

From: DLO DES [DLO.DES@des.qld.gov.au]
Sent: Tuesday, 30 January 2018 2:26 PM
To: Daniel Lato; Angus Sutherland; Luke Moore
CC: TRACEY Alena; DLO DES
Subject: FW: Minister request: New Acland Mine
Attachments: 1258 - Att 2 - New Acland Mine Decision further info.docx; 1258 - Att 1 - New Acland Mine Decision further info.docx; 1258 - New Acland Mine Decision further info.docx; 469 - MIN NOTED and SIGNED BN (22 January 2018).pdf

Categories: 2. To Do

Hi all

I understand that the Minister asked for some further information regarding the New Acland Mine decision and how/when the Dept will be briefing relevant stakeholders (following a Min BN which is attached).
Please find that information attached.

Thanks,

Emma Haig

Departmental Liaison Officer

National Parks

Department of Environment and Science

P: 07 3330 6271

Level 32 | 1 William St | Brisbane 4000

GPO Box 2454 | Brisbane | Queensland 4002



From: JOHNSTON Peta

Sent: Monday, 15 January 2018 3:56 PM

To: DLO DES

Subject: Minister request: New Acland Mine

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

Peta.Johnston@des.qld.gov.au | Level 32, 1 William Street, Brisbane

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

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

22/10/18

Minister or Director-General comments

SECURITY CLASSIFICATION: UNCLASSIFIED

DOT POINT BRIEFING NOTE – MINISTER

**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:
 - o Ensure that the decision is communicated to all stakeholders simultaneously;
 - o Ensure that the identity of the delegated decision-maker is protected; and
 - o 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

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- 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.

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- 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.	12.45pm.	Kerynne Birch.
6	Notify objectors (33 in total) of the final decision.	Day of decision.	1.00pm.	Justin Cagney.
7	Media statement.	Day of decision.	2.00pm.	Nathalie Sengers.

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.

From: MERRICK Jamie [Jamie.Merrick@des.qld.gov.au]
Sent: Wednesday, 31 January 2018 4:25 PM
To: ELLWOOD Dean
Subject: Fwd: Letter from Ms Rachael Cronin (DNRME) - New Acland
Attachments: image001.png; ATT00001.htm; CTS02730-18 Letter to Mr Merrick DES.pdf; ATT00002.htm

FYI

Jamie

Sent from my iPhone

Begin forwarded message:

From: CRONIN Rachael <Rachael.Cronin@dnrme.qld.gov.au>
Date: 31 January 2018 at 1:40:53 pm AEST
To: MERRICK Jamie <Jamie.Merrick@des.qld.gov.au>
Cc: CRONIN Rachael <Rachael.Cronin@dnrme.qld.gov.au>
Subject: Letter from Ms Rachael Cronin (DNRME) - New Acland

Good afternoon Jamie,

Please find attached a letter in relation to New Acland. Please note that no response is necessary, this letter has been forwarded to Mr Peter Donaghy (DNRME) and Ms Kerry Birch (DES Emerald) for any necessary action.

Kind regards

Rachael

Rachael Cronin
Deputy Director-General
Minerals and Energy Resources
Department of Natural Resources, Mines and Energy

P: 3199 7393 M sch4p4(6) Perso
E: rachael.cronin@dnrme.qld.gov.au
W: www.dnrme.qld.gov.au

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Department of
Natural Resources,
Mines and Energy

Mr Jamie Merrick
Director-General
Department of Environment and Science
GPO Box 2454
BRISBANE QLD 4001

Dear Mr Merrick

On 31 May 2017, Member Paul A Smith of the Land Court of Queensland delivered his recommendation on New Acland Coal Pty Ltd's New Acland Stage 3 Expansion (Mining Lease Applications 50232 and 700002).

On 26 June 2017, in accordance with section 193 of the *Environmental Protection Act 1994*, the then Minister for State Development and Minister for Natural Resources and Mines sought agreement from Mr Jim Reeves, the former Director-General of the previous Department of Environment and Heritage Protection, to extend the time to provide additional advice that may assist in the environmental authority (EA) decision process until 31 January 2018. This additional time was sought given the length and complexity of the Land Court of Queensland decision.

This letter is to advise that after considering the Land Court decision, the Minister for Natural Resources, Mines and Energy does not intend to provide any further information to Department of Environment and Science.

If you have any questions, please contact Ms Lana Bartholomew, Executive Director, Mining and Petroleum Operations, who will be pleased to assist you and can be contacted on telephone 3199 8294.

Yours sincerely

sch4p4(6) Personal information

Rachael Cronin
Deputy Director-General
Mineral and Energy Resources
Department of Natural Resources, Mines and Energy

1 William Street Brisbane
PO Box 15216 City East
Queensland 4002 Australia
www.dnrm.qld.gov.au
www.dews.qld.gov.au
ABN 59 020 847 551

From: MARKS Zhivana [Zhivana.Marks@des.qld.gov.au] on behalf of ESR [ESR@des.qld.gov.au]

Sent: Wednesday, 7 February 2018 10:48 AM

To: MERRICK Jamie; daniel.lato@ministerial.qld.gov.au; Media DES; alena.tracey@qld.gov.au; BROWN Glen; CAGNEY Justin; CARLOS Reuben; CONNOR Andrew; FOMIATTI MINNESMA Ingrid; GOLDSWORTHY Stephen; LENZ Anne (DES); LINO Starsky; LOWE Trinity

CC: ESR

Subject: ESR Alert: Date of final decision for environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.

Attachments: Attachment 1 Communications Strategy New Acland Coal Mine.docx; Attachment 2 Communications Strategy New Acland Coal Mine.docx

Importance: High

Categories: 00. Hot Issue

ALERT CATEGORY:

- Departmental activity.

ALERT NAME:

- Date of final decision for environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.

CUSTOMER DETAILS:

- New Acland Coal Pty Ltd (NAC), ACN 081 022 380.

SUMMARY OF ISSUE/S:

- On Wednesday 14 February 2018, the Chief Executive's delegated officer of the Department of Environment and Science (DES) will make a final decision on the environmental authority (EA) amendment application for the New Acland Coal Mine Stage 3 Expansion Project under the *Environmental Protection Act 1994*.
- Prior to the final decision being made, DES will implement actions specified within a Communications Plan (Attachment 1 and 2) prepared in order to inform the applicant and stakeholders (parties to the Land Court hearing) of the date of the final decision.
- The actions in the Communications Plan will commence at 11.00am on Wednesday 7 February 2018, when the applicant and stakeholders will be notified in writing that the final decision on the environmental authority amendment application will be made on Wednesday 14 February 2018.
- There has been significant media and public interest in the pending final decision. The commencement of the actions in the Communications Plan may result in increased media and public interest.
- The Communications Plan does not include proactive messaging regarding the decision date to the broader community. A proactive media statement will be released on Wednesday 14 February 2018 at 2.00pm. This media statement will communicate the final decision only.
- Further details regarding the Communications Plan are outlined in MECS item CTS01258/18.

POTENTIAL IMPACTS / RISKS:

- Communication regarding the date of the final decision may result in increased media and public interest.

KEY COMMUNICATION MESSAGES:

- The final decision on the EA amendment application for the New Acland Coal Mine Stage 3 Expansion Project will be made on Wednesday 14 February 2018.
- The applicant and stakeholders will be notified at 11.00am on Wednesday 7 February 2018, that DES will be making the final decision on Wednesday 14 February 2018.

CONTACT DETAILS:

- Name: Justin Cagney, Executive Director, Coal and Central Queensland Compliance.
- Phone number: 4837 3318.
- Division: Environmental Services and Regulation.

**This email is an initial alert in respect of this matter.
If further advice or action is required, it will be communicated via normal channels such as a briefing note.**
END



Zhivana Marks
Senior Program Officer
Office of the Deputy Director-General | Environmental Services & Regulation
Department of Environment and Science

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400 George Street BRISBANE QLD 4000
GPO Box 2454, BRISBANE QLD 4001

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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.	11.00am.	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 (CaCQC) 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.

From: LOWE Trinity on behalf of ESR
Sent: Wednesday, 7 February 2018 12:07 PM
To: Jamie.merrick@qld.gov.au; Daniel Lato; ELLWOOD Dean; TRACEY Alena; Media DES; Ben Doyle; Justin Carpenter (justin.carpenter@premiers.qld.gov.au)
Cc: ESR; DLO DES; MCMMAIN Lisa; BROWN Glen; CAGNEY Justin; CARLOS Reuben; CONNOR Andrew; GOLDSWORTHY Stephen; FOMIATTI MINNESMA Ingrid; LENZ Anne (DES); LINO Starsky
Subject: ESR Alert - Oakey Coal Action Alliance Facebook post regarding New Acland Mine final decision.
Importance: High
Categories: Anniversary

ALERT CATEGORY:

- Stakeholder Activity.

ALERT NAME:

- Oakey Coal Action Alliance Facebook post regarding New Acland Mine final decision.

CUSTOMER DETAILS:

- Oakey Coal Action Alliance.

SUMMARY OF ISSUE/S:

- On Wednesday 7 February 2018, sch4p4(6) Person of the Oakey Coal Action Alliance (OCAA) published a post on Facebook alerting followers of OCAA to the fact that the Department of Environment and Science (DES) will make a final decision on the New Acland Mine Stage 3 expansion project (the project) on Wednesday 14 February 2018.
- The post encouraged people to call DES general enquiries number (1300 130 372) and request to speak to the person making the decision on the project.
- At this time, 15 calls have been received by the DES Customer Service Team.

POTENTIAL IMPACTS / RISKS:

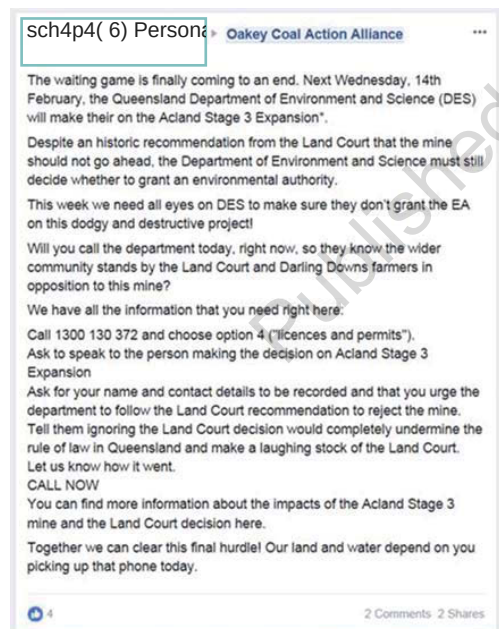
- The post will result in administrative burden on the DES Customer Service Team and officers involved in the decision regarding the project.
- The post may result in increased media interest in the final decision on the project.

DEPARTMENTAL ACTIONS:

- DES has prepared speaking points for the DES Customer Service Team to ensure they can appropriately answer the calls resulting from the Facebook post.

KEY COMMUNICATION MESSAGES:

- A Facebook post has been published by the OCAA encouraging people to call DES regarding the final decision on the project.



CONTACT DETAILS:

- Name: Justin Cagney, Executive Director, Coal and Central Queensland Compliance.
- Phone number: 4837 3318.
- Division: Environmental Services and Regulation.

This email is an initial alert in respect of this matter.

If further advice or action is required, it will be communicated via normal channels such as a briefing note.

END



Trinity Lowe
Executive Officer
Office of the Deputy Director General
Environmental Services and Regulation Division
Department of Environment and Science

P 07 3330 5812
Level 7 400 George St Brisbane

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From: MARKS Zhivana [Zhivana.Marks@des.qld.gov.au] on behalf of ESR [ESR@des.qld.gov.au]
Sent: Thursday, 8 February 2018 11:31 AM
To: MERRICK Jamie; alena.tracey@qld.gov.au; daniel.lato@ministerial.qld.gov.au; Media DES
CC: ELLWOOD Dean; ESR Snr Mgt; justin.carpenter@premiers.qld.gov.au; kahil.lloyd@premiers.qld.gov.au
Subject: ESR Alert - Penalty Infringement Notice to be issued to New Acland Coal Pty Ltd for contravention of a condition of Environmental Authority EPML00335713.

Importance: High

Categories: 3. Hot Issue

ALERT CATEGORY:

- Enforcement activity.

ALERT NAME:

- One (1) Penalty Infringement Notice (PIN) for the amount of \$12,615 is to be issued to New Acland Coal Pty Ltd under s430(3) of the *Environmental Protection Act 1994* for contravention of a condition of Environmental Authority EPML00335713.

CUSTOMER DETAILS:

- New Acland Coal Pty Ltd.
- New Acland Coal Mine (ML50170 and ML50216).
- Environmental Authority (EA) EPML00335713.

SUMMARY OF ISSUE/S:

- The Department of Environment and Science (the department) will issue one (1) PIN to New Acland Coal Pty Ltd (NAC) on Friday 9 February 2018, in response to the destruction of an approved groundwater monitoring bore at New Acland Coal Mine.
- NAC holds EA EPML00335713 for the New Acland Coal Mine, located approximately 130 kilometres west of Brisbane.
- On 31 August 2017, NAC held a pre-lodgement meeting with the department to discuss intention to mine through groundwater monitoring bore 83P. NAC were advised that an EA amendment would be required if a replacement bore was to be installed as an alternative for bore 83P.
- On 13 October 2017, further information was requested by the department in response to the submission of pre-lodgement documents by NAC. The department required the EA amendment application to demonstrate that the proposed alternative monitoring bore will provide the ability to monitor the same aquifers as the currently approved bore (83P) for ongoing and future impacts of mining. The advice also required relevant groundwater monitoring data for the bores NAC is wishing to replace and any available water quality data for the proposed alternative bores.
- Condition C22 of the EA states '*Groundwater, affected by the mining activities must be monitored at the locations and frequencies defined in Schedule C - Tables 5 and 6.*'
- Table 5 defines the approved location for bore 83P as a latitude and longitude and states the monitoring frequency is to be monthly.
- On 29 November 2017, the department conducted an inspection at New Acland Coal Mine. During this inspection, NAC representatives advised officers that groundwater monitoring bore 83P had been mined through during September 2017 as a result of West Pit progressing.
- NAC also advised officers that groundwater bore 4518WB had been installed in October 2017, as a replacement

monitoring bore for 83P.

- To date, no EA amendment application has been received in relation to the replacement of bore 83P with monitoring bore 4518WB.
- NAC has contravened section 430(3) of the *Environmental Protection Act 1994* by breaching condition C22 of the EA. By destroying bore 83P prior to amending the EA to authorise its replacement monitoring bore, NAC is unable to conduct groundwater monitoring at the required location (83P).
- One PIN for the amount of \$12,615 will be issued for contravention of condition C22 of the EA.

POTENTIAL IMPACTS / RISKS:

- There is a high level of public concern regarding groundwater impacts from the New Acland Coal Mine.
- The draft EA for Stage 3 of the New Acland Coal Mine Expansion Project is currently under assessment with a decision due on 14 February 2018.
- Any enforcement action issued to NAC may result in increased public and media interest.
- The recipient may contest the decision to issue a PIN in court.

CUSTOMER ACTIONS:

- On 31 August 2017, NAC held a pre-lodgement meeting with the department.
- Groundwater monitoring was conducted at New Acland Coal Mine in October 2017, however bore 83P could not be monitored as it had been mined through during September 2017.

DEPARTMENT ACTIONS:

- On 31 August 2017 and 13 October 2017, the department advised NAC that an amendment to the EA was required to replace 83P with an alternative monitoring bore.
- On 4 December 2017, the department issued NAC with a pre-enforcement letter in relation to the alleged offence.

PLANNED ACTIONS

- The Compliance Centre will advise NAC on 8 February 2018 of the issuing of the PIN.
- One (1) PIN will be issued by the Manager (Compliance) to New Acland Coal Pty Ltd on 9 February 2018.

KEY COMMUNICATION MESSAGES:

- The issue of one (1) PIN to NAC is an appropriate and proportionate enforcement action for the nature of the offence.

CONTACT DETAILS:

- Name: Justin Cagney, Executive Director, Coal and Central Queensland Compliance.
- Phone number: 4837 3318.
- Division: Environmental Services and Regulation.

This email is an initial alert in respect of this matter.

If further advice or action is required, it will be communicated via normal channels such as a briefing note.

END

Zhivana Marks

Senior Program Officer

Office of the Deputy Director-General | Environmental Services & Regulation

Department of Environment and Science



P 07 3330 5561

400 George Street BRISBANE QLD 4000



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From: TRACEY Alena [Alena.Tracey@des.qld.gov.au]

Sent: Wednesday, 14 February 2018 10:51 AM

To: julia.sheedy@premiers.qld.gov.au

Subject: FW: New Acland Coal Mine - Documents for decision.

Attachments: MIN BN NAC - APPROVAL February 2018.docx; MIN BN NAC - REFUSAL February 2018.docx; NAC PPQ - APPROVAL Feb 2018.docx; NAC PPQ - REFUSAL February 2018.docx; 090218 - New Acland (NO) (003) CAGNEY.docx; 090218 - New Acland (YES) (003) CAGNEY.docx; FAQs for decision of APPROVAL of final environmental authority CAGNEY 3.docx; FAQs for decision of REFUSAL of final environmental authority KB.docx; New Acland Standard responses - APPROVAL February 2018.docx; New Acland Standard responses - REFUSAL February 2018.docx; *APPROVAL* ESR Alert: Final decision for the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project. ; *REFUSAL* ESR Alert: Final decision for the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project. ; Attachment 1 Communications Strategy New Acland Coal Mine.docx; UPDATED Strategy for sch4p4(6) Personal inform regarding the final decision on the....docx

Importance: High

FYI



Alena Tracey

Senior Director

Office of the Director-General

Department of Environment and Science

E alena.tracey@des.qld.gov.au

P: + 61 7 3807 8406 M: sch4p4(6) Personal

Level 32, 1 William Street, Brisbane Qld 4000

From: CAGNEY Justin

Sent: Tuesday, 13 February 2018 9:36 PM

To: ELLWOOD Dean; MERRICK Jamie; TRACEY Alena; CARLOS Reuben; HANSON Anna

Cc: LOWE Trinity; MULHERAN Beau; BIRCH Kerynne; HILL Chris; Media DES; LORRAWAY Gabrielle; ESR

Subject: New Acland Coal Mine - Documents for decision.

Importance: High

Good evening,

Please find attached documents approved for use tomorrow. Please note that there are two of each document facilitating either decision to eventuate.

The final decision on the New Acland Coal Mine Stage Three Expansion Project will be made tomorrow morning (Communications Strategies are attached).

1. **Minister Briefs for APPROVAL AND REFUSAL.** *NOTE: ODDG to generate MECS and upload brief for DG and Minister. Brief to be uploaded at 10.15am.*
2. **ESR Alerts for APPROVAL AND REFUSAL.** *NOTE: ESR Alert to notify ODDG of final decision as per item 1. ODDG will progress the ESR alert to DG and Minister.*
3. **PPQs for APPROVAL and REFUSAL.** *NOTE: relates to 02081/18. ODDG to upload correct PPQ into MECS at approx. 10.15am.*
4. **Media Statements for APPROVAL (YES) AND REFUSAL (NO).** *NOTE: For proactive release by Media Unit at 2.00pm.*
5. **FAQs for APPROVAL AND REFUSAL.** *NOTE: Reviewed by Litigation Unit. For Media Unit use in response to incoming media requests.*
6. **Complaint standard response scripting document for APPROVAL AND REFUSAL.** *NOTE: Reviewed by Crown Law with comments. ESR to send to CRT + CST. Standard MECS response to be used by ODDG as required.*

Regards,

Justin Cagney



Executive Director

Coal and Central Queensland Compliance

Department of Environment and Science

P 07 4837 3318

M sch4p4(6) Pers

209 Bolsover Street Rockhampton 4700

PO Box 413 Rockhampton 4700

EHP Cultural capability_web graphic APPD



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RTI Act 2009

Draft media release

Deadline:	Briefing officer: Kerynne Birch
Media Services contact: Kieran Lewis	Phone: sch4p4(6) Perso
Phone: 3339 5887 /sch4p4(6) Perso	DDG:
Approved:	Phone:
Geographical area/s of interest: Southern Queensland	

Strictly embargoed: 2.00pm – Wednesday 14 February 2018

Amended environmental authority for New Acland Coal Mine Stage Three Expansion Project refused.

The Department of Environment and Science (DES) today refused the application for an amended environmental authority (EA) to allow for the Stage Three Expansion of the New Acland Coal Mine, north-west of Toowoomba.

Under the *Environmental Protection Act 1994*, DES was required to make a final decision on the New Hope Group's EA amendment application for the proposed "New Acland Mine Stage Three Expansion Project" by 14 February 2018.

The applicant and parties to the Land Court objections hearing have been advised of the decision.

The decision to refuse the application is in line with the recommendation of the Land Court which was handed down in May 2017, following 99 days of expert and lay witness testimony regarding the potential impacts of the project.

As the decision to refuse the EA amendment application for the New Acland Coal Mine may be subject to legal action, DES is unable to provide any further information in relation to the matter.

ENDS

Draft media release

Deadline:	Briefing officer: Kerynne Birch
Media Services contact: Kieran Lewis	Phone: sch4p4(6) Perso
Phone: 3339 5887 / sch4p4(6) Perso	DDG:
Approved:	Phone:
Geographical area/s of interest: Southern Queensland	

Strictly embargoed: 2.00pm – Wednesday 14 February 2018

Amended environmental authority for New Acland Coal Mine Stage Three Expansion Project Approved.

The Department of Environment and Science (DES) today approved the environmental authority (EA) amendment application for the Stage Three Expansion of the New Acland Coal Mine, north-west of Toowoomba.

Under the *Environmental Protection Act 1994*, DES was required to make a final decision on the New Hope Group's EA amendment application for the proposed "New Acland Mine Stage Three Expansion Project" by 14 February 2018.

The applicant and parties to the Land Court objections hearing have been advised of the decision.

The final EA includes XX conditions that the operator must comply with to ensure impacts to environmental values are appropriately managed.

The EA includes specific conditions dealing with both groundwater and noise impacts on the surrounding community, to address outstanding concerns which resulted in the Land Court's recommendation handed down in May 2017 for refusal of the application.

The amended EA does not of itself permit the expanded operation to commence. The EA will take effect only upon approval of the associated mining leases. The decision regarding approval of the mining leases rests with the Minister for Natural Resources, Mines and Energy, the Honourable Dr Anthony Lynham.

As the decision to approve the EA amendment application for the New Acland Coal Mine may be subject to legal action, DES is unable to provide any further information in relation to the matter.

ENDS

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.	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 (CaCQC) 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.

New Acland Coal Mine Stage Three Expansion Project.

FAQs for decision of APPROVAL of final environmental authority.

Q. *Why didn't DES uphold the decision of the Land Court?*

A. DES was required to consider the objections hearing decision made by Member Smith in May last year, along with other information under the provisions of the *Environmental Protection Act 1994*. The Land Court objections hearing decision takes the form of a recommendation to the department. It is not in itself as decision on the application. On the balance of all the information considered, the final decision of the department was to approve the environmental authority amendment application for the project.

Q. *Why did DES approve the expansion when NAC has just been issued a PIN for mining through an approved groundwater bore?*

A. The allegation of non-compliance with the environmental authority and subsequent issue of a Penalty Enforcement Notice to New Hope Group on 9 February 2018, by itself holds little weight as a relevant consideration for the department in relation to the final decision on the environmental authority amendment application as required under the *Environmental Protection Act 1994*. Multiple non-compliances requiring enforcement action would be a significant factor to consider when deciding to issue the amended environmental authority. On the balance of all the information considered by DES, the final decision was to approve the environmental authority amendment application.

Q. *When will NAC commence mining?*

A. The amended environmental authority will not take effect unless the associated mining leases are approved by the Minister for Natural Resources, Mines and Energy.

Q. *How will you ensure that the environment is protected?*

A. The final environmental authority includes **XX** strict conditions to mitigate impacts on environmental values. This includes specific conditions dealing with both groundwater and noise impacts on the surrounding community. DES has a range of enforcement options available under the *Environmental Protection Act 1994*, to deter non-compliant behaviour and apply consistent and proportionate enforcement action for the protection and management of Queensland's environment and heritage.

Q. *Why didn't the Minister intervene and refuse the project?*

A. The Minister for the Environment and the Great Barrier Reef cannot make the final decision under the *Environmental Protection Act 1994*. The Act designates the Chief Executive (DES) as the decision-maker and the power to make the final decision is delegated to officers of an appropriate level within the department.

Q. *Is the decision final?*

A. Under the *Environmental Protection Act 1994*, the decision on this environmental authority amendment application is final. The department cannot comment on legal avenues which may be available to challenge this decision under other legislations.

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FAQs for decision of REFUSAL of final environmental authority

Q. *This will impact jobs at the New Acland Mine. Was that considered in the decision?*

A. Employment from the Stage 3 Expansion Project was considered during the Land Court hearing and subsequently in DES's final decision on the amendment application. On the balance of all the information considered, the decision maker decided to refuse the application.

Q. *Is the decision final?*

A. For the purposes of the *Environmental Protection Act 1994*, the decision is a final decision on the environmental authority amendment application.

Q. *Why didn't the Minister intervene and approve the project?*

A. The Minister for the Environment and the Great Barrier Reef cannot make the final decision under the *Environmental Protection Act 1994*. The EP Act designates that the administering authority (DES) is the decision-maker, and the power to make the final decision is delegated to officers of a certain level within DES.

Q. *New Hope have indicated that coal resources at the existing mine are almost depleted, will the mine close?*

A. Decisions regarding the continued operation of the existing mine are business decisions for New Hope. DES will continue to work with New Hope to ensure that the existing Environmental Authority for the New Acland Mine is complied with and that rehabilitation is completed.

Q. *The Land Court hearing raised issues with the existing permit, including air limits and complaints management, what are DES doing to fix these issues?*

A. DES has noted the concerns of the Land Court in considering the objections decision and will take action to amend the existing environmental authority.

Q. *What will happen with the Mining Lease applications and/or the Associated Water Licence application for Stage 3?*

A. For the purposes of the *Environmental Protection Act 1994*, the decision is the final decision on the environmental authority amendment application for Stage 3. The Minister for Natural Resources, Mines and Energy and his department are the decision-makers for mining lease applications and associated water licences.

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SECURITY CLASSIFICATION: UNCLASSIFIED

BRIEFING NOTE – MINISTER

Final Decision on the New Acland Coal Mine Stage 3 Expansion Project environmental authority.

Approval required by 14 February 2018.

RECOMMENDATION

It is recommended that the Minister:

- **Note** that on Wednesday 14 February 2018, the department decided to **approve** the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.

BACKGROUND

- 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 (the project) and reject the associated mining lease applications.
- Subsequently, the Department of Environment and Science (DES) was required to make a final decision on the EA amendment application (the application) for the project.
- The *Environmental Protection Act 1994* (EP Act) allowed for the Minister administering the *Mineral Resources Act 1989* (MRA Minister) to provide advice to DES to inform the final decision on the application (the advice period).
- On 26 June 2017, Minister Lynham and Mr Jim Reeves, former Director-General of DES, agreed that the period in which the MRA Minister can provide advice to DES be extended to 31 January 2018 (the end of the advice period).
- On 31 January 2018, The DDG of the Department of Natural Resources, Mines and Energy wrote to DES specifying that the Minister would not be providing further information to DES regarding the application.
- The final decision on the EA amendment application was required to be made by DES 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

- Approval of the application for the project does not allow New Acland Coal Pty Ltd to commence activities under the amended EA. The project may only proceed once the related mining tenure is approved by the Minister for Natural Resources Mines and Energy.
- It is likely that the stakeholders that were party to the land court hearing 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 EP Act.

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 are coordinating the media statement due to be released at 2.00pm 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 land court hearing at 1.00pm on 14 February 2018.
- The department will release a media statement regarding the decision at 2.00pm on 14 February 2018.

Endorsed

Noted / Approved / Not Approved

Jamie Merrick
Director-General
/ /

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
/ /

<i>Minister or Director-General comments</i>

Electorates: Electorate of Condamine.

SECURITY CLASSIFICATION: UNCLASSIFIED

BRIEFING NOTE – MINISTER

Final Decision on the New Acland Mine Stage 3 Expansion Project environmental authority.

Approval required by 14 February 2018.

RECOMMENDATION

It is recommended that the Minister:

- **Note** that on Wednesday 14 February 2018, the department decided to **refuse** the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.

BACKGROUND

- 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 (the project) and reject the associated mining lease applications.
- Subsequently, the Department of Environment and Science (DES) was required to make a final decision on the EA amendment application (the application) for the project.
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- On 31 January 2018, The DDG of the Department of Natural Resources, Mines and Energy wrote to DES specifying that the Minister would not be providing further information to DES regarding the application.
- The final decision on the EA amendment application is required to be made by DES 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 environmental authority amendment application for the project, New Acland Coal Pty Ltd (NAC) is limited to their currently approved operations at the New Acland Coal Mine.
- It is likely that NAC 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 EP Act.

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 are coordinating the media statement due to be released at 2.00pm on Wednesday 14 February 2018.

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- 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 1.00pm on 14 February 2018.
- The department will release a media statement regarding the decision at 2.00pm on 14 February 2018.

Endorsed

Noted / Approved / Not Approved

Jamie Merrick
Director-General
/ /

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
/ /

<i>Minister or Director-General comments</i>

Electorates: Electorate of Condamine.

New Acland Coal Mine Stage 3 Expansion Project

Standard responses for final decision of APPROVAL.

COMPLAINT

- On Wednesday 14 February 2018, the Department of Environment and Science (the department) decided to approve the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.
- Under section 194 of the Environmental Protection Act, the department was required to consider certain information in making the final decision. The department also considered information submitted by the applicant and parties to the land court objections hearing, during a submission process that occurred between 25 September 2017 and 3 January 2018.
- Should you wish to make a complaint regarding this decision, please follow the department's complaints process on the website at: <https://www.ehp.qld.gov.au/contactus/feedbackform.php?type=complaint>

MECS

- On Wednesday 14 February 2018, the Department of Environment and Science (the department) decided to approve the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.
- Under section 194 of the Environmental Protection Act, the department was required to consider certain information in making the final decision. The department also considered information submitted by the applicant and parties to the land court objections hearing, during a submission process that occurred between 25 September 2017 and 3 January 2018.

CST and CRT

- On Wednesday 14 February 2018, the Department of Environment and Science (the department) decided to approve the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.
- Under section 194 of the Environmental Protection Act, the department was required to consider certain information in making the final decision. The department also considered information submitted by the applicant and parties to the land court objections hearing, during a submission process that occurred between 25 September 2017 and 3 January 2018.

New Acland Coal Mine Stage 3 Expansion Project

Standard responses for final decision of REFUSAL.

COMPLAINT

- On Wednesday 14 February 2018, the Department of Environment and Science (the department) decided to refuse the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.
- Under section 194 of the Environmental Protection Act, the department was required to consider certain information in making the final decision. The department also considered information submitted by the applicant and parties to the land court objections hearing, during a submission process that occurred between 25 September 2017 and 3 January 2018.
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MECS

- On Wednesday 14 February 2018, the Department of Environment and Science (the department) decided to refuse the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.
- Under section 194 of the Environmental Protection Act, the department was required to consider certain information in making the final decision. The department also considered information submitted by the applicant and parties to the land court objections hearing, during a submission process that occurred between 25 September 2017 and 3 January 2018.

CST and CRT

- On Wednesday 14 February 2018, the Department of Environment and Science (the department) decided to refuse the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.
- Under section 194 of the Environmental Protection Act, the department was required to consider certain information in making the final decision. The department also considered information submitted by the applicant and parties to the land court objections hearing, during a submission process that occurred between 25 September 2017 and 3 January 2018.

From:

Subject: *APPROVAL* ESR Alert: Final decision for the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.

ALERT CATEGORY:

- * Departmental activity.

ALERT NAME:

- * Final decision for environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.

CUSTOMER DETAILS:

- * New Acland Coal Pty Ltd (NAC), ACN 081 022 380.

SUMMARY OF ISSUE/S:

- * On Wednesday 14 February 2018, the Chief Executive's delegated officer of the Department of Environment and Science (DES) made a final decision on the environmental authority (EA) amendment application for the New Acland Coal Mine Stage 3 Expansion Project (the project) under the Environmental Protection Act 1994.

- * The final decision was to approve the draft environmental authority OR approve the amendment application with conditions that differ from those in the draft environmental authority.

POTENTIAL IMPACTS / RISKS:

- * There is high of level public concern regarding the project. Public concern exists both for and against the project.
- * The final decision is likely to result in increased media and public interest.
- * Objectors involved in the land court hearing for the project (stakeholders) will likely make representation to senior departmental officers.
- * DES can expect increased administrative burden responding to enquiries from the public regarding the decision.
- * It is likely that the stakeholders will make an application seeking a judicial review of the decision under the Judicial Review Act 1991.

PLANNED ACTIONS

- * The Communications Plan stipulated in MECS item CTS01258/18 has commenced and has the following pending actions:
- * At 12.00pm, Wednesday 14 February 2018, DES will commence a process to publish the final EA on the public register. It is estimated that the final EA will be published on the public register by close of business on Wednesday 14 February 2018.
- * At 12.45pm, Wednesday 14 February 2018, DES will notify the applicant (NAC) of the decision via telephone.
- * At 1.00pm, Wednesday 14 February 2018, DES will notify stakeholders of the decision by email, registered post and face to face meeting.
- * At 2.00pm, Wednesday 14 February 2018, DES Corporate Communications will release a media statement regarding the decision, which includes a copy of the final EA.

KEY COMMUNICATION MESSAGES:

- * The final decision on the EA amendment application for the New Acland Coal Mine Stage 3 Expansion Project was made on Wednesday 14 February 2018. The final decision was to approve the draft environmental authority OR approve the amendment application with conditions that differ from those in the draft environmental authority.
- * The applicant and stakeholders will be notified at 12.45pm and 1.00pm respectively regarding the final decision.
- * The general public will become aware of the decision after DES Corporate Communications releases a media statement regarding the final decision.

CONTACT DETAILS:

- * Name: Justin Cagney, Executive Director, Coal and Central Queensland Compliance.
- * Phone number: 4837 3318.
- * Division: Environmental Services and Regulation.

This email is an initial alert in respect of this matter.

If further advice or action is required, it will be communicated via normal channels such as a briefing note.

END

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From:

Subject: *REFUSAL* ESR Alert: Final decision for the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.

ALERT CATEGORY:

- * Departmental activity.

ALERT NAME:

- * Final decision for environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.

CUSTOMER DETAILS:

- * New Acland Coal Pty Ltd (NAC), ACN 081 022 380.

SUMMARY OF ISSUE/S:

- * On Wednesday 14 February 2018, the Chief Executive's delegated officer of the Department of Environment and Science (DES) made a final decision on the environmental authority (EA) amendment application for the New Acland Coal Mine Stage 3 Expansion Project (the project) under the Environmental Protection Act 1994.

- * The final decision was to refuse the application.

POTENTIAL IMPACTS / RISKS:

- * There is high level of public concern regarding the project. Public concern exists both for and against the project.
- * The final decision is likely to result in increased media and public interest.
- * The applicant for the project will likely make representation to senior departmental officers.
- * DES can expect increased administrative burden responding to enquiries from the public regarding the decision.
- * It is likely that the applicant will make an application seeking a judicial review of the decision under the Judicial Review Act 1991.

PLANNED ACTIONS

- * The Communications Plan stipulated in MECS item CTS01258/18 has commenced and has the following pending actions.
- * At 12.45pm, Wednesday 14 February 2018, DES will notify the applicant (NAC) of the decision via telephone.
- * At 1.00pm, Wednesday 14 February 2018, DES will notify stakeholders of the decision by email, registered post and face to face meeting.
- * At 2.00pm, Wednesday 14 February 2018, DES Corporate Communications will release a media statement regarding the decision.

KEY COMMUNICATION MESSAGES:

- * The final decision on the EA amendment application for the New Acland Coal Mine Stage 3 Expansion Project was made on Wednesday 14 February 2018. The final decision was to refuse the application.
- * The applicant and stakeholders will be notified at 12.45pm and 1.00pm respectively regarding the final decision.
- * The general public will become aware of the decision after DES Corporate Communications releases a media statement regarding the final decision.

CONTACT DETAILS:

- * Name: Justin Cagney, Executive Director, Coal and Central Queensland Compliance.
- * Phone number: 4837 3318.
- * Division: Environmental Services and Regulation.

This email is an initial alert in respect of this matter.

If further advice or action is required, it will be communicated via normal channels such as a briefing note.

END

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From: TRACEY Alena [Alena.Tracey@des.qld.gov.au]
Sent: Wednesday, 14 February 2018 1:11 PM
To: MERRICK Jamie
Subject: FW: DLOs - media statements re New Acland decision
Attachments: 090218 - New Acland (NO).docx

Categories: 00. Hot Issue

From: Ben Doyle [mailto:Ben.Doyle@ministerial.qld.gov.au]
Sent: Wednesday, 14 February 2018 1:01 PM
To: DLO DES; TRACEY Alena; TONES Peter; HANSON Anna
Cc: Tim Auguston
Subject: RE: DLOs - media statements re New Acland decision

Hi,

Please find attached the approved media statement in relation to this afternoon's New Acland decision.

Cheers,

Ben Doyle

Media Advisor

Office of the Hon. Leeanne Enoch MP

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

P 07 3719 7150 M [sch4p4\(6\) Pers](#)

1 William Street Brisbane QLD 4000 | GPO Box 2457 Brisbane QLD 4001

From: LEWIS Kieran
Sent: Tuesday, 13 February 2018 11:47 AM
To: DLO DES <DLO.DES@des.qld.gov.au>
Cc: Media DES <Media@des.qld.gov.au>
Subject: DLOs - media statements re New Acland decision

Good morning DLOs

I understand the Minister's media adviser would like to see the media statements we have prepared for the decision on New Acland tomorrow.

They are attached and have been departmentally approved to DDG level.

Please note that if the decision is YES, then the relevant media statement will need DNRME approval as well, as it mentions that department and their Minister.

Regards

Kieran Lewis

Media Services

Department of Environment and Science

media@ehp.qld.gov.au

media@npsr.qld.gov.au

Level 31 | 400 George Street | Brisbane

Tel 07 3339 5887 / [sch4p4\(6\) Persona](#)

www.ehp.qld.gov.au

www.npsr.qld.gov.au

If you are emailing about a media matter, please cc media@ehp.qld.gov.au

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Draft media release

Deadline:	Briefing officer: Kerynne Birch
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Approved: Justin Cagney, Dean Ellwood	Phone:
Geographical area/s of interest: Southern Queensland	

Strictly embargoed: 2.00pm – Wednesday 14 February 2018

Amended environmental authority for New Acland Coal Mine Stage Three Expansion Project refused

The Department of Environment and Science (DES) today refused the application for an amended environmental authority (EA) to allow for the Stage Three Expansion of the New Acland Coal Mine, north-west of Toowoomba.

This decision has been made based on the information that was provided by the proponent.

As the administering authority, DES holds an independent regulatory role, and is the sole decision-maker in relation to EA applications.

Under the *Environmental Protection Act 1994*, DES was required to make a final decision on the New Hope Group's EA amendment application for the proposed New Acland Mine Stage Three Expansion Project by 14 February 2018.

The applicant and parties to the Land Court objections hearing have been advised of the decision.

The decision to refuse the application is in line with the recommendation of the Land Court which was handed down in May 2017. This followed 99 days of expert and lay witness testimony regarding the potential impacts of the project.

As the decision to refuse the EA amendment application for the New Acland Coal Mine may be subject to legal action, DES is unable to provide any further information in relation to the matter.

ENDS

From: TRACEY Alena [Alena.Tracey@des.qld.gov.au]
Sent: Wednesday, 14 February 2018 4:26 PM
To: Adrian Jeffreys; julia.sheedy@premiers.qld.gov.au
CC: ELLWOOD Dean; MERRICK Jamie
Subject: RE: New Acland

Categories: 00. Hot Issue

Hi Julia and Adrian

As requested...

Decision explanation

One of the primary concerns for the Land Court Member in his recommendation for refusal of the Environmental Authority amendment application was the disruption to underground aquifers, which would result in impacts to landholders in the area. The groundwater modelling subject to the Land Court hearing was contested in terms of accuracy and reliability in predicting the likely impacts on groundwater in the area.

After the Land Court decision, the applicant submitted a revised groundwater model to the Department of Environment and Science. While the revised groundwater model attempted to improve upon the earlier model, the department could not be satisfied that the likely impacts on groundwater, and landholders in the area, would not mitigate the risk to an acceptable level. New Acland Coal has been advised that this is the primary basis of the department's decision to refuse the application.

Thanks

Alena



Alena Tracey

Senior Director

Office of the Director-General

Department of Environment and Science

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Level 32, 1 William Street, Brisbane Qld 4000

From: Adrian Jeffreys [mailto:adrian.jeffreys@premiers.qld.gov.au]

Sent: Wednesday, 14 February 2018 3:53 PM

To: TRACEY Alena

Cc: ELLWOOD Dean; MERRICK Jamie

Subject: RE: New Acland

Thanks Alena



Adrian Jeffreys

Executive Director

Environment Policy

Department of the Premier and Cabinet

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Level 30 1 William Street, Brisbane QLD 4000

PO Box 15185, City East, QLD 4002

From: TRACEY Alena [mailto:Alena.Tracey@des.qld.gov.au]

Sent: Wednesday, 14 February 2018 3:51 PM

To: Adrian Jeffreys <adrian.jeffreys@premiers.qld.gov.au>

Cc: ELLWOOD Dean <Dean.Ellwood@des.qld.gov.au>; MERRICK Jamie <Jamie.Merrick@des.qld.gov.au>

Subject: RE: New Acland

Hi Adrian

As there is no requirement to provide a statement of reasons under the Environment Protection Act and access to such is through the Judicial Review Process (only if you are an aggrieved party), we are seeking legal advice on just what we can say. Apologies for the lag, but we need to ensure we don't mess with any future legal processes that may be launched. Will send something through as soon as I can.

Alena

Alena Tracey

Senior Director

Office of the Director-General

Department of Environment and Science



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Level 32, 1 William Street, Brisbane Qld 4000

From: Adrian Jeffreys [<mailto:adrian.jeffreys@premiers.qld.gov.au>]

Sent: Wednesday, 14 February 2018 2:23 PM

To: ELLWOOD Dean; Jamie.Merrick@qld.gov.au

Subject: New Acland

Dean, Jamie,

Premier's Office is hounding me for background/ reasons for the New Acland decision. Is there anything you can provide?

Adrian Jeffreys

Executive Director

Environment Policy

Department of the Premier and Cabinet



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From: MERRICK Jamie [Jamie.Merrick@des.qld.gov.au]
Sent: Thursday, 15 February 2018 11:04 AM
To: david.stewart@premiers.qld.gov.au
Subject: New Acland - latest position

Jamie Merrick

Director-General

Department of Environment and Science



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Level 32, 1 William Street, Brisbane Qld 4000

GPO Box 2454, Brisbane Qld 4001

From: TRACEY Alena
Sent: Thursday, 15 February 2018 11:04 AM
To: MERRICK Jamie
Subject: FW: Steps available to a person aggrieved by a decision (under the Judicial Review Act)

From: SNEDDEN Peter
Sent: Thursday, 15 February 2018 10:46 AM
To: ELLWOOD Dean <Dean.Ellwood@des.qld.gov.au>
Cc: GOLDSWORTHY Stephen <Stephen.Goldsworthy@des.qld.gov.au>; BARCLAY Steve <Steve.Barclay@des.qld.gov.au>
Subject: Steps available to a person aggrieved by a decision (under the Judicial Review Act)

Dear Dean

- Once an aggrieved party receives the decision they can apply for a 'Statement of Reasons' under section 32 of Judicial Review Act. The department then has 28 days to provide the 'Statement of Reasons' to the aggrieved party.
- The aggrieved party then has 28 days from the receipt of the 'Statement of Reasons' to make an application for a judicial review of the decision in the Supreme Court.

I note that NAC made a request for a statement of reasons on 14 February 2018. The department must provide the 'Statement of Reasons' by 14 March 2018.

Kind regards

Peter

Peter Snedden

Lawyer

Litigation Branch | Environmental Services & Regulation

Department of Environment and Science



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Level 7, 400 George Street, Brisbane QLD 4000

GPO Box 2454, Brisbane Qld 4001

From: TRACEY Alena [Alena.Tracey@des.qld.gov.au]

Sent: Thursday, 15 February 2018 3:36 PM

To: Daniel Lato; Hannah Jackson

Subject: FW: ESR Alert: Request for statement of reasons in relation to the refusal decision for the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.

FYI

From: MARKS Zhivana **On Behalf Of** ESR

Sent: Thursday, 15 February 2018 3:27 PM

To: MERRICK Jamie; alena.tracey@qld.gov.au

Cc: ELLWOOD Dean; ESR

Subject: ESR Alert: Request for statement of reasons in relation to the refusal decision for the environmental authority amendment application for the New Acland Coal Mine Stage 3 Expansion Project.

ALERT CATEGORY:

- Client activity.

ALERT NAME:

- New Acland Coal have requested a 'Statement of Reasons' in relation to the refusal decision on the environmental authority amendment for the New Acland Coal Mine Stage 3 Expansion Project.

CUSTOMER DETAILS:

- New Acland Coal Pty Ltd (NAC), ACN 081 022 380.

SUMMARY OF ISSUE/S:

- On Wednesday 14 February 2018, NAC wrote to the Department of Environment and Science (DES) to request a statement of reasons for the final decision on the environmental authority (EA) amendment application for the New Acland Coal Mine Stage 3 Expansion Project (the project) under the *Environmental Protection Act 1994*.
- DES has 28 days to provide the statement of reasons to NAC; accordingly the statement of reasons must be provided by 14 March 2018.
- Once NAC receive the statement of reasons they then have 28 days to make an application for a judicial review of the decision in the Supreme Court.

POTENTIAL IMPACTS / RISKS:

- It is likely that the applicant will make an application seeking a judicial review of the decision once the applicant reviews the statement of reasons under the *Judicial Review Act 1991*.
- There is high level of public concern regarding the project. Public concern exists both for and against the project.
- The applicant for the project will likely make representation to senior departmental officers.
- DES can expect increased administrative burden responding to enquiries from the public regarding the decision.

PLANNED ACTIONS

- The statement of reasons will be provided to NAC by 14 March 2018.

KEY COMMUNICATION MESSAGES:

- NAC has requested a statement of reasons in relation to the refusal decision on the environmental

authority amendment for the New Acland Coal Mine Stage 3 Expansion Project under section 32 *Judicial Review Act 1991*.

CONTACT DETAILS:

- Name: Justin Cagney, Executive Director, Coal and Central Queensland Compliance.
- Phone number: 4837 3318.
- Division: Environmental Services and Regulation.

This email is an initial alert in respect of this matter.

If further advice or action is required, it will be communicated via normal channels such as a briefing note.

END

Zhivana Marks

Senior Program Officer

Office of the Deputy Director-General | Environmental Services & Regulation

Department of Environment and Science



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