Pty Ltd (NAC) operates the existing New Acland Coal Mine, an open-cut, thermal coal operation located near the town of Acland, which is approximately 14 kilometres north-west of Oakey and 35 kilometres north-west of Toowoomba. The project proposes the expansion of the existing operation.
- The project was assessed through an Environmental Impact Statement (EIS) under the *State Development and Public Works Organisation Act 1971* and approved by the Queensland Coordinator-General on 19 December 2014.
- The project received approval from the Commonwealth Minister for the Environment and Energy under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) on 18 January 2017.
- DES approved the application and issued a draft EA on 28 August 2015, before it was subsequently referred to the Queensland Land Court where the matter was heard over a total of 99 days.
- On 31 May 2017, the Land Court handed down its recommendation to refuse the draft EA for the project and reject the associated mining lease applications.
- DES is now required to make a final decision to approve or refuse the EA amendment application for the project by 14 February 2018. This decision date cannot be extended.
- From 25 September 2017 through 3 January 2018, DES undertook a decision-making process to consider any relevant additional information and submissions. Legal advice determined the need for a stakeholder submission process to ensure natural justice is afforded to all stakeholders, including the proponent and the Land Court objectors.
- A total of 19 submissions were received during the submissions process. The process is now concluded and no further responses or submissions will be accepted by DES. This is to allow DES adequate time to consider the additional information and submissions.
- On 15 June 2017, NAC, the project's proponent, applied to the Supreme Court seeking judicial review of the Land Court's recommendation for refusal of the EA amendment application. The matter has been listed for a five day hearing from 1-23 March 2018.
- NAC's application seeks orders that the Land Court's recommendation be set aside and the matter be referred back to the Land Court for further consideration and determination.
- At the same time, NAC also applied to the Supreme Court for a stay of the Land Court's recommendation, however on 23 June 2017, the Supreme Court heard the stay application and declined to grant the stay.
- NAS has appealed the Land Court decision – due to be heard in March 2018.

KEY ISSUES

- The decision-making process established by DES has been the subject of criticism by some of the parties.
- The decision-making process places significant additional administrative burden on DES, due to the volume of additional material and submissions provided.
- Any party that is adversely affected by the final decision may seek judicial review of the decision under the *Judicial Review Act 1991*.
- It is likely that NAC will apply for judicial review if the final EA decision is refusal of the project. Conversely, it is likely that the Environmental Defender's Office, who are acting on behalf of Oakey Coal Action Alliance (one of the main objectors) will apply for judicial review if the final EA decision is approval of the project.
- If a judicial review application is made, it is likely that the final EA decision will be stayed pending the outcome of the judicial review of the final EA decision.
- The potential outcomes of a judicial review of the final EA decision are:
 - The judicial review application is dismissed and the final EA decision is upheld; or
 - The judicial review application is successful and the final EA decision is referred back to the administering authority for further consideration and determination.

ELECTION/CABINET/PUBLIC COMMITMENTS/LEGISLATION

- This brief does not relate to any Election/Cabinet/Public commitments or Legislation.

FINANCIAL IMPACTS

- There are no financial impacts.

CONSULTATION

- Advice on the matter has been provided by Crown Law and In-house Legal.

COMMUNICATIONS/MEDIA OPPORTUNITIES

- There has been significant media interest in the project, both positive and negative.
- The project presents employment opportunities for the region, but will have direct and indirect environmental impacts on what is primarily an agricultural area.
- Corporate Communications have been included in the progression of all ESR Alerts on this matter.

FUTURE STEPS

- Following the final EA decision, the Minister administering the MR Act will be required to make a decision to grant or reject the related mining leases.
- If the EA for the project is approved, it will not become effective until the related mining leases are granted.
- If a judicial review application is made against the final EA decision, DES will be required to participate in the judicial review process.
- If the EA for the project is refused, NAC may reapply for an EA to allow a similar or revised project, which would commence the *Environmental Protection Act 1994* assessment process from the beginning.

Endorsed

sch4p4(6) Personal information

Jamie Merrick
Director-General

12/1/18

Noted / Approved / Not Approved

Leanne Enoch (or Chief of Staff on behalf of)
Minister for Environment and the Great Barrier Reef,
Minister for Science and Minister for the Arts

22/10/18

Minister or Director-General comments

Attachment 2: Communications Strategy regarding the final decision on the New Acland Coal Mine environmental authority amendment application.

Table 1. Communications Strategy for a decision of **approval** of the environmental authority (EA) amendment application.

#	Action	Date	Time	Responsible
1	Alert stakeholders of pending decision date and method of communication of final decision.	Five business days before decision.	10.00am.	Director Coal, Coal and Central QLD Compliance.
2	Make decision to approve the application to amend the EA.	Day of decision.	10.00am.	Manager Assessment, Coal and Central QLD Compliance.
3	Brief DG and Minister via 1. Progression of a written brief; and 2. Meeting with ED, DDG, DG and Minister.	Day of decision.	1. 10.15am. 2. 10.30am.	1. Director Coal, Coal and Central QLD Compliance. 2. Executive Director (CaCQC) and Deputy Director-General (ESR) to meet with Director-General and Minister.
4	Update Public Register.	Day of decision.	Commence publishing process at 12.00pm.* <i>*Note: Publishing time is yet to be determined. Likely to be approximately 3 hours after commencement of publishing.</i>	Team Leader, Strategic Compliance.
5	Notify the applicant of the final decision.	Day of decision.	12.45pm.	Director Coal, Coal and Central QLD Compliance.
6	Notify the objectors (33 in total) of the final decision.	Day of decision.	1.00pm.	Executive Director, Coal and Central QLD Compliance.
7	Media statement.	Day of decision.	2.00pm.	Director, Communication Services.

Table 2. Communications Strategy for a decision of **refusal** of the environmental authority amendment application.

#	Action	Date	Time	Responsible
1	Alert stakeholders of pending decision date and method of communication of final decision.	Five business days before day of decision.	10.00am.	Director Coal, Coal and Central QLD Compliance.
2	Make decision to refuse the application to amend the environmental authority (EA).	Day of decision.	10.00am.	Manager Assessment, Coal and Central QLD Compliance.
3	Brief DG and Minister via 1. Progression of a written brief; and 2. Meeting with ED, DDG, DG and Minister.	Day of decision.	1. 10.15am. 2. 10.30am.	1. Director Coal, Coal and Central QLD Compliance. 2. Executive Director (CaQC) and Deputy Director-General (ESR) to meet with Director-General and Minister.
4	Notify the applicant of the final decision.	Day of decision.	12.45pm.	Director Coal, Coal and Central QLD Compliance.
5	Notify Objectors (33 in total) of the final decision.	Day of decision.	1.00pm.	Executive Director, Coal and Central QLD Compliance.
6	Media Statement.	Day of decision.	2.00pm.	Director, Communication Services.

Note: The public register will not be required to be updated if the decision is to refuse the application. The Environmental Protection Act 1994 requires the administering authority keep a public register of a number of documents including environmental authorities. If the application for an amended environmental authority is refused, the existing environmental authority will prevail and remain unamended on the public register.

Incoming ODG Corro / Email / Request

Date Received	31/1	ESU Ref:	1258
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Comments

Hi - please convert to MBN &
have attachments amended before
as noted.

SECURITY CLASSIFICATION: UNCLASSIFIED
DOT POINT BRIEFING NOTE – MINISTER

MBN please. DG
to endorse

Subject **Communication Plan for final decision on New Acland Coal Mine Expansion**

Points of relevance

- The *Environmental Protection Act 1994* (EP Act) does not require notification of the final decision on an environmental authority (EA) application following the Land Court objections hearing.
- A final decision on the EA amendment application will be made by 14 February 2018.
- If the decision is to approve the EA, the EA must be issued to the applicant within 5 business days of the date of decision.
- Once the EA is issued, a copy must be placed in the public register and available for access by the public.
- In this matter, the parties to the Land Court objections hearing are stakeholders who should be informed of the decision by DES. This includes the applicant (New Hope Group on behalf of New Acland Coal Pty Ltd) and the 33 EP Act objectors.
- The objectives of the communication plan are to ensure that:
 - Ensure that the decision is communicated to all stakeholders simultaneously;
 - Ensure that the identity of the delegated decision-maker is protected; and
 - Ensure that DES is proactive in releasing a statement to the media regarding the decision.
- The Corporate Communications team have been consulted and will provide advice on the draft media statement.
- **Attachment 1:** *Communications Strategy regarding the final decision on the New Acland Coal Mine environmental authority amendment application* stipulates actions required to be undertaken for both potential outcomes (approval or refusal).
- **Attachment 1** applies to all objectors and the applicant

[sch4p4(6) Personal information]

[sch4p4(6) Personal information]

CONFIDENTIAL – FOR MINISTER'S INFORMATION ONLY

- The stakeholders will be informed of the final decision regarding the environmental authority for the New Acland Coal Mine via email or letter by 1.00pm on the date of decision.

[sch4p4(6) Personal information]

- The proposed process and timings outlined in this briefing note are accurate at the time of drafting. Given the required date of decision remains two weeks away, the Communications Strategy may be subject to change. Any changes made will be conveyed through an updated briefing note and attachments.

Attachment 1: Communications Strategy regarding the final decision on the New Acland Coal Mine environmental authority amendment application.

Table 1. Communications Strategy for a decision of **approval** of the environmental authority (EA) amendment application.

#	Action	Date	Time	Responsible
1	Alert stakeholders of pending decision date and method of communication of final decision.	Five business days before decision.	10.00am.	Kerynne Birch.
2	Make decision to approve the application to amend the EA.	Day of decision.	10.00am.	Kate Bennink.
3	Brief DG and Minister via 1. Progression of a written brief; and 2. Meeting with ED, DDG, DG and Minister.	Day of decision.	1. 10.15am. 2. 10.30am.	1. Kerynne Birch. 2. Justin Cagney and Dean Ellwood meet with Jamie Merrick and Minister Enoch.
4	Update Public Register.	Day of decision.	Commence publishing process at 12.00pm.	Steve Schipper.
5	Notify the applicant of the final decision.	Day of decision.	<u>12.45pm.</u>	Kerynne Birch.
6	Notify objectors (33 in total) of the final decision.	Day of decision.	<u>1.00pm.</u>	Justin Cagney.
7	Media statement.	Day of decision.	2.00pm.	Nathalie Sengers.

Position titles,
not names
please

~~This is pre-empting~~

Why are we notifying
after publishing?

Table 2. Communications Strategy for a decision of **refusal** of the environmental authority amendment application.

#	Action	Date	Time	Responsible
1	Alert stakeholders of pending decision date and method of communication of final decision.	Five business days before day of decision.	10.00am.	Kerynne Birch.
2	Make decision to refuse the application to amend the environmental authority (EA).	Day of decision.	10.00am.	Kate Bennink.
3	Brief DG and Minister via 1. Progression of a written brief; and 2. Meeting with ED, DDG, DG and Minister.	Day of decision.	1. 10.15am. 2. 10.30am.	1. Kerynne Birch. 2. Justin Cagney and Dean Ellwood meet with Jamie Merrick and Minister Enoch.
4	Notify the applicant of the final decision.	Day of decision.	12.45pm.	Kerynne Birch.
5	Notify Objectors (33 in total) of the final decision.	Day of decision.	1.00pm.	Justin Cagney.
6	Media Statement.	Day of decision.	2.00pm.	Nathalie Sengers.

Do we not update the public register for refusals?

From: DLO DES [DLO.DES@des.qld.gov.au]
Sent: Friday, 9 February 2018 12:24 PM
To: Luke Moore
CC: DLO DES; Peta Johnston; HAIG Emma
Subject: ACTION COMPLETE - CTS 03644/18 - New Acland - [sch4p4(6) Perso]

Good afternoon Luke

Re: Telephone call - [sch4p4(6) Perso] - **New Acland**

A DES officer telephoned [sch4p4(6) Personal information] on 8 February.

The following were discussed.

[sch4p4(6) Personal information]

- I stated that the decision maker for the final decision on the New Acland environmental authority had all the information they are required to consider under the Environmental Protection Act 1994 and that the Department of Environment and Science was required to make a decision on the environmental authority by 14 February 2018.

[sch4p4(6) P] wished to express her opinion that she hoped the department would uphold the land court recommendation on the matter and [sch4p4(6) P] spoke very highly of Land Court Member Smith. This opinion included Member Smith being a thorough and reasonable person.

ACTION COMPLETE.

Regards

Andrea



Ms Andrea Kerridge

Departmental Liaison Officer - Environment

Office of the Director-General

Department of Environment and Science

E dlo.des@des.qld.gov.au

T 07 3330 6263

Level 32, 1 William Street, Brisbane QLD 4000

GPO Box 2454, Brisbane QLD 4001

From: Luke Moore [mailto:Luke.Moore@ministerial.qld.gov.au]

Sent: Thursday, 8 February 2018 1:56 PM

To: DLO DES <DLO.DES@des.qld.gov.au>

Subject: 15 FEB - CTS 03644/18 - New Acland - [sch4p4(6) Perso]

Good Afternoon,

[sch4p4(6) Personal information]

Called about New Acland and wanted to leave a message with someone who would be making decisions about the application.

Can someone contact [sch4p4(6) Perso]

Regards,

Luke Moore

Assistant Policy Advisor



Office of the Hon. Leeanne Enoch MP

Minister for Environment and the Great Barrier Reef

Minister for Science and

Minister for the Arts

P 3719 7152 E luke.moore@ministerial.qld.gov.au

1 William Street Brisbane 4000 | GPO Box 5078 Brisbane QLD 4001

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RTI Act 2009

SECURITY CLASSIFICATION: UNCLASSIFIED

BRIEFING NOTE – MINISTER

**Subject Final Decision on the New Acland Mine Stage 3 Expansion Project
Environmental Authority**

Noting is required by 14 February 2018.

RECOMMENDATION

It is recommended that the Minister:

- **note** that on Wednesday 14 February 2018, the Department of Environment and Science (the department) decided to **refuse** the environmental authority amendment application (the Application) for the New Acland Coal Mine Stage 3 Expansion Project (the Project).

BACKGROUND

- On 31 May 2017, the Queensland Land Court handed down its recommendation to refuse the draft environmental authority (EA) for the Project and reject the associated mining lease applications.
- Subsequently, the department was required to make a final decision on the Application for the Project.
- The *Environmental Protection Act 1994* (the EPA) allowed for the Minister administering the *Mineral Resources Act 1989* (MRA Minister) to provide advice to the department to inform the final decision on the application (the advice period).
- On 26 June 2017, the Honourable Dr Anthony Lynham MP, as Minister for Natural Resources and Mines and the Director-General of the former Department of Environment and Heritage Protection, agreed that the period in which the MRA Minister provide advice to the department be extended to 31 January 2018 (the end of the advice period).
- On 31 January 2018, the Department of Natural Resources, Mines and Energy wrote to the department specifying that Minister Lynham would not be providing further information to the department regarding the application.
- The final decision on the EA amendment application is required to be made by the department within 10 business days following the end of the advice period. The final decision was required to be made by 14 February 2018.

KEY ISSUES

- By refusing the Application for the Project, New Acland Coal Pty Ltd is limited to its currently approved operations at the New Acland Coal Mine.
- It is likely that New Acland Coal Pty Ltd will seek a judicial review of the decision under the *Judicial Review Act 1991*.

ELECTION/CABINET/PUBLIC COMMITMENTS/LEGISLATION

- The final decision on the EA for the Project is subject to the requirements of the EPA.

FINANCIAL IMPACTS

- There are no financial impacts.

COMMUNICATIONS/MEDIA OPPORTUNITIES

- There has been significant media interest regarding the final decision on the EA.
- Corporate Communications has been consulted and is coordinating the media statement due to be released at 2 pm on Wednesday 14 February 2018.

FUTURE STEPS

- The department will notify the applicant of the decision at 12.45pm on 14 February 2018.
- The department will notify the objectors that were party to the project Land Court hearing at 1 pm on 14 February 2018.
- The department will release a media statement regarding the decision at 2 pm on 14 February 2018.

Endorsed

sch4p4(6) Personal information

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Jamie Merrick (or Senior Director
on behalf of)

Director-General

14/2/18

Noted / Approved / Not Approved



Leeanne Enoch (or Chief of Staff on behalf of)
**Minister for Environment and the Great Barrier Reef,
Minister for Science and Minister for the Arts**

14/2/18

Minister or Director-General comments

Electorates: Electorate of Condamine.