

To the Assessor

RPI Act Development Assessment Division

Department of State :Development, Manufacturing, Infrastructure and planning PO Box
15009 City East QLD 4002

Dear Assessor,

**Re : Submission on New Acland Coal's (NAC) Application for a Regional
Interests**

Development Approval

Please accept this Submission From [REDACTED] in relation to NAC's application for a
Regional Interests Development Approval(RIDA) for the new Acland Coal Stage 3 project
(Ref Rp119/009).

We farm 1500 acres at Brymaroo. Our farm is situated north of New Acland Coal Mine. Our Southern boundary is about 3 kms from their northern boundary of the proposed stage 3. We milk around 200 cows and produce over one million litres of milk a year Our farm consists of a variety of soil types some of these soil types we have would equal the best soil types on the planet.

New Acland own country, who are our near neighbours own land that would be of similar quality. With stage 1 and Stage 2 and the proposed Stage three consisted of many farming operations before these were bought out by New Acland .We believe it consisted of 50 farms and 50,000 acres .There were dairy farms ,Beef feed lot operations ,grain and cattle grazing operations and piggeries. One farm that was a cattle and grain operation also produced Native Cut Flowers and foliage with flowers for the Sydney Olympics went into the bouquet's came from this farm. This farm is now under metres of over burden.

We are also extremely concerned if Stage 3 does go ahead the underground water will be affected because of the draw down factor leaking into the new mining operations of stage three .The coal that they will be mining will be coming from the Walloon coal measures this Walloon coal measure is a water aquifer and many farms use this water for their farming operations. The Walloon coal measures extend over hundreds of kilometres. We do have to commend New Acland for the rehabilitation work. This rehabilitation work may provide

limited grazing opportunities but this rehabilitation will never present the land the way it was before mining with cropping opportunities.

Therefore Stage three should not be allowed to proceed, this land is extremely important to remain as prime agricultural land. With the increase of global population and the issue of climate change any land that has the potential to produce food for humans should remain that way.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

RPI Act Development Assessment Division
Department of State Development, Manufacturing, Infrastructure and Planning
PO Box 15009
City East QLD 4002

RPIAct@dsdmip.qld.gov.au

**Objection to NAC Application for Development Approval in Priority
Agricultural Area in Darling Downs Region (Acland-Muldu Road, Acland
Queensland 4401)**

Dear Sir/Madam,

NAC has submitted an Assessment Application for a Regional Interests Development Approval under the Regional Planning Interests Act 2014 - the legislation in place whose primary function is to protect good agricultural land. I strongly object to NAC's application.

The Acland mine area is entirely within a Priority Agricultural Area in the Darling Downs, and a significant portion of it is also potential Strategic Cropping Land. As the Land Court case under Member Smith clearly established, the land in question is within the top 1.5% of good agricultural land in the state. I absolutely object to the destruction of this rare and precious resource, an irreplaceable intergeneration asset, by NAC. And if NAC mines it, destroyed it will be. NAC make no pretense that their "rehabilitation", no matter how valiantly it is spruiked, would reinstate the land to potential Strategic Cropping Land. After detailed and extensive expert testimony Members Smith's conclusion was that NAC's activities had the potential for loss or interference with water which would continue at least hundreds of years into the future if not indefinitely.

"The key question, therefore, is whether or not there is a real possibility of the groundwater available to landholders surrounding and in the vicinity of Stage 3 both during operations and for generations to come being effected. That question is of course answered as can be seen by my analysis of the key issue groundwater. I am satisfied, given the totality of the groundwater evidence before me in this case, that there is a real possibility of landholders proximate to Stage 3 suffering a loss or depletion of groundwater supplies because of the interaction between the revised Stage 3 mining operations and the aquifers. I am also convinced that the potential for that loss or interference with water continues at least hundreds of years into the future, if not indefinitely."

Land without water is a desert. To risk deprivation of the top 1.5% best agricultural land in the state of water would simply be a crime. It is now absolutely clear that we live in a climate emergency. As I write this, Australia is burning. There have been apocalyptic scenes of immense devastation (Kwai

2020, Flanagan 2020). Multiple lives have been lost along with thousands of homes; millions of hectares of land have been burnt out, and untold millions of birds and animals have been incinerated. Toxic smoke has blanketed the South Eastern States and drifted across the Tasman. Sydney hospitals have seen a 30% increase in presentations for cardiac and respiratory conditions (Aubusson 2019). Average temperatures have risen and will rise further. Australia is again in drought with no prospect of relief. We can expect that our future will be defined by extreme weather events. What we cannot rely on in our future is predictable, gentle rain to help our crops to grow. In any case, many of the farmers in the vicinity of the Acland mine are already dependent on groundwater to grow the food needed in our towns and cities. Without water their land will be forever barren and useless. NAC, along with all the other fossil fuel ventures, bears a further responsibility with its direct and ongoing contribution to the underlying cause of the climate crisis. The emissions generated by NAC during their extraction and subsequent burning of coal contributes directly to the rise in global temperatures and the climate disruption that stems from it. To quote Doctors for the Environment Australia: *"It is not possible to overemphasise the enormity of health, economic, security and environmental costs of an inadequate response to global warming"* (Haswell 2018). Rather than permit fossil fuel industries to expand, it past time to call a halt.

My further objection to NAC's submission rests with their demonstrated disregard for the well being of the community in the region. As noted by Member Smith, *"NAC leads evidence to show that it is a good corporate citizen playing an important role in the local community. The objectors lead evidence alleging that NAC is the opposite of that"* and Member Smith further notes the evidence of NAC's chief operating officer Mr Denney that: *"when he commenced work with NAC in 2010, it was clear to him that NAC had much work to do to improve its dealings and relationship with the local community."* Of particular concern to me was NAC's determined resistance during the court hearings to a possible condition requiring the placement of PM_{2.5} air monitors. Exposure to PM_{2.5} is known to have serious adverse health consequences with implications for all community members exposed, from babies in utero to the elderly. My concern for the health and well being of the community extends beyond objectors to the mine and includes workers and their families. For 30 years mine workers in Queensland have lived with, and died from, black lung disease, while mine operators and government regulators denied its existence. By their determined resistance to adequate air monitoring NAC have cast themselves in a very poor light. In addition NAC's further determination during the court case to remove from NAC's workers and their families as well as unassociated community members renting NAC properties their rights and protections inherent as sensitive receptors negates any NAC claim to good corporate citizenship. As summarized by Member Smith:

"Mitigation measures may go some way to reducing a person's exposure to particulate matter and dust but even short term exposure to high levels of PM_{2.5} can be unsafe, particularly to vulnerable members of society such as children and the elderly. Hence NAC should not be able to contract out of its obligation to provide safe and clean air for all nearby residents."

According to the national pollutant inventory the NAC mine is the largest emitter of toxic air pollutants in the district with adverse implications for community health and well being in the wider region.

For decades scientists have warned of the impact that rising greenhouse gas emissions would have on our climate. A culture of denial has resulted in failure to act a global level resulting in the current climate crisis. In Australia there has been decades of poor decision-making and endemic mismanagement. Mismanagement of water, most notably the Murray Darling River System, failure to manage the fuel load in State Forests and a total failure to recognize and act upon fossil fuel emissions have placed Australians in harms way.

Decisions taken now on developments are going to impact the health of generations to come. Inappropriate decisions taken now are going to harm place and people for generations to come. It is in the regions' best interest that NAC's application should be refused.



Aubusson, K., 2019, The Sydney Morning Herald, NSW bushfires: 'apocalyptic' health effects of Sydney's toxic air. <https://www.smh.com.au/national/nsw/nsw-bushfires-apocalyptic-health-effects-of-sydney-s-toxic-air-20191211-p53ixc.html>

Flanagan, R., 2020, The New York Times, Australia is committing climate suicide, https://www.nytimes.com/2020/01/03/opinion/australia-fires-climate-change.html?fbclid=IwAR1IX_RHJ2JUYRfgIFz3n72B6v7IEYOWba989eAtFyCArQLW7OF1sX2Sr_M

Haswell, M and Shearman, D (2018). The implications for human health and wellbeing of expanding gas mining in Australia: Onshore Oil and Gas Policy Background Paper. Doctors for the Environment Australia, <https://www.dea.org.au/wp-content/uploads/2018/12/DEA-Oil-and-Gas-final-28-11-18.pdf>

Kwai, I., 2020, The New York Times, Apocalyptic Scenes in Australia as Fires Turn Skies Blood Red, https://www.nytimes.com/2019/12/31/world/australia/fires-red-skies-Mallacoota.html?fbclid=IwAR284xDIEZFbqX16CFmqV2VddhIj9YumIdlaLs1aMUmC_up8-o8VGj4VNew

[REDACTED]

[REDACTED]

13/01/20

Department of State Development, Manufacturing, Infrastructure and Planning

Dear Sir/Madam,

Please accept the following submission,

Yours sincerely,

[REDACTED]

1. Due to the public notification of an assessment application for a regional interests development approval for New Acland Coal (NAC) I wish to make the following submission.
2. As a local landholder I have had a close interest in NAC activities since 2015. NAC's application for a mining lease (ML) and environmental authority (EA) saw a land court case and subsequent legal manoeuvres that are still yet to play out.
3. At any time since 2015 NAC have been free to address their need to comply with the relevant legislation regarding the Regional Planning Interests Act (RPIA)
4. My first concern is that NAC feel according to their cover letter date 18th November 2019 that they are exempt from this legislation. Clearly they operate and are proposing to operate in a Priority Agricultural Area (PAA) undertaking open cut mining which does have significant impact on land when the end result is a final void.
5. Another concern is that in their community newsletter date December 2019 NAC acknowledges that some approvals are required for the Stage 3 project to proceed and then declare these as secondary. The fact that NAC seek to render quality cropping land useless and want to pass this off as nothing unusual denies the fact that they conducting mining on some of the best 1.5% of agricultural land in Queensland which makes what they have done and are proposing to do extraordinary.
6. The RPIA act exists because there is a need to carefully consider the merits of taking quality cropping land permanently out of production.
7. The assessment report and the updated assessment completed for the purpose of demonstrating NAC ability to be able to comply with RPIA requirements has been provided by the same consultancy group that are responsible for much of the groundwater reports that have been completed for the proposed project. Having had the experience of working through these reports to find omissions and discrepancies it was with little confidence that I investigated parts of the assessment report and the updated assessment report for approval under the RPIA.
8. When studying the assessment report my time was focussed on the Willeroo area of the proposed stage 3. I spent all 5 years of highschool travelling by bus through the Acland and Greenwood area including the area immediately to the south of proposed Willeroo. As a child on Sundays I would observe all that was going on to and from church on the northern side travelling on Acland Silverleigh road. Every time a trip was made to Oakey/Toowoomba using the Oakey Cooyar road observations of the area to the west were made coming off the top of Greenwood hill. As a farmer it was all to do with the fact that the soil in the area gave rise to better crops and more intensive farming.
9. Looking at the field inspection points in the assessment report I was curious to see the likes of site 82 (see page 391 of pdf file of rpi-19-005 assessment report). My thoughts originally were to determine how close to the fenceline the photo to the west would demonstrate the actual point of reference. Seeing no fenceline it

then dawned on me that the photo offered for the southern aspect and the western aspect were the same image and then after some more investigation it was found that for site 81 the same images were used as for site 82. It must be noted that these inspection points have disappeared as the paddock size and shape have been altered in some cases significantly between the report and the updated report. With this knowledge it can be speculated that it was due to the lack of accuracy that this occurred .

10. Seeing this level of discrepancy gives weight to the theory that NAC are only interested in looking when they know already what they are going to find.
11. Comparing mapping of the updated report with the report gives rise to more concern. Paddock 35 has more than doubled in size but there is no inspection points but for the extreme western portion of the boundary. Paddock 11 is now half the size of the original. Paddock 9 doubles in size with no inspection points save in the south east corner.
12. Paddock 12 when comparing the two maps is a work of fiction. (pdf file page 23 of assessment report rpi-19-005 and page 24 of updated assessment report rpi-19-008) Paddock 12 moves west and magically sites 170 and 171 uproot and move from being on the western side of paddock 12 in the report to being neatly inside 12 on the eastern boundary of the updated report. Site 171 is to the south east of site 170 in the report only to find itself to the southwest of 170 in the updated report.
13. Paddock 12 according to the crop frequency maps provided in the updated report has had 3 crops between 2009-2018. The PALU Assessment Results Table gives a Yes for 2009 and for 2013 and in the QLD Forage Report: Crop Frequency explanation for Paddock 12 offers confirmation that there was no cultivation or crop planted between 2010-2012. So on the basis of the Acland Pastoral Company (APC) farm managers confirmation back in 2015 that there were not 3 crops in the period the updated report dated November 2019 declares that there is no PALU when it comes to paddock 12.
14. If paddock 12 has changed locations then the conclusion must be drawn that the APC manager was referring to Paddock 12 as it was situated in the assessment report dated August 2019. The QLD Forage Report: Crop Frequency explanation for Paddock 12 asserts that the farm manager confirmed that no summer crop was planted in 2010 in this report.
15. In both the report and the updated report the year 2015 was referenced as to when the APC manager was asked to confirm that no cultivation or cropping took place on Paddock 12 for the summer of 2010 in the report and for the period 2010-2012 in the updated report.
16. It is clear that we cannot ascertain whereabouts Paddock 12 is actually located and that cropping may well have occurred making it PALU on what is now described as Paddock 12 when a different parcel of land was given this description when the APC manager was asked to refer to it.
17. Cropping may well have taken place in 2010, 2011 or 2012 on what is now described as Paddock 12 without any evidence to the contrary. These were years of plenty when it came to rainfall and cropping opportunity.
18. The report/updated report provided seek to demonstrate that there is no PALU within the application area. I believe the points 12,13,14,15 and 16 contained previous outline a case where PALU could exist in the application area today.
19. This is also an exercise where NAC seek to have an approval for a period of time less than that they have requested as part of their ML or EA. NAC have labelled the RPIA approval as secondary. It would seem that if they fall short of compliance with the RPIA in future they would simply point to a possible gaining of a ML and a EA and that it trumps all other requirements.
20. In parts of the legal system the term deceptive and misleading is used to describe parties that fall short of legal requirements and create a false impression. For a report to have photos the same for multiple sites when it is to support that someone has physically been and inspected and for changes to sites involving the moving of sites so that there is confusion as to where those sites physically are fit the claim of deceptive and misleading. With sites 170 and 171 the description and the photos stay the same but according to the mapping the location has changed (page 488 onward of pdf file for rpi-19-005 and page 519 onward of pdf file for rpi-19-008 for photos, page 23 for rpi-19-005 and page 24 for rpi-19-008 for mapping of inspection points).
21. The precautionary principle needs to be brought to bear here, NAC are not interested in finding something they don't want to know about. The assessment report being updated proves that the knowledge on this matter is lacking. As this submission outlines there are some glaring deficiencies in how these reports have been constructed.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

To the assessor at:

RPI Act Development Assessment Division

Department of State Development, Manufacturing, Infrastructure and Planning PO Box 15009 City
East QLD 4002

RPIAct@dsdmip.qld.gov.au

Dear Assessor,

Re: New Acland Coal

I live near the proposed New Acland Coal Stage 3 mine. My family have been farming and grazing here for multiple generations. I am very concerned about the proposed New Acland Coal Stage 3 mine.

I strongly begrudge the time my family and I have had to spend responding to and dealing with matters related New Hope and its subsidiaries adverse mining impacts and mining proposals. This has been an enormous drain on us. Time spent on this is also time not able to be spent more positively or productively working on our farm business or looking after ourselves and our family members. These costs are not insignificant. In considering this application, and its potential impacts on surrounding agricultural land uses please also factor in this substantial cost on other agricultural landholders and businesses.

The proposed stage 3 mine is entirely within a Priority Agricultural Area (PAA) and is almost entirely Strategic Cropping Land (SCL), as per Queensland Government mapping and the EIS and other documents, provided by New Acland Coal (NAC) including APPENDIX I Strategic Cropping Land Trigger Map P889 in this application.

The application form (signed by Chief Operating Officer Andrew Lachlan Boyd and dated 18 November 2019) on page 2 states an "area of disturbance" of PAA of 2995 ha and an "area of disturbance" of SCL of 2700ha. This is substantial, especially in this intensively farmed and settled area. This area is known for very fertile, arable soils and also being in a region with a more suitable climate for farming than much of Australia.

Looking at mapping overlay data, such as using the publicly available Qld Government Globe databased and software (see attached map extracted from this¹) it appears that the whole area of the proposed mine is mapped as SCL except for what is excluded from cropping due to areas of protected regional ecosystems (REs)² under the Vegetation Management Act (VMA) and areas degraded by this company's earlier open cut coal mining activities.

The Regional Planning Interest Act (RPIA), was introduced to protect good quality agricultural land, including SCL, from adverse impacts from resource development.

The proposed New Acland Coal Stage 3 mine causes precisely the sort of impacts this legislation was introduced to stop. It will permanently destroy many hundreds of hectares of SCL, it is inconsistent with the agricultural land uses, which are supposed to have priority in the Priority Agricultural Area, and it will cause a substantial decline in the groundwater far beyond the mine site.

Policy Context

Good agricultural land has been recognised as important, valuable and needing protection from other land uses for at least multiple decades. Conversely, since they first looked at mining in Acland, it would seem to have been in NHG / NAC's interests to downplay the value of the agricultural land here.

Even prior to the RPIA and the SCL legislation that preceded it, State Planning Policy SPP1/92 'Development and the Conservation of Good Quality Agricultural Land', was in place and sought to protect good quality agricultural land from incompatible land uses. The Position Statement of this policy is that:

"The Queensland Government considers that good quality Agricultural land is a finite national and state resource that must be conserved and managed for the longer term. As a general aim, the exercise of planning powers should be used to protect such land from those developments that lead to its alienation or diminished productivity"³

At least since Anna Bligh's Labor government introduced the Strategic Cropping Land Legislation many years ago, senior Queensland Government parliamentarians from both sides of politics have often stated their desire to protect good quality agricultural land from

¹ See Att 16 GoogleEarthQGGlobemineSCLREVMA

² Unsurprising as the Government states that <https://www.business.qld.gov.au/running-business/support-assistance/mapping-data-imagery/maps/strategic-cropping-land/certification> that "The SCL trigger map excludes: areas that are category B (or remnant vegetation) on the **regulated vegetation management map**"

³ <http://www.dlgrma.qld.gov.au/resources/policy/spp1-92.pdf>

adverse impacts from resource developments. It is was central to statements from Jeff Seeney⁴, Anthony Lynham⁵ and Deb Frecklington⁶ for example.

As far back as 2010, the Queensland Government stated that:

“The Queensland Government considers that the best cropping land, defined as strategic cropping land, is a finite resource that must be conserved and managed for the longer term. As a general aim, planning and approval powers should be used to protect such land from those developments that would lead to its permanent alienation or diminished productivity.

Agricultural land resources are important to Queensland. They support economic growth in regional areas, they provide a resource base for growing food in the context of increasing world food demand and they are finite in nature.

... Loss of Queensland’s highest value agricultural land has the potential to reduce the state’s future capacity to grow crops with associated economic, environmental and social implications.”⁷

Under the SCL legislation open-cut mining, such as this proposal relates to, is considered to have a permanent impact (s14) and under s76 it sets out serious consequences for anyone carrying out development on SCL that might have a permanent impact including up to “4165 penalty units or 5 years imprisonment”.

This issue was at the forefront of the 2012 election and LNP members made statements indicating a need to further strengthen the legislation to better protect good agricultural land from “from being dug up for mining”⁸ such as:

- “LNP has made it clear that it will not support the proposal for Acland stage 3 that would see the expansion of the open cut coal mine digging up strategic cropping land”⁹
- “If elected to government, we would quickly introduce Statutory Regional Planning Schemes to protect strategic cropping land on the Darling Downs and in the Golden Triangle”¹⁰
- “Only the LNP will stand up for locals and protect our very best farming land that can sustainably produce food and fibre for future generations.”¹¹
- “We will protect farm communities from being dug up for mining.”¹²

⁴ See attached doc “Att 1 200212 JSRH LNP says no to Acland Stage 3” and doc “Att 2 Example LNP statements”

⁵ See attached doc “Att 1 200212 JSRH LNP says no to Acland Stage 3” and doc “Att 2 Example LNP statements”

⁶ See attached doc “Att 3 LynhamABC

⁷ <http://www.dlgrma.qld.gov.au/resources/planning/planning/strategic-cropping-land-discussion-paper.pdf>

⁸ Frecklington Feb 2012 see attached

⁹ Frecklington Feb 2012 see attached

¹⁰ Frecklington Feb 2012 see attached

¹¹ Frecklington Feb 2012 see attached

¹² Frecklington Feb 2012 see attached

- ““The LNP would quickly introduce Statutory Regional Planning Schemes to protect strategic cropping land on the Darling Downs and in the Golden Triangle,”¹³
- “The LNP will protect our very best farming land that can sustainably produce food and fibre for generations to come. We will also protect farm communities from being dug up for mining. Only the LNP will provide this protection through proper statutory land use planning.”¹⁴
- ““The LNP has made sensible commitments to protect the Felton Valley and Gowrie Junction, and to oppose the proposal for Acland Stage III. ...”¹⁵
- “In fact, the LNP don't support open-cut coalmining on strategic cropping land anywhere in the state,” “The LNP will not support the proposal for Acland stage three (because) it covers some areas of strategic cropping land, and would come too close to local communities.”¹⁶

During their term in Government, the LNP introduced the Regional Planning Interests Act. As well as including the protections for Strategic Cropping Land it also introduced “Priority Agricultural Areas” and statutory regional planning. Deputy Premier Seeney said:

“Any new and subsequent work plans that may be submitted after the passage of this legislation will have to meet the outcomes set out in the regional plan, and that is to protect the priority agricultural areas, protect the agricultural land uses....”

“I stood in parliament two years—it might be 2½ years ago—and said that we were going to introduce this and mining companies that invested in areas where it was unlikely that they would get a social licence to develop their projects did so at their own risk....”¹⁷

The Coordinator General’s report in December 2014 didn’t seem to include much discussion about the RPIA however he included:

“The project is located within a SCA and PAA under the RPI Act. The proponent will need to apply for RIDA under the RPI Act, which for SCL, includes a soil verification process to confirm how much of the land is SCL.” p24

The issue of land use conflicts between agriculture and resource industries, and particularly the proposed Stage 3 mine was still topical in the 2015 election and Labor’s agriculture spokesman and member for Stafford, Anthony Lynham said things regarding mining on good agricultural land and the proposed Acland Stage 3 mine including:

- “We’re not going to sell our farmers out to the interests of mining like they [the LNP] have done.”¹⁸
- “I don't support it,”¹⁹
- “I would love to [knock it back] but I'll have to look at the legal ramifications” “We don't know what sort of contract this lot's [the LNP] got us into.”²⁰

¹³ Seeney Feb 2012 see attached

¹⁴ Hopper 2012 see attached

¹⁵ Nicholls March 2012 see attached

¹⁶ Spokeswoman for Premier Newman March 2012 see attached

¹⁷ Seeney Feb 2014 see attached

¹⁸ Lynham ABC Jan 2015 see attached

¹⁹ Lynham ABC Jan 2015 see attached

²⁰ Lynham ABC Jan 2015 see attached

Given the stated political intent over many years from both sides, and what NAC actually propose here on the Darling Downs in an area mapped as a Priority Agricultural Area and SCL and which is expected to have significant groundwater impacts on hundreds of agricultural bores²¹, it is hard to believe that it is even necessary to make this submission. It should be so obvious that this project should not be granted an approval.

Agricultural Land Use and Quality of Agricultural Land

The Darling Downs has long been recognised as some of the very best agricultural land in Queensland. This has been so from the time of the early settlers to the present. It is also of international fame. It was also acknowledged as one of Queensland's 150 icons, the only location of its type to be listed.²²

The Queensland Government itself has recognised this land as being a "Priority Agricultural Area".

The Queensland Government itself has also identified this land as valuable and mapped it under the Strategic Cropping Land trigger maps. The Queensland Government defines that "SCL is land that is, or is likely to be, highly suitable for cropping because of a combination of the land's soil, climate and landscape features."²³

In its findings after an extensive hearing and significant evidence²⁴, the Land Court recognised that "the land around Acland was among the best 1.5% of agricultural land in Queensland [and that this] certainly makes the land significant from an agricultural perspective"²⁵.

²¹ NAC's own EIS has acknowledged substantial groundwater drawdown and the Coordinator General's report in 2014, multiple hydrological experts under oath and the Land Court have all found there to be a high probability of significant and wide reaching groundwater drawdown caused by the proposed mine.

²² https://en.wikipedia.org/wiki/List_of_Queensland%27s_Q150_Icons#Locations

²³ <https://www.business.qld.gov.au/running-business/support-assistance/mapping-data-imagery/maps/strategic-cropping-land>

²⁴ New Acland Coal Pty Ltd v Ashman & Ors and Chief Executive, Department of Environment and Heritage Protection (No. 4) [2017] QLC 24 <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> (paragraph references (marked []) in this submission refer to this judgment unless otherwise indicated)

This was the "longest case heard in the 120 plus year history of the Land Court of Queensland", and "involved the largest number of witnesses in any matter ever heard by this Court" [202]. The amount of material before the Court can only be described as "immense." [36] Even by May 2017 there were "almost 100 hearing days before this Court, almost 2,000 exhibits containing many tens of thousands of pages of material, and well in excess of 2,000 pages of submissions" [19] "...there were 38 lay witnesses called to give evidence, and 28 expert witnesses assisted the Court with their evidence" [103]

See also [19], [36], also [87], [97], [103] [202], [203] and [204]

²⁵ [1299]

Additionally, the Land Court recognised that the proposal to mine this land raises concerns in regards to intergenerational equity²⁶.

NAC called Mr William Patrick Thompson as an expert to give evidence in the Land Court in the field of Land Use and Soils. In their closing submissions NAC described him as “an impressive witness, with similarly impressive qualifications and experience”.²⁷ Mr Thompson gave sworn evidence that the land that was proposed by NAC to be mined was within the best 1.5% in Queensland.²⁸

The Land Court findings of Member Smith included:

“I am satisfied that the evidence of [NAC expert witness] Mr Thompson during cross examination clearly shows his view that he accepted that the land around Acland was among the best 1.5% of agricultural land in Queensland. This certainly makes the land significant from an agricultural perspective” [1299].

In my view, Mr Thompson’s evidence is enough, of itself, to raise some issues of concern from an intergenerational equity perspective. Mr Thompson’s evidence however does not need to be considered in a vacuum, as there is substantial evidence given from landholders in the area with multi-generational ties to the land as to their views on intergenerational equity. [1315]

Many farmers in this district, including those who are older and more experienced farmers than me, recall extremely productive crops year after year for many decades in the areas now proposed to be mined by NAC. Some, but not all, of this evidence may be found in the Land Court exhibits and transcripts. There is also a lot more evidence that could be gained from submissions and statements from locals with extensive and long term farming knowledge in the district over many decades as well as through various reports in the media and other documents over the years.

NAC has provided a limited selection of google earth images of the area. I invite you to look at other years also. If you do you will see that the land within the NAC application area has a well established history of being cropped and used for intensive agricultural uses over many years.²⁹ You will also see that these uses remain largely unchanged where New Hope Group and its subsidiaries are not the land owners.

The important QLUMP / ALUM (Australian Land Use Mapping) of Qld highlights just how rare and precious the land use capacity is in this part of Queensland. As you can see even in the Current Land use map, not much of Queensland has been able to support these land uses.³⁰

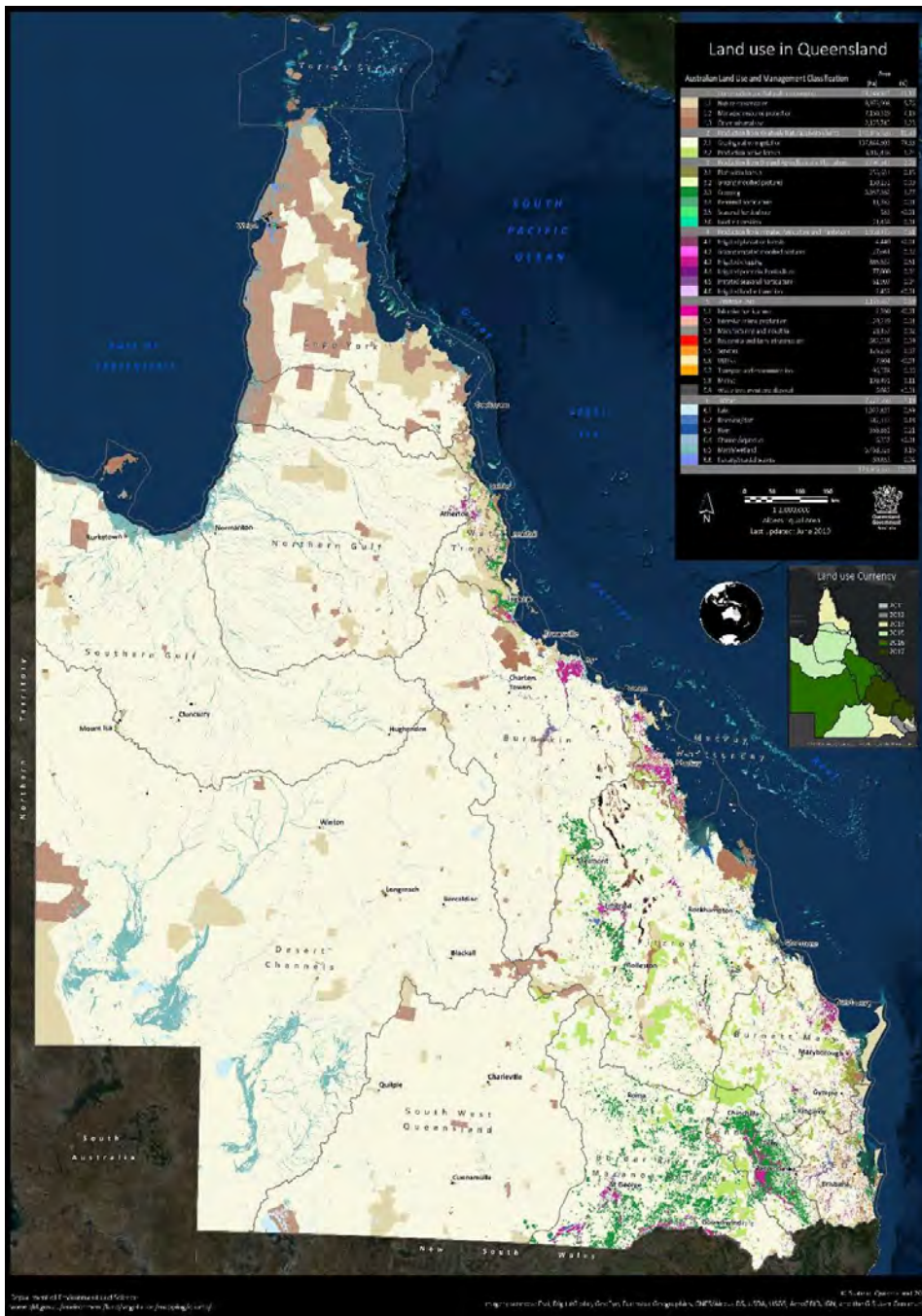
²⁶ [1315] and others

²⁷ Par 6.68 NAC submissions to Land Court dated 26 August 2016

²⁸ T35-30, L31-46

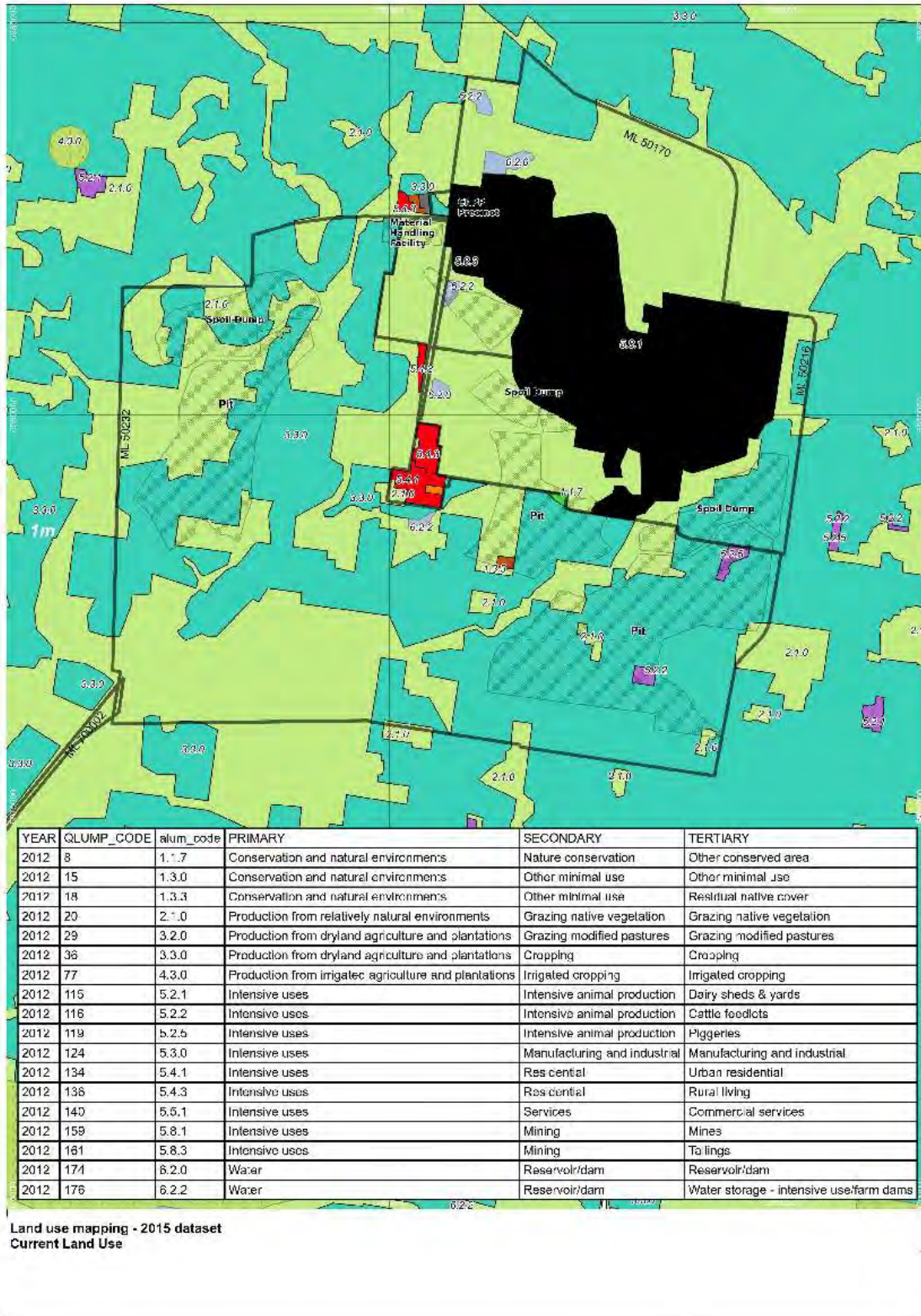
²⁹ I have attached pictures of the google earth images from 1984, 1996, 2000 and 2004 for your information (Att 12 to 15)

³⁰ See <https://www.qld.gov.au/data/assets/image/0019/110980/qld-land-use-map-current-high-res.jpg>



Queensland Land Use Mapping Program (QLUMP) Current Land use map available at <https://www.qld.gov.au/data/assets/image/0019/110980/qld-land-use-map-current-high-res.jpg>

Even in 2015 (the most recent that I have at this detail level) QLUMP mapping shows that the areas within the proposed pits are still mostly mapped as 3.3.0 land use ie cropping. The pic below includes this mapping overlayed over the proposed pit areas.



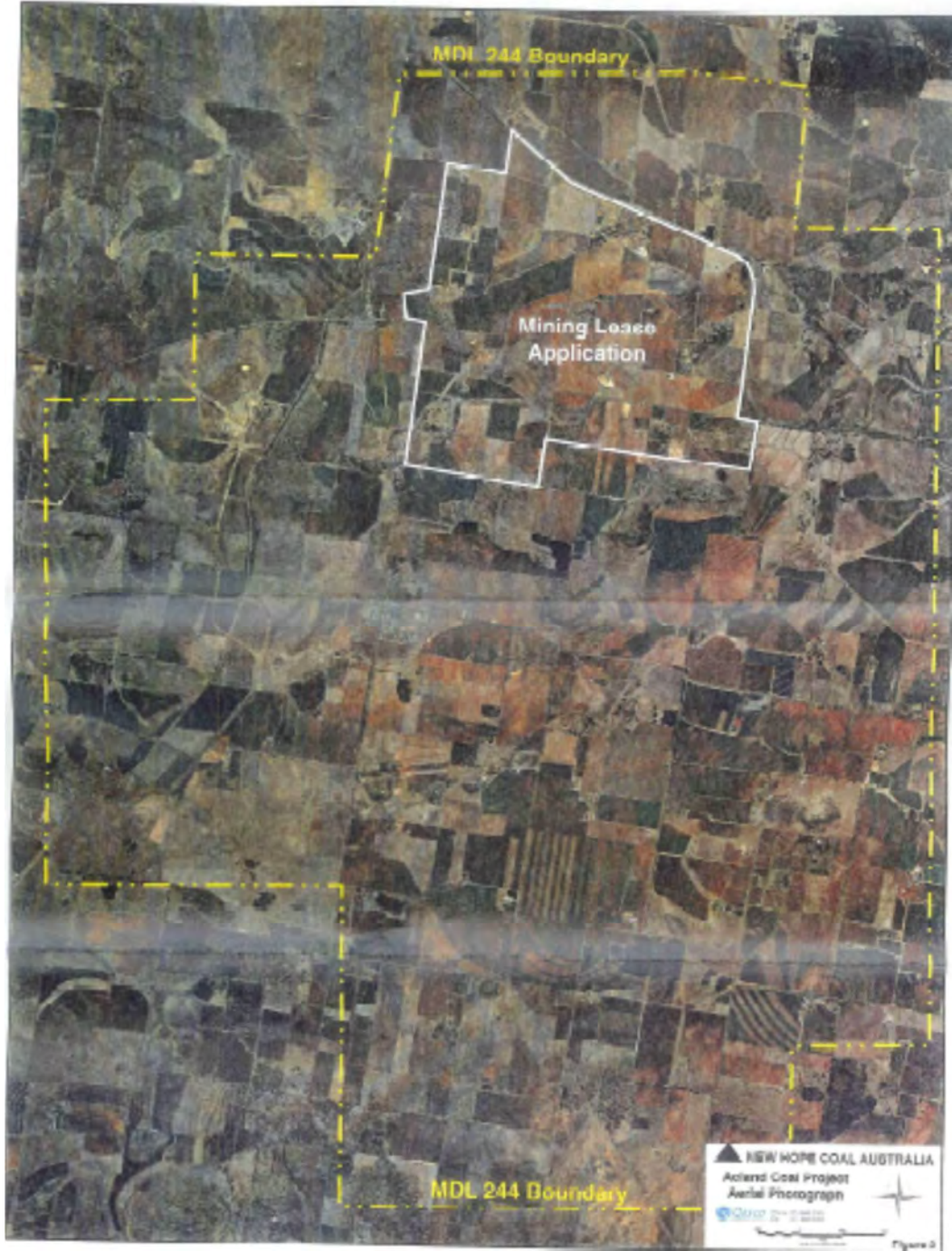
QLUMP mapping 2015 with proposed pit areas indicated

Although, it would seem to have long been in NAC's interests to down play the cropping value of its proposed mine site, there are many reference to it in various documents provided by NAC.

The mine's own stage 1 proposal (an Environmental Management Overview Statement (EMOS) – predated EIS's) in June 2001 included an aerial photo depicting the land uses. A copy is attached³¹ to this submission (and a smaller copy inserted below see Figure 1). This clearly indicates that a lot of the land that is now proposed for stage 3 was previously used for cropping.

³¹ See Att 4 Map of Stage 1 EMOS June 2001

Figure 1 – aerial phot from NAC's stage 1 EMOS



The Stage 1 EMOS dated June 2001 (see attached³²) on page 10 described the existing land use and land use capability as below.

³² See Att 5 NAC stage 1 EMOS

2.1 LAND RESOURCES

2.1.1 EXISTING LAND USE AND LAND CAPABILITY

The ML site is freehold land and road reserves. The freehold land is owned by several private landholders and used for rural and related activities dominated by dairy cattle grazing and grain crop and flower production. Other rural related land use within a 5 km radius of the site includes pig farming (north), dairying, grain storage, feedlots (north) tree cropping and various rural homestead properties.

The largest settlement located within 5 km of the site is the town of Acland (population 170) situated south-west of the proposed site. Land uses associated with the town include: residential dwellings; a general store; service station; mining museum; community hall/facilities and open space/parkland.

Smaller rural settlements at Muldu (west), Balgowan (north-west) and Rosalie (north) consist primarily of rural residential land uses, containing only a small number of dwellings.

NAC also acknowledged at page 11 of the EMOS under the heading 2.1.2.2 Land Use Changes, that “the reduction in agricultural value of the area to be mined is acknowledged as an impact of the proposed operation”.

Although trying to make the case that the mine should be approved regardless of SPP1/92 and other issues, NAC’s Stage 2 EIS acknowledged that “the soils present in the area are generally suitable for cropping” p3-21.

The Stage 2 EIS also included a map of agricultural land classifications allocated by the Queensland Government for the land around Acland (see attached NAC Stage 2 EIS Ag Land Map³³ which shows a map of the Good Quality Agricultural Land in the Rosalie Shire (which included the project site)). This indicated that the Queensland Government classified most of the land now proposed for stage 3 as “Agricultural Land Class A” which was defined as “Crop Land - suitable for current and potential crops”. A smaller portion which was classified as B2, which also included crop land.

Even the New Acland Coal Stage 3 EIS acknowledged that the area the subject of the Stage 3 application is of good quality. Section 4.5.2 specifically states that prior to mining the revised project site has been described as:

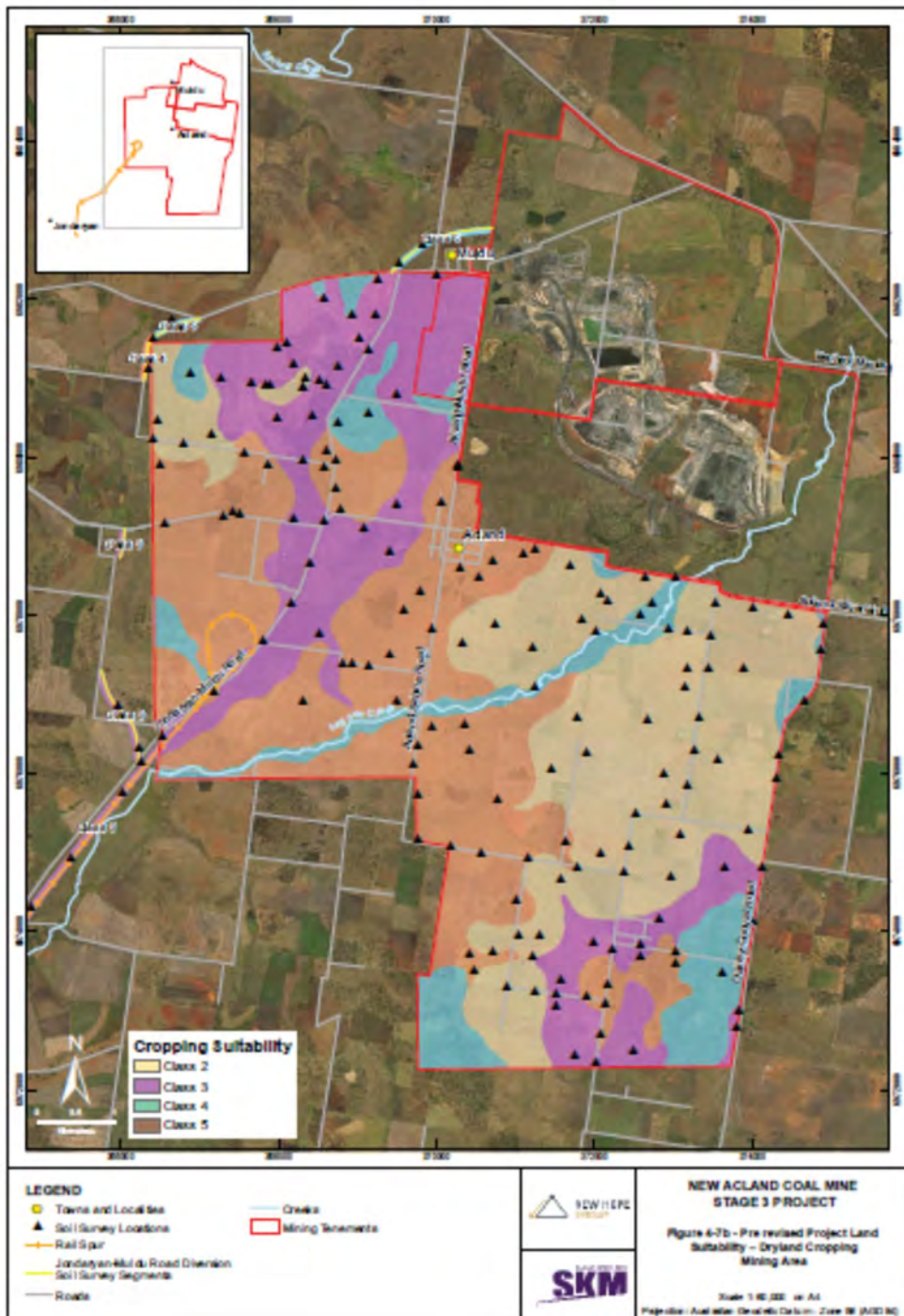
“having a range of fertile soils with a desirable climate which is capable of growing a wide variety of crops and producing quality livestock.”

This seems accurate.

Figures 4-7a and b and 4-8a and b of the Stage 3 revised EIS also indicate that, even New Hope concedes that the areas of the proposed pits in the revised projects are predominantly areas of land that are of very productive capacities and highly suitable for either cropping or grazing. The mapping on figure 4-7b (see below) indicates that most of the land that NAC

³³ Att 6 NACStage2EISAgLandMap

proposes to mine as part of stage 3 are class 2 cropping land (in a range of class 1 to 5) ie land that has only minor limitations to its use for cropping.



In Chapter 4 (Land Resources) of the EIS for the revised stage 3 project it notes that "The revised Project site has a history of grazing and small lot cropping". In the EIS Appendix regarding Land Resources, there is significant evidence about there being good cropping

land on site. For example, in relation to many of the soil sampling sites it includes favourable comments. Examples of the comments in the “Soil Sampling Site Assessment Report – Mining Area” in this appendix to the EIS include:

- “Dark good cropping clays”,
- “wheat cropping”,
- “Dark good cropping clays”,
- “good cropping”,
- “Very good dark clay cropping soil on gentle ridge. 0.5% slope.”,
- “Deep good dark cropping clay”,
- “level cropping land. Good soil. Very large area on west side of Acland”.
- “Red basalt cropping soil”
- “Dark basaltic cropping soil”
- “Entire profile is moist. Old cropping soil – probably very productive.
- “Excellent cropping soil”
- “Old cultivation soon to be reestablished.”
- “Good light clay cropping soil”.
- “Black cropping soil”
- “Cropping”
- “Near level alluvial plain. Old cropping area.”
- “Deep good dark cropping clay on moderate 3-4% slope.”
- “Brown fine self-mulching clay”
- “Very good dark clay cropping soil on gentle 1% slope.”
- “Cropping”
- “Good cropping soil.”

It also notes deep profiles of good soil such as such as “0-5mm granular mulch. Cracking dark clay, 5mm – 45cm dark well structured med heavy clay, ..45 – 100cm+ dark brown well structured clay. No sign bedrock”.

In regards to the assessment of the soils in the area of the rail and road infrastructure the Soils Technical Report – Rail and Road in the appendix in the EIS finds “Vertosols predominating” and also includes:

“A1 Vertosols Deep dark brown to black cracking clays >100 cm deep with self-mulching surface. ...Cropping soil comprised of uniform and deep cracking clay with high water storage potential...”

B1 Mainly Vertosols with associated Dermosols. Dark and deep to moderately deep cracking and non cracking clay on gently undulating plains....

Ba2 Vertosols Black cracking clay on basalt with weathered basalt horizon below 0.65m. Non-saline....Deep cropping soil with strong structure and cracking self mulching surface which are non-saline but with increasing susceptibility to soil erosion.”

The “FINAL LANDFORM TECHNICAL REPORT “in the Land Resources Appendix of the EIS also includes a description of the land suitability and use as below:

“2.2. Pre-Mining Land Suitability and Use

The Study area has a range of fertile soils with a desirable climate which is capable of growing a wide variety of crops and producing quality livestock. A summary of historical land use patterns within the Study area is outlined as follows.”³⁴

Even the Coordinator General found that with regards to the ‘revised’ (current) stage 3 application:

- **“The soils within the project site are generally suitable for cropping, characterized as basalt clays, cracking earths and alluvium. The project site has a history of grazing and dryland cropping. Two feedlots and a piggery also operated on the site.”** P13
- “The final voids will total around 457ha, have depths ranging between 60–80 metres (m) and be profiled with slopes from 8 to 19 degrees.” P3

In other corporate documents New Hope also frequently mentions its cropping and cattle operations. For example, the New Hope Group website states that Acland pastoral company is based at the New Acland Coal Mine and “manages 2,400 hectares of crops”.³⁵

Even the most recent New Hope Group (NHG) Quarterly report 31 July 2019 refers to the cropping undertaken by its subsidiary Acland Pastoral Company on the land it owns near Acland. For example, on page 4, it states that:

“Acland Pastoral operations received below average rainfall for the Quarter, negatively impacting grazing pastures and planting of winter crops. An oats crop was planted and is being used for in crop grazing of weaners. Dry land barley growth is marginal; however irrigated oats and barley crops are progressing well under the recently installed 72HA pivot irrigator footprint.”³⁶

The NHG April 2019 quarterly report states:

“Acland Pastoral operations received below average rainfall for the quarter, negatively impacting grazing pastures and summer crops. Sorghum crops were bailed and placed in inventory with the sorghum stubble and regrowth being used to value add weaners.”³⁷

The NHG January 2019 quarterly report states:

“Acland Pastoral operations received well below average rainfall for the quarter, negatively impacting grazing pastures and dry land crops. ...The irrigation network has been installed and commissioned allowing for 98 hectares of irrigated corn to be planted.”³⁸

³⁴ P4 FINAL LANDFORM TECHNICAL REPORT, Land Resources Appendix, EIS, *New Acland Coal Mine Stage 3 Project* JANUARY 2014

³⁵ <http://www.newhopegroup.com.au/content/projects/operations/agriculture> accessed 15 January 2020 (and see copy attached Att 8 NHG Agriculture)

³⁶ <http://www.newhopegroup.com.au/files/files/1963365.pdf>

³⁷ [http://www.newhopegroup.com.au/files/files/1933620\(1\).pdf](http://www.newhopegroup.com.au/files/files/1933620(1).pdf)

³⁸ [http://www.newhopegroup.com.au/files/files/1899721\(3\).pdf](http://www.newhopegroup.com.au/files/files/1899721(3).pdf)

The most recent 2019 New Hope Group annual report noted on page 14 that:

“Acland Pastoral successfully managed its breeder herd through a severe drought period with minimal losses and the breeders producing in excess of a 90% calving rate in very trying conditions. As the drought continued, Acland Pastoral responded by reducing its breeder herd numbers with 1,181 breeder cattle, 1,143 weaner heifers, and 174 calves sold during the year leaving a closing inventory of 1,271 breeders, 1,260 weaners and 54 bulls. Dryland sorghum crops totalling 458 hectares were planted, however the drought severely impacted yield with 550 round bales harvested, of which 291 bales remain as inventory. On a positive note, rain in March promoted substantial regrowth in the previously harvested sorghum paddocks, allowing in crop grazing. The 100 hectare corn crop suffered similar yield impacts as the sorghum and cattle were introduced to the corn paddocks for in crop grazing.”

Other reports, including other quarterly and annual report, can be found at <http://www.newhopegroup.com.au/content/investors>

Various photos even since the mine started also show that the land that near the mine but which had not been mined has still been able to be cropped and as such is still the sort of land the RPIA should be protecting.



Photo of the New Acland Coal mine (above)

Water

The groundwater impacts from the proposed stage 3 mine have been the subject of many submissions as well as substantial evidence from locals and hydrological experts as well as witnesses being cross examined under oath by legal experts (including QCs) and self-represented people. Not only did NAC call 3 separate groundwater experts in the Land Court it also specifically reopened the evidence months after the evidence otherwise closed so that it could seek to present its groundwater case in a better light.³⁹ The results of all this evidence are the strong adverse findings against NAC's proposed stage 3 mine including recommendation of outright refusal of the project.

The Land Court's findings⁴⁰ – the facts of which have not been legally challenged, include:

“groundwater is a fundamental issue to those living and working in the Acland area. There is no doubt that legal access to groundwater is held by numerous landholders in the general vicinity of the New Acland Mine, and that the groundwater obtained by those landholders is essential to their rural businesses. Groundwater is not only used for irrigation; it is also used for stock watering purposes in the beef cattle sector and for both stock and production purposes by dairy farmers...” [1517]

“It is further beyond doubt, and accepted by NAC, that mining operations under the revised Stage 3 will impact on groundwater aquifers....” [1518]

“It is beyond doubt that the mining proposed by NAC in revised Stage 3 will cause disruptions to aquifers in the Acland region which will have an impact on nearby landholders...” [1799]

“I am satisfied, given the totality of the groundwater evidence before me in this case, that there is a real possibility of landholders proximate to Stage 3 suffering a loss or depletion of groundwater supplies because of the interaction between the revised Stage 3 mining operations and the aquifers. I am also convinced that the potential for that loss or interference with water continues at least hundreds of years into the future, if not indefinitely.” [1337]

“The principles of intergenerational equity are breached in at least one regard by the proposed revised Stage 3, with potential for groundwater impacts to adversely affect landholders in the vicinity of the mine for hundreds of years to come. This breach is sufficient to warrant rejection of the MLAs and draft EA applications”. [14]

³⁹ See *New Acland Coal Pty Ltd v Ashman & Ors* (No. 3) [2017] QLC 1

⁴⁰ See *New Acland Coal Pty Ltd v Ashman & Ors and Chief Executive, Department of Environment and Heritage Protection* (No. 4) [2017] QLC 24*

“Make good agreements cannot be a complete answer to this uncertainty. If one thing is clear from the mass of groundwater evidence, it is that proof of what actually happens to water under the ground is inherently difficult to determine even in circumstances where there is a large amount of geological evidence. This is particularly so in formations with the degree of faulting as found in the Acland area. Further, there is of course a relatively high concentration of landholder bores which rely upon groundwater from aquifers which will be impacted by NAC’s revised Stage 3 operations.” [1629]

“Taking the totality of the evidence into account, I am at a loss to see how a landholder could prove any loss of groundwater at one of their bores was caused directly and with certainty by NAC’s revised Stage 3 mining operations, such is the high degree of uncertainty of the groundwater evidence. It would be an unacceptable situation, in my view, for NAC to simply to be able to say that it was not satisfied that a landholder lost drawdown in a bore due to NAC’s mining operations, and then leave it to the landholder to undertake what would be very expensive litigation to establish otherwise.” [1630]

“I share the concerns of OCAA regarding make good agreements. As Mr Irvine⁴¹ said in his evidence, unless a landholder has the capacity to retain a hydrogeologist to assist in any dispute under a make good agreement, the information basis for resolving such dispute will be NAC’s predictive modelling outputs.⁴² This has the effect that a landholder will be left with no option but to accept the mines impact predictions unless they have the support of a consultant to challenge NAC’s assessment of the cause of the impact on their groundwater, assuming that NAC denies responsibility for groundwater loss. As Mr Irvine noted, this will involve “substantial expense”⁴³ for landholders.” [1537]

“Again, it is hardly a stretch to understand why a neighbouring property, reliant on bore water such as is the case for Mr Wieck for his multi-million dollar automated dairying operation, would be concerned.” [1322]

These, and other adverse findings about NAC’s proposed stage 3 mine’s adverse impact on groundwater remain relevant. It is very important to realise that these relate not only to the application area or even the wider proposed mine site but to a much wider area, potentially extending tens of km from the mine according to various modelling and expert evidence.⁴²

Evidence from NAC includes modelling that indicates that 22,000ha of land would have more than 1m drawdown of groundwater from the Walloon Coal Measure. Evidence from

⁴¹ A groundwater expert engaged by NAC

⁴² See relevant exhibits before the Land Court and EIS for example.

economic experts before the Land Court of the value of lost agricultural production for this area ranged from \$132 million to \$843.42 million.⁴³

There are also substantial areas of drawdown for the alluvial aquifers, basalt aquifers and sandstone aquifers which also all show groundwater drawdown well beyond the mine site.

Even the Coordinator General's report on the proposed revised (current) stage 3 proposal included that:

- "Within the area of drawdown in and around the mining area, 357 registered bores may be affected." (COG report p vii and "357 registered bores are either likely or possibly to be affected" p138)
- "In addition, there is likely to be numerous unregistered bores that will be within the groundwater drawdown zone of mining operations." P138

I have also had the opportunity to peruse the Associated Water Licence (AWL) Application made by NAC. Under the relevant process I made a 93 page submission on this to the Chief Executive of the Department of Natural Resources, Mines and Energy, raising significant concerns about the conduct of NAC and the potential groundwater impacts and also the additional substantial amount of water NAC would require for "make good" and that, if as indicated NAC intended to draw some of this from groundwater, this would cause further drawdown of the aquifers beyond what was modelled (which was only the direct impacts of the mining). Many of the issues and material raised there are also relevant here. A copy is attached⁴⁴. (Other material provided by objectors to that process, and to the Land Court and other government processes, might also be relevant for your consideration.)

The groundwater impacts of the proposed mine seem to be very likely to adversely impact on the availability of groundwater for other agricultural and domestic uses in the district. This is a significant concern and would seem likely to adversely impact on agriculture including PALUs even on land far outside the application area.

Impact on PALUs outside the mining area would seem likely to include loss of irrigation water reducing cropping capacity. There are many irrigation licences in this district also, and this can be very important, particularly in dry times. Even just within a few km of NAC's mine site there seem to be about 6 centre pivots to the N and NW of the mine. Some of these are owned and operated by NAC, but there are also at least 2 other land owners using centre pivots in the area. For example, Noel and Grant Wieck's families rely on irrigation for its crop production, as do the nearby Vonhoff family. Many others have irrigation licences which are close enough to be at risk of impacts also.

Naturally, many farmers and landholders are also concerned about the risks of loss of water for stock and domestic uses too.

⁴³ Summary in judgement pars [973] – [980] *New Acland Coal Pty Ltd v Ashman & Ors and Chief Executive, Department of Environment and Heritage Protection (No. 4)* [2017] QLC 24*

⁴⁴ See Att 7 AWLsubmissionTP_inclattachments

Climate Change

It would be remiss not to consider the impacts on climate change of approving this project. As well as the substantial direct emissions, the transport overseas and burning of all the coal it would produce would be a significant contribution to climate change. Many of the predictions of climate change impacts are happening even faster than they were previously predicted.

Each revision of the modelling seems to predict even faster and worse outcomes than the ones before. Already the data from the Bureau of Meteorology that was recently the subject of news items indicates that "Australia's climate has warmed by more than a degree since 1910, which means very warm years like 2019 are now more likely to occur," said Karl Braganza, the bureau's head of climate monitoring".⁴⁵

There is also strong evidence of climate change contributing to, and likely to increasingly contribute to changing rainfall and increasing droughts in Australia. Although some limited hot arid areas like the Pilbara might get a bit more rain, the science is indicating that in the areas that have been more productive and densely settled, rainfall is declining.⁴⁶ These sorts of impacts of climate change adversely impact many PALUs, both near Acland and more widely across Queensland and Australia. As such, the impacts of this project risk adversely impacting on a far bigger range of PALUs and PAAs than might otherwise have been considered.

RPIA specifics

The purpose of the RPIA includes to "identify areas of Queensland that are of regional interest because they contribute, or are likely to contribute, to Queensland's economic, social and environmental prosperity" and to "manage... the impact of resource activities and other regulated activities on areas of regional interest".⁴⁷ The RPIA includes that:

"Each of the following is an **area of regional interest**—

- (a) a priority agricultural area;
- (b) a priority living area;
- (c) the strategic cropping area;
- (d) a strategic environmental area"⁴⁸

S8 also explains that:

"(1) A *priority agricultural area* is an area that—

⁴⁵ <https://www.abc.net.au/news/2020-01-14/bureau-of-meteorology-chart-shows-how-temperatures-soared/11857404> viewed 16 January 2020 and see attached Att 9 BOMtempsanddry

⁴⁶ See for example the attached report "Climate change and the Murray–Darling Basin Plan" (Att11 MDBA Climate-change-discussion-paper-Feb-19) and the references it refers to. See also <https://www.climatechangeinaustralia.gov.au/en/> and relevant IPCC documents. If you need more information on this topic please get in contact.

⁴⁷ S3

⁴⁸ S7

- (a) includes 1 or more areas used for a priority agricultural land use, whether it also includes other areas or features, including, for example, a regionally significant water source; and
- (b) is either—
 - (i) shown on a map in a regional plan as a priority agricultural area; or
 - (ii) prescribed under a regulation.
- (2) A *priority agricultural land use* is highly productive agriculture—
 - (a) of a type identified in a regional plan for an area of regional interest; or
 - (b) of a type prescribed under a regulation for an area of regional interest.
- (3) A *regionally significant water source* is a water source prescribed under a regulation.”

It is worth noting at this stage that the Regional Planning Interest Regulation (RPIR) Part 2 Priority agricultural areas s3 Regionally significant water source it sets out that “the Condamine Alluvium is prescribed as a regionally significant water source.” This is relevant to the groundwater impacts of the proposed project.

The RPIA makes it an offense to “carry out, or allow the carrying out of, a resource activity or regulated activity in an area of regional interest unless the person holds, or is acting under, a regional interests development approval for the activity”⁴⁹. Related penalties are up to 6,250 penalty units or 5 years imprisonment.

None of the exemptions listed in Part 2 “Division 2 Exempt resource activities” applies to NAC in this case. (more on s22 and landownership later.)

To apply for a Regional Interests Development Authority (RIDA) the application must be:

“accompanied by a report—

- (i) assessing the resource activity or regulated activity’s impact on the area of regional interest; and
- (ii) identifying any constraints on the configuration or operation of the activity; and

The application by NAC doesn’t seem adequate in this regard. It doesn’t even include the resource activity’s full impact on the fill area of regional interest that it impacts.

The criteria for deciding the application are set out in s49 as below:

“49 Criteria for decision

- (1) In deciding an assessment application, the chief executive must consider all of the following—

- (a) the extent of the expected impact of the resource activity or regulated activity on the area of regional interest;
- (b) any criteria for the decision prescribed under a regulation;
- (c) if the decision is for a notifiable assessment application—all properly made submissions received by the chief executive about the application;
- (d) if the decision is for a referable assessment application—any advice about the application included in an assessing agency’s response;

⁴⁹ S19

- (e) any advice about the application given by the Gasfields Commission.
- (2) Also, the chief executive may consider any other matter the chief executive considers relevant.

Within the criteria for deciding the application there are clearly adequate scope and grounds for this application to be refused. The extent of the impact is substantial, all properly made submissions can be considered and s49(2) is even broader.

In regards to s49(1)(b) reference to the RPIR sets out the criteria in s14 as:

- “(2) The assessor must be satisfied the activity meets the applicable required outcome stated in schedule 2 for the area of regional interest to which the application relates.
- (3) The activity meets a required outcome for the area of regional interest only if the application demonstrates the matters listed in a prescribed solution stated in schedule 2 for the required outcome.

Note—

Schedule 2, parts 1 to 4 include 1 or more prescribed solutions for each required outcome for an area of regional interest.

- (4) However, if an activity is proposed to be carried out on land used for a priority agricultural land use in a priority agricultural area that is in the strategic cropping area, the assessor only need be satisfied the activity meets the applicable required outcome stated in schedule 2 for the priority agricultural area.”

It is important to note that as per s49 of the RPIA this is not the only criteria for the decision. It is merely one of the criteria referred to in s49(b).

Secondly, it is important to understand that if the applicant successfully argues that the land is not used as a PALU and so is not PAA (see definition in s8 of RPIA that “A *priority agricultural area* is an area that— (a) includes 1 or more areas used for a priority agricultural land use...” then subsection (4) wouldn’t apply as the land is not found to be “land used for a priority agricultural land use in a priority agricultural area” then the SCL assessment process should occur. NAC seems to be seeking to argue that, despite being in a mapped PAA, the land is not used for PALU. If NAC is successful in this regard then the SCL criteria must apply. However, NAC does not seem to have applied for an assessment based on the SCL. This is concerning and should not be allowed.

Darling Downs Regional Plan

The application seems inconsistent with the Darling Downs Regional Plan (DDRP). The DDRP states on p3 that: *“Priority Agricultural Areas (PAA) are identified in the plan and comprise the region’s strategic areas containing highly productive agricultural land uses. In these areas, Priority Agricultural Land Uses (PALU) are the land use priority. PALUs within the PAA will be recognised as the primary land use and given priority over any other proposed land use.”*

PALU is defined in the DDRP (p 55) as *‘a land use included in class 3.3, 3.4, 3.5, 4 or 5.1 under the Australian Land Use and Management Classification Version 7, May 2010 published by*

the Department of Agriculture, Fisheries and Forestry ABARES, Australian Government’.

These classifications include ⁵⁰:

- Cropping (3.3)
- Perennial horticulture (3.4)
- Seasonal horticulture (3.5)
- Production from irrigated agriculture and plantations (4)
- Intensive uses (5)
 - Intensive horticulture (5.1)

The Australian Land Use and Management Classification map on the Qld Spatial Database shows that the PAA in Stage 3 is mapped as class 3.3. Therefore, it is a PALU under the DDRP, and it should therefore ‘be given priority over any other proposed land use’.

The DDRP sets out “*Regional policy 1 - Protect Priority Agricultural Land Uses within Priority Agricultural Areas*”. Allowing land that has supported PALUs and could support them in the future to be destroyed by mining is not consistent with this policy.

The DDRP also includes:

“A key challenge to maintaining a strong agricultural industry within the region is the potential for loss of high yielding agricultural land to resource activities as many of the resources found in the region are located in areas of highly productive soils. Areas currently experiencing increased land use pressure include Oakey, Chinchilla, Dalby, Wandoan, the Condamine floodplain and areas surrounding Roma and Injune. ...
To ensure the state’s highly valued agricultural land uses are not lost as a result of growth in the resources sector in the region, the following regional policies give priority to those key agricultural land uses that have been identified within the region’s strategic agricultural areas.”

As you can see in map 1 of the DDRP, only a relatively small portion even of the Darling Downs is mapped as a PAA. That indicates that these resources are quite rare and precious even on the Darling Downs.

Fine Print and Loopholes

Given that the land is PAA and SCL and there is a lot of evidence about groundwater impacts even beyond the mine site and that this is an intensely settled area, it seems NAC has tried to look for loopholes to try to get this proposed mine approved. It is also important to consider the detail of NAC’s application. Below, some of these issues are commented on.

⁵⁰ See <https://www.agriculture.gov.au/abares/aclump/land-use/alum-classification>

Land ownership relationship and s22

Even the New Hope Group website makes clear that Acland Pastoral Company is an integrated part of New Hope's operations. It states things such as:

- "Acland Pastoral Company (APC), established in 2006, is a farming, grazing and land management enterprise based at New Acland."⁵¹
- "Through APC, contributing to Queensland's agricultural sector is an important and long-term part of New Hope's operations."⁵²

It is also clear that the New Acland Coal mine is part of New Hope Group. Even the SLR report in the application acknowledges that "New Acland Coal Pty Ltd (NAC), as a subsidiary of the New Hope Group, has operated the New Acland Coal Mine (Mine) since 2002."⁵³

New Acland is listed as one of the projects of New Hope Group on its website at <http://www.newhopegroup.com.au/content/projects/operations/new-acland-1>. The New Hope Group website also makes various statements making clear that it controls New Acland Coal for example that "The New Hope Group has announced a revised New Acland Coal Mine Stage 3 Project..."⁵⁴ Updates on the New Acland Coal Mine stage 3 proposal feature frequently in New Hope Group's quarterly, annual and other reports.

It is my understanding that both Acland Pastoral Company and New Acland Coal Pty Ltd are wholly owned subsidiaries of New Hope Group and are operated in an interconnected basis as one entity. For example, the New Acland Coal / New Hope Group General Manager Jim Randall based at New Acland Coal Mine for many years also seemed to be the boss of the Acland Pastoral Company manager. Staff from both APC and New Acland Coal / New Hope Group appeared in advertisements for New Acland Coal's proposed Stage 3 coal mine and on various platforms together as an indistinguishable team. Indeed, the top photo at the start of every chapter of the stage 3 EIS (the January 2014 "revised" stage 3 EIS) was of the long term Acland Pastoral Company Manager Ben Muirhead on a horse. For example, as below

⁵¹ <http://www.newhopegroup.com.au/content/projects/operations/agriculture>

⁵² <http://www.newhopegroup.com.au/content/projects/operations/agriculture>

⁵³ P6

⁵⁴ <http://www.newhopegroup.com.au/content/projects/operations/new-acland-1>



It is also worth noting that the contact given for the application is someone @newhopegroup

The SLR report states on p3 that APC is a subsidiary of New Hope Group.

Even in court and in submissions, it was often argued by NAC and its representatives that NAC are effectively the land owner and have control of all the land that would be impacted by stage 3. It would take some time to go back through all the documents before the Land Court and the evidence in the transcript to document all this, but if you are in any doubt about the interrelationship and joint control of NAC and APC, I urge you to do this before finalising your decision on this application.

I also note that the signature on the supporting letter behalf of Acland Pastoral Company on Acland Pastoral Company / New Hope Group letter head dated 18 November 2019, seems

to be the same person as signed on the same date for New Acland Coal Pty Ltd in the letter withdrawing their previous RPI application. The same person has authority to sign for both APC and NAC. This probably also applies for other senior managers of New Hope Group. NAC and APC are not really independent entities.

I also note that Andrew Boyd COO, the signatory for many of these documents is actually COO of New Hope Group. I note that not only does he sign his name but also the initials COO as well. The New Hope Group website specifically showcases “Andrew Boyd Chief Operating Officer Andrew is the Chief Operating Officer for the New Hope Group”⁵⁵

Even the letterhead of both APC and NAC include NHG eg as below copied from the application documents



It seems that the ‘parent’ entity New Hope Group is in control of both the land and the applications relating to the mining operations, including this RPI application.

For NAC / NHG to try to use any exemption under the RPI act that relates to when the applicant is not the landholder (such as s22 which is only applicable “if the authority holder for a resource activity is not the owner of the land” and various other conditions are met), is therefore inappropriate and inconsistent with the intent of the legislation.

It is also important to note that s22 Exemption—agreement of land owner also includes further requirements at (2) and onwards that:

- “(b) the activity is not likely to have a significant impact on the priority agricultural area or area that is in the strategic cropping area; and
- (c) the activity is not likely to have an impact on land owned by a person other than the land owner.
- (3) For subsection (2)(c), a resource activity has an impact on land if the activity has an impact on—
 - (a) for land in a priority agricultural area—the suitability of the land to be used for a priority agricultural land use for the area; or

⁵⁵ <http://www.newhopegroup.com.au/content/about/leadership/andrew-boyd> and see attached Att10 BoydNHG

(b) for land in an area that is in the strategic cropping area—the land’s soil, climate and landscape features that make that area highly suitable, or likely to be highly suitable, for cropping.”

The NAC application does not meet these criteria as it exceeds these impacts also. It cannot really be argued that it is “not likely to have a significant impact on the priority agricultural area or area that is in the strategic cropping area”. Also it cannot be said that “the activity is not likely to have an impact on land owned by a person other than the land owner” particularly given the enormous groundwater impacts predicted and that they could make PALUs even outside the mine site no longer possible, feasible or viable.

Only part of the impact of the project is assessed

As noted in the application documents for this RPIA assessment:

“The Project proposes the extension of the Mine's operating life, with the inclusion and progressive development of three new resource areas within Mining Lease Application (MLA) 50232 as three new pits, construction of a rail spur and balloon loop from Jondaryan, within MLA 700002 and MLA 50232, and associated infrastructure. The mining activities for the new resource areas in the Project will not involve a substantial change to the mining method from that used for the existing operations.”⁵⁶

The Stage 3 EIS would lists that it includes

ML50170, ML50216, MLA700002, MLA50232
<p>Lot 1 on RP36462, Lot 1 on RP36463, Lot 1 on RP36464, Lot 1 on RP36502, Lot 1 on RP36503, Lot 1 on AG2605, Lot 1 on RP197103, Lot 1 on RP93626, Lot 1 on RP25521, Lot 1 on RP122138, Lot 1 on RP36493, Lot 1 on RP84726, Lot 1 on RP36466, Lot 1 on SP188363, Lot 1 on RP91936, Lot 1 on RP52624, Lot 2 on RP36501, Lot 2 on RP36503, Lot 2 on RP220755, Lot 2 on RP84726, Lot 2 on RP197103, Lot 2 on AG2605, Lot 2 on RP93626, Lot 2 on AG262, Lot 2 on AG1806, Lot 2 on RP36465, Lot 2 on RP25524, Lot 2 on RP200083, Lot 3 on RP84726, Lot 3 on RP220755, Lot 3 on RP36502, Lot 3 on RP36503, Lot 3 on SP188364, Lot 3 on RP36495, Lot 3 on RP36494, Lot 3 on RP36466, Lot 3 on RP36462, Lot 3 on RP36463, Lot 3 on RP36464, Lot 4 on RP84726, Lot 5 on SP188365, Lot 6 on AG1127, Lot 7 on SP188366, Lot 8 on RP25520, Lot 9 on SP188367, Lot 33 on AG1311, Lot 34 on RP25514, Lot 35 on RP25514, Lot 36 on RP25514, Lot 37 on RP25514, Lot 38 on AG2512, Lot 39 on AG718, Lot 49 AG391, Lot 50 on AG391, Lot 54 on A342317, Lot 57 on RP52624, Lot 58 on RP36501, Lot 60 on SP177899, Lot 61 on AG2938, Lot 62 on AG2974, Lot 62 on AG2962, Lot 65 on AG3109, Lot 66 on AG3194, Lot 67 on RP25514, Lot 69 on AG3288, Lot 69 on RP25514, Lot 72 on AG3550, Lot 77 on AG3531, Lot 78, AG3505, Lot 79 on AG3526, Lot 90 on A342317, Lot 91 on A342317, Lot 92 on A341981, Lot 94 on A342317, Lot 95 on A342317, Lot 96 on A342317, Lot 97 on A342317, Lot 98 on A342317, Lot 99 on A342317, Lot 100 on AG2498, Lot 101 on A342317, Lot 251 on SP177899, Lot 3069 on A341593, Lot 3170 on A341594, Lot 3171 on RP902113, Lot 3293 on A341624, Lot 3421 on A341699, Lot 3435 on AG2605, Lot 3445 on A341747, Lot 3448 on A341747, Lot 3461 on RP902113, Lot 3462 on A341746, Lot 3463 on A341746, Lot 3469 on A341746, Lot 3472 on A341748, Lot 3473 on AG2388, Lot 3519 on A341792, Lot 3655 on A341856, Lot 3679 on A341857, Lot 3684 on A341858, Lot 3768 on AG2122, Lot 3851 on AG2122, Lot 3852 on A341982, Lot 3873 on AG2388, Lot 3875 on SP150555,</p>

⁵⁶ SLR p6

Lot 4086 on A342138, Lot 4089 on A342138, Lot 2 on SP188363, Lot 4 on SP188364, Lot 6 on RP218459, Lot 6 on SP188365, Lot 7 on RP218459, Lot 8 on SP188366, Lot 8 on RP218459, Lot 10 on SP188367, Lot 11 on RP218447, Lot 13 on RP36463, Lot 97 on RP218446, Lot 101 on RP49057, Lot 101 on RP25514, Lot 102 on RP25514, Lot 138 on RP25514, Lot 169 on RP25514, Lot 4768 on AG2122, Lot 4852 on A341982, Lot 145 on AG170, Lot 12 on J1335, Lot 14 on J1335, Lot 1 on RP24727, Lot 2 on RP36467, Lot 4 on RP36467, Lot 13 on RP36467, Lot 14 on RP36467, Lot 15 on RP36467, Lot 1 on RP36469, Lot 2 on RP36469, Lot 1 on SP162572, Acland Brymaroo Road, Acland Muldu Road, Acland Sabine Road, Acland Silverleigh Road, Bothams Road, Campbells Road, Conroys Road, George Street, Greenwood School Road, Hauslers Road, Hueys Road, Jondaryan Muldu Road, McLaughlins Road

Nungil Road, Osheas Road, Willeroo Mine Road, Woods Road, Unnamed Road along the northern boundary of Lots 36 and 37 on RP25514, Unnamed Road on the western and northern boundary of Lot 3 on RP220755, Unnamed Road along the northern boundary of Lots 97 and 98 on A342317, Unnamed Road along the eastern boundary of Lot 4086 on A342138, Unnamed Road, Unnamed Road, Unnamed Road, Unnamed Road, Unnamed Road, Unnamed Road, Unnamed Road, Unnamed Road, Unnamed Road, Unnamed Road, Unnamed Road, Unnamed Road, Unnamed Road, McKays Road, Childs Road

Jondaryan Sabine Road

It seems dodgy and inappropriate that NAC is seeking to only apply for part of the stage 3 area in this application. SLR report states on p3 that this application only relates to what they expect to disturb in the first 5 years of mining, even though elsewhere it is stated that it is expected that stage 3 will go for 12 years. This piecemeal approach potentially unfairly serves the applicant's interests in 2 ways: it can make it look like the area impacted is less significant and it can allow a few more years to pass so it can argue that other areas haven't been cropped much lately either. This is not in keeping with the intent of the PALU test.

Section 16 1) of the RPIA specifies that "*a regional interests development approval is an approval issued under section 53 that approves the carrying out of a resource activity or regulated activity in an area of regional interest **following an assessment of the extent of the expected impact of the activity on the area***" (emphasis added). It is already known that the "extent of the expected impact" is as per the whole stage 3 application. Hence, it seems this is what is should be assessed.

One can envisage NAC then using an approval for this shorter 5 year period as leverage for a further approval, as has been the case without mining approvals sought and the increasing scales sought from stage 1, stage 2 and then stage 3 of the mine.

Unless the applicant is abandoning the rest of stage 3 and withdrawing its ML and EA applications for the rest of stage 3, it seems inappropriate to be only applying for a portion of what is planned here. It risks allowing our precious agricultural land to be destroyed via a 'death of a thousand cuts'. It is also misleading. Eg this application makes statements on p 3 about what proportion of the PAA no the Darling downs that this application relates to –

by separating the area into multiple applications this allows a reduced proportion to be stated – and a similar approach to also be taken for the future application. Yet elsewhere in the application eg SLR report p10 reference is made to the project extending the life of the mine for 12 years. The application seems to promote the supposed benefits of 12 years of mining but only acknowledge and have assessed 5 years of adverse impacts.

Rail loop etc excluded

It seems particularly problematic that the land relating to the rail loop and other infrastructure that it a critical part of the stage 3 project does not seem to be included. Although NAC has applied for the condition to be changed⁵⁷, decommissioning it was one of NAC's key commitments in revising stage 3 (compared to the original stage 3 proposal) and an important condition required by the Coordinator General was:

“Condition 4. Train load-out facility: New Acland Coal Mine Stage 3

(a) The new train load-out facility, rail loop and rail spur for the project is required to be the sole distribution point for all railed product from the first day of operations of the stage 3 project.”⁵⁸

Ambiguity about what is applied for and what impacts would be allowed under a RPI approval

Figure 3 of the SLR report seems to show “lots within [this] application” but it is unclear whether they seek this approval to allow disturbance of all the land marked with the diagonal lines or just the coloured bits. Such ambiguity must be clarified to try to reduce confusion, mistrust or difficulties with enforcement in the future. The sort of situation that has occurred regarding NAC's mining of West Pit⁵⁹ must not be allowed to reoccur.

Land Court President Kingham's Judgment on the remitted hearing, provides an overview (including maps) of the “west pit” issue in pars [135] to [147] of her Judgment of November 2018. Her Judgment specifically includes a heading “Is it unlawful for NAC to mine West Pit under the existing EA?” It is noteworthy that despite finding that she cannot or should not rule on whether or not west pit was / is lawful, President Kingham commented in the November 2018 judgment in regards to west pit etc that “[213] Those are good reasons to look again at what NAC could mine under its existing EA.”

Member Smith's 2017 judgment also made some findings in relation to West Pit, including as below.

- “... NAC has already in a sense begun its revised Stage 3 mining activities by mining the proposed Manning Vale East Pit (West Pit) albeit under the existing ML.” [802]
- “Yet NAC began mining operations recently (after this hearing began) within 1km of Mr Beutel's house (West Pit) and did not tell him or anyone else living nearby that

⁵⁷ See my attached submission on this - Att 12 Comments on NAC CG Jondaryan proposal July 2019.

⁵⁸ New Acland Coal Mine Stage 3 project Coordinator-General's evaluation report on the environmental impact statement p158

⁵⁹ See findings of Land Court President Kingham and Land Court Member Smith in this regard.

such mining operations had commenced and they could be impacted by such operations. Regardless of the litigation before the court and whether objectors could or could not constructively respond to this notification, such notice should have been provided. Even this court who was influenced by NAC to act urgently to assess this matter for continuity of operations and employment reasons, should have been informed about the commencement of West Pit.” [1402]

- “It could be said that is a natural consequence of the adversary system in which this Court operates. That may be so. However, it must also be considered in light of the evidence of Mr Denney and Mr Boyd for NAC that NAC now operates on a new form of openness and credibility compared to its former dealings at Acland. Just as Mr Boyd indicated that no one in the Acland community was informed of the opening up of west pit despite it being understood to be part of the revised Stage 3 operations because NAC was legally entitled to open west pit and did not have to tell anyone, then so to was the general disregard NAC demonstrated towards the 2014 and 2015 IESC Advices.” [1634]

Ignoring SCL

SLR report p13 states that SCL is not the subject of this application and is not assessed in this report. This seems a major deficiency given the high proportion of the proposed mine area captured by the SCL trigger mapping.

The application seeks to argue that there are no PALUs on the site which would be adversely impacted. This makes it even more important for the application to be assessed against the SCL criteria. Regardless whether NHG / NAC / APC chose to deliberately change land uses to aid this application, the actual soil remains of very good quality and with a high productive capability. This is an important resource to ensure remains available for future generations and is not destroyed by mining. This legislation should protect such resources from short sighted or selfish corporate or political whims.

Change land uses

As explained in earlier sections of this submission, the land within the application area, and the wider proposed stage 3 area has extensively been used for cropping and intensive agricultural uses over many decades at least. It is inappropriate for the applicant to deliberately gain control of the land and change the land uses so that it can argue that it hasn't been PALU for more than 3 years in the last 10. This is inconsistent with the intent of the legislation, regs and policy and the Darling Downs Regional Plan.

If this is allowed, it would mean that the policy does not in any way help protect the resource for future generations – despite all the many statements that this is what is intended and that both sides of politics believe in this.

The situation regarding NAC's claims about it not having cropped the land for more than 3 year in the last 10, if true, is not dissimilar to the situation whereby NAC purchased a lot of homes and had the houses removed before it got approval for stage 3 or even completed its EIS. Is it was a deliberate strategy to remove the houses and thereby remove the "sensitive receptors" and other potential barriers for approval before even making the application. In relation to Acland, Member Smith's findings included:

- "There is certainly evidence which shows that in 1978 there were 44 residences in Acland, and that this figure had risen to 57 residences by the year 2000." [50]
- "NAC commenced in 2007 an active policy to not only purchase as much of the property comprised in Acland as possible, but, after purchase, to remove the great bulk of buildings situated on the land purchased in Acland." [74]
- "The fact that Acland as a town in effect no longer exists can not be dismissed, in my view, as a simple sideline to the matters in dispute. There is no doubt that there is quite a level of angst between NAC and the objectors, and in my view that angst on the part of the objectors has been significantly contributed to by the actions of NAC in causing Acland to functionally no longer exist." [75]

Integrity of statements about historical land uses?

Where land is still mapped as PALU the NAC just repeatedly relies on statements in the SLR report such as "Report shows weed growth as crop growth. In 2015 APC farm manager confirmed no cultivation or crop sown in 2011"⁶⁰. There is no substantiation of that provided. In the "methodology" it can be seen that in terms of cropping history this relied on "Verbal and written communication regarding paddock history was obtained during the 2015 field assessment from APC's manager Mr. Ben Muirhead and assistant manager Mr. Michael Laird". It seems that the farm manager from then is no longer employed by NAC. Was there a disagreement about whether all the cultivations were really just full of "weeds" for years on end?

It is also worth noting that the SLR report was written by Murray Fraser who is stated in the methodology as someone who "has been involved in the mining approval process with SLR for the past 8 years."⁶¹ I am concerned about potential bias, particularly as seems implied that the role is about achieving mining approvals.

It should be noted that Member Smith made strong adverse findings against many of NAC's witnesses. In particular, NAC's key witness Mr Denney "has 40 years' experience in mining in Australia and the United States of America [and] held the role of Chief Operating Officer of New Hope for a period of 5 years".⁶² However, after being cross examined under oath, the Land Court was "extremely troubled by Mr Denney's evidence, to such an extent that I afford it little or no weight"⁶³

⁶⁰ Eg p25

⁶¹ SLR report p19

⁶² [214]

⁶³ [231]

Repealed SCL Act exemptions

S99 of the RPIA provides a link to exemptions under the repealed SCL Act. The exemptions under SCL chapter 9, division 2 clearly don't apply. If looking at division 3, clearly most of that doesn't apply either. However, if the department takes the view that s288 applies, then it must be recognised that this does not provide a full exemption. As set out in s285 (including notes) under the SCL Act this was only intended to mean that the permanent impact restriction doesn't apply - not that development on SCL that will cause a permanent impact should be approved or that the fact that it is SCL should be ignored.

In regards to s99 of the RPIA and s288 of the SCL Act it is important to also remember that the MLA 700002 relating to the rail loop was not applied for before until "6 January 2015"⁶⁴ several years after the date set in the legislation.

It is also worth considering that the whole stage 3 project was "revised", a new Terms of Reference advertised and prepared and a whole new EIS process conducted and the mining lease application area was amended after 2012. Surely NAC can't just keep having more bits of the cherry indefinitely.

SLR Report Caveats

SLR report has various caveats at the front including to the effect that it is limited by the resources "New Acland Coal (the Client)" allocated to it and that it accepted information in good faith. It also includes that: "The report is for the exclusive use of the client. No warranties or are expressed or should be inferred by any third parties". The caveats and limitations expressed by SLR in this report, so heavily relied on by NAC, raise concerns.

Stage 3 project and NAC conduct

The approval sought by NAC under the RPIA is necessary for NAC to conduct its proposed stage 3 mining operations. As such, all the adverse impacts of the proposed stage 3 mine are relevant as many will only result if this approval is granted. In addition to referring you to the relevant findings adverse to NAC in the judgments themselves (and related land court documents), I specifically refer you to my attached submission on the Associated Water Licence Application⁶⁵ in this regard rather than repeat things here. It includes references to evidence and some relevant Land Court findings in relation to adverse physical and mental health impacts caused by NAC, noise and blasting, air pollution and dust, community, flora and fauna, road closures, agricultural land, intergenerational equity and NAC's poor past performance.

As NAC conduct is also directly relevant to this application also it is perhaps worth reiterating here that after such an extensive Land Court case over nearly 100 days with

⁶⁴ SLR report p6

⁶⁵ See Att 7 AWLsubmissionTP_inclattachments

around 2000 exhibits and dozens of witnesses being cross examined, Land Court Member Smith made very strong adverse findings in relation to NAC's conduct. These include but aren't limited to:

- "I am not assessing NAC's past performance in this section of the decision – I have already done this and found NAC's past performance has not been satisfactory." [1416]
- "I disagree with NAC's submission that there is no evidence or reason to believe that NAC will ignore its neighbours in the future. The way NAC has acted towards its neighbours in the past and its characterisation of them during this hearing would indicate they have been and can be very dismissive of their neighbours' complaints and issues. Given my concern with the veracity of [NAC community expert] Ms Elliott's evidence I do not share her confidence in NAC's current complaint management process and it should be tightened to ensure its neighbour's complaints
- are recorded, assessed and resolved fairly." [1419]
- "NAC has much work to do to regain the trust of many in the local community. Its actions in removing approximately 27 buildings from Acland township, downplaying a significant community divide, dismissive treatment of people who do not agree with it, lack of appropriate community engagement and loose complaints management system has negatively impacted the local community." [1420]
- "When I put all the factors outlined above together, I am extremely troubled by [NAC Chief Operating Officer] Mr Denney's evidence, to such an extent that I afford it little or no weight." [231]
- "I agree with Dr Plant that in the past there has been a chasm between NAC rhetoric and action as per the decision not to tell local residents such as Mr Beutel about starting operations in West Pit. Mr Boyd [NAC Chief Operating Officer] could not explain how or why this occurred but sought to assure everyone that a culture of openness and transparency had been ushered in under his leadership of NAC. However, in my view his true position appeared when he had this to say:
 - "... Mr Boyd, was there any direction came from you to tell people not to tell us about West Pit?---No.
 - Because I've had contact from a number of mine officers in the period since West Pit started and not one of them has mentioned it. Do you have any reason why that might be?--No
 - Right. And, in face, Ms Gomez-Gane has been sitting in court nearly every day and has discussed things to do with the mine with me on multiple occasion and not once did she mention the start of West Pit. Would that surprise you?--Not particularly, no.
 - Why wouldn't it surprise you?---Because, as I said, we're will within our rights under our current approvals to undertake those activities."" [1405]

- “NAC has sought to portray the local objectors as bigoted individuals who are not interested in facts, only in spreading misinformation about NAC. I do not believe this to be the case. As discussed previously in this decision, I find the majority of the objectors and the witnesses who supported them are honest, hardworking, regular folk whose character has been unfairly besmirched by NAC. In effect, NAC’s treatment of objectors and their witnesses in these proceedings confirms their evidence that NAC has a tendency to treat anyone who disagrees with it in a dismissive and disrespectful manner.” [1390]
- “Again, it is hardly a stretch to understand why a neighbouring property, reliant on bore water such as is the case for Mr Wieck for his multi-million dollar automated dairying operation, would be concerned. It is also hardly surprising that those concerns would cause Mr Wieck and other local landholders to lodge objections. That however does not necessarily make them anti-coal/anti-development activists. In simple terms, I consider it more appropriate to collectively refer to the surrounding landholder objectors and members OCAA as landholders holding real concerns for their ability to continue their agricultural pursuits on their properties, both in the short term and from an intergenerational perspective, should revised Stage 3 proceed” [1322]
- “My independent, considered view on what I have before me is consistent with the evidence given by the objectors that they have actually been treated very poorly by both NAC and the statutory party”. [721]
- “.... NAC in the past (even on their own evidence) have not always interacted well with local landowners and it would appear on the evidence to this enquiry, they have taken a dismissive approach to local residents’ complaints on occasions.” [1262]
- “.... The objectors on the other hand have provided the literal ‘truck load’ of evidence and material detailing what they say to be unacceptable levels of noise Dr generated by NAC’s operation of Stages 1 and 2. Looking at all of the evidence before me in its entirety, in my view the objectors who have made noise complaints have not been well served in the past by either NAC or the statutory party. My independent, considered view on what I have before me is consistent with the evidence given by the objectors that they have actually been treated very poorly by both NAC and the statutory party.” [721]
- Having listened to all of NAC’s evidence throughout the entirety of this hearing and read its submissions, the impression that I have gained is that NAC continues to view Acland as essentially a non-issue, all-be-it that Mr Beutel and his tenants continue to reside there; the war memorial is used for an annual ANZAC day service; and the local surrounding community continues to use the Acland Park. Basically, although NAC has reluctantly moved on from its clearly preferred position of acquiring all of Acland as part of its own land ownership and mining it in accordance with the initial Stage 3 proposal, nonetheless Acland appears to remain a corporate annoyance to

NAC rather than a place where people continue to live and conduct recreational and remembrance activities. [862]

AgForce Policy

The views of agricultural landholder members feed into policy of AgForce Queensland. As can be found on the AgForce website, AgForce policy stresses the importance of protecting good agricultural land and water resources for future agricultural uses. For example, it states:

“Broadacre agriculture faces significant competition for land from alternative industries, including from the resource sector.... Productive agricultural land is an irreplaceable asset for current and future generations and must be effectively identified, managed and preserved through land use planning frameworks.

Queensland has only 4% of Australia's prime agricultural land. ... the preferred solution to land use conflicts is for areas of irreplaceable, high-quality agricultural land to be identified and completely protected from any activity that might risk its ongoing capacity to produce food and fibre for the generations of Queenslanders to come....

Areas of irreplaceable, high-quality agricultural land are identified and fully protected from any activity risking its ongoing capacity to produce food and fibre”⁶⁶

“Take of water for S&D use should be prioritised over and not compromised by other competing consumptive uses in resource planning and management decisions.”⁶⁷

Concluding statements

I am limited in the time I can put into this submission, but not by the points that can be made against this ill-founded proposal. Many damning submissions and judicial findings have already been written about this project. It is a bad project, destroying precious ag land and groundwater availability, whilst also causing increased noise and dust in a closely settled area, closing roads and causing severe community stresses. As found by the Land Court, NAC has a poor history in this area and has a history of treating neighbours badly and has caused neighbours to suffer adverse health impacts.⁶⁸

⁶⁶ https://agforceqld.org.au/index.php?tgtPage=&page_id=666

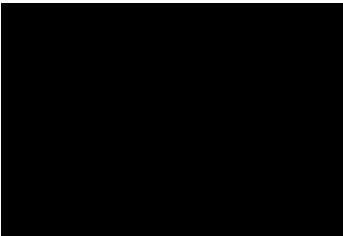
⁶⁷ <https://agforceqld.org.au/stock-and-domestic-water>

⁶⁸ See [1198] and many others.

This proposal is entirely in PAA where there is a long history of PALUs. It is primarily on land mapped as SCL. There are grave concerns about the impacts on groundwater, extending well beyond the site and lasting for potentially hundreds of years or more. Based on a lot of evidence the Land Court found that the risks to intergenerational equity, particularly regarding groundwater, were far too large to approve this project.

If, in light of these facts, this approval is granted, it would make an absolute mockery of any of the government policies or legislation that were said to protect good agricultural land. It would be short-sighted and unfair to let these important resources become unavailable for future generations.

Yours sincerely



Jeff Seeney MP

LNP Parliamentary Leader
Shadow Minister for State Development, Infrastructure,
Planning and Reconstruction
LNP Member for Callide

Ray Hopper MP

LNP Member for Condamine

19 February 2012

LNP says no to Acland stage 3 mine

THE LNP will not support the proposal for Acland stage 3 that would see the open-cut coal mine expand to very edge of Oakey.

LNP Parliamentary Leader, Shadow Minister for State Development, Infrastructure, Planning and Reconstruction, Jeff Seeney, said the current proposal to expand Acland to stage 3 would not go ahead under an LNP government.

"The LNP would quickly introduce Statutory Regional Planning Schemes to protect strategic cropping land on the Darling Downs and in the Golden Triangle," Mr Seeney said.

"Land use planning under the Darling Downs Statutory Regional Plan would also protect the people of Oakey and their town from this Acland 3 proposal for open-cut mining on their doorstep."

"This regional planning should have been done a long time ago. It should have been done before the tired, 20 year old Labor government made any mining and gas approvals."

LNP Member for Condamine Ray Hopper said the people of Oakey deserved proper protection.

"Acland is a big employer with 300 jobs currently being supported. Stage 2 will continue for a further six years, but the LNP will not allow an expansion that goes to the very doorstep of Oakey, or that will dig up strategic cropping land," Mr Hopper said.

"The LNP will protect our very best farming land that can sustainably produce food and fibre for generations to come. We will also protect farm communities from being dug up for mining.

"Only the LNP will provide this protection through proper statutory land use planning. This is commonsense – for miners, for famers and for local communities," Mr Hopper said.

Mr Seeney said the tired, 20-year Labor government land use planning failures were mirrored across all service delivery areas.

"The LNP wants to provide a better deal for farmers and rural communities," he said.

"The LNP will restore accountability in government, and deliver better planning for a better future in Queensland.

"It's time for a change. It's time to get Queensland back on track."

Media contact: Jeff Seeney 0439 211 842

Ray Hopper 0488 447 757

Example LNP statements opposing the stage 3 project and mining on strategic cropping land more generally

Ms Frecklington (Member for Nanango and current Leader of the LNP)

Ms Frecklington's press release dated 19 February 2012 was headed "Frecklington says no to Acland stage 3 mine" (<https://lnp.org.au/local-news/darling-downs/frecklington-says-no-to-acland-stage-3-mine/>) The full text is below.

"Frecklington says no to Acland stage 3 mine

19 February 2012

Categories: Darling Downs

After months of lobbying from local LNP candidate for Nanango Deb Frecklington, the LNP has made it clear that it will not support the proposal for Acland stage 3 that would see the expansion of the open cut coal mine digging up strategic cropping land.

Deb Frecklington said fighting for locals would be her number one priority if she was elected to represent the region.

"If elected to government, we would quickly introduce Statutory Regional Planning Schemes to protect strategic cropping land on the Darling Downs and in the Golden Triangle," she said.

"The fact this regional planning didn't happen a long time ago is just another sign that this 20 year old Labor government simply doesn't care about regional Queensland.

"This regional planning should have happened long before any mining and gas approvals were given.

"Only the LNP will stand up for locals and protect our very best farming land that can sustainably produce food and fibre for future generations.

"We will protect farm communities from being dug up for mining.

Mrs Frecklington said this was an important issue and that locals needed a strong government to find common sense solutions.

"Katter's Australia Party has refused to rule out supporting Labor after the election, meaning a vote for Carl Rackemann this election risks 3 more years of Anna Bligh and Labor.

"Anna Bligh is hoping locals will vote for a minor party or an independent this election, meaning we could end up in the same mess we see in Canberra.

"We need a strong MP that can be part of a strong CanDo government.

"It's time for a change. It's time to get Queensland back on track."

Campbell Newman (former Premier)

An article in the Australian on March 29, 2012 stated that “the new Premier yesterday said it was **“inappropriate”** to expand the mine in the state's southern food bowl, 150km west of Brisbane” The article was titled “Campbell Newman slams farm gate shut on miners” and included “Queensland’s new Liberal National Party government vetoed two massive coal projects after Premier Campbell Newman yesterday declared some of the nation's most fertile farmland off-limits to mining”. This same article in the Australian also quoted a spokeswoman for Mr Newman as saying **“In fact, the LNP don't support open-cut coalmining on strategic cropping land anywhere in the state,” “The LNP will not support the proposal for Acland stage three (because) it covers some areas of strategic cropping land, and would come too close to local communities.”**

Mr Seeney (former Deputy Premier and Minister for State Development, Infrastructure and Planning)

Mr Seeney spoke at a hearing on the Regional Planning Bill. Transcript available at <http://www.parliament.qld.gov.au/documents/committees/SDIIC/2013/14-RegPlanInterests/prftrns-12Feb2014.pdf> It included:

“Any new and subsequent work plans that may be submitted after the passage of this legislation will have to meet the outcomes set out in the regional plan, and that is to protect the priority agricultural areas, protect the agricultural land uses....”

“I stood in parliament two years—it might be 2½ years ago—and said that we were going to introduce this and mining companies that invested in areas where it was unlikely that they would get a social licence to develop their projects did so at their own risk....”

Mr Seeney stated in a press release dated Wednesday, November 14, 2012 **“We made clear during the election that an LNP Government would not support the expansion plans for New Acland as then proposed because it would impact good agricultural land and be too close to local communities”** (press release November 2012).

Mr Seeney and Mr Hopper (Member for Condamine) also had a press statement titled **“LNP says no to Acland stage 3 mine”** as below

Jeff Seeney MP

LNP Parliamentary Leader
Shadow Minister for State Development, Infrastructure,
Planning and Reconstruction
LNP Member for Callide

Ray Hopper MP
LNP Member for Condamine

19 February 2012

LNP says no to Acland stage 3 mine

THE LNP will not support the proposal for Acland stage 3 that would see the open-cut coal mine expand to very edge of Oakey.

LNP Parliamentary Leader, Shadow Minister for State Development, Infrastructure, Planning and Reconstruction, Jeff Seeney, said the current proposal to expand Acland to stage 3 would not go ahead under an LNP government.

“The LNP would quickly introduce Statutory Regional Planning Schemes to protect strategic cropping land on the Darling Downs and in the Golden Triangle,” Mr Seeney said.

“Land use planning under the Darling Downs Statutory Regional Plan would also protect the people of Oakey and their town from this Acland 3 proposal for open-cut mining on their doorstep.”

“This regional planning should have been done a long time ago. It should have been done before the tired, 20 year old Labor government made any mining and gas approvals.”

LNP Member for Condamine Ray Hopper said the people of Oakey deserved proper protection.

“Acland is a big employer with 300 jobs currently being supported. Stage 2 will continue for a further six years, but the LNP will not allow an expansion that goes to the very doorstep of Oakey, or that will dig up strategic cropping land,” Mr Hopper said.

“The LNP will protect our very best farming land that can sustainably produce food and fibre for generations to come. We will also protect farm communities from being dug up for mining.

“Only the LNP will provide this protection through proper statutory land use planning. This is commonsense – for miners, for famers and for local communities,” Mr Hopper said.

Mr Seeney said the tired, 20-year Labor government land use planning failures were mirrored across all service delivery areas.

“The LNP wants to provide a better deal for farmers and rural communities,” he said.

“The LNP will restore accountability in government, and deliver better planning for a better future in Queensland.

“It’s time for a change. It’s time to get Queensland back on track.”

Media contact: Jeff Seeney 0439 211 842

Ray Hopper 0488 447 757

Mr Nicholls (former Shadow Treasurer then Treasurer)

Mr Nicholls, also stated that **“The LNP has made sensible commitments to protect the Felton Valley and Gowrie Junction, and to oppose the proposal for Acland Stage III. ...”** (Only the LNP can restore balance on resource development 12 March 2012 <https://lnp.org.au/news/leader-of-the-lnp/only-the-lnp-can-restore-balance-on-resource-development/>).

Qld Labor MP does not support \$900 million Acland mine expansion

QLD Country Hour By Craig Zonca

Print

Email

Facebook

Tweet

More

8

Updated Fri 23 Jan 2015, 5:51pm

A Queensland Labor MP says he personally does not support the \$900 million expansion of Acland mine, near Oakey in southern Queensland.

The plan controversially received regulatory approval from the Queensland coordinator-general in December 2014.

Labor's agriculture spokesman and member for Stafford, Anthony Lynham, claimed the coal mine's approval is a 'monumental turnaround' from the position the Liberal National Party took to the last State election in 2012.

"I don't support it, in the same way that Campbell Newman and Jeff Seeney didn't support it," he said.

However, Dr Lynham stopped short of a commitment to reverse the decision should Labor win government following the upcoming January 31 poll.

"I would love to but I'll have to look at the legal ramifications," said Mr Lynham.

"We don't know what sort of contract this lot's [the LNP] got us into."

"We're not going to sell our farmers out to the interests of mining like they [the LNP] have done."

The LNP Agriculture Minister, John McVeigh, rejected any criticism that the approval is a broken election promise.

He said the 'independent' coordinator-general had followed proper procedure to endorse the 'Stage 3' expansion, arguing that the proposal is substantially different to what was originally planned before the last election.

"We were not happy with the expansion at that time," said Mr McVeigh.

"After the election, that proponent came with a different proposal - significantly scaled back - that's been through the hoops."

The project remains subject to Federal Government approval.

Topics: mining-rural, mining-industry, agricultural-policy, brisbane-4000

First posted Fri 23 Jan 2015, 5:43pm



PHOTO: A tractor works on the stockpiles of coal at Acland. (ABC News: Giulio Saggin)

MAP: Brisbane 4000

00:00

00:00

AUDIO: Labor's Anthony Lynham and the LNP's John McVeigh debate the approval of the Acland mine expansion (ABC Rural)

MDL 244 Boundary

Mining Lease
Application

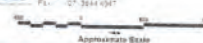
MDL 244 Boundary

▲ NEW HOPE COAL AUSTRALIA

Acland Coal Project
Aerial Photograph



Phone 07 3568 2161
Fax 07 3568 6347



Approximate Scale



Figure 3

EMOS: NEW ACLAND COAL PROJECT
ENVIRONMENTAL MANAGEMENT OVERVIEW STRATEGY
MINING LEASE 50170

Prepared for:

New Acland Coal Pty Ltd

Prepared by:

Ison Environmental Planners

June 2001

TABLE OF CONTENTS

1. DEVELOPMENT DESCRIPTION	1
1.1 INTRODUCTION	1
1.2 PROJECT DESCRIPTION	2
1.3 LOCATION	2
1.4 MINE OVERVIEW	3
1.5 MINEABLE RESERVE	3
1.6 MINING OPERATIONS	3
1.7 COAL PROCESSING	4
1.8 INDUSTRIAL AREA FACILITIES	5
1.9 TRAIN LOADING AND COAL STOCKPILE FACILITY	6
1.10 ROAD RELOCATIONS AND CLOSURES	6
1.11 VEHICLE ACCESS	7
1.12 OPERATIONAL WORKFORCE	7
1.13 WATER SUPPLY AND DEMAND	7
1.14 OVERVIEW	8
2. ENVIRONMENTAL IMPACTS AND CONTROL	10
2.1 LAND RESOURCES	10
2.1.1 EXISTING LAND USE AND LAND CAPABILITY	10
2.1.2 IMPACTS ON LAND RESOURCES	10
2.1.2.1 Land Capability Changes	10
2.1.2.2 Land Use Changes	11
2.1.3 SPOIL DUMPS AND CO-DISPOSAL PONDS	12
2.1.3.1 Landform Stability Criteria	13
2.1.3.2 Rehabilitation Criteria	14
2.1.4 CONTROL STRATEGIES	15
2.1.4.1 Topsoil Recovery	16
2.1.4.2 Surface Preparation	16
2.1.4.3 Revegetation Methods	16
2.2 WASTE MANAGEMENT	18
2.2.1 WASTE SOURCES	18
2.2.2 CONTROL STRATEGIES	18
2.3 WATER RESOURCES	19
2.3.1 SURFACE WATER	19
2.3.2 GROUNDWATER	19
2.3.3 IMPACTS ON SURFACE WATER QUALITY AND QUANTITY	21
2.3.4 CONTROL STRATEGIES	22
2.3.4.1 Downstream Users	23
2.4 NOISE	24
2.4.1 NOISE IMPACTS	24
2.4.2 CONTROL STRATEGIES	25

2.5 AIR QUALITY	26
2.5.1 DUST IMPACTS	26
2.5.2 CONTROL STRATEGIES	27
2.6 CONSERVATION VALUES	29
2.6.1 FLORA AND FAUNA	29
2.6.2 CONTROL STRATEGIES	29
2.7 HERITAGE AND CULTURAL VALUES	30
2.7.1 IMPACTS	30
2.7.2 CONTROL STRATEGIES	31
2.8 SOCIAL ISSUES	31
2.9 RESEARCH	32
2.10 ENVIRONMENTAL MONITORING	32
3. OVERVIEW STRATEGY	34
4. REFERENCES	35

TABLES

Table 1. Summary of the pre-mining and post-mining land capability for improved pastures of the surface area, New Acland Coal Project.	10
Table 2. Landform design criteria, New Acland Coal Project.	14
Table 3. Water management design criteria, New Acland Coal Project.	23
Table 4. Receiving water discharge criteria, New Acland Coal Project.	24
Table 5. Environmental monitoring program, New Acland Coal Project.	33

FIGURES

Figure 01	Regional locality plan
Figure 02	General locality plan
Figure 03	Project conceptual layout
Figure 04	General arrangement plan
Figure 05	Land suitability for dryland cropping
Figure 06	Land suitability for improved pastures
Figure 07	Conceptual final landform

ABBREVIATIONS

AGSO	Australian Geologic Survey Organisation
ARI	Average Recurrence Interval
AS	Australian Standard
bcm	bank cubic metres
dB	Decibels
DME	Department of Mines and Energy
NR&M	Department of Natural Resources and Mines
EMOS	Environmental Management Overview Strategy
EPA	Environmental Protection Agency
EPP	Environmental Protection Policy
EPP Air	Environmental Protection (Air) Policy 1997
EPP Noise	Environmental Protection (Noise) Policy 1997
EPP Water	Environmental Protection (Water) Policy 1997
JSC	Jondaryan Shire Council
MDL	Mineral Development Licence
ML	Mining Lease
MLA	Mining Lease Application
NAC	New Acland Coal Pty Ltd
NHCA	New Hope Coal Australia
PM₁₀	Particulate Matter of Diameter Less Than 10 Microns
PM_{2.5}	Particulate Matter of Diameter Less Than 2.5 Microns
POOP	Plan of Operation
ROM	Run of Mine
Shell Coal	Shell Coal Australia Pty Ltd
TSP	Total Suspended Particulates

This sheet records the issue and revisions of the document. If only a few revisions are made, only the new or revised pages are issued. For convenience, the nature of the revision is briefly noted as well as the page numbers.

Version	Date	Pages / Comments	Origin	Check
EMOS1.1	20/12/99	Internal draft - limited distribution	RI	
EMOS1.2	09/10/00	Internal draft - limited distribution	RI	DBK
EMOS1.3	24/10/00	Internal draft - limited distribution	RI	DBK
EMOS1.4	01/11/00	Submitted to the DME with lease application	RI/DBK	
EMOS2.1	08/06/01	Minor changes as requested by advisory bodies	RI	

SUMMARY OF COMMITMENTS

	Page
Commitment 1: New Acland Coal undertakes to comply with all statutory requirements, compensation agreements and commitments outlined in this EMOS and any legal written directive from the relevant government department or authority to any issue that may arise in the future.	9
Commitment 2: New Acland Coal undertakes to thoroughly investigate any complaint, establish the legitimacy of such complaint and undertake remedial action as necessary.	9
Commitment 3: Disturbed areas will be progressively rehabilitated to the land capability shown in Table 1 of the EMOS by the time of lease surrender.	10
Commitment 4: The principal target for the proposed postmining land use is grazing using introduced pasture grasses with trees and shrubs to create diversity. Use of the final void is subject to further assessment. However, alternative beneficial land uses of all disturbed areas will be investigated and considered as mining proceeds.	11
Commitment 5: Landform stability commitments for New Acland Coal Project site are:	
(a) to contain rates of soil loss so that vegetative growth and cover is self-sustaining,	
(b) the absence of rill erosion in rehabilitated areas deeper than 250 mm	
(c) that maintenance requirements are consistent with the nominated land use, and	
(d) the selective handling or burial during the dumping operations of the Bentonite clay and any potential acid or other toxic material identified on-site under at least 1 m of inert material.	14
Commitment 6: All areas to be disturbed will be recontoured to final landform and revegetated using the designs and methods outlined within 2 years after the area becomes available (that is, after disturbance ceases or when no longer reserved for infrastructure or further disturbance).	15
Commitment 7: All suitable topsoil will be recovered, managed and used in an acceptable manner to optimise the rehabilitation process.	16
Commitment 8: The permitted maximum disturbed area not rehabilitated will not exceed the area nominated in Appendix 1 in the current approved Plan of Operations.	17
Commitment 9: Revegetation will be considered adequate when the ground cover exceeds 30% for 3 consecutive years.	17

- Commitment 10:** Any potential for land contamination will be minimised by the implementation of the strategies outlined in Section 2.3.2. A register of hazardous materials and their location will be kept on site. 18
- Commitment 11:** Licences, if required, will be obtained from NR&M prior to construction of any structures requiring licences under the *Water Resources Act* (1989) and/or *Water Act* (2000). 22
- Commitment 12:** Downstream water quality at the lease boundary will not exceed the receiving water discharge criteria specified in Table 4 or 10% higher than the background levels defined at the lease boundary or upstream of any disturbance whichever is higher. 22
- Commitment 13:** The project undertakes to monitor the effect of mining on the surface water and groundwater resources and will ensure that adjacent water users are not adversely affected by the project's operation. 22
- Commitment 14:** The mine will maintain noise, airblast over pressure and ground vibration levels in accordance with the EPP (Noise). 25
- Commitment 15:** The mine will maintain air quality in accordance with the EPP (Air). 27
- Commitment 16:** The company undertakes to comply with any legal requirements under the Nature Conservation Act. 29
- Commitment 17:** New Acland Coal Pty Ltd will develop a Cultural Heritage Management Plan for the site, including a process should any items of aboriginal cultural significance be located during mining, after appropriate consultation with relevant traditional owners . 31
- Commitment 18:** The company will establish ongoing consultation mechanisms with the community and relevant agencies and will monitor and address any further social issues if they arise after consultation with the relevant Local Government or State Government departments. 32
- Commitment 19:** Monitoring will occur as indicated in Table 5 of the EMOS. Continuous assessment of monitoring results will be carried out as results are received. Actions considered appropriate to rectify any causes of unacceptable results will be commenced immediately after identification of the problem. 32
- Commitment 20:** An internal audit and interpretation will be conducted annually and completed by 30 August to ensure successful operation of control strategies, compliance with statutory requirements and to confirm that milestones in the Plan of Operations have been met. 32

1. DEVELOPMENT DESCRIPTION

1.1 INTRODUCTION

NAC (New Acland Coal Pty Ltd), a part of the NHCA (New Hope Coal Australia) Group acquired MDL (Mineral Development Licence) 244 from Shell Coal (Shell Coal Australia Pty Ltd) in December 1999. NAC proposes to develop and operate an open cut coal mine to supply domestic and export markets. NHCA currently operates producing mines at Jeebropilly and Oakleigh near Rosewood in the West Moreton Coalfield and at Swanbank in the Bundamba Coalfield east of Ipswich.

MDL 244 is on the Darling Downs in Southern Queensland (Figures 1 and 2). The area of MDL 244 is 9981 ha and the total coal resource is estimated to be 820 Mt of insitu coal. The proposed development envisages an 18 year mine life and 3 year final rehabilitation that will consume approximately 20 Mt of saleable coal. The area of ML (Mining Lease) 50170 to enclose the mining operations is approximately 1103 ha (Figures 3 and 4).

This report outlines the EMOS (Environmental Management Overview Strategy) for ML 50170. The existing environment, environmental effects and proposed management are described in the Environmental Technical Summary, New Acland Coal Project (Ison Environmental Planners June 2000). Investigations have evaluated the potential environmental impacts of the mine and allowed development of management strategies for incorporation in this EMOS.

Environmentally relevant activities are defined under the *Environmental Protection Act* 1994. This EMOS is also an application for a licence for the following Environmentally Relevant Activities under Schedule 1 of the Environmental Protection Regulations 1998.

ENVIRONMENTALLY RELEVANT ACTIVITIES

Chemical, coal and petroleum products activities

7. Chemical storage—storing chemicals

11. Crude oil or petroleum product storing—storing crude oil or a petroleum product in tanks or containers having a combined total storage capacity of—

(a) 10 000 L or more but less than 500 000 L

Community infrastructure and services

15. Sewage treatment—operating—

(a) a standard sewage treatment works having a peak design capacity to treat sewage of 21 or more equivalent persons but less than 100 equivalent persons

Extractive activities and mining

21. Mineral exploration or mining—exploring for or mining minerals under a mining authority

Fabricated metal product activities

28. Motor vehicle workshop—operating a workshop or mobile workshop in the course of which motor vehicle mechanical or panel repairs are carried out in the course of a commercial or municipal enterprise (other than on a farm) or on a commercial basis

1.2 PROJECT DESCRIPTION

The project involves the development of an open cut coal mine to supply up to 2 million tonnes of saleable coal per annum over an 18 year period. Coal would be removed from an open cut pit and hauled by trucks to the washplant. Tailings and coarse reject from the washplant will be disposed of in cells in the out of pit spoil dump initially and ultimately to cells in the mine pit as operational requirements allow. The codisposal system successfully developed by NHCA at its Jeebropilly operations will be investigated for use at this site. The disturbed mining areas would be rehabilitated to a stable landform on a continuous basis. A final void (or voids) will remain at the completion of mining activities.

The project will create a maximum of approximately 300 jobs during the 1 year construction period and around 120 permanent job during the operating phase that is projected to begin mid to late 2002. Local small business operators would also receive potentially substantial benefits throughout the construction and operational phases of the project.

NAC will continue to carry out an effective public consultation program, consulting with all relevant government agencies, community groups and affected people. The objective is to identify and understand the communities' concerns and to take them into consideration during the planning and operation of the project.

The development of a new mine at Acland using the Acland Coal deposit will help meet the growing coal requirements of south east Queensland as well as provide coal for export and will supplement reserves from NHCA existing operations.

The New Acland Coal Project is important in the regional context in that it:

- facilitates the extraction of thermal coal deposits,
- creates significant direct and indirect employment,
- provides revenue to all levels of Government,
- is undertaken at no cost to the Queensland Government, and
- is a key element in the further development of the Surat Basin coal deposits.

1.3 LOCATION

The project site is approximately 14 km north north west of Oakey and 35 km north west of Toowoomba. The project is 3 km north and east of the township of Acland in the Rosalie Shire (Figures 1, 2, 3 and 4).

The initial pit to be developed (north pit) is located approximately 4 km to the north east of the township of Acland (Figures 3 and 4).

The main access roads to the Project site are the Oakey-Cooyar Road and the Jondaryan-Muldu Road (Figure 4).

The proposed project site is situated on productive agricultural land. The ML has gentle slopes with elevation ranging from 440 m above sea level to the west up to 525 m on the ridge to the east.

1.4 MINE OVERVIEW

The project involves the development of an open cut coal mine to supply up to 2.0 million tonnes of product coal per year over approximately an 18 year period. Figure 4 provides an indicative project layout.

Coal has been mined in the district from the Walloon Coal Measures since the 1880's, when collieries were brought into commercial production in the Acland and Oakey areas. More than 15 small collieries operated in the 1950's and 60's, mostly in the Acland area, for a combined output of around half a million tonnes per annum, for supply to local industrial users. Most of the collieries were closed by the 1980's including Acland No. 3 Colliery, which was acquired by Shell Coal in 1973 and finally closed in 1984.

1.5 MINEABLE RESERVE

The area of the MDL has been the subject of extensive drilling programs over the years focussing on the Glen Roslyn Area of the Acland deposit. At least three pits will eventually be mined, the north pit, center pit and south pit to be developed sequentially. The total mining reserves for these three pits calculated on a working section basis are in excess of 123 million ROM (Run of Mine) tonnes. The initial mining lease will cover the north pit area and part of the Central Pit containing approximately 20 MT of saleable coal.

The deposit consists of 9 coal seam groups in the Acland-Sabine Sequence. In descending stratigraphic order the seam groups are; A, B, C, D, E, F, G, H, and J. The seam groups are each some two metres thick and are separated by laterally persistent interburdens amenable to open-cut mining methods at low overburden ratios. The upper 2 to 3 seam groups are only present over portions of the deposit.

The seam dip is gentle, sloping about 1 to 3° to the south west. Geotechnical conditions in the floor and overburden materials do not appear to pose mining problems.

1.6 MINING OPERATIONS

Topsoil will be stripped from the initial mine area and stored separately for re-use later in the mine life. Overburden would then be removed from the cleared area using scrapers and excavators to expose coal. Side slopes would be designed to ensure the stability of the excavation. The initial box cut overburden would be transported to a permanent out-of-pit disposal area from which topsoil had been previously removed. The material would then be shaped to blend in with the surrounding landform and ensure drainage of water does not result in soil erosion. Overburden would be progressively covered with topsoil to re-establish a soil profile.

Once the box cut has been established, the aim is to confine overburden and waste inter-seam parting material within the mine. Thus, the excavated material from a new mining block will be used to backfill the previously mined out areas. Fine and coarse reject from the washplant would be incorporated into cells within the overburden backfill areas.

Blasting will be used to loosen overburden. It is expected that the overburden will be blasted below a depth of 8 to 15 m from the surface along with interburdens greater than 1.5 m in thickness. Coal is not blasted.

Pit lights will be placed and used to control fugitive light causing adverse impact on neighbours and traffic on the public road.

A block mining system is proposed. To provide adequate access to the coal and the opportunity for blending of different quality coals to meet product specification, multiple blocks will operate at any one time. Coal would be mined in working sections of coal and thin waste bands with waste bands greater than 100 mm generally being selectively removed. Some parting bands up to 100 mm in thickness will be mined in the working sections if the combined ash content is still within acceptable limits.

Equipment used would include excavators, front end loaders, scrapers, dozers, graders and rear dump trucks. Ancillary equipment includes light vehicles, service trucks and water trucks.

The impact of mining operations have been determined on a 24 hour per day, 7 days a week basis although in practice it is anticipated that variable shifts up to 12 hours will be operated, up to 6 days per week. Sunday will generally be a maintenance day with occasional production.

1.7 COAL PROCESSING

Raw coal will be transported by rear dump trucks on unsealed mine haul roads from the north pit to a central coal handling and washing plant (Figure 4).

Raw coal will be processed through the washplant. The plant will typically handle an average raw coal feed rate of 12,000 t/day (2.6 million t/annum) to produce 7,200 t/day of product (1.6 million t/annum) at an average recovery of 60%. The actual daily rate depends upon the coal source and operating conditions within the pit. An average of 1,000,000 t of reject materials is produced per year.

The coal washplant will consist of:

- ◆ ROM Pad
- ◆ Coal washery
- ◆ Clean coal stockpile
- ◆ Truck loading facility
- ◆ Weighbridge
- ◆ Workshop

Coal will be transported from the Coal Preparation Plant by road trucks. Washed coal for export and south east Queensland domestic markets will be transported 16 km by road trucks to the south west along the Jondaryan-Muldu Road to a rail siding and coal loading facility east of Jondaryan (Figure 2). Some washed coal for domestic markets will be transported to the north by road trucks to the New England Highway.

1.8 INDUSTRIAL AREA FACILITIES

The facilities will include:

- prefabricated office units for professional staff, supervisor, quality control officers and open cut examiners;
- workshop incorporating a store for servicing and repairs to major mining equipment;
- diesel fuel storage tank farm and re-fuelling station, a truck washdown station and a large well drained hard stand area for outdoor servicing of the mobile equipment fleet;
- separate explosive storage area designed in accordance with AS2187.1 *Explosive - Storage, transport and use, Part 1: Storage and land transport*. It is expected that accessories only would be stored on site, with explosives being trucked or manufactured as required.
- an operators' crib room/bath house, training room and first aid facility;
- a storage area for used tyres and other redundant equipment parts and waste materials;
- waste oil separator/recovery.

Electricity will be supplied from an external source. Potable water will be sourced on site. Infrastructure for water supply and sewage treatment, chemical storage and preparation, etc. would be constructed around the operating facility. Fire suppression and safety facilities would also be provided.

The sewage drainage system will drain water from toilets and washrooms from the washplant and mine to a packaged sewage treatment plant. Effluent water will be used for revegetation or dispersed in a soakage trench.

Spill prevention and control measures will include bunds built around the bulk fuel and oil storage tank and waste oil tanks. Bunds will be designed in accordance with Australian Standard 1940.

1.9 TRAIN LOADING AND COAL STOCKPILE FACILITY

The train loading and coal stockpile facility is remote from the mine site and is covered by the Integrated Planning Act 1997 rather than the Mineral Resources Act 1989. However, the environmental implications of this installation and control strategies including noise, dust and traffic are covered in this EMOS.

The initial stage of operations proposes road haulage of the crushed and blended product coal 16 km by road trucks to the south west along the Jondaryan-Muldu Road to a rail siding and coal loading facility east of Jondaryan (Figure 2).

Product coal will be transported by up to 50t double trailer trucks (road trains) from the mine to a stockpile area adjacent to the existing rail reserve. Figure 2 shows the route from the mine to the railhead and indicates the road improvements to be undertaken.

Current transportation, noise and dust studies indicate that the existing road will be required to be upgraded for the entire length (Ison Environmental Planners June 2000). The siding is remote from residences with the only residence approximately 800 m to the east.

Railing will utilise a dual line siding, with loading by front-end loader as is the practice at New Hope's West Moreton operations or overhead bin. Coal will be railed 227 km to the Port of Brisbane for export or to domestic customers. Queensland Rail has indicated that dual header diesel 36 wagon trains (1,700 t) will be used for production up to 1,000,000 tonnes/annum. Queensland Railways advise that the existing rail line is capable of handling the annual output generated by the mine without the need for any major upgrading of the line.

1.10 ROAD RELOCATIONS AND CLOSURES

Some road reserves will require closure in accordance with the *Land Act* 1994 to allow for the proposed project. The site, the general layout, and the proposed road closures and relocations are shown on Figure 2 and 4.

Tabulated below are the roads and road reserves to be closed or upgraded. To allow formation of the initial box cut and overburden stockpile for the mine, the works are required to occur during the construction phase.

Possible Road Upgrade

- ◆ Jondaryan-Muldu Road

Road Reserve Closures

- ◆ Cherry Road
- ◆ Lange's Road (south off Cherry's Road)
- ◆ Unnamed road (east off Lange's Road)

1.11 VEHICLE ACCESS

It is expected that most of the construction and operational workforce will access the mine from Toowoomba, Oakey and Dalby. Access from Toowoomba and Oakey to the site is expected to be either via Oakey-Cooyar Road, Jondaryan-Muldu Road or Kingsthorpe-Haden Road. Access from Dalby to the site is expected to be generally from Jondaryan-Muldu Road.

Previous discussions with JSC (Jondaryan Shire Council) and DMR identified that the Oakey community has concerns over heavy transport vehicles that may pass through the town of Oakey or Jondaryan via the Warrego Highway. While the commissioning of the Oakey bypass has alleviated this situation for Oakey, the JSC view a re-introduction of heavy vehicles into the town center to be undesirable. In an attempt to satisfy community concerns, heavy vehicle access options have been studied and will be discussed further with the JSC and DMR prior to commencing construction of the mine facilities. This is only expected to be an issue during the construction phase of the project.

1.12 OPERATIONAL WORKFORCE

A total of approximately 120 personnel would be employed at the mine, washplant and supporting activities. It is expected that the majority of the workforce would be drawn from the surrounding district, including Toowoomba. Higher level managerial, operational and technical staff are likely to be recruited from outside the Darling Downs region.

1.13 WATER SUPPLY AND DEMAND

Raw water requirement to satisfy all project water demands was found to be approximately 710 ML/year depending upon the pit development scenario and catchment parameters adopted for modelling.

Expected water demands (ML/year) are:

Wash plant	500
Dust suppression	200
Vehicle Wash	10
Total	710

Raw water supply for the development is proposed to be obtained from a variety of sources including:

- ◆ Site storage catchment areas
- ◆ Open pit groundwater inflows
- ◆ Groundwater
- ◆ Surface runoff
- ◆ Treated effluent water.

The water supply source requires consideration of a variety of factors including assurance of supply and water quality.

Preliminary assessments suggest that catchment yield and open pit groundwater inflows was between 200 to 300 ML/year. This represents around 40% to 60% of the total project water demand, the remainder of which is to be satisfied from groundwater or other sources.

Where required, an application under the *Water Act* 2000 will be made to the NR&M.

1.14 OVERVIEW

This EMOS complies with the information required to support the application for a mining lease and the standard criteria contained in Schedule 4 of the Environmental Protection Act 1994. Any licences and approvals required under the Act will be obtained.

There may be a need for submission of applications for variation depending upon the outcome of research and experience locally and overseas. These possible variations are discussed where appropriate.

New Acland Coal will provide the management, technical and financial resources needed so that environmental management programs, control strategies and commitments can be effectively implemented and monitored.

On the basis of the assumptions outlined the strategies identified in this EMOS are technically and financially achievable.

Ison Environmental Planners and staff of New Acland Coal have prepared the EMOS after consultation with officers of the then DME (Department of Mines and Energy) and the appointed advisory bodies:

- ◆ Department Natural Resources (now Department of Natural Resources and Mines)
- ◆ Department of Families, Communication and Information, Local Government and Planning and Sport
- ◆ Environmental Protection Agency.
- ◆ Goolburri Land Council
- ◆ Rosalie Shire Council
- ◆ Toowoomba and Regional Environmental Council

In addition, consultation has been held on aspects of the project with the following organizations:

- ◆ Department of Defence – Canberra
- ◆ Department of Defence - Oakey
- ◆ Department of Main Roads
- ◆ Education Queensland
- ◆ Environment Australia
- ◆ Jondaryan Shire Council
- ◆ Queensland Health

- ◆ Queensland Police Service
- ◆ Queensland Transport
- ◆ Toowoomba City Council
- ◆ Wambo Shire Council

A continual review of environmental performance is conducted and the results will be used in developing the EMOS.

Commitment 1: New Acland Coal undertakes to comply with all statutory requirements, compensation agreements and commitments outlined in this EMOS and any legal written directive from the relevant government department or authority to any issue that may arise in the future.

Commitment 2: New Acland Coal undertakes to thoroughly investigate any complaint, establish the legitimacy of such complaint and undertake remedial action as necessary.

2. ENVIRONMENTAL IMPACTS AND CONTROL

The standards and methods for control of impacts have been refined from experience and incorporate changing State and Federal Legislation, other statutory requirements and government policy into the following strategies where appropriate.

2.1 LAND RESOURCES

2.1.1 EXISTING LAND USE AND LAND CAPABILITY

The ML site is freehold land and road reserves. The freehold land is owned by several private landholders and used for rural and related activities dominated by dairy cattle grazing and grain crop and flower production. Other rural related land use within a 5 km radius of the site includes pig farming (north), dairying, grain storage, feedlots (north) tree cropping and various rural homestead properties.

The largest settlement located within 5 km of the site is the town of Acland (population 170) situated south-west of the proposed site. Land uses associated with the town include: residential dwellings; a general store; service station; mining museum; community hall/facilities and open space/parkland.

Smaller rural settlements at Muldu (west), Balgowan (north-west) and Rosalie (north) consist primarily of rural residential land uses, containing only a small number of dwellings.

2.1.2 IMPACTS ON LAND RESOURCES

2.1.2.1 Land Capability Changes

The pre-mining capability was determined by a competent soil surveyor based on standard Queensland NR&M (Department of Natural Resources and Mines) parameters of Shields and Williams (1991) (Table 1).

Table 1. Summary of the pre-mining and post-mining land capability for improved pastures of the surface area, New Acland Coal Project.

Suitability for Improved Pastures	Premining		Postmining	
	Area (ha)	% total area	Area (ha)	% total area
Class 1	0	0.0	0	0.0
Class 2	995	90.2	619	56.1
Class 3	17	1.5	249	22.6
Class 4	83	7.5	163	14.8
Class 5	8	0.7	72	6.5
TOTAL	1103	100.0	1103	100.0

* Ison Environmental Planners 2000

The majority of land is classified for dryland cropping as Class 3, suitable with moderate limitations and for improved pastures as Class 2, suitable with minor limitations (Figures 5 and 6).

Commitment 3: Disturbed areas will be progressively rehabilitated to the land capability shown in Table 1 of the EMOS by the time of lease surrender.

2.1.2.2 Land Use Changes

The reduction in agricultural value of the area to be mined is acknowledged as an impact of the proposed operation. The existing land capability has been determined (Table 1 and Figures 5 and 6).

Agricultural suitability of land disturbed by the project will be reinstated to grazing potential. Where this is not feasible due to the constraints of the mining program the rehabilitated surface will be stabilised to a lesser land suitability using appropriate techniques such as rock/soil mulching and the establishment of shrub and tree cover to provide erosion protection. Comprehensive rehabilitation and decommissioning procedures will be developed as part of the Plan of Operation and will address the following disturbance types:

- ◆ Mined land
- ◆ Waste dumps including co-disposal ponds
- ◆ Washplant
- ◆ Mine industrial area
- ◆ Final void
- ◆ Mine haul roads and access roads
- ◆ Sediment dams

Until an area is required for mining all mine traffic will be restricted to authorised access roads to ensure that the soil profiles are not unnecessarily disturbed. Where possible the land will continue to be cropped with greater emphasis on deep rooted legumes to build up the organic level and structure of the soils as this will reduce the breakdown of soil structure during stripping and respreading. The existing erosion control and drainage structures such as contour banks and grassed waterways will be maintained and progressively modified to drain runoff away from the active mining area.

The reinstatement of land suitable for grazing will require the re-establishment of suitable topography and stable drainage systems as well as the replacement of a soil profile. The replacement of a soil profile will be managed to replace the topsoil separate to subsoils as soil quality generally declines with depth and mixing of subsoils with topsoil will lead to poorer soil quality.

Commitment 4: The principal target for the proposed postmining land use is grazing using introduced pasture grasses with trees and shrubs to create diversity. Use of the final void is subject to further assessment. However, alternative beneficial land uses of all disturbed areas will be investigated and considered as mining proceeds.

2.1.3 SPOIL DUMPS AND CO-DISPOSAL PONDS

Mining will require the disposal of rock from the overburden and interburden and coarse reject and fine tailings from the washplant. An assessment of the principal soil and overburden types has been undertaken to identify the chemical nature and the handling limitations for the design and operation of any spoil dumps and the subsequent rehabilitation program (Ison Environmental Planners 1999 and Woodward Clyde 1997).

The results of the analysis of overburden and experience at existing mining operations on the Walloon Coal measures has not identified any material requiring selective handling or burial due to acid generating potential. There is no evidence to indicate that any overburden strata is particularly toxic to plant growth or the environment and hence selective overburden handling to ensure burial of toxic strata is not required.

The only potential concern is the high sodium content of the material and the risk of dispersion and subsequent erosion.

Of the overburden strata, only the bentonite clay will require selective handling or burial during the dumping operations. The bentonite clays must be buried by at least 1 m of relatively inert material.

The final landscape design is aimed to achieve the following objectives:

- (i) Contain the required volume of overburden;
- (ii) Provide stable slope gradients;
- (iii) Direct all surface runoff water to existing drainage channels; and
- (iv) Minimise surface water runoff velocity.

Generally, overburden from the mining operation will be dumped back into the open cut excavation. However, overburden will need to be dumped in external spoil dumps during mining to maintain working room in the pit and will also assist with recontouring the in pit spoil piles. Some overburden will also be required to cover co-disposal ponds when they have been completed. The areas of backfilling and external dumps are shown in Figures 4 and 7.

Based on experience at existing mines, an average swell of 15 % has been established following the removal of the ROM coal, overburden placement in 10 - 20 m lifts and initial settlement. The final landform design is shown in Figure 7.

Initially when the north pit is opened approximately 7 million bcm of overburden will be placed in permanent out of pit waste dumps to be located at the northern end of the pit. The dump will be constructed so as to allow progressive rehabilitation, to blend in with the existing topography and to drain runoff from the upper surface onto natural ground.

The proposed land suitability for the waste dump is grazing although steeper slopes and gullies will be restricted to native forest habitat. The main erosion control will be the establishment of a grass pasture.

The dump will be constructed by commencing dumping at the toe of the lower lift and progressively dump forming the outer slope at the required gradient. The more competent overburden material will be preferentially dumped to form the outer slope. Once the outer slope of the lower lift has been formed it will be rehabilitated while the upper slope is being formed.

The principles that are generally followed for erosion control of the waste dumps are:

- (i) Prior to rehabilitation, direct all surface runoff from the dump areas to settlement ponds;
- (ii) Grade slopes to profiles which are as flat as practicable to minimise runoff water velocity and erosion potential of the slopes.
- (iii) Install engineered erosion control structures with appropriate hydraulic design to control surface runoff (eg. contour banks, water ways, etc.).
- (iii) Topsoil and revegetate the slopes as soon as possible.

A characteristic of the co-disposal is that the mixture of fine and coarse materials deposit quickly from the slurry to form a compact, reasonably free-draining mass which is trafficable and easily worked by tracked machinery. Testwork and experience on site will be required to develop operating parameters. If co-disposal is not feasible, an alternative or conventional method for disposal of tailings and coarse rejects will be developed for the mine in consultation with the Administering Authority.

Process water will be decanted from the pond and pumped back to the processing plant for recycling.

Acid generating materials are not a problem. The main properties with potential environmental impact are the salt levels. It is therefore necessary to ensure that the pond water and rejects are confined and that leakage to the surface waters is contained at or below a level that conforms to any discharge licence conditions.

The final dewatering of each rejects pond will be achieved by pumping residual water into the subsequent reject pond and ultimately into the final void. Decommissioning will be achieved by capping the surface with a domed, self-draining cap of overburden, which will be topsoiled and revegetated. All erosion control structures associated with decommissioned co-disposal ponds will be suitably engineered to minimise the potential for erosion from surface runoff.

Final reprofiling of all backfill and external dump areas is generally undertaken by bulldozers and graders.

2.1.3.1 Landform Stability Criteria

The design criteria used in establishing the final landforms are drawn from DME guidelines (1995) and experience from other mine sites in Queensland.

All mining operations will ensure overburden is dumped and treated in accordance with the following principles.

The maximum slope length adopted is presented as Table 2.

Table 2. Landform design criteria, New Acland Coal Project.

Slope (%)	Slope (°)	Vertical Height (M)	Maximum Length (M)
20	11.5	10	50
15	8.6	20	133
10	5.8	22	220
5	2.9	26	520
3	1.7	28	900

The nominated slope lengths will be considered as maxima and the detailed landform design will attempt to create a drainage pattern to break up slope length and direct the water into controlled waterways. The design incorporates wherever possible slope profiles that are geotechnically stable and less prone to erosion.

The low and high wall slopes of the final void will be left geotechnically stable. Steep faces will be protected by a diversion bank or topped with competent large rocks to restrict vehicular and stock access. Access to the final void for light vehicles will be maintained. This will provide an escape route for stock or wildlife. Drainage channels will not discharge over the walls. Ramps leading into the mining void will either be surcharged with spoil or have the sides recontoured as per Table 2.

Both before mining disturbance and after the soil profile replacement it will be necessary to have in place an erosion control strategy. Pre mining this will involve the maintenance of the present system of contour banks and grassed waterways complemented, when necessary, with additional contour drainage to direct runoff away from areas to be stripped for mining.

The required post mining erosion control measures will be constructed during the reshaping program or as the soil profiles are respread. The reconstruction of grassed waterways to convey the runoff down the slope will require greater erosion control as waterways are generally sited on natural grassed slopes that have not been cultivated and are thus more resistant to erosion. The re-establishment of these waterways on replaced soil profiles may require the inclusion of basalt rock and possible rock woboys to provide stability until the grass cover is established. The rocks will also provide stability if the grass cover is reduced by drought or fire.

Commitment 5: Landform stability commitments for the project site are:

- (a) to contain rates of soil loss so that vegetative growth and cover is self-sustaining,
- (b) the absence of rill erosion in rehabilitated areas deeper than 250 mm
- (c) that maintenance requirements are consistent with the nominated land use, and
- (d) the selective handling or burial during the dumping operations of the Bentonite clay and any potential acid or other toxic material identified on-site under at least 1 m of inert material.

2.1.3.2 Rehabilitation Criteria

The topsoil will be progressively stripped from areas to be disturbed as required. Skeletal basalts will be selectively stripped for erosion control. Some of the topsoil may have to be stockpiled for short periods.

After the lower dump face is available the surface will be trimmed in preparation for spreading the subsoil and topsoil. Topsoil will be truck dumped along the top of the slope and spread over the slope with the dozer or pushed up from the bottom. After the topsoil has been spread, the area will be seeded with a mixture of native trees, shrubs and grasses and fertilised. Drains will be seeded with suitable grasses only.

When the outer slope of the upper lift is completed, the surface will be stabilised using the same technique. The upper slope will be shaped to drain runoff away from the outer slope and a series of waterways excavated to convey the runoff to an existing watercourse. Where necessary basalt rock material will be added to the waterways to aid in erosion control. After shaping the topsoil will be respread and revegetated as previously described.

The proposed rehabilitation plan will minimise the disturbed area outside the mining area. The proposed land form will allow the company the opportunity to select future uses for the site as long as the proposed uses do not result in environmental degradation of the project area.

Erosion control will be achieved by the installation of graded banks, designed land surfaces and surface contour ripping initially with the subsequent development of vegetative cover.

Land will be judged successfully rehabilitated when the landform stability and receiving water standards have been met.

Commitment 6: All areas to be disturbed will be recontoured to final landform and revegetated using the designs and methods outlined within 2 years after the area becomes available (that is, after disturbance ceases or when no longer reserved for infrastructure or further disturbance).

2.1.4 CONTROL STRATEGIES

To meet the criteria for successful rehabilitation and stability, rehabilitation will consist of:

- topsoil recovery prior to disturbance,
- contouring to acceptable slopes,
- burial of any acid generating or bentonitic material,
- develop the required erosion control structures with suitable hydraulic design,
- surface preparation,
- topsoiling,
- seedbed preparation,
- application of fertiliser and seed,
- establishment of a vegetative cover,
- maintenance of vegetation during establishment, and
- monitoring to confirm criteria met.

2.1.4.1 Topsoil Recovery

The preferred treatment of cleared timber where practical will be the recovery of timber for commercial use (sawn timber, fence posts or firewood) with the residue heaped up to create wildlife habitats or mulched.

All soil to a depth where the electrical conductivity of a 1:5 soil water solution is < 0.8 mS/cm or the exchangeable sodium percentage is < 10 will be stripped. Areas to be disturbed will be surveyed for the above properties prior to disturbance. In the event that insufficient quality soil exists as defined above for the rehabilitation plan, spoil or other material with suitable edaphic properties will be used.

Any future areas to be disturbed by mining but which have not yet been surveyed in detail will have a topsoil assessment conducted prior to disturbance commencing.

Commitment 7: All suitable topsoil will be recovered, managed and used in an acceptable manner to optimise the rehabilitation process.

2.1.4.2 Surface Preparation

An overview of the methods required for surface preparation follows.

- Material adverse to plants is defined as having an acid neutralising capacity with a net potential deficiency of 5 t of CaCO_3 equivalent per 1,000 t of material. If visual inspection of overburden during drilling programs and active mining identifies any overburden that may produce acid generating material, samples will be taken for testing. Any acid generating material will be buried to a minimum of 1 m using non-acid generating spoil. To date, **no** acid generating spoil has been identified (Ison Environmental Planners 1999 and Woodward Clyde 1997).
- The physical nature of the bentonite clays make them especially prone to erosion and any bentonite to be disposed as a waste must be buried by at least 1 m of relatively inert material.
- Spoil dumps account for the bulk of the disturbed area and will be progressively created to the specified final landform during mining.
- Infrastructure sites not required by subsequent land holders will first have any equipment and plant removed. The sites will be recontoured then intensively deep ripped on contour to 0.5 m at 1 m spacing and revegetated.
- Roads not required for future land use will be ripped and revegetated.
- Freshwater dams and sediment control dams will be left for the use of the landowners after relinquishment of the leases.

Operating voids will be progressively backfilled while the final void will be decommissioned as a water storage body. Alternative uses for the final void will also be assessed prior to mine closure. The mine plan schedule has attempted to ensure spoil from future operations will be placed in an adjacent final void and unused ramp (if present).

2.1.4.3 Revegetation Methods

Revegetation methods will comprise:

- topsoil will be spread evenly over the surface and tyned into the underlying material. The final depth will depend on the quantity available but a minimum of 100 mm will be used with greater depth in critical areas. An average depth of 150 mm will be used.
- application of appropriate fertiliser for pasture establishment;
- seed of pasture grasses and legumes, trees or shrub species appropriate to the desired land use will be sown using aerial seeding or ground distribution, generally in the October to February period depending on seasonal conditions and operational requirements;
- planting of selected trees and shrubs where required.

Details on the selection of the type and rate of fertiliser and seed will depend on the physical and chemical properties of the surface being treated, the season and prevailing climatic conditions. Based on the available research it is intended that approximately 150 trees/ha will be established using direct seeding techniques supplemented by planting of tube stock.

Revegetated areas will be monitored annually until the nominated standards have been met for 3 years. Maintenance will be performed to promote acceptable cover or to repair failed areas. Regular monitoring and surveillance will be undertaken. Actions considered appropriate to rectify any causes of revegetation failure will be commenced immediately after identification of the problem.

Commitment 8: The permitted maximum disturbed area not rehabilitated will not exceed the area nominated in Appendix 1 in the current approved Plan of Operations.

Commitment 9: Revegetation will be considered adequate when the ground cover exceeds 30% for 3 consecutive years.

2.2 WASTE MANAGEMENT

2.2.1 WASTE SOURCES

There are a number of potential sources of land contamination including:

- ◆ Vehicle and plant maintenance operations
- ◆ Refuelling operations including storage
- ◆ Tyres
- ◆ Process reagent spillage
- ◆ Disposal of waste material
- ◆ Putrescible waste (food etc)
- ◆ Sewage treatment

Commitment 10: Any potential for land contamination will be minimised by the implementation of the strategies outlined in Section 2.2.2. A register of hazardous materials and their location will be kept on site.

2.2.2 CONTROL STRATEGIES

A waste management hierarchy has been instituted which incorporates in order of preference the principles of:

- 1 Waste minimisation
- 2 Waste reuse/recycling
- 3 Waste treatment
- 4 Waste disposal

Most wastes are removed from site for reuse, treatment or disposal in a manner approved by the Rosalie Shire Council licencing requirements. Sewerage is treated on site and the waste water released to the tailings dam after chlorination. The sludge is collected and removed from site by a licensed operator for safe disposal.

Strategies will be implemented to prevent land contamination, and should land contamination occur, manage the impacts. Specifically these include:

- implementation of safe work practices for minimising the risk of spillage.
- provide environmental training for all operators exposed to the handling of potentially hazardous substances.
- construction of appropriate spill containment facilities for all process reagents (110% of the volume of the largest tank) and petroleum products storage (AS 1940) and use areas.
- responsible and traceable disposal of heavy earthmoving equipment tyres.
- maintaining a register of location and quantities of hazardous substances including their storage, use and disposal.
- induction of contractors and staff in their environmental protection responsibilities and monitoring of their performance.

- classification of waste material into hazard categories prior to disposal.
- remediation or disposal of contaminated soil including hydrocarbon contamination.
- the development of contingency and emergency response procedures in the event of spillage or other accidental release of contaminants.

2.3 WATER RESOURCES

Information on the existing water resources has been detailed in the supporting documents (Ison Environmental Planners 1999) and Ison Environmental Planners 2000).

2.3.1 SURFACE WATER

Drainage is from the north and east to the south west corner of the lease with a small area draining to the north east (Figure 4). The drainage lines crossing the site are characterised by a broad, flat and poorly defined channel. Flows occur intermittently following several days of heavy rain or after an intense storm.

There are no streams as defined under the *Water Resources Act* 1989 or *Water Act* 2000 within ML 50170.

Hydraulic analysis of Lagoon Creek to the south indicate that flooding up to the 100 year ARI event would not reach the proposed pit limits and the development will not have any impact on Lagoon Creek (Woodward Clyde 1996).

Water quality and flow monitoring stations will be located on all potential site discharge locations. These are likely to include storage and sediment basin spillways that discharge off site.

2.3.2 GROUNDWATER

Investigations into the effect of mining upon groundwater occurrences around the Acland minesite have been undertaken (Ison Environmental Planners 1999).

Underlying the Walloon Coal Measures within this basin are rocks of the Great Artesian Basin sequence containing the Hutton Sandstone, Evergreen Formation and Precipice Sandstone (Gray 1975). Each of the formations contain groundwater aquifers with the highest yielding aquifers usually occurring in the Hutton and Precipice Sandstones.

Overlying these older formations are extensive areas of Tertiary basalt and Recent alluvium. Within the project area there are limited amounts of basalt which contain small volumes of groundwater mainly in the deeper palaeo-channel deposits. The area and thickness of basalt increases to the west of the site.

There are no known aquifers within the small amount of alluvium within the project area. The nearest alluvium with significant groundwater supplies is associated with Oakey Creek approximately 15 km to the south east of Acland.

The Walloon Coal Measures occur in a series of basins isolated by faults. As is common in most coal seam sequences, groundwater flow occurs principally through coal seams (and occasionally through associated sandstone beds) and fault planes. There is little hydraulic interaction between seams because of the fine-grained sediments separating the seams. Hydraulic heads vary between seams. Groundwater yield is highest from the coal seams particularly from the deeper F and G seams. Aquifers located adjacent to fault zones are generally more permeable and yield the highest water volumes.

Where coal seams are displaced by a major fault (i.e. where the throw is sufficient that coal seam aquifers on one side of the fault do not touch the coal seam aquifers on the other side of the fault), groundwater moving down gradient in the coal seams will intersect the fault plane and then move laterally down gradient along the plane. There is evidence that limited leakage occurs across some faults. Any potential hydraulic connection along these faults between the deeper Hutton Sandstone aquifers and the overlying coal seams and the relative hydraulic head in the various aquifers will be determined during a future drilling program.

The compartmentalisation of the coal measures means that dewatering for mining purposes will be comparatively straightforward. Water pumped from dewatering bores could be used for coal processing, dust control or for other purposes in the mine.

The project land lies within a proclaimed area as defined under the Water Resources Act. All bores require a licence issued by NR&M before they are drilled. The driller is required to submit to the NR&M a copy of the drilling results for each hole.

There are many privately owned registered bores within ML 50170. Most of the bores are used for stock and domestic supplies in an area where surface water resources are often unreliable. Within ML 50170 the majority of holes are located within coal measure aquifers with a small number tapping limited basalt aquifers. The area within ML 50170 has been purchased by NAC.

North and east of ML 50170 the majority of holes are located in coal seams deeper than will be mined or in the upper aquifer in the underlying Hutton Sandstone. Holes are often greater than 100 m deep with yields generally < 1 L/s. Water quality varies from potable to saline with most water being suitable for stock watering.

South of the Project Area the majority of bores, including those in and around Acland, are located in coal seams or adjacent sandstone aquifers. The depth of the holes increases down dip towards the south. Water quality in the coal measures is often only suitable for stock. Sandstone aquifers can produce potable water.

West of Muldu, most bores tap aquifers within the basalt. Yields up to 13 L/s have been found with better water quality than the coal seam aquifers. Some bores are used for potable water supply. West of Acland, most holes are in coal seam aquifers. Yields are lower and quality poorer than in the adjacent basalt aquifers.

Groundwater samples would be classified as moderately to very saline (1600 to 6600 $\mu\text{S}/\text{cm}$), mildly alkaline, with varying proportions of cations and anions depending on the type of aquifer being tapped. Water associated with basalt tends to have Ca, Mg and HCO_3 as the major ions while water pumped from the coal measures tends to have Na and Cl as the main ions.

To assess general quality, the results have been compared to health guidelines (NHMRC 1996) and stock watering guidelines (ANZECC 1992). All samples exceeded the health guideline for total dissolved solids while 4 exceeded the stockwatering guidelines. Five of the analyses had elevated levels of nitrates possibly as a result of leaching of animal wastes or fertiliser into the groundwater. The health guideline for manganese was exceeded in one analysis.

In addition, the stock watering guidelines were exceeded for :

- ◆ fluoride by one sample,
- ◆ sulphate by two samples,
- ◆ copper by one sample.

2.3.3 IMPACTS ON SURFACE WATER QUALITY AND QUANTITY

The mine surface water management system will consist of sediment ponds, licensed stream diversion banks and water diversion bunds. The aim of the mine water management system is to:

- ◆ separate clean and dirty water
- ◆ maintain water quality leaving the lease area to agreed standards for downstream use
- ◆ ensure interruption to mining operations, including flooding of the pit, is minimised
- ◆ ensure off site impacts are acceptable
- ◆ comply with statutory requirements.

There are 4 categories of water emanating from the mining site:

- (i) Clean surface runoff.
- (ii) Runoff from partly rehabilitated areas carrying elevated levels of sediment and dissolved solids.
- (iii) "Dirty" runoff from disturbed areas carrying higher loads of sediment and dissolved solids.
- (iv) Groundwaters from the strata in the mine which will generally be clear but with varying degrees of salinity.

Disturbances on the lease may result in contaminant mobilisation. Potential sources of surface water contamination at the Acland mine site are:

Mine dewatering	Pit water from groundwater, direct rainfall and runoff from spoil
Cleared areas	Runoff containing sediment
Spoil	Runoff containing sediment and dissolved salts
Infrastructure	Runoff from roads etc containing oils, sediment, etc

The mechanisms of loss from the lease of waters from these sources are:

- ◆ evaporation and transpiration;
- ◆ overflow from water impoundments on the lease;
- ◆ infiltration and groundwater movement;
- ◆ controlled discharge from water impoundments by pumping or siphoning;
- ◆ seepage from water impoundments;
- ◆ export from the lease as wetted coal product; and,
- ◆ overland flow during runoff events.

Commitment 11: Licences, if required, will be obtained from NR&M prior to construction of any structures requiring licences under the *Water Resources Act* (1989) and/or *Water Act* (2000).

Commitment 12: Downstream water quality at the lease boundary will not exceed the receiving water discharge criteria specified in Table 4 or 10% higher than the background levels defined at the lease boundary or upstream of any disturbance, whichever is higher.

Commitment 13: The project will monitor the effect of mining on the surface water and groundwater resources and will ensure that adjacent water users are not adversely affected by the project's operation.

2.3.4 CONTROL STRATEGIES

Dams, waterways, diversion banks and water recycling schemes will be installed to provide catchment separation of clean and dirty water and to manage and control water quality and quantity on the lease. From experience on other mine sites in southern Queensland, the main detrimental effect on water quality due to mining operations is turbidity. Salinity is most significant in managing pit water. The final location and size of dams and diversions to be constructed on site is part of detailed mine planning and will be addressed in the POOP (Plan of Operations). As far as practicable the mine plan seeks to utilise the water management designs such that dams and diversion structures will be an integral part of the rehabilitation program and the post mining land use.

Design criteria are based on discussion and recommendations of officers of NR&M and EPA (Environmental Protection Agency) and will be designed to meet application legislative requirements (Table 3).

Table 3. Water management design criteria, New Acland Coal Project.

Structure	Capacity (ML)	Design Storm ARI	Spillway Design Storm ARI	Referable Dam
Fresh water dam	To be determined	N/A	1:100 _{TC}	yes
Detention ponds	Variable (allowance for siltation included)	1:10 _{TC}	1:20 _{TC}	no
Diversion drains/banks				
- temporary		1:20 _{TC}		no
- permanent		1:100 _{TC}		no
Sediment ponds	Variable	1:10 _{TC}	1:20 _{TC}	no
Environmental dam	10	1:10 (6 hour)	N/A	no

ARI - Average Recurrence Interval

TC - Time of Concentration

N/A - Not Applicable

No runoff from disturbed areas are to pass off site without being routed through a sediment pond and runoff velocities for the 1 in 5 year storm in the main channels to be < 2.0 m/s as an absolute maximum and < 1.5 m/s as a desirable maximum.

Storage volumes are based on critical storms events or wet season rainfall as appropriate, while short duration events control the dimensions of diversion drains and spillway structures. Duration of critical events is the time of concentration in the relevant sub-catchment.

Exceedance of the design storm may result in minor damage to levees and embankments but the effect upon the surrounding environment during such an event and the costs of repair will be minor.

Review of the water management for the site will be undertaken and discussions are to be held with the NR&M to determine licence requirements as part of the POOP.

2.3.4.1 Downstream Users

Runoff and impoundment waters will be monitored to ensure compliance with the Environmental Protection Act (1994) and the Environmental Protection (Water) Policy 1997. Receiving water discharge criteria based on the water quality guidelines for stock as outlined in the 'Australian Water Quality Guidelines for Fresh and Marine Waters (ANZECC 1992) are presented in Table 4.

Table 4. Receiving water discharge criteria, New Acland Coal Project.

Measure	Units	Maximum Level (Discharge for storm events exceeding design criteria)	Target Level
pH		6.0 – 9.0	6.5 - 9.0
Total Dissolved Solids	mg/L	3, 000	1, 000
Total Suspended Solids	mg/L	5, 000	2, 000
Sulphate	mg/L	1, 000	200
Calcium	mg/L	1, 000	500
Magnesium	mg/L	600	200

Runoff and impoundment waters will be monitored to ensure compliance with the EPA. Downstream of the mine water is used for stock watering, cropping and some domestic use for gardens.

Control strategies outlined in the rehabilitation of the final landforms and those outlined above, aim to ensure that downstream riparian rights are maintained and water quality for stock and crops are protected in accordance with criteria in Table 4. Water management of the site will ensure that water quality in receiving streams is not degraded by the proposed operation.

2.4 NOISE

2.4.1 NOISE IMPACTS

A sound level impact assessment to ascertain existing mining noise impact and calculations made to determine whether or not mining adversely impacts existing residences has been prepared (Ison Environmental Planners 1999).

The location of residences with respect to the mine is shown in Figure 4.

The major noise sources are:

- ◆ mining equipment - overburden and coal
- ◆ loading equipment
- ◆ mine haul road vehicles
- ◆ road haul vehicles
- ◆ rail stockpile and loading
- ◆ blasting

Under Section 3, the objective of the Environmental Protection Act is to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends. The environmental values to be enhanced or protected under the Environmental Protection (Noise) Policy "are the qualities of the acoustic environment that are conducive to-

- (a) the well being of the community or a part of the community, including its social and economic amenity; or
- (b) the wellbeing of an individual, including the individual's opportunity to have sleep, relaxation and conversation without unreasonable interference from intrusive noise."

Noise modelling show noise limits are only exceeded at a limited number of residences and these exceedances are principally with respect to surface (or near surface) mining activities. Exceedances can be controlled by the implementation on site of appropriate control strategies.

Any blasting required will be undertaken under strict criteria to protect the amenity of residences with Schedule 2 of the EPP (Noise); viz airblast overpressure at residences is limited to 115 dB (Lin) and ground vibration of < 35 Hz to 10 mm/sec peak particle velocity.

Commitment 14: Noise, airblast over pressure and ground vibration levels will be maintained in accordance with the EPP (Noise).

2.4.2 CONTROL STRATEGIES

Noise control and nuisance is addressed by DME and EPA guidelines and the Environmental Protection legislation. Based on the initial assessment, noise control measures are required to ensure that existing ambient sound levels are not increased significantly. This is most important for night-time mining activities and particularly pertinent for surface vehicle movements. Vehicles below the surface are unlikely to be any louder than existing ambient conditions.

If mining noise, coal transportation noise or vibration impact is required to be reduced, one or more of the following control options will be considered.

- Controlled use of explosives and timing of blasting;
- Selective placement of overburden material to provide acoustic and visual shields to the nearest residence;
- Reduce mining equipment sound levels by implementing control measures at the various sources;
- Correct maintenance of equipment;
- Schedule equipment movements during surface prestripping operations to decrease the impact of noise during night-time hours, giving due regard to the noise characteristics and location of noisier equipment types;
- Limiting timing of certain operations, eg not dumping on top of elevated spoil dumps late at night;
- Reduce mining equipment sound levels by constructing barriers between the noise sources (mining equipment) and the receivers (residences) which are 1 to 2 m above the line of sight between the top of the residence's windows and the noise source. These barriers would be located:
 - ⇒ close to the mining equipment or
 - ⇒ close to the residences affected by mining sound levels;
- controlling the speed of trucks;
- maintaining the road and trucks in good condition;

- purchase of properties adversely affected by the noise of the coal mine;
- compensation to the landowner and/or acoustic treatment of the residence to create an acceptable noise environment inside;
- construction of earth bunding.

With the application of one or more of these control measures, New Acland Coal could operate the coal mine within the nominated noise limits, 24 hours per day.

Noise attenuation is not required for mining equipment operating below ground level.

The company will establish a consultation strategy with nearby residents to ensure response to perceived problems. Monitoring will be undertaken as required and in response to complaints to confirm acceptable noise levels. If a complaint is received, New Acland Coal undertakes to thoroughly investigate the complaint, establish the legitimacy of the complaint and undertake remedial action as necessary. All statutory requirements will continue to be addressed. Appropriate control strategies will be undertaken to promptly address any legitimate complaints from other residences and to ensure compliance.

2.5 AIR QUALITY

2.5.1 DUST IMPACTS

Particulate emissions from mining activities were assessed for the period of mine establishment (i.e. pre-stripping) and for coal extraction. As approximately 60% of any dust emitted by mine site activities is likely to have a size fraction below 50 μm , much of the dust will be deposited due to gravitational settling within the first 500 m of the source (Axetell and Cowherd 1981, Dames and Moore 1988 and Parrett 1992).

Dust impacts have been assessed through emissions estimation using common emission factors and dispersion modelling using the USEPA Industrial Source Complex (ISC3) model in association with detailed meteorological and topographical data representative of the Acland mine area.

As the location of mining activity will vary over the life of the mine, modelling of mining activities has been undertaken for sites at the pit limits and assuming the highest emission rates likely at each particular location. Dispersion modelling has accounted for dry depletion of dust from the plume and has assumed mining emission rates are constant throughout the day and night. The dispersion modelling uses conservative assumptions and predicted ground-level concentrations are likely to be upper bounds to the highest levels in practice.

Predicted 24 hour ground level concentrations of PM_{10} in the Acland township are well below the National Environment Protection Council and EPP (Air) guidelines for urban or residential areas. Similarly annual average TSP, PM_{10} and dust deposition levels are well below relevant guidelines.

Ground-level concentrations of TSP, PM_{10} and dustfall will be unlikely to cause health and nuisance effects.

Agricultural and other activities other than mining contribute significantly to the dustfall experienced in the area.

In addition to particulate matter, other emissions from the proposed activities will consist of sulphur dioxide and nitrogen oxides generated by the diesel-powered plant and machinery and fumes from blasting. The emission rates will be small in comparison with the emissions from vehicles using the nearby highways and minor roads and aircraft. Blasting procedures are under continual review to minimize the generation of fumes. Consideration has been confined to the emissions of dust as the main pollutant.

Commitment 15: Air quality will be maintained in accordance with the EPP (Air).

2.5.2 CONTROL STRATEGIES

The company will establish a consultation strategy with nearby residents to ensure response to perceived problems or to confirm that remedial action is required. Monitoring will be undertaken as required and in response to complaints to confirm air quality levels are acceptable.

Appropriate impact control strategies will be adopted.

Vegetation Clearing

Any vegetation removed during clearing will be chipped where possible, or burned. If burning is to take place, the windrowed vegetation will be thoroughly dry and burning will occur only when winds are blowing away from sensitive areas and under the direction of the local fire authority. Where burning is not permitted due to hazardous conditions, or is likely to cause a nuisance to local residences, burial will be considered as an alternative.

Topsoil Stripping

Where practicable topsoil will be stripped while moist, in order to reduce dust generated by scraper and dozer operations. However, if the soil is worked while it is too moist (ie, with moisture content of more than about 12 %) its structure can break down, rendering the soil unsuitable for rehabilitation. Topsoil haul roads will be routinely watered. To reduce wind erosion, topsoil stripping will be limited to the smallest practicable area in front of the mine face. Once stripping is completed, access to this area will be restricted.

Overburden Drilling

All drilling rigs are equipped with adequate dust-collection devices.

Overburden Blasting

Practical controls include:

- Restricting blasting during periods of high winds or when prevailing winds will carry the dust cloud towards sensitive areas.
- Restricting blast sizes
- Using selected stemming where practicable.

Overburden Loading

No effective practical control exists for dust arising from this activity. However, the loading of overburden into trucks is normally carried out low in the pit, and this limits the amount of dust leaving the area to some extent.

Overburden Haulage

Overburden haulage is the most significant source of dust in the mining operation. Large pneumatic-tyred dump trucks travelling on temporary haul roads present a difficult control problem. Hard sealing of temporary haul roads is impractical because of the very heavy loads carried and because the spillage of sharp rock fragments necessitates continual grading to prevent tyre damage.

Whenever mining operations likely to create dust are being undertaken, dust suppression is implemented by wetting of disturbed areas using water trucks to minimise dust generated by mine traffic and wind.

Chemical additives are another alternative, but can be expensive, sometimes affect the electrical or mechanical systems of haulage vehicles, can make the roads slippery under high-moisture conditions and can cause water pollution unless adequately controlled. The US Bureau of Mines has reported, however, that properly applied and maintained chemical treatment can be cost-effective in controlling dust emissions. Testwork on this technique at Jeebropilly has been undertaken but it has been found to be impractical because of the clayey nature of the material and the need for regular grading, which removes the road surface.

Issues that have been considered in determining haulroad maintenance include:

- large (eg 70,000L) water carts are more effective than an equivalent capacity in smaller units.
- interburden and mudstone are unsuitable for making haul roads, because they pulverise and cause large quantities of dark-coloured dust. Major haulroads are sheeted with selected basalt overburden.
- steep and short hauls result in lower dust emissions because of reduced speeds.
- use of basalt subgrade material for road sheeting on permanent or semi permanent roads.

The existing control strategies incorporate these findings where practicable.

Overburden Tipping

There is no technological control for dust arising from the tipping of overburden from haulage trucks. The site is managed to avoid tipping in exposed areas during moderate to high winds whenever possible and to minimise the distance of fall of the overburden materials. Generally, the overburden is moist when it is being handled. Water trucks wet disturbed areas whenever mining operations likely to create dust are being undertaken.

Coal Loading

Coal is generally loaded onto trucks in the bottom of the pit and the dust usually settles nearby. However, routine, regular watering of the working area is undertaken as a control technique to reduce dust arising from machinery movements for environmental and occupational health reasons.

Coal Haulage

The controls on unpaved roads will continue to be regular watering of the road surfaces.

2.6 CONSERVATION VALUES

2.6.1 FLORA AND FAUNA

The natural vegetation over most of the area has been previously cleared for grazing and cultivation and where areas of trees remain, grazing activity has removed the natural understorey species. Similarly, the number and species of fauna occurring on the site has been affected by existing land use practices. The only known species of plants or animals that are considered rare or threatened in the vicinity are 3 species of grasses that are found at some locations in road reserves in the vicinity but only *Bothriochloa biloba* was found at one location within the boundary of ML 50170 (figure 4).

The loss of part of the habitat on the site is unavoidable but because of the degree of disturbance caused by clearing and agriculture that has already occurred there will be no significant impacts upon flora or fauna.

Rehabilitation of mined areas with some of the original local species would improve wildlife habitat, particularly in those areas that have been previously clear-felled for grazing purposes.

The construction of dams and retention ponds for the control of surface and groundwater in the mining operation will have beneficial effects for waterbirds and other fauna.

Commitment 16: The project will comply with any legal requirements under the Nature Conservation Act.

2.6.2 CONTROL STRATEGIES

The aim is to limit the extent of disturbance to flora and fauna to the minimum required for safe operations and prevent unnecessary destruction of other vegetation. Only where essential for safe operations should trees or other vegetation be removed. Flora outside of mine or infrastructure areas will be protected. Where opportunities exist, infrastructure will be sited to minimise the disturbance to existing native vegetation. Existing tracks and cleared areas will be utilised. Where it is essential to remove vegetation for access, trees and shrubs should be cut off at ground level and light vegetation rolled.

Prior to any clearing operations, the areas to be protected and avoided will be surveyed and marked. Before clearing operations commence, staff involved will be made aware of the vegetation protection policy. Parawebbing or other suitable fencing will be erected around these areas. In areas not required for operations, particular care will be made to avoid the disturbance of large trees, especially those containing hollows suitable for nesting.

A management plan for the occurrence of rare plant species (*Bothriochloa biloba* within ML 50170 and *Homopholis belsonii* located along the proposed coal haul route to the Jondaryan rail loading facility) will be included in the first POOP.

Clearing of the site will be done in a manner that will allow fauna to move back towards undisturbed areas. No 'islands' of vegetation will be left overnight tempting animals to return and be caught when clearing is resumed. Any fauna that is found during clearing operations will be returned to suitable habitat or given to the relevant authorities.

Arrangements will be made with timber millers for the recovery of useable timber. Logs from areas that are to be cleared will be used in erosion control and provision of refuge for ground dwelling animals. Small branches and leaves of cleared vegetation will be included in the recovered topsoil.

NAC will manage the site in accordance with relevant agricultural practices designed to control weeds and feral animals and will control all plants and animals declared under, and in accordance with, the *Rural Lands Protection Act* 1985. NAC will consult with the Lagoon Creek and South Myall Catchment Landcare Group in the control of declared plants and animals and the selection and use of plants in the establishment of screens and rehabilitation of ML 50170.

The aim is to select tree species known to be koala food sources and shelter such that they can be incorporated in the mine rehabilitation program. These trees will be established adjacent to habitat outside of the lease. There are no other statutory requirements or commitments relevant here.

2.7 HERITAGE AND CULTURAL VALUES

2.7.1 IMPACTS

The cultural heritage assessment conducted by Ann Wallin and Associates demonstrated that the Acland area contains a high proportion of lithic scatters and resources (Wallin 1999).

Whether this is comparable to other sites in the district is unclear, but on the basis of known archaeology elsewhere, appears to be higher than average. Uncertainty exists because no other project in the Downs has examined ploughsoil in such detail. While possibly disturbing the original context of artefacts, the higher visibility allowed by ploughsoil survey, may have influenced the findings. The only way to confirm this would be to undertake a similar assessment several kilometres away and compare the results.

From the archaeological record, it appears that the Acland area was an important route for Aboriginal people travelling to the bunya nut festivals in the Bunya Mountains. This triennial festival with its social, economic and spiritual associations had a major significance for the tribes of south east Queensland and northern New South Wales.

The following recommendations were made to reflect the findings of the assessment.

Although a large number of artefacts were located, it is feasible that this would not necessarily impede approval of mining in the area from an archaeological perspective, so long as a representative collection of artefacts was made prior to excavation, and the process was duly monitored.

Recommendation 1

Should further work be undertaken to develop this area, a detailed Cultural Heritage Management Plan should be developed, taking into consideration the wishes and involvement of the traditional Aboriginal people concerned.

Recommendation 2

If possible, negotiations should be facilitated between EPA, the New Acland Coal Company, the landowners and concerned Aboriginal groups with recognised interests in the area to undertake protection for Sites 5 and 31 in particular.

Sites 5 and 31 are outside the boundaries of ML 50170.

The site possesses no other known archaeological or historical values and there are no sites identified within the project area requiring protection.

2.7.2 CONTROL STRATEGIES

Commitment 17: New Acland Coal Pty Ltd will develop a Cultural Heritage Management Plan for the site, including a process should any items of aboriginal cultural significance be located during mining, after appropriate consultation with relevant traditional owners .

2.8 SOCIAL ISSUES

Consultation has been conducted with landholders and other stakeholders in the area potentially affected by the proposed operation including the Rosalie and Jondaryan Shire Councils.

On present production schedules, approximately 137 people will be employed directly. No site has been selected as an accommodation site for the project workforce but discussions have been held with the relevant Shire Councils. It is hoped that the employees will recruited locally and will have their own accommodation. Accommodation will not be provided by the Company to encourage local employment.

The influx of people through the area should positively impact upon the small businesses in the community, who are generally supportive of the Project.

During the construction and operational phase people will be employed directly at the site with additional indirect employment in the region. In selecting job applicants, provided they have the necessary skills and considering all factors, preference will be given to employing local people. This will create local job opportunities in an area where traditionally opportunities are rare and school leavers must move to the larger cities to seek jobs.

Various levels of government will obtain considerable revenue from direct and indirect taxation, royalties, port charges, rail freight, stamp duty and other government charges. The development of an export market will generate foreign exchange earnings.

Commitment 18: The project will establish ongoing consultation mechanisms with the community and relevant agencies and will monitor and address any further social issues if they arise after consultation with the relevant Local Government or State Government departments.

2.9 RESEARCH

Research programs and consultancies will be commissioned by the company to address issues as they arise. The research results and reports will be made available to the DME as appropriate to support changes to the EMOS or POOP.

Research will be considered for the following topics:

- final void water quality at an appropriate stage of mine life,
- alternative final void uses at an appropriate stage of mine life, and
- the possibility of introducing rare plant species identified in the Acland area into suitable areas of rehabilitation on-site.

2.10 ENVIRONMENTAL MONITORING

The monitoring programs outlined in Table 5 will be undertaken to demonstrate compliance with statutory requirements, and criteria presented in this EMOS.

Commitment 19: Monitoring will occur as indicated in Table 5 of the EMOS. Continuous assessment of monitoring results will be carried out as results are received. Actions considered appropriate to rectify any causes of unacceptable results will be commenced immediately after identification of the problem.

Commitment 20: An internal audit and interpretation will be conducted annually and completed by 30 August to ensure successful operation of control strategies, compliance with statutory requirements and to confirm that milestones in the Plan of Operations have been met.

Table 5. Environmental monitoring program, New Acland Coal Project.

AIM	METHODS	SCHEDULE	REPORTING
LAND RESOURCES			
Identify gully erosion (> 250 mm depth)	Surveillance	Monthly in wet season	Annual
Detect failure of contour/diversion banks, and waterways	Inspection	After runoff event	Annual
Evaluate vegetative cover and growth stability	Surveillance & Transects	May	Annual
Measure tree/shrub establishment	Count trees & shrubs > 1m in height	Annual	Annual
WATER RESOURCES			
Monitor water quality	Sample site runoff, groundwater and key water management structures	Monthly	Annual
Detect failure of stream diversion structures	Surveillance	After runoff event	Annual
AIR QUALITY			
Monitor dust	Deposition gauges	As required	At time of sampling
NOISE			
Check compliance	Noise monitors	As required	At time of sampling
VIBRATION			
Check compliance	Measure noise and ground vibration of blasts	As required	At time of sampling

3. OVERVIEW STRATEGY

New Acland Coal will mine in accordance with statutory requirements and as agreed to with the DME / EPA. Environmental statutory requirements are accommodated by the strategies and controls developed for this EMOS.

The control strategies outlined in the EMOS may vary throughout the mine life. The following situations can trigger a review of the EMOS:

- Significant changes to the mine plan;
- Results of research that suggest a change to environmental management methodologies or objectives;
- New legislation or release of an EPP;
- Results of monitoring and research that suggest an alteration to criteria or rehabilitation or rehabilitation methods is required; and
- Approaching milestone dates.

These triggers will be identified by:

- (i) an annual review of the mine plan and results of research and monitoring by the New Acland Coal technical section in consultation with the environmental consultant; and
- (ii) in response to any change in the mine plan that changes the likely rehabilitation strategy or when monitoring results indicate failure of a control strategy.

A change to the mine plan may compromise commitments outlined in the EMOS. It is possible that changes to the mine plan will require a review of the location, landform, design or timing of operations. A review and/or changes to the EMOS will be undertaken.

Research is underway or is programmed to occur in forthcoming years. Results from these studies may indicate that alternative appropriate technology be implemented by New Acland Coal.

Monitoring will be regularly undertaken and reviewed. Results indicating failure may occur from external factors that do not require a change in approach (for example, a drought leading to poor vegetation cover, or failure of a diversion bank during a 1 in 20 rainfall event when designed for a 1 in 10 event). Failure may also be due to selection of inappropriate techniques. If this has occurred, then New Acland Coal will review the options available and either:

- (a) select an alternative technique based on proven technology;
- (b) select an unproven technique that does not conflict with statutory requirements and verify by monitoring; or
- (c) commence research to change statutory requirements to allow a more effective control strategy to be implemented while selecting interim techniques from either (a) or (b) above to control the impact in the short term.

4. REFERENCES

- Ann Wallin & Associates Pty Ltd (1999), *A Cultural Heritage Assessment on a Proposed Coal Mine and Power Station Site at Acland, Near Oakey, Darling Downs, Southeastern Queensland*. May 1999.
- ANZECC (1992). *Australian Water Quality Guidelines for Fresh and Marine Waters*. Australia & New Zealand Environment and Conservation Council November 1992
- Australian Geologic Survey Organisation (1997), map titled *Hydrogeology of the Great Artesian Basin*.
- Axetell K. and Cowherd C. (1981), *Improved Emission Factors from Western Surface Coal Mining Sources Volume I – Sampling Methodology and Test Results*, EPA Contract Number 68-03-2924.
- Callaghan J., Phillips S. and Thompson, J. (1998) *Acland Koala Study*, Australian Koala Foundation, Brisbane.
- Dames and Moore, (1988), *Air Pollution From Surface Coal Mining*, Vol. 2, Emission Factors and Model Development, NERDDC Project 921.
- Gray ARG (1975), *Bundamba Group-Stratigraphic Relationships and Petroleum Prospects*. Queensland Government Mining Journal, September 1975
- Ison Environmental Planners (1999), *DRAFT Impact Assessment Statement, Acland Mine, Power Station and Water Supply*, Shell Coal Pty Ltd, December 1999.
- Ison Environmental Planners (2000), *Environmental Technical Summary, New Acland Coal Project*, New Acland Coal Pty Ltd, June 2000.
- Katestone Scientific (1995), *Air Pollution control guideline*, Chapter 7 of Queensland Department of Minerals and Energy Environmental Guidelines for the mining industry. April 1995.
- Menkins I. (1998), *Draft Report of Homopholis belsonii C.E. Hubb on the Darling Downs*. Toowoomba and Region Environment Council Inc, Toowoomba.
- Mullins J.A. (1978) *Description and Management of the Soils of the Eastern Darling Downs*. Queensland Department of Primary Industries. Division of Land Utilisation Technical Bulletin No. 33.
- NHMRC (1996). *Australian Drinking Water Guidelines*. National Health & Medical Research Council 1996.
- Parrett F.W. (1992), *Dust emission - a review*, Applied Environmetrics (Balwyn).
- Queensland Department of Environment (1996) *Native plants subject to the Nature Conservation Legislation*. List as at 1 January 1996. Department of Environment, Brisbane.
- Rosser J., Swartz G.L., Dawson N.M. and Briggs H.S. (1974), *A Land Capability Classification for Agricultural Purposes*. Queensland Department of Primary Industries, Division of Land Utilisation Technical Bulletin No. 14.
- Sattler P.S. and Williams R.D. (eds) (1999), *The Conservation Status of Queensland's Bioregional Ecosystems*. Environmental Protection Agency, Brisbane.

- Shields P.G. and Williams B.M. (1991) *Land resource survey and evaluation of the Kilcummin area, Queensland*. Land Resource Bulletin QV91001. Queensland Department of Primary Industries, Brisbane.
- Stumer and Jerome (1990), *Darling Downs Meteorological Study, Final Meteorological Report*, Generation Technology Department, QEC, Report ETM 90/016.
- Woodward Clyde (1996), *Acland Project State 1. Water and Waster Management Study*. Project A3200535/009. Document R001-B. November 1996
- Woodward Clyde (1997), *Acland Project Feasibility Study*, Brisbane.



Mining Lease Application

MDL 244
ACLAND



New Acland Coal Pty. Ltd.

ACLAND COAL PROJECT
GENERAL LOCALITY PLAN

Date : 01 November 2000	Drawn : New Hope Coal Australia	Figure
Prepared by : New Hope	File : acl_genloc_a3.ppt	2



MDL 244 Boundary

Mining Lease
Application

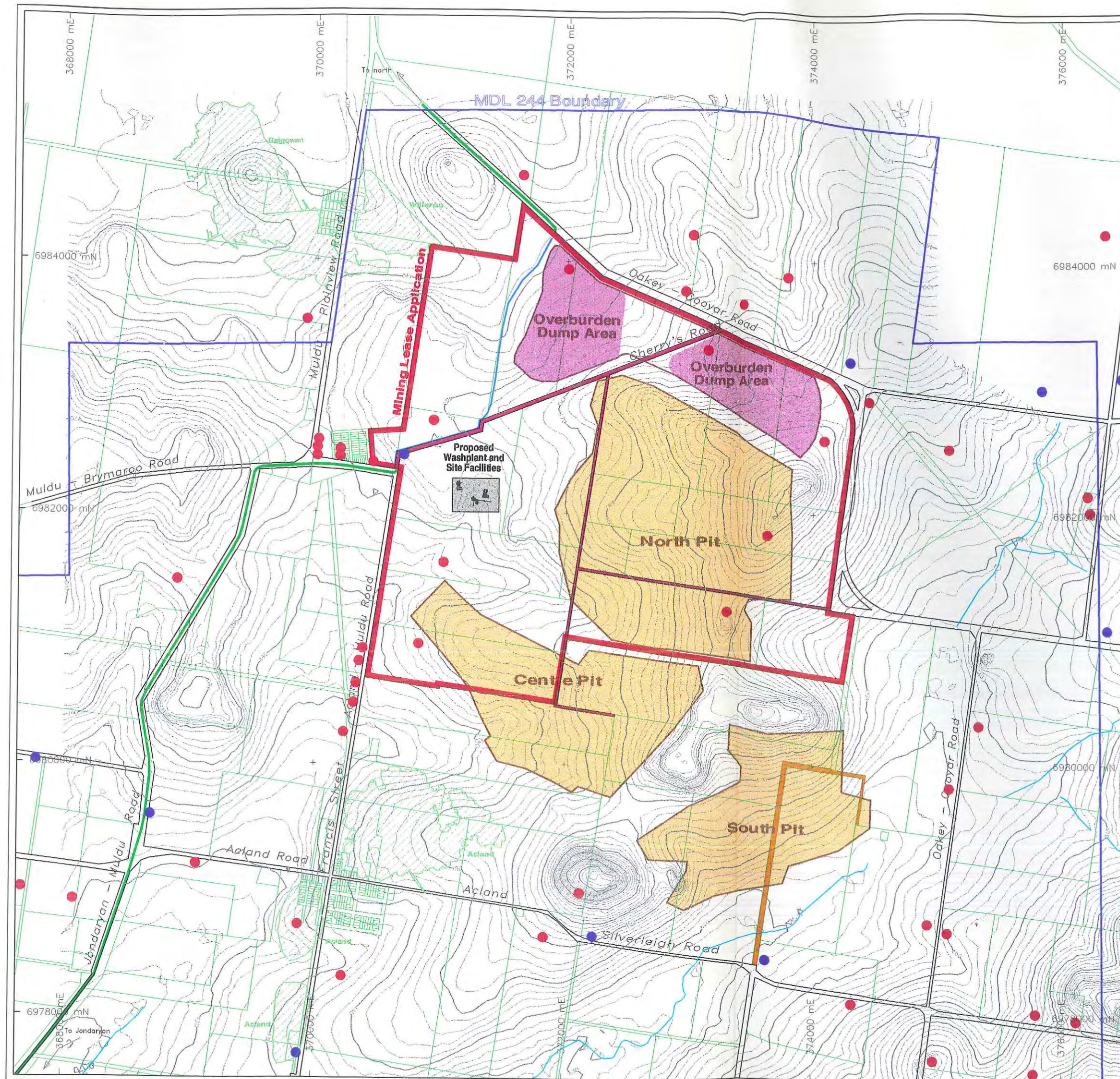
MDL 244 Boundary

NEW HOPE COAL AUSTRALIA
Acland Coal Project
Aerial Photograph

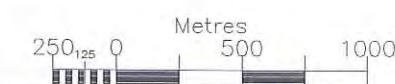
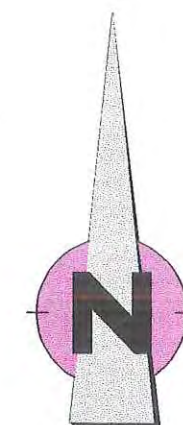
Qasco
Phone: 07 3544 5191
Fax: 07 3544 5057

Approximate Scale

Figure 3



- Legend:**
- Mining Lease Application
 - Mineral Development Licence
 - Coal reserve area
 - Proposed Overburden Dump
 - Building
 - Surface Contour (2m interval)
 - Creeks / Streams (Ephemeral)
 - Proposed Access Routes
 - Proposed Internal Roads
 - Road reserves to be closed
 - Existing closed road reserves
 - Private Residence
 - Old Underground Workings
 - Rare Plant Site



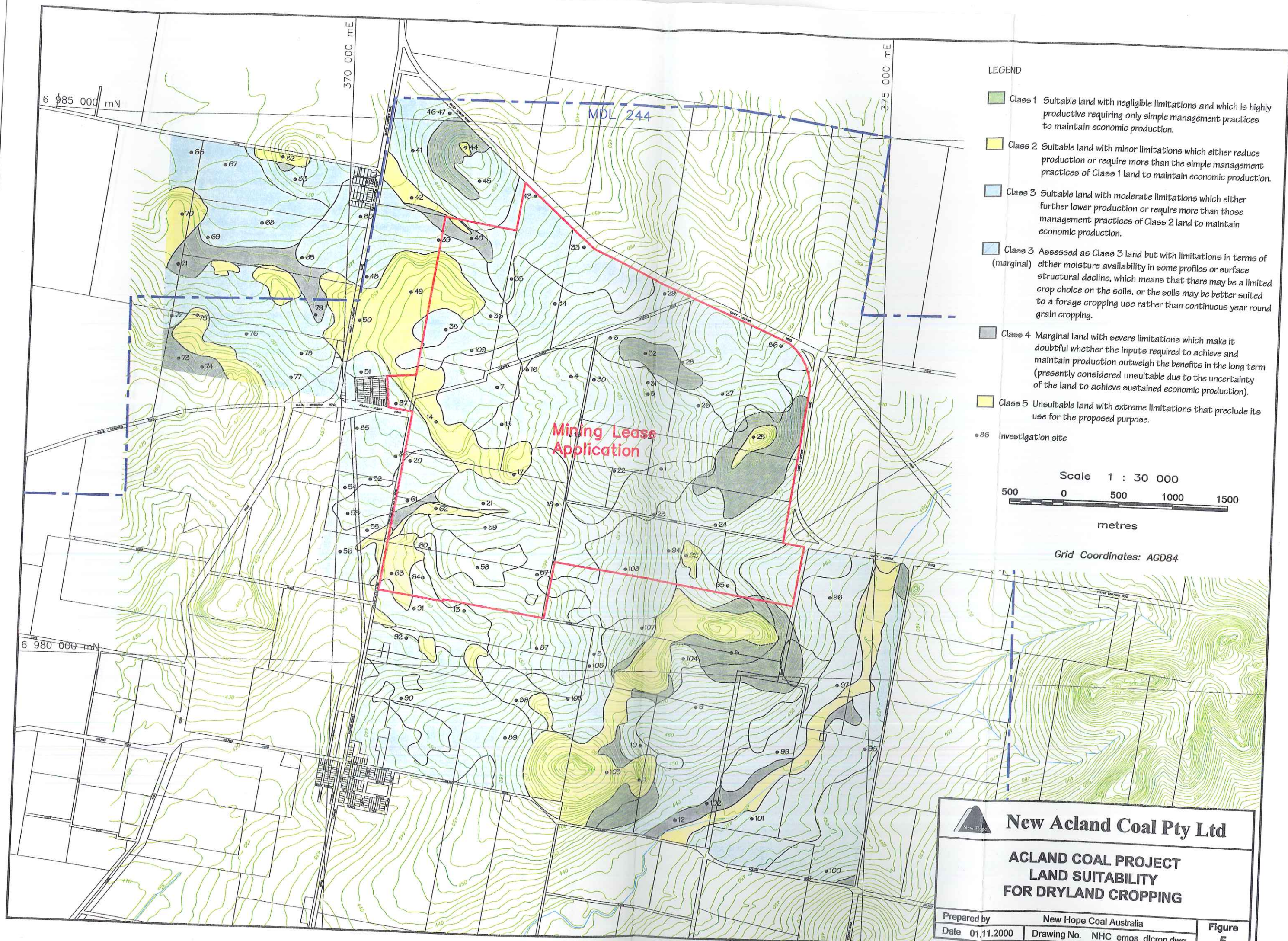
SCALE 1 : 30,000



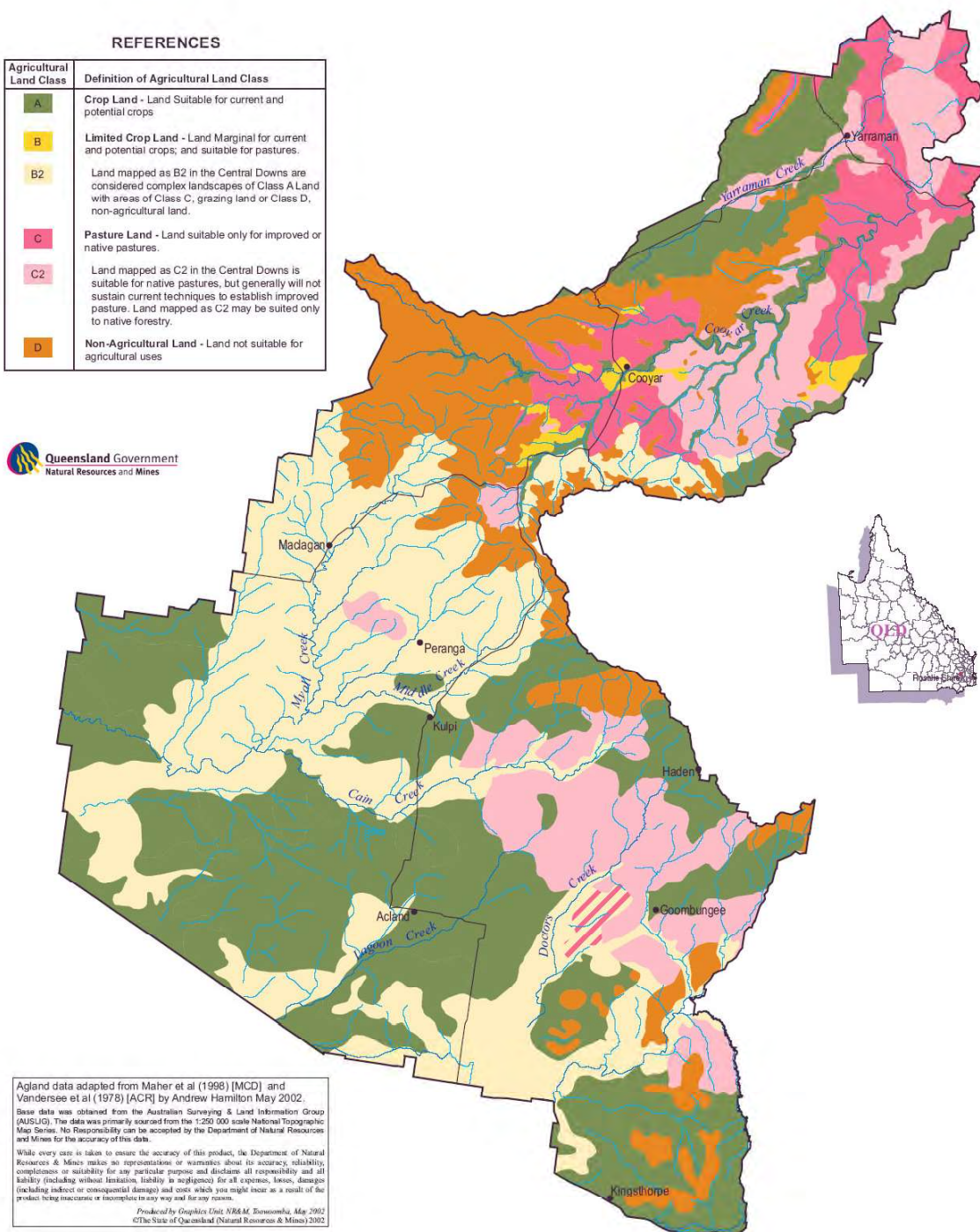
NEW HOPE COAL AUSTRALIA

ACLAND COAL PROJECT
MINING LEASE APPLICATION
GENERAL ARRANGEMENT PLAN

SCALE	AS SHOWN			
		DRAWN	SRR	A3
		CHECKED	SRR	
DATE	08-06-01	APPROVED		emos_gen_0601.plt
				FIGURE 4



REFERENCES	
Agricultural Land Class	Definition of Agricultural Land Class
A	Crop Land - Land Suitable for current and potential crops
B	Limited Crop Land - Land Marginal for current and potential crops; and suitable for pastures.
B2	Land mapped as B2 in the Central Downs are considered complex landscapes of Class A Land with areas of Class C, grazing land or Class D, non-agricultural land.
C	Pasture Land - Land suitable only for improved or native pastures.
C2	Land mapped as C2 in the Central Downs is suitable for native pastures, but generally will not sustain current techniques to establish improved pasture. Land mapped as C2 may be suited only to native forestry.
D	Non-Agricultural Land - Land not suitable for agricultural uses



Agland data adapted from Maher et al (1998) [MCD] and Vandersee et al (1978) [ACR] by Andrew Hamilton May 2002.
 Base data was obtained from the Australian Surveying & Land Information Group (AUSLIG). The data was primarily sourced from the 1:250 000 scale National Topographic Map Series. No Responsibility can be accepted by the Department of Natural Resources and Mines for the accuracy of this data.
 While every care is taken to ensure the accuracy of this product, the Department of Natural Resources & Mines makes no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the product being inaccurate or incomplete in any way and for any reason.
 Produced by Graphics Unit, NRM, Townsville, May 2002
 ©The State of Queensland (Natural Resources & Mines) 2002



LEGEND
 ● Towns
 — Roads
 — Streams

Figure 3-9

Rosalie Shire - Good Quality Agricultural Land

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6 May 2019

To the Chief Executive
Department of Natural Resources, Mines and Energy,

203 Tor Street, Toowoomba QLD 4350;
GPO Box 318, Toowoomba QLD 4350
By email to WSTsubmissions@dnrme.qld.gov.au

Cc Minister Lynham: nrm@ministerial.qld.gov.au

Re New Acland Coal Associate Water Licence Application

Dear Sir / Madam,

Please accept this as a properly made submission in relation to New Acland Coal's Associated Water Licence Application. I have serious concerns about the proposed New Acland Coal Mine and the adverse impacts it is likely to cause to the environment, the community and to water resources in the area and the availability and reliability of appropriate water supplies for other domestic, livestock and irrigation users. For these and other reasons, some of which are outlined and further explained below, I urge you not to approve New Acland Coal's application.

My family and I are neighbours to the New Acland Coal mine. My family have owned this land and lived and worked here for many decades before NAC moved into the district. We have witnessed the destruction of good quality agricultural land, farms, community infrastructure and relationships, the closure of businesses, economic difficulties and the stress the mine has caused families and individuals over this time. As well as experiencing negative impacts of the mine's operations, such as noise interfering with concentration, relaxation and sleep, we have also dealt with New Hope / New Acland Coal / Acland Pastoral Company over many years and have concerns about NAC's suitability to hold such a licence.

My family and I were level 2 objectors in the Land Court hearing about the proposed Environmental Authority and Mining Leases for this project. I was there every single day, either at the bar table or in the witness box. I was also in the gallery throughout the hearing of NAC's application for a stay of the decision of the Land Court to recommend refusal of the ML And EA, the Judicial Review and the more recent appeal.

The Land Court process involved working through tens of thousands of pages of material in evidence, 2,000 pages of submissions, almost 2,000 exhibits and the Judge indicated that even he had written 800 pages of handwritten judicial notes. 28 expert and 38 lay witnesses gave evidence on oath, subject to testing by experienced senior counsel over almost 100 days of hearing, as well as cross examination by lay objectors and other lawyers.¹ The amount of material was described by Member Smith as "immense"[36]. The number of witnesses and hearing days were each the largest in the 120 year history of the Land Court.²

It seems a bit like some hellish recurring nightmare that we again have to wade through material and make submissions about this issue, particularly when groundwater was already considered in depth by the Land Court and refusal of the EA and ML recommended in large part due to the significant adverse groundwater impacts.

NAC has had so many chances with this project. The original stage 3 EIS, the Revised Stage 3 EIS, the AEIS, the Supplementary information on the EIS, the Land Court and then the process through EHP. The timing of all of these, the documents they submitted, the experts they utilised, the data they collected and the modelling they did each time has all been at NAC's choice and discretion. Each time NAC presented lots of pages of material and told us, and the assessing officer, that we should trust the information and modelling NAC presented. Each time, this has proved to be incorrect.

When unsatisfied with the evidence from the 4 groundwater experts already giving evidence before the court (two (2) of which NAC chose and called to give evidence to advance their case), NAC were accommodated by the Land Court and allowed to bring in a further (3rd) groundwater expert of their choice (Mr Brian Barnett) during the trial, months after everyone else had to nominate their experts and have reports in and even a couple of months into the actual hearing.³ Even after this, despite NAC's repeated calls for a compressed timeframe, at the expense of objectors, NAC sought, and was allowed to reopen evidence, months after the hearing of evidence in the Land Court had concluded. Despite all this, the groundwater impacts, and the state of NAC's groundwater modelling, and other adverse findings against NAC and its proposed project were so severe that after a

¹See, for example, paragraphs [19], [36], [87], [97], [107], [202], [203] and [1655].

² Paragraph [202].

³ It seems the debate to allow NAC to have evidence from Mr Barnett also was raised in court on 9th and 10th May 2016 and it was acknowledge that it risked prejudicing the objectors and causing additional costs to objectors.

long, intense and contested hearing the Land Court, seemingly for the first time in its history, recommended refusal of a coal mine – this proposed NAC stage 3 coal mine.

NAC has made much of it already mining in this district and that it initially applied for Stage 3 in 2007. Yet, even a decade later, NAC has still presented modelling that has been shown to be vastly inaccurate and inappropriate, NAC is still exceeding noise limits and still hasn't even collected all the appropriate groundwater data or done good enough modelling. This is in the context where NAC and its subsidiaries have owned a lot of land for many years, and presumably could give themselves access for such purposes and they have had many years in which they could have tried to improve their operations.

In our experience, and as can be seen from the evidence of others before the court, so much has taken from our lives since NAC has moved in next door. The direct impacts can be awful, as well as the community division. The continual battle to protect one's family from ongoing threats in an environment wherein any silence seems to, mistakenly, be taken as consent and any engagement can be twisted and used against you is also dreadful. We did not, and do not consent to these impacts.

In making this submission I rely on, and refer you to, all the material before the Land Court and presented in relevant court processes, all my previous submissions to the court and my previous submissions to EHP dated 11 December 2017 and 29 December 2017 relating to NAC's revised groundwater modelling (copies attached). In addition, I also rely on the application documents and my experience, understanding and knowledge, including of our farm and the surrounding areas, this community and dealing with NAC and its impacts, information I have read or heard which I believe to be true and anything else I refer to in this submission.

Groundwater

Throughout the Land Court hearing, water was a massive issue from the start of proceedings in 2015 right through to the hearing resulting from NAC's application to reopen evidence specifically to hear groundwater evidence in 2017. It was the subject of significant concerns by landholders and NAC itself engaged 3 separate groundwater experts to give evidence to the Land Court, seeking permission to admit a third expert later in proceedings and then, months after evidence closed, seeking (successfully) to have evidence reopened to permit it to have included more evidence about groundwater impacts. Throughout this, a number of things were apparent:

1. groundwater is very important for local farmers and graziers
2. NAC's proposed mine would cause significant groundwater impacts
3. groundwater impacts would extend for at least hundreds of years
4. NAC's modelling was unreliable
5. NAC's conduct has been poor and it had treated objectors and local community members poorly.
6. NAC's past performance was not satisfactory

These things, and more, can be found in a summary form in the Land Court judgments of Member Smith and President Kingham. In your considerations I urge you to read these Judgments in their entirety.

Regardless of the decision of the Judicial Review, and any decisions the appeal court might make about jurisdiction, the factual findings of the Land Court in relation to groundwater (and other things) remain in tact and represent the findings of an extensive and rigorous process.

In the main decision in May 2017, the Land Court's findings in relation to Groundwater included that (bold and footnotes added):

*There is an important starting point with respect to groundwater; that is, that **groundwater is a fundamental issue to those living and working in the Acland area. There is no doubt that legal access to groundwater is held by numerous landholders in the general vicinity of the New Acland Mine, and that the groundwater obtained by those landholders is essential to their rural businesses.** Groundwater is not only used for irrigation; it is also used for stock watering purposes in the beef cattle sector and for both stock and production purposes by dairy farmers such as Mr Wieck. [1517]*

It is further beyond doubt, and accepted by NAC, that mining operations under the revised Stage 3 will impact on groundwater aquifers....[1518]

***"It is beyond doubt that the mining proposed by NAC in revised Stage 3 will cause disruptions to aquifers in the Acland region which will have an impact on nearby landholders, even though the state of the groundwater evidence is such, and the modelling in my view so imprecise, that the actual impact likely to occur to those nearby landholders cannot at this time be accurately forecast. I have indicated that I am not satisfied with the groundwater modelling undertaken by NAC to date. I have also indicated that I am not satisfied that the operations proposed by NAC meet all the objectors and principles of intergenerational equity. Further, I am not satisfied that the noise limits proposed by the CG for evening and night time operations of the revised Stage 3 are appropriate, causing me to recommend that the MLA not be granted as I am unable to recommended conditions inconsistent with the CG conditions."** [1799]*

***"I am satisfied, given the totality of the groundwater evidence before me in this case, that there is a real possibility of landholders proximate to Stage 3 suffering a loss or depletion of groundwater supplies because of the interaction between the revised Stage 3 mining operations and the aquifers. I am also convinced that the potential for that loss or interference with water continues at least hundreds of years into the future, if not indefinitely."** [1337]*

“The principles of intergenerational equity are breached in at least one regard by the proposed revised Stage 3, with potential for groundwater impacts to adversely affect landholders in the vicinity of the mine for hundreds of years to come. This breach is sufficient to warrant rejection of the MLAs and draft EA applications”.
[14]

“As regarding groundwater, a huge amount of evidence was before the Court. In key areas, New Acland Coal’s own experts agreed with major shortcomings of the current model. I was also highly concerned regarding the modelling of faulting and other aspects of the groundwater studies undertaken to date. These issues have not been answered by the 2016 IESC Advice for reasons including the unfortunate fact that the IESC did not have the advantage of the material before the Court on groundwater. Groundwater considerations are such that the revised Stage 3 project should not proceed given the risks to the surrounding landholders and the poor state of the current model.” [16]

“Make good agreements cannot be a complete answer to this uncertainty. If one thing is clear from the mass of groundwater evidence, it is that proof of what actually happens to water under the ground is inherently difficult to determine even in circumstances where there is a large amount of geological evidence. This is particularly so in formations with the degree of faulting as found in the Acland area. Further, there is of course a relatively high concentration of landholder bores which rely upon groundwater from aquifers which will be impacted by NAC’s revised Stage 3 operations.” [1629]

“Taking the totality of the evidence into account, I am at a loss to see how a landholder could prove any loss of groundwater at one of their bores was caused directly and with certainty by NAC’s revised Stage 3 mining operations, such is the high degree of uncertainty of the groundwater evidence. It would be an unacceptable situation, in my view, for NAC to simply to be able to say that it was not satisfied that a landholder lost drawdown in a bore due to NAC’s mining operations, and then leave it to the landholder to undertake what would be very expensive litigation to establish otherwise.” [1630]

“I have been a member of the Queensland Judiciary for over seventeen years, and during that time I have heard expert evidence from a myriad of experts over many diverse fields of expertise. I can say with absolute certainty that never before in my experience on the bench have I heard an expert witness called by one party give evidence so telling against that party. I have no doubt that Mr Durick gave truthful

testimony. I have no doubt that he understood absolutely his responsibility to assist the Court and not the party who called him.” [1487]⁴

I share the concerns of OCAA regarding make good agreements. As Mr Irvine⁵ said in his evidence, unless a landholder has the capacity to retain a hydrogeologist to assist in any dispute under a make good agreement, the information basis for resolving such dispute will be NAC’s predictive modelling outputs.²⁴² This has the effect that a landholder will be left with no option but to accept the mines impact predictions unless they have the support of a consultant to challenge NAC’s assessment of the cause of the impact on their groundwater, assuming that NAC denies responsibility for groundwater loss. As Mr Irvine noted, this will involve “substantial expense”²⁴³ for landholders. [1537]

242 T 9-62, lines 12 to 32.

243 T 9-62, lines 37 to 38.

Further, during part of the evidence at the hearing, when a witness was referring to a loss of groundwater being as a result of the mining activities of NAC, Mr Ambrose QC⁶ objected on the basis of the witness not being in any possible position to know that. Mr Holt QC, correctly in my view, pointed out that was precisely the point that OCAA had been trying to make throughout the hearing. [1538]

These findings were made after evidence from no less than 5 groundwater experts, 3 of which were called by NAC, examination of multiple expert reports and joint expert reports and other technical documents including from the Independent Expert Scientific Committee (IESC), evidence from lay witnesses and cross examination of lay witnesses and experts by various parties.

The first part of NAC’s AWL application and revised modelling seems pretty much as has already been scrutinised by a process established by the Queensland Environment Department prior to its decision to refuse the EA in February 2018. It clearly did not resolve the problems highlighted in the court judgment. This was highlighted by numerous submissions by objectors and by reports of Dr Currell and Professor Werner to the Queensland Environment Department as part of this process. I also again refer you to my submissions to this EHP process dated 11 December 2017 and 29 December 2017 which included responses to much of the AWL application material available at the time. Many of the concerns I raised then about the proposed project and the material provided by NAC and NAC’s conduct remain relevant.

⁴ Interestingly, NAC do not seem to have utilised these experts (eg Mr Durick or Mr Irvine) in their AWL application.

⁵ A groundwater expert engaged by NAC

⁶ Queens Counsel engaged by NAC

This AWL application material provided by NAC did not satisfy the Queensland Environment Department. The reasons for the Queensland Environment Department's refusal of the Environmental Authority Application seemed largely based on the impacts on groundwater.

Despite concerns raised through the Land Court about the lack of data collected by NAC to inform its modelling and the uncertainties and difficulties this creates, it seems that NAC has not provided or analysed much more actual local information to address this. Given that this area is different from much of the areas in the OGIA model, it is important that site specific work is done in this regard. This area has complex geology, some thin layers and faulting and includes or is near outcrops. In the absence of this site specific data there remains a large amount of uncertainty about the veracity of the modelling and the predictions of the number of bores being impacted and the extent that would be attributable to the mining operations. If connectivity (eg vertical connectivity) is greater than the modelling assumes, as may be likely in these circumstances, this would seem to mean that a lot more bores in the layers above and below the coal (eg the basalt and the alluvial aquifers above and the sandstones below) would be adversely impacted. Also, if the horizontal connectivity is significant, it may also mean that the pits could impact more on bores across a wider area.

After extensive experience with NAC and the flaws in its EIS (as per the evidence in court), the fact that even its Chief Operating Officer was found not to be a reliable witness in court (as per the Land Court judgment May 2017 *"When I put all the factors outlined above together, I am extremely troubled by [NAC Chief Operating Officer] Mr Denney's evidence, to such an extent that I afford it little or no weight."* [231]) and the misleading statements in its AWL application (some of which will be discussed below) I have little faith in its AWL documents. I do not have the capacity to address all these here however I will make some comments.

In the December 2018 AWL report NAC's experts seem to attack the views of Dr Currell. It should be noted that even after very significant cross examination the Land Court was impressed with his evidence and found him credible and reliable. Whereas the same cannot be said for the authors of this report. The Land Court did not find that Dr Currell's expectations were "unrealistic". However, the Land Court did find significant problems with NAC's groundwater modelling.

It is somewhat curious and concerning, that NAC has engaged Mr Brian Barnett to undertake a review and model audit of the groundwater model, given that the Land Court had significant concerns about his evidence, whereas it is not chosen to engage either Mr Irvine or Mr Durick, about whom the Land court made more favourable findings. I note that regarding Mr Barnett, the Land Court's findings included that:

"Further, I could scarcely believe some of the evidence I heard from Mr Barnett regarding the placing of faults in the model which clearly did not reflect reality."
[1492]

*"It is noteworthy that **Mr Barnett accepted that his approach was "a pretty crude method". Further, he said that, in isolating one bore his actions were "crude and ill-advised". Overall, Mr Barnett accepted that in other respects his actions were not particularly good modelling practice.** [1610]*

"I was dissatisfied and concerned regarding Mr Barnett's evidence and assistance to the Court" [1493]

"... Mr Barnett's evidence at the original hearing of this matter was tentatively cast; without conviction; and not in my view reliable." [1583]

" [Mr Barnett's] focus was clearly placed on making adjustments to the model to make the model work, even if he knew that the amendments that he was making either did not exist in real life or, in some instances, despite the fact features were known by actual observations of consultants such as WSA to exist. That is, the actual situation was removed from the model or not included in the model. [1491]

"... At times, it also sounded as though [Mr Barnett] was making points for NAC rather than as an expert assisting the court." [1494]

"I will indicate my agreement with OCAA's submissions as to the unreliability of Mr Barnett's evidence and the acceptance by the Court of evidence provided by Mr Irvine and Mr Durick, and indeed Dr Currell and Professor Werner, regarding faulting." [1584]

[1612] "I accept OCAA's submissions at paragraph 1100 that [NAC groundwater expert] Mr Durick accepted that Mr Barnett's justification "does not stand up to even five minutes' worth of questioning"

"... My assessment of Mr Barnett's evidence from the original hearing was that it was quite poor, lacking in plausibility and credit in various respects. However, as I pointed out, his evidence was markedly different at the rehearing. I wrote the comment about his evidence appearing 'schooled up' or the like before considering and taking into account the 2017 submissions. I was accordingly not surprised in the least to read at paragraph 152(c) of the statutory party's submissions its view that:

*"...Mr Barnett appeared to have pre-prepared a list of topics and attempted to give evidence concerning those topics without notice to either Professor Werner or Dr Currell or without providing forewarning of his views on those topics in his statement of evidence to the Court. In the Statutory Party's submission, **Mr Barnett's attempt to provide such evidence was an attempt to cure the purported deficiencies with the Applicant's groundwater modelling rather than to assist the Court** with its understanding of the 2016 IESC advice and the IESC's views with respect to that modelling. In the Statutory Party's submission, **this reflected a deference by Mr Barnett to the***

interests of the Applicant or to the defence of his own role in the modelling process rather than to the Courts interests.” [1647]

“My opinion of Mr Barnett’s evidence at the resumed hearing is much more in line with that of the statutory party than that of NAC.” [1649]

Similarly, although in some places the AWL documents are critical of Professor Werner and, like in the Land Court, the assertion is made that he held “overly demanding expectations”, the Land Court findings at as below remain relevant.

I neither condone nor agree with NAC’s attack on Professor Werner. [1504]
“Although NAC has highly critical things to say about Professor Werner throughout its groundwater submissions, perhaps the most relevant point that can be made is the number of occasions on which NAC’s own experts, Mr Irvine and Mr Durick, agreed specifically with points raised by Professor Werner in circumstances where such agreement damaged NAC’s case.” [1505]

The December 2018 AWL report also seems to try to refute Dr Currell’s concerns about higher vertical connectivity on the basis that “the bores shown on Figure 99 are located immediately adjacent to NAC mine water supply extraction bores in the respective aquifers”. This logic seems flawed. There seems to be correlating drawdown across aquifers. Whether this drawdown was due to drainage into NAC’s pits or NAC pumping water from a bore, it still seems to indicate a high level of connectivity. The interrelationship between NAC’s pumping records and water level declines in multiple aquifers also seems to support the view of connectivity between aquifers. Similarly, even though NAC tries to put forward an alternative hypothesis, it would seem that the hydrochemical similarities between aquifers might also be indicative of connectivity between aquifers.

There are literally hundreds of bores in close proximity to the mine. There are licenced irrigation bores as well as stock and domestic bores – representing many people who have a lawful right to the groundwater and a high level of dependence on it. This is not a place to take a chance on approving a mine as many people would be severely and adversely impacted.

NAC may have made some more changes to its groundwater modelling since the Land Court hearing in 2017. However, this has potentially added new problems that have not been scrutinised and tested by the court processes. The modelling remains imperfect and all these factors (outlined above in my points 1 to 6) remain and the AWL should not be approved.

I am very concerned that if the water application is approved this would significantly reduce groundwater levels. This would jeopardise other people's farming and grazing operations and the availability of groundwater for domestic uses. Many of us rely heavily on groundwater for all these purposes.

The groundwater supplies in this area seem to already be stressed and if this project is approved this should substantially add to this.

Already we often find that our moderate irrigation allocation is reduced to 30% (not by 30% but to 30%). In these circumstances it would be grossly unfair to allow NAC unlimited access to this water.

One of the aquifers we significantly rely on is the alluvium to the north of the mine in the area of Spring Creek. This is a relatively shallow quifer NAC's application documents seem to have not really considered this aquifer much and have very little understanding of it. If we lose this water supply it would be jeopardise our farming operations and our domestic water supplies. It could also impact of flows in Spring Creek, which could also impact well beyond our property and downstream into the Murray Darling Basin.

At least one of our bore water supplies seems to have significantly diminished in recent years and we are concerned that this may be due to the mine's operations and that this could worsen if the mine continues and if Stage 3 is approved. I am aware that other farmers in the district holder similar concerns. Some of these gave evidence in the Land Court and some did not. (in the court orders, at NAC's insistence on 'urgency', objectors were only given a very short window of opportunity to nominate witnesses to give evidence.)

In addition, if NAC's application is approved, they would also likely require A LOT of water for 'make good' agreements. It is doubtful whether sufficient water would be available (and of appropriate quality and availability) to actually 'make good' the impacts. This is particularly so given the longevity of the adverse water impacts NAC's pits / voids / depressions would have on groundwater. If, as a result of this proposed mine, NAC actually fully drew down all its allocations, in addition to the groundwater draining into the pits and evaporating (associated water) this requirement for 'make good' water would have dire consequences for the aquifers and groundwater availability for others. Indeed NAC's AWL application seems to highlight the drawdown in aquifers when NAC has pumped some of its allocation.

It should be remembered that the purpose of NAC's application for the Wetalla waste water and the pipeline to deliver it was to reduce NAC's use of groundwater (such as can be seen in NAC's application documents, which are probably still available on the Coordinator General's website). Given that NAC's application for the Wetalla water and pipeline was approved on this basis (even though it reduced the water availability for irrigators between

Toowoomba and Oakey) it would be unfair and inappropriate for NAC to still use all its water allocations.

In addition, this is an area intensely settled for agricultural purposes and with a relatively intense density of bores and land users and as found by Member Smith, especially in this district, it would be very difficult if not impossible for landholders with diminished groundwater supplies to actually prove NAC's mining operations caused the impacts on their bores and so they would not be able to require them to be 'made good' let alone in a timely manner. There can be dire consequences if cattle go thirsty for even part of a day, especially in the summer.

It is very complicated here. Of course there are variabilities due to different pit inflows due to the continually changing location of mining and the pit faces and depths as well as changes in seasons. Additionally, in this location there are parameters, impacts and interconnectivity to consider regarding multiple aquifers (including alluvial, basalts, Walloon Coal Measures and Marburg and Helidon Sandstone aquifers), and sub layers within the stratigraphy. On top of this, this area has a high density of water users, some of which are small scale (but numerous) stock and domestic users and others of which may be licenced irrigation bores. The modelling does not seem to be good enough to be reliable in this location. It cannot be trusted to reliably prove whether diminished groundwater supplies in any landholder's bore is due to NAC's mining or something else (eg the combination of other water users). What if NAC's use of groundwater for "make good" agreements reduced the supply in neighbouring landholders' bores? How would the affected landholder be placed then? What is NAC is not accurate in measuring and transparent and truthful in disclosing its pit inflows at different points in time?

I am also concerned that the 'make good' process would require landholders to engage in an adversarial complaint driven process such as (or worse than) the process of the existing EA, which was criticised heavily by the Land court. For example the Land Court found:

"Part of the stress suffered by local landowners over the last 15 years has been the complaint driven process of the current EA which has put the onus on the local residents to pursue complaints and engage in an adversarial process with NAC."

[1261]

"...The provision of this data online in real time will take out the adversarial complaints based process which has not worked and ensure NAC are directly accountable to EHP for its noise emissions. It is vital for community relations and wellbeing that local residents can access real time noise monitoring data." [809]

This concern about having to engage in an adversarial 'make good' process is exacerbated given the uncertainties about NAC's groundwater modelling and the lack of reliable information.

In the situation where we now also face more frequent, persistent and drying El Niño conditions due to climate change, approving this mine's water licence would be a double

negative. Not only would it increase GHGs and exacerbate climate change but its direct impacts on water availability would make it even more difficult to cope with the climate change scenarios, with less surface water reliability and potentially less (or less frequent) recharge of aquifers, combined with higher temperatures (which would also reduce soil moisture and plant available moisture and increase the need for irrigation).

Security of groundwater supplies (of adequate quality uncontaminated water) is essential for many livestock operations, irrigation and even domestic uses in this region. In reality, it is also a key factor in market values of land.

Water Act AWL Criteria

Whilst the scope and duration of the groundwater impacts of the proposed project and the concerns about the groundwater model, even considered in isolation, mean that this project should not be approved, I note that under the Water Act s 1250E, the criteria are broader than the groundwater model and the groundwater impacts. The decision maker is required to consider as below:

1250E Criteria for deciding application

In deciding whether to grant or refuse the application, the chief executive must consider the application together with—

- (a) if additional information has been given to the chief executive under section 111 as applied by section 1250D(4)—the additional information; and*
- (b) all properly made submissions about the application in response to the notice of the application published under section 112 as applied by section 1250D(4); and*
- (c) existing water entitlements and authorities to take or interfere with water; and*
- (d) any environmental assessments carried out in relation to the mining tenure, including—
 - (i) any conditions imposed on the mining tenure or on the environmental authority granted in relation to the mining tenure; and*
 - (ii) any report prepared by the Coordinator-General under the State Development and Public Works Organisation Act 1971, section 34D evaluating the EIS prepared in relation to the mining tenure; and**
- (e) any information about the effects of taking, or interfering with, water on natural ecosystems; and*
- (f) any information about the effects of taking, or interfering with, water on the physical integrity of watercourses, lakes, springs and aquifers; and*
- (g) strategies for the management of impacts on underground water, including the impacts of dewatering; and*
- (h) strategies and policies for the relevant coastal zone; and*
- (i) the public interest.*

In regards to 1250E(c), I note that, separate from NAC, there are a very large number of bores and other people and businesses with lawful entitlements to groundwater in this district. This is further reason why the proposed AWL application should not be approved.

In regards to 1250E d(ii) I note that the Coordinator did not have the benefit of all the information that the Court had, nor does this process unfortunately. The Land Court judgment included the comment that:

*“CG evaluation of the EIS and AEIS was no doubt thorough but it **was not as thorough as the evaluation of those documents in the court proceedings before me.** Nor did the CG have the assistance of expert opinion tested by cross-examination. Consequently what I find to be **errors in expert reports and modelling in many vital areas such as water, noise and dust were only ascertained as part of the Land Court proceedings and not discovered by the CG in his evaluation process.**” [190]*

Never the less, the Coordinator General did find that there would be significant adverse impacts on groundwater and bores, as well as other adverse environmental and other impacts. Such findings included:

- Detrimental impacts are predicted to occur for at least 300 years (the extent of the modelling) – well after the end of mining.
- Adverse impacts are predicted for the alluvial, basalt, Walloon coal measure and Marburg Sandstone aquifers (see CG report p135-136 for example).
- The assessments indicated a drawdown of 1m or more for an area 23km wide (see CG report p136 for example).
- Drawdown of up to 47m (eg CG report p vii and p 136).
- There are significant water use requirements relating to the proposed project. (The project’s water use is estimated to be 8,925ML/year in the CG report p135 for example.)
- In addition to groundwater sources on the proponent’s land, groundwater sources relied upon by others and water bores not owned by the proponent or its related entities are likely to be adversely impacted. The assessments indicated a drawdown of 1m or more for an area 23km wide (see CG report p136 for example). For example, according to the CG report
 - “Within the area of drawdown in and around the mining area, 357 registered bores may be affected.” (p vii)
 - “357 registered bores are either likely or possibly to be affected” (p138).
 - 198 of these bores re owned by private landholders other than the proponent (p138).
 - “In addition, there is likely to be numerous unregistered bores that will be within the groundwater drawdown zone of mining operations.” (p138).
- The proponent has not relinquished its bore water allocations – although the modeling seems to presume that they are not used much if at all. If the proponent uses these bores in the future, the impacts are

likely to be much greater than the modelled results. (Separate modelling of the impacts of using these bores has previously been prepared by the proponent and indicated significant drawdown).

- Adequate baseline assessments have not yet been completed. (CG report required that this occur “well in advance of operation” p146).
- ‘Make good’ agreements have not been reached with all affected landholders or water users. (CG report required that such agreements be reached with all water users (even if the impact is likely to be less than 1m) at least 3 years before the impact is likely to occur. p146-147.).

In regards to 1250E(g) I note that many objectors have already made substantial submissions about the inadequacy of NAC’s proposals to manage impacts on groundwater and that NAC relies on vague ‘make good’ rhetoric. I note that the Land Court has already found in favour of objectors in this regard that that “make good” is not good enough in this situation (see for example [1629] and [1537]). I still feel very strongly in this regard.

In regards to 1250E(d)(i), I note that given NAC’s appeal broadly that groundwater, and particularly the impacts on other water users, should not have been part of the Land Court decision in relation to the ML or EA, there is not much in the EA about groundwater and it does not provide sufficient protection. If an ML was granted in the current situation, then it might have the same limitations. However, an ML has not been granted. Further, in the current circumstances we are still awaiting a decision on an appeal to the Court of Appeal on this matter and this could have significant relevance to the AWL decision also. It may mean that there is currently no valid Land Court recommendation and matter is referred back to the Land Court, it may mean that the Environmental Authority is invalid and it may mean that the Land Court recommendation of refusal is still valid. It would not be sensible to issue an AWL in these circumstances. Additionally, the EA that has been issued does not include all the conditions recommended by the Land Court. For example, condition M5 stops well short of the recommendation of the Land Court in terms of reopening all the roads. Similarly, it is not clear that the new EA requires the permanent real time available noise and dust monitoring that Member Smith found to be essential (eg see [809] and [1199] and [1260] for example.)

In regards to 1250E(d) generally, there have been a lot of assessments done and significant evidence before the land court on various environmental impacts. Whilst some may be reduced by conditions, it has been found that the proposed stage 3 mine would cause adverse impacts in regards to dust, noise, water and other impacts. This is a bad project. It is inappropriately proposed in one of the most productive agricultural areas in Queensland, and with soils that the Queensland Government has made multiple legislation to protect (GQAL, SCL and then the Regional Planning Interest Act). It would also have a lot of significant adverse impacts on a lot of people, particularly given the closely settled nature of this district. The evidence in the court indicated that the proposed project could not avoid exceeding relevant air pollution or noise limits without having to shut down operations, or parts of the operation, for significant periods of time.

It is also worth noting that the Land Court made many other findings that remain relevant to the consideration of this application under the Water Act, particularly given the public interest criteria (s1250E(i)). Some of these findings are outlined in this document (including below) and may be relevant under the criteria in s1250E, particularly under sub sections (d) and of course under 1250E(i) regarding the public interest.

NAC conduct

I have serious concerns about NAC's conduct and how it might further have an adverse impact on people if this project is approved. NAC has a history of causing adverse impacts in this community and has earned mistrust in the community, in part because of its history of not being open or trustworthy in its portrayal of things. I have made numerous submissions and given evidence on this previously. The findings of the court in this regard include as below. I urge you to keep these firmly in mind and give them significant weight in your deliberations.

"When I put all the factors outlined above together, I am extremely troubled by [NAC Chief Operating Officer] Mr Denney's evidence, to such an extent that I afford it little or no weight." [231]

"I am not assessing NAC's past performance in this section of the decision – I have already done this and found NAC's past performance has not been satisfactory." [1416]

"I disagree with NAC's submission that there is no evidence or reason to believe that NAC will ignore its neighbours in the future. The way NAC has acted towards its neighbours in the past and its characterisation of them during this hearing would indicate they have been and can be very dismissive of their neighbours' complaints and issues. Given my concern with the veracity of [NAC community expert] Ms Elliott's evidence I do not share her confidence in NAC's current complaint management process and it should be tightened to ensure its neighbour's complaints are recorded, assessed and resolved fairly." [1419]

"NAC has much work to do to regain the trust of many in the local community. Its actions in removing approximately 27 buildings from Acland township, downplaying a significant community divide, dismissive treatment of people who do not agree with it, lack of appropriate community engagement and loose complaints management system has negatively impacted the local community." [1420]

"I agree with Dr Plant that in the past there has been a chasm between NAC rhetoric and action as per the decision not to tell local residents such as Mr Beutel about starting operations in West Pit. Mr Boyd [NAC Chief Operating Officer] could

not explain how or why this occurred but sought to assure everyone that a culture of openness and transparency had been ushered in under his leadership of NAC.

However, in my view his true position appeared when he had this to say:

“... Mr Boyd, was there any direction came from you to tell people not to tell us about West Pit?---No.

Because I’ve had contact from a number of mine officers in the period since West Pit started and not one of them has mentioned it. Do you have any reason why that might be?--No

Right. And, in face, Ms Gomez-Gane has been sitting in court nearly every day and has discussed things to do with the mine with me on multiple occasion and not once did she mention the start of West Pit. Would that surprise you?--Not particularly, no.

Why wouldn’t it surprise you?---Because, as I said, we’re will within out rights under our current approvals to undertake those activities.”” [1405]

“NAC has sought to portray the local objectors as bigoted individuals who are not interested in facts, only in spreading misinformation about NAC. I do not believe this to be the case. As discussed previously in this decision, I find the majority of the objectors and the witnesses who supported them are honest, hardworking, regular folk whose character has been unfairly besmirched by NAC. In effect, NAC’s treatment of objectors and their witnesses in these proceedings confirms their evidence that NAC has a tendency to treat anyone who disagrees with it in a dismissive and disrespectful manner.” [1390]

“Again, it is hardly a stretch to understand why a neighbouring property, reliant on bore water such as is the case for Mr Wieck for his multi-million dollar automated dairying operation, would be concerned. It is also hardly surprising that those concerns would cause Mr Wieck and other local landholders to lodge objections. That however does not necessarily make them anti-coal/anti-development activists. In simple terms, I consider it more appropriate to collectively refer to the surrounding **landholder objectors and members OCAA as landholders holding real concerns for their ability to continue their agricultural pursuits on their properties**, both in the short term and from an intergenerational perspective, should revised Stage 3 proceed” [1322]

“My independent, considered view on what I have before me is consistent with the evidence given by the objectors that **they have actually been treated very poorly by both NAC and the statutory party**”. [721]

"Having sat through 98 days of hearing in this matter I have been impressed by the sincerity, acumen and demeanour of the Level 2 objectors who represented themselves at the trial...." [610]

".... NAC in the past (even on their own evidence) have not always interacted well with local landowners and it would appear on the evidence to this enquiry, they have taken a dismissive approach to local residents' complaints on occasions." [1262]

Having listened to all of NAC's evidence throughout the entirety of this hearing and read its submissions, the impression that I have gained is that NAC continues to view Acland as essentially a non-issue, all-be-it that Mr Beutel and his tenants continue to reside there; the war memorial is used for an annual ANZAC day service; and the local surrounding community continues to use the Acland Park. Basically, although NAC has reluctantly moved on from its clearly preferred position of acquiring all of Acland as part of its own land ownership and mining it in accordance with the initial Stage 3 proposal, nonetheless Acland appears to remain a corporate annoyance to NAC rather than a place where people continue to live and conduct recreational and remembrance activities. [862]

On this of NAC's past performance issue President Kingham also found that:

"But for Smith M's individual conclusions on each issue, I would have weighed his positive and adverse findings in the balance, in a more comprehensive and holistic way. Some issues may have had greater significance than I can give them because of his Honour's conclusions. One example is his Honour's findings on NAC's past performance. There is a distinct incongruity between Smith M's findings and his conclusion on this issue, particularly given his concerns about past performance included NAC's response to noise complaints. However, I must give effect to his conclusion that NAC's unsatisfactory past performance is not a reason to refuse the applications." [236]

Contrary to NAC's assertions about objectors, and to findings about NAC's conduct Member Smith made numerous positive findings about objectors. I urge you to give serious weight to the submissions from people opposed to the mine. In addition to positive findings about many objectors individually, and the findings noted elsewhere, Member Smith's findings about objectors included:

"Having sat through 98 days of hearing in this matter I have been impressed by the sincerity, acumen and demeanour of the Level 2 objectors who represented themselves at the trial" [610]

"I have been impressed by the character of many of the level 2 objectors in terms of their conduct in these proceedings and their evidence to this hearing. I find their evidence of lived experiences, as to what life has been like living near the NAC mine for many years, valuable." [1136]

“As stated earlier in this judgment, I have been impressed by the character of many of the level 2 objectors and their witnesses, in terms of their conduct in these proceedings and their evidence to this hearing. I find their evidence of lived experiences, as to what life has been like living near the NAC mine for many years, valuable.” [1214]

Unlawful mining?

Since early 2016, NAC has expanded into pit areas, and even a whole new pit, that were not applied for, assessed or approved as part of their existing (stage 1 or 2) mining operations. This makes an absolute mockery of the assessment and approval processes and any favourable statements NAC makes about its conduct, consideration or transparency. Despite all NAC’s frequent advertising, maps of these workings been not promoted or has public comment sought.

Notwithstanding that evidence already indicated that NAC was regularly exceeding its noise limits, these operations have meant that NAC has moved active pit workings closer to sensitive receptors and caused further noise nuisance and breaches. I believe that NAC has recently received a Penalty Infringement Notice in relation to this, and that other noise issues are still being investigated.

Some of the areas NAC has mined outside their applied for stage 2 pits include areas that were previously indicated as stage 3, but also areas very close to Acland that were in their original stage 3 proposal which was rejected by the Newman government resulting the revised version which specifically excluded some of these areas (that are now being mined) to keep mining operations further from Acland etc. The mining NAC has been doing has included pits very close to Acland – much closer than even the revised stage 3, probably within about 200-300 metres of Acland town centre and possibly even closer to occupied homes. NAC’s plan of operations, seems to confirming their practice and intentions to continue to mine outside the stage 2 areas that were applied for and assessed and approved through the EIS process (in about 2006).

EHP’s assessment report for stage 2 found that stage 1 had already been causing noise and dust problems and that there were risks of noise and dust problems with the pits NAC proposed for stage 2. Evidence before the Land court, the findings of the Land Court (including Member Smith’s 31 May 2017 Judgment and President Kingham’s November 2018 Judgment) both acknowledge significant noise and dust issues from the mine’s existing operations and concerns about Stage 3 in these regards (amongst other things), even without NAC mining these new pit areas that weren’t applied for or assessed as part of stage 2. These things aren’t ‘just’ a matter of nuisance but also people’s health, as the Land Court found. The new pit areas include areas even closer to some people’s homes.

In her Judgment on the remitted hearing, President Kingham provides an overview (including maps) of the “west pit” issue in pars [135] to [147] of her Judgment of November 2018. Her Judgment specifically includes:

“Is it unlawful for NAC to mine West Pit under the existing EA?”

.... I have decided I cannot or should not determine whether mining West Pit is unlawful under the existing EA.” [147]

It was outside the scope for Land Court Members Smith or President Kingham to rule on the legality of these operations in the Land Court hearings. However, it is noteworthy that President Kingham still commented in the November 2018 judgment in regards to west pit etc “[213] Those are good reasons to look again at what NAC could mine under its existing EA.” Member Smith’s 2017 judgment also made some findings in relation to West Pit, including as below.

“... NAC has already in a sense begun its revised Stage 3 mining activities by mining the proposed Manning Vale East Pit (West Pit) albeit under the existing ML.” [802]

“Yet NAC began mining operations recently (after this hearing began) within 1km of Mr Beutel’s house (West Pit) and did not tell him or anyone else living nearby that such mining operations had commenced and they could be impacted by such operations. Regardless of the litigation before the court and whether objectors could or could not constructively respond to this notification, such notice should have been provided. Even this court who was influenced by NAC to act urgently to assess this matter for continuity of operations and employment reasons, should have been informed about the commencement of West Pit.” [1402]

“It could be said that is a natural consequence of the adversary system in which this Court operates. That may be so. However, it must also be considered in light of the evidence of Mr Denney and Mr Boyd for NAC that NAC now operates on a new form of openness and credibility compared to its former dealings at Acland. Just as Mr Boyd indicated that no one in the Acland community was informed of the opening up of west pit despite it being understood to be part of the revised Stage 3 operations because NAC was legally entitled to open west pit and did not have to tell anyone, then so to was the general disregard NAC demonstrated towards the 2014 and 2015 IESC Advices.” [1634]

NAC has been mining areas outside the pits that were applied for and assessed and approved. It has also already started mining areas that were previously indicated to be part of stage 3 (and therefore not yet approved) it.

In addition, NAC has also continued to exceed noise limits since the closure of evidence in the Land Court. This is despite all NAC’s assurances before the Land Court to the effect they are doing better now and can be trusted to keep within noise and dust limits etc. There is already data that the Government has access to indicating at least dozens of noise exceedances since the closure of evidence in the Land Court. Whilst some of this may not

have been acted on fully yet and may be still under investigation, I understand that NAC recently been issued a Penalty Infringement Notice for causing noise problems at one sensitive receptor's place.

In addition to this mining seem to be in conflict with the project that was applied for and approved under the MRA and EPA, it would seem that these pits have not been assessed or approved under the Water Act, the Vegetation Management Act or the Regional Planning Interests Act. How can NAC just assume that it can mine massive pits that weren't applied for or assessed, despite the restrictions under these Acts?

NAC's lack of transparency about its intentions and even the acts of actually mining these areas seemed to mislead the Land Court, as well as others, in relation to the key issue of 'urgency'. Whilst NAC had sworn various dates as probably being the end of existing operations and when workers would lose their jobs, and put enormous pressure on the Court and objectors to compress the timeframe, these dates passed and yet NAC is still mining. Did NAC really simply forget to mention the extra few million tons of coal it planned to mine or that this would take several further years? Did it forget to mention that it planned to go outside its indicated stage 2 footprint? Did it not plan it in advance? There was no evidence available of modelling to indicate what noise or air pollution these activities would cause or that NAC could conduct these activities without exceeding its limits.

The sort of disregard for others and for moral codes of conduct that NAC has continued to display through its high levels of noise at multiple sensitive receptors places and through its mining of pits outside what was advertised and applied for as stage 1 and 2 makes a mockery of any of its assertions about credibility or concern for its neighbours. I do not believe that NAC should be given the privilege of being allowed to do any further mining in this district. It has had over a decade in this district to try to get things right but has done the opposite. I cannot be trusted to conduct open cut mining operations in this densely settled district on the precious soils of the Darling Downs.

Noise and blasting

Noise has been a massive problem from existing operations and I am very concerned that it would continue to be a big problem if stage 3 is approved. The impacts of noise from the mine extend well beyond people's ears. People's wellbeing, health, ability to be at peace on their own land or in their own homes are all at stake.

The Land Court heard a lot of evidence about noise and it was clear from the evidence, and reflected in Member Smith's judgment, that the noise issue isn't to be taken lightly or dismissed as just a minor impact on amenity. The Land Court's findings included as below.

".... The objectors on the other hand have provided the literal 'truck load' of evidence and material detailing what they say to be unacceptable levels of noise

generated by NAC's operation of Stages 1 and 2. Looking at all of the evidence before me in its entirety, in my view the objectors who have made noise complaints have not been well served in the past by either NAC or the statutory party. My independent, considered view on what I have before me is consistent with the evidence given by the objectors that they have actually been treated very poorly by both NAC and the statutory party." [721]

"...The historical performance of NAC in responding to and investigating noise complaints prior to the TARP (an installation of the 'real time' Sentinex monitor) was not satisfactory." [722]

"Having considered all of the evidence, and despite the objections of NAC and the Statutory Party, I broadly and generally accept the evidence of the objectors as regards their experiences with respect to noise from Stages 1 and 2 without taking the time to specifically consider each and every circumstance. In short, I accept the preconditions that cause Mr Elkin's confidence in NAC's past performance in relation to noise to be shaken." [727]

"Despite the limited amount of time at each sensitive receptor, it was, in my view, telling evidence that there were elevated noise levels at Mr Beutel's residence on both occasions. These noise levels were relatively consistent even with the number of hours between the first stop at Mr Beutel's residence and the last stop at his residence." [737]

"...the elevated levels were measured at a time when NAC should have been actively undertaking its TARP process and therefore actively preventing excess noise." [738]

"The technical evidence given by both noise experts, limited as it was, was certainly consistent with the evidence of noise impacts at his residence as provided to the Court by Mr Beutel. To remove any doubt, I accept Mr Beutel's evidence in this regard." [739]

"When I consider the evidence from 1 September 2016 in light of all of the evidence of excessive noise given by lay witnesses at the hearing, I am left in no doubt that, had a further inspection and concurrent evidence been taken at sensitive receptors on an evening and night when the wind was blowing in the opposite direction, the results would have been that the noise readings at Mr Beutel's residence would have been significantly lower, whilst the readings at those sensitive receptors to the north would have been somewhat or even significantly higher." [742]

"This demonstrates what I can only call the folly of the regime under the current EA. Without real time monitoring and recording of noise levels at least at sensitive receptors located at Mr Beutels's residence; a sensitive receptors in the north and

sensitive receptors to the east and west, the noise levels actually experienced by the sensitive receptors are so variable and wind and environment dependent as to make monitoring of noise levels some days or weeks after a complaint, with perhaps significantly different atmospheric and wind directions, of no benefit or utility.” [743]

“...Prior to Stage 1 and Stage 2, Acland was a quiet rural area at which the revised Stage 3 is proposed to operate. Of course, if the revised Stage 3 does not gain approval, at the conclusion of mining operations under of Stages 1 and 2, Acland will return to being a quiet rural environment.” [764]

“...Given the concerns I have already expressed with respect to likely exceedances of mine noise at Mrs Mason’s and Mr Beutel’s houses; the lived experiences of many objectors; not to mention my concerns with the current complaints based EA (such as monitoring for air quality and noise in different conditions to when the complaint was made); I can understand the objectors concerns with respect to the draft EA not being complied with and this resulting in adverse health impacts on nearby residents.” [1198]

“The draft EA is based on NAC complying with strict limits for air quality and noise, rather than it being complaint based. Also the draft EA as I have recommended it to be, has real time publically available monitoring regimes surrounding the mine. The draft EA also has a monthly environmental reporting requirement. **Only in these circumstances**, am I confident that NAC will comply with set limits or be subject to immediate enforcement action by EHP. This of course does not in any way diminish my view as to the appropriateness of lowering the noise limits as indicated.” [1199]

As I noted above, despite the findings and recommendations of Member Smith and President Kingham, noise has continued to be a problem from NAC’s operations. The noise has been annoying and distracting and interfered with concentration even while I have been preparing this document. It is against the public interest for mine noise to be allowed to continue.

Blasting is also a concern and an adverse impact of the proposed mining activities. The blasts often seem to shake my house and we are also concerned about the health impacts from the blast fumes and air pollution. The impacts of the blasting on our livestock is also concerning. This includes concerns about health impacts and impacts on unsettling the animals (which has implications for animal welfare and productivity).

Air Pollution and Dust

Air pollution and health impacts remain a large concern of my family and I. Dust remains a significant concern and risks impacting on people’s health particularly if not very strictly limited, and as Member Smith found at [669], NAC would have to shut down least part of its operations for a *“quite substantial”* amount of time in order avoid exceeding the necessary dust limits.

There was significant evidence about dust from the mining operations and proposed mining operations before the court, including from multiple air pollution experts and multiple health experts. Some of the court's findings include as below.

“The evidence of Mrs Harrison, Mrs Mason, Mr Beutel, and the Plant family in particular cannot be ignored. I have no doubt they have been greatly inconvenienced and impacted by dust produced by the mine and given their evidence, it is quite possible EA limits with respect to dust and particulate matter have been exceeded.” [587]

“Evidence from nearby residents such as Mrs Harrison, Mrs Mason, Mr Beutel and the Plant family indicate that dust has been an ongoing issue for them since NAC began its open cut coal mining operations some 15 years ago. In fact there has been over 100 complaints recorded on NAC’s complaint’s register regarding dust and another 30 or so dust related complaints to EHP.” [580]

“In response to air quality and dust issues, NAC has monitored air quality and dust for 27 days over an 11 year period at locations around the mine.” [581]

“Because no regular monitoring has been undertaken by NAC in or around the mine site, it is impossible to confirm whether EA air quality limits have or have not been adhered to.” [589]

“The emerging evidence with respect to the detrimental health effects of PM2.5 is concerning. Nearby residents are understandably worried about it, particularly as the science improves and the ability of PM2.5 to pass through the lungs and into the bloodstream becomes better understood.” [617]

“... There is emerging evidence that short term and long term exposure to particulate matter particularly PM2.5 particles, is dangerous to health and there is no evidence of a safe level of exposure to these particles.” [598]

*“I do not find it necessary to determine which evidence I prefer from Mr Welchman or Dr Taylor regarding the predicted time that NAC will have to shut down at least part of its operations [in order to stay within the dust limits]; it is sufficient to note **it is likely to be quite substantial.**”* [669]

Health – physical and mental

I remain concerned about the potential health impacts from the mine. These concerns were recognised by the Land Court and validated in the Court's findings. Indeed, the evidence before the court in some ways increased rather than allayed my concerns. In addition, more

recent evidence about diseases due to air pollution, such as black lung disease, raise further concerns. Some of the Land Court's findings about this matter included as below.

"Certainly there has been considerable evidence from level 2 objectors that their physical health has been adversely affected by NAC's operations over the last 15 years, despite limits for air quality and noise being part of the current EA." [1160]

[1161] to [1171] for example provides some examples of physical health impacts people gave evidence about experiencing.

[1230] to [1244] for example provides information about mental health impacts people have experienced.

"Both experts agree that the adverse health impacts of particulate matter are well documented, including increased respiratory symptoms, decreased lung function, worsening of asthma, irregular heartbeat and premature death in people with heart or lung disease." [1140]

"... Mrs Harrison's evidence of being diagnosed with asthma once the mine had moved near her premises and then having no asthma after she moved away from the mine, is evidence which cannot be ignored. Whether Mrs Harrison's asthma was triggered or induced, her suffering from asthma points to the mine." [1182]

"Similarly evidence from Mrs Mason, Dr Plant, Mr Ward and Mr Beutel of acute sleep disturbance due to mine noise cannot be ignored." [1183]

"I accept the direct evidence of the local objectors over Dr McKenzie's belief as to what he expects should have been happening. Based on the objector's lived experiences, it is likely their physical health has been impacted by the mine. In my view many objectors have had their sleep disturbed due to mine noise and this sleep disturbance has led to an impact on their general health and wellbeing. Both experts agree on the adverse impacts sleep disturbance can have on general health and wellbeing." [1185]

"The impact of air quality (caused by the mine) on health is harder to gauge and I am not about to discount Mrs Harrison's asthma which has disappeared since she moved away from the mine. Certainly ailments such as itchy eyes, sore throats, nose bleeds and some respiratory issues are likely to have been caused by the mine over the years." [1186]

"Despite NAC's bold assertion that the objectors did not lead evidence that even one person's mental health has been adversely affected by the mine; there is clear evidence of adverse mental health impacts resulting from NAC's mining operations and this evidence is not limited to the foregoing examples." [1245]

“I accept the evidence of the lay witnesses and objectors that the mine has caused them stress/distress and from their own evidence there can be no doubt this stress/distress has negatively impacted their mental health. Such evidence is supported by the concessions of [NAC mental health expert] Dr Chalk. For NAC to suggest otherwise is completely disregarding, devaluing and dismissing the evidence of multiple witnesses in this matter and such outright dismissal is a cause for concern. It is indicative of the lack of respect with which NAC has at times treated local objectors and I am concerned that NAC may continue to treat local objectors this way in the future.” [1247]

“Importantly [NAC mental health expert] Dr Chalk did not express the same dismissive view of the value of the witness evidence as NAC has done. Dr Chalk was at pains to say in cross-examination that he was not suggesting the evidence of mental distress presented by the local community was made up and he agreed that some members of the local community had suffered a great deal of distress because of the mine. Dr Chalk also indicated that some of the stressors put to him in cross-examination could be significant for local residents.” [1248]

Community

In its AWL application documents (eg p59 and onwards) NAC has made arguments about its economic and social benefits etc. I fear that this is misleading and nonsense.

NAC makes unfounded statements such as:

“there is also a broad cross section of the local community (including those living in very close proximity to the Mine and families who have been in the area since the 1800s), and people who are heavily involved with various community groups who are supportive of the Mine and the Project. These people were prepared to take the very unusual step of giving evidence in Court in support of the Project.”

This is misleading in many ways. For example, NAC fails to mention that the Land Court found that:

“The great majority of community members who gave evidence for NAC have either received, or will receive, a benefit (directly or indirectly) from NAC, or are in line to receive a benefit from NAC if Stage 3 proceeds.” [613]

NAC also fails to mention that the Land Court made adverse findings about most of NAC’s lay witnesses. For example:

- even though the Land Court found that it could give NAC Chief Operating Officer Bruce Denney’s evidence *“little or no weight”* [231] it found that in regards to Mr Janetzki:
 - *“I prefer Mr Denney’s evidence to that of Mr Janetzki, which further weakens Mr Janetzki’s credibility”* [241]

- The Land court also made other adverse findings against Mr Janetzki in [236] to [241].
 - The Land Court also made significant findings against the credit of Mrs Janetzki as indicated in [246] to [250] including that:
“her evidence loses credibility due to her clear financial interest in Stage 3 proceeding, as well as the other areas of inconsistency in her evidence which I have referred to” [250]
 - The Land Court was also critical of many of NAC’s lay witnesses statements under cross examination about not remembering how they came to be making affidavits in favour of NAC in these proceedings (such as Ms Tully).
 - Further, in relation to NAC’s assertions in its AWL, the only lay witness NAC called that could be said to live in close proximity, let alone “very close proximity” to the mine would seem to be Mr Ballon and Mr Cooke. The Land Court found that Mr Cooke
“has a compensation agreement with NAC for the rail line and road and for which the NAC will provide compensation should Stage 3 proceed. He also has a make good agreement with NAC with respect to ground water, but stated that the contents of that make good agreement are confidential.” [288].
- Given Mr Cooke’s role on NAC’s CRG the Land Court also noted “surprise” at his lack of knowledge when cross examined about groundwater impacts [292].

As the Land Court found regarding Mr Ballon:

“in Mr Ballon’s case, his financial interest is twofold; both as a long term employee of NAC who would have every expectation that his employment would continue if Stage 3 proceeds, and as a contractor to APC, which is of course a related company to NAC.” [347]

“In my opinion, the direct financial benefit that Mr Ballon obtains from both NAC and APC colours his evidence. This was shown, in particular, during cross-examination by Mr Berkman with respect to a house that arrived on his property in the weeks preceding his giving evidence. After going around a little in circles ... It would appear that Mr Ballon entered into a personal contract with APC by which he acquired the house which was previously located on an APC owned property. I gather from the evidence that Mr Ballon paid no actual amount of money to APC for the house but that he was required as a part of his deal with APC to receive the house to rehabilitate the area on which the house had previously stood.” [348]

I am not aware of any reliable basis for NAC’s assertions “the Applicant and its employees have a good reputation amongst the community, and engage with community members with uniform courtesy both sincerely and effectively”. This is almost laughable, were this statement not made here where it is used to genuinely try to persuade the government to approve its water application. I was in the Land Court for every single day and also received all of the evidence and submissions. I did hear a lot of evidence almost directly opposite to what NAC is asserting here and indeed the Land Court made findings contrary to NAC’s assertions here. I cannot

envisage how NAC could in good faith make such a statement. Similarly, although there were arguments made about the economic benefits of the mine broadly, and Mr Ballon, as a mine employee, may have made some arguments that his income from the mine assisted with his income and what he could do on his farm, I refute that there is any reliable basis for NAC's statement that it was "established" that "the Project is essential to ensuring that the local region is able to flourish in circumstances where drought and the mining downturn has left significant uncertainty in relation to the future of the region."

Contrary to the perspective the AWL documents imply, the Land Court actually made significant findings against NAC, including in regards to its interactions with members of the community. Some relevant findings (from Member Smith's main May 2017 Judgment) are included below, as well as under other headings in this document. (There are also other relevant findings against NAC in Member Smith's other Judgments leading up to the main recommendation including in the 2 February 2017 decision to allow NAC's application to reopen the hearing which was highly critical of NAC's refusal to provide either objectors or their experts access to the relevant supporting documents and which also significantly delayed finalisation of this matter, which was contrary to NAC's repeated demands about 'urgency' eg see [97] of this judgment for example.)

"There is certainly evidence which shows that in 1978 there were 44 residences in Acland, and that this figure had risen to 57 residences by the year 2000." [50] ⁷

"NAC commenced in 2007 an active policy to not only purchase as much of the property comprised in Acland as possible, but, after purchase, to remove the great bulk of buildings situated on the land purchased in Acland." [74]

"The fact that Acland as a town in effect no longer exists can not be dismissed, in my view, as a simple sideline to the matters in dispute. There is no doubt that there is quite a level of angst between NAC and the objectors, and in my view that angst on the part of the objectors has been significantly contributed to by the actions of NAC in causing Acland to functionally no longer exist." [75]

Despite her many years of experience, reading [NAC community expert] Ms Elliott's individual report one would be forgiven to think she was an employee of NAC, rather than an independent expert. Throughout the report she consistently seeks to reinforce the good work of NAC while downplaying any negative actions on their part (eg. the removal of Acland township). Her report appears to be based on what NAC and their witnesses have told her with no independent or rigorous assessment of the value of that evidence, or thorough consideration of opposing evidence. Dr Plant's submission re potential mental health impacts is a classic example. [1353]

⁷ ie it was growing before NAC began its operations in the area and has since diminished greatly

Ms Elliott's response seems **harsh and symptomatic of someone who really does not want to consider the other side of the story.** [1360]

In terms of [NAC community expert] Ms Elliott's evidence **I do not find it convincing and consider her, at best, an advocate for NAC.** This view is reinforced by her ready acceptance of NAC lay witness evidence that the community division is not significant. [1386]

"I note NAC are prepared to accept [NAC's community expert witness] Ms Elliott's view that to reject Stage 3 would have an adverse impact on the mental health of NAC's workers who lost their jobs and their families, but NAC do not accept the adverse mental health impacts they have caused, which are quite clearly articulated by the objectors and their witnesses." [1249]

"There is in my view a great distrust (in both directions) between many members of the Acland community and NAC. In fact EHP received the highest number of submissions they have ever received with respect to a mining application (over 1,400). The great majority of community members who gave evidence for NAC have either received, or will receive, a benefit (directly or indirectly) from NAC, or are in line to receive a benefit from NAC if Stage 3 proceeds. It is understandable that community members living close to the mine and who are not receiving a benefit from NAC are concerned about the mine's impact on them, whether that be air quality, dust, noise, water etc..." [613]

"Despite no sensitive receptors being identified [by NAC] close to the mine, there are houses located within or near 1 kilometre to the south of the mine, with people presumably mine workers and their families, or families who rent properties from NAC or APC living in those houses. NAC have submitted that places within the boundary of the mining lease, or places owned or leased by APC, or places in which an agreement has been reached by the occupant and NAC to provide measures to mitigate against the impact of mining activities, should all be excluded from the definition of a sensitive place." [597]

"However in my view particularly with regards to air quality, more so than dust, exposure to potentially high levels should not be contracted out of under any circumstances. There is emerging evidence that short term and long term exposure to particulate matter particularly PM2.5 particles, is dangerous to health and there is no evidence of a safe level of exposure to these particles. Every person whether they be a mine worker or their spouse or their children or their grandparents, or people who rent properties from NAC or APC should not be exposed to unsafe levels of particulate matter. I note Dr McCarron, Dr Plant and Mrs Mason have adopted this view in their submissions." [598]

“Consequently I disagree with NAC’s amendment of the definition of sensitive place in the draft EA. I recommend that the definition remain as it is to include a dwelling or other residential premises ...” [599]

*“... Mrs Mason has established from her cross examination that the **actions undertaken by NAC during Stages 1 and 2 as regards to the visual amenity of those who reside to the north of the project area, such as Mrs Mason and her family, has not only been less than ideal; one would expect that the creation of a serious adverse impact would be inconsistent with the requirements and commitments that NAC had to fulfil in Stages 1 and 2 of the project; and casts doubt on whether or not NAC will implement all of the necessary measures so ensure that there is no serious adverse visual amenity impact caused by Stage 3.** [841]*

*“In my assessment of the mental health evidence I have found that **the local community is deeply divided between those who have received a benefit from the mine or will receive a benefit from revised Stage 3; and others who live near the mine and do not receive any benefits from it, only costs in terms of noise, dust, etc. or concerns with respect to water supply etc.**” [1387]*

*“**NAC have sought to blame the objectors for this community division. While some OCAA members may boycott local pro-mine stores, I note other objectors like Mrs Plant still shop locally at pro-mine stores.**” [1388]*

*I also note with concern that actions that create divisions also come from pro-mine supporters. I note for example the evidence of Mr Beutel regarding his car probably being vandalised while he joined the court as part of its view of the mine and surrounds. Also I am concerned with the events described in Dr Plant’s evidence (despite NACs attempts to ridicule Dr Plant over this) that someone has come onto her father’s property and moved a large and heavy runway marker (witches hat and tyre) onto his runway while his plane was in the air. The Plants thought this serious enough to call the police and install security cameras. I also note a dead chicken was left in Mr Plant’s gateway as possibly a message to not oppose the mine. While it has not been suggested that NAC was behind any of these instances, they concern me, especially what may happen if the mine expansion is not approved. **The community division is certainly not coming just from those opposed to revised Stage 3.** [1389]*

Good agricultural land

The proposed mine is on some of the best agricultural land in the state – a rare and precious resource. The proposed New Acland Coal Stage 3 mine is inappropriately proposed entirely within a Priority Agricultural Area, the vast majority of which is also mapped as Strategic Cropping Land, in a productive and relatively intensely settled area. Indeed it seems that all

of the proposed ML50232 area is either mapped as SCL or mapped (and protected) as REs under the Vegetation Management Act.

The land within and surrounding the project site has supported very productive agriculture (and many families) and has the capacity to be highly productive into the future. It has been recognized, for example, that “The soils within the project site are generally suitable for cropping, characterized as basalt clays, cracking earths and alluvium. The project site has a history of grazing and dryland cropping. Two feedlots and a piggery also operated on the site.” (CG report p13)

The land the subject of this mining proposal is high quality agricultural land, valuable and precious. It has the capacity to sustainably support agricultural land uses. It is important that this is retained for use by future generations. This land is also (and has been) quite closely settled and is in relatively close proximity to urban centres and other sources of employment and community services.

In addition to the long term degradation of good agricultural land if the project proceeds, it also risks adverse impacts on other nearby land uses. (For example, this could be through resulting planning restricting limiting rights to build houses etc. (e.g. requiring a certain distance from mining areas), loss of ground water limiting agricultural land uses, reduced land values (and other issues such as amenity concerns) limiting the willingness to invest or availability of finance to invest in other businesses, infrastructure or development or nearby properties etc.).

Proposed offsets are an inadequate alternative to avoiding the degradation that the proposed project would cause. The sites identified by NAC as “offsets” already exist so it seems that NAC is proposing to destroy good agricultural land without really providing anything in return.

There are other more appropriate and more sustainable land uses for this site.

Some of the court’s findings in relation to the quality of the land include as below.

*“I am satisfied that the evidence of [NAC expert witness] Mr Thompson during cross examination clearly shows his view that he accepted that the land around Acland was among **the best 1.5% of agricultural land in Queensland**. This certainly makes the land significant from an agricultural perspective” [1299].*

*In my view, Mr Thompson’s evidence is enough, of itself, to raise some issues of concern from an **intergenerational equity** perspective. Mr Thompson’s evidence however does not need to be considered in a vacuum, as there is substantial evidence given from landholders in the area with multi-generational ties to the land as to their views on intergenerational equity. [1315]*

At [1068] Member Smith also seems to accept that even directly on the mine site⁸:

“(1) 457 ha of SCL within the mine will be turned into voids and permanently lost to production. Temporarily securing an equivalent area during the term of the lease, as required by the coordinator-general conditions, does not create additional SCL and cannot be considered an offset.

(2) A further 923 ha of SCL within the mine will be destroyed as only 50% of SCL has to be returned to marginal cropping and 50% of the land that was grazing need be returned to grazing”

The groundwater impacts will also impact on the productivity of the good soils and farms surrounding the mine site. Hence the impact on food and agricultural production goes well beyond the mine site. Like the mine site, many areas surrounding the mine are also mapped as SCL. This is part of the Darling Downs and a very highly productive and valued part of Queensland.

Royalties

Royalties are often stated to be one of the main reasons why mines should be approved. However, in regards to the New Acland mine, they are almost non-existent. Some of the Land Court’s relevant findings in this regard are below.

*“I also note that with respect to royalties, 93% of the land to be mined under Stage 3 was granted under pre-1910 titles, **hence NAC will only pay 7% of the usual royalties to the State.** NAC will in effect pay the vast majority of its royalties (calculated at 7% of the value of the coal) to its related company APC. This is quite a saving for New Hope.” [882]*

“The vesting of coal resources in the state ensures the removal of its resources serves the best interests of Queensland. Royalties are effectively the price paid for the coal and the primary public benefit of allowing it to be mined.”[1050]

“The fact that 93% of the land to be mined in revised Stage 3 does not require royalties to be paid to the state (but rather to the land owners - primarily APC, a New Hope related company) is a relevant factor in determining on public interest grounds whether this coal mine extension should be approved or not. The loss of the normally expected royalties (estimated at approximately \$436 million over the life of the project) cannot be ignored and is significant.” [1051]

⁸ This view of Member Smith accepting this was also formed by President Kingham as expressed at [242] of her Judgment

Economics

Much has been made of the economic benefits of the proposed mine. Yet, unlike most coal mines, this proposed project would not pay royalties for approximately 93% of the coal it mines. Additionally, it is important to remember that the jobs and purported economic benefits are only for the duration of the mining operations (now seeming to be less than 12 years given that stage 3 has in effect already started). Further, the agricultural land uses are sustainable, and certainly far more sustainable than destroying land and aquifers to mine a resource that cannot be replenished for at least thousands of years.

Progressing the mine would be at the expense of the environment, the soils and water and the agricultural economy. There have been social and economic costs resulting from people who have left the district due to the mine or been displaced by the mine.

Additionally, the economic benefits of the mine have been overstated by NAC. Some relevant findings of the Land Court include as below:

*“In case my comments above can be taken as being either uncaring or dismissive (or both) of the plight of workers who may lose their jobs because of the depletion of coal in Stage 2, that is far from the case. The simple point that I am trying to make is that, in my view, and supported by the evidence before me, **the underlying cause for any such job losses falls squarely at the feet of NAC.**” [130]*

*“Both experts agree that the I/O modelling significantly overestimated the economic benefits of revised Stage 3 and the jobs to be created. **In fact most skilled jobs are drawn from other workplaces not unemployment lines.**” [899]*

“Consequently the high job figures predicted by the I/O modelling (EIS 3,550 and AEIS 1,556) are not supported by the current expert evidence....” [900]

Climate change

Given the current context and with the world facing a climate crisis, driven by anthropogenic impacts and particularly the burning of coal, it would seem irresponsible and strongly contrary to the public interest to approve a further coal mine, particularly in a site which has such strong value for other uses and where the adverse impacts are so high.

There are innumerable of credible scientific sources to support this view, including of course the IESC, as well as the peer reviewed published papers and findings of many esteemed scientists, as well as books and articles in the press.

Additionally, the proposed mine’s destruction of good quality soils and of groundwater resources, would seem to make it much more difficult to adapt to and manage in the future predicted by scientists given the climate change we are facing.

Intergenerational Equity

Intergenerational Equity is important and relevant to the public interest. This proposed project would adversely impact not only on current residents but on future generations, both through the impacts on groundwater, agricultural land and climate change.

As has been recognised by the Land Court, the proposed New Acland Stage 3 mine breaches the principles of intergenerational equity in at least one regard. In addition to the clear breach in regards to groundwater impacts, it also is problematic in terms of the long term destruction of the important productive soils.

Any choice to allow or endorse this destruction, with all the negative impacts anticipated from this project, just for the sake of a few dollars for a limited number of people over the anticipate now less than 12 year (given that it has already stated stage 3) life of the project, would seem very short sighted and selfish.

Flora and fauna

The proposed stage 3 mine would also pose risks to flora and fauna due to the clearing and destruction caused by the mining itself and related processes such as internal haul roads and infrastructure.

Road closures and traffic

The proposed mine would require the closure of multiple roads. This would increase travel times for others. Member Smith's findings in relation to this included [863]-[865] for example.

Concluding Statements

I believe that the proposed AWL should not be approved. It poses many problems and insufficient benefits. It is contrary to the public interest. It poses an unacceptable risk to ground and surface water resources during mining operations and into the hundreds of years beyond, maybe more. I am also concerned that if the proposed AWL is granted this would disadvantage others and impair the groundwater resources for many hundreds of years.

The proposed mining operations are not an appropriate land use in this area and there will be significant adverse environmental and human impacts caused by those operations.

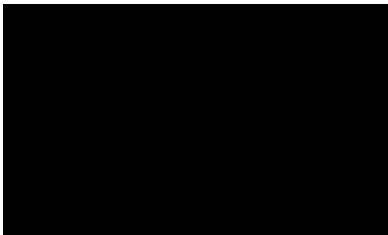
NAC's proposed stage 3 coal mine is a bad project, proposed by a company with a very poor history in this area. NAC would remain a divisive force in the district while it remains⁹.

As Member Smith found:

The division in the community will intensify when this decision is handed down. I expect however, once mining ceases, the division in the community will effectively dissipate. [1391]

The only way for the community to heal is after mining ceases. The sooner we get to this point the better, Given that the mine, at best only provides some jobs for another few years (maybe 10?), it is better to get to this point before there is more environmental harm and health impacts caused to people (eg due to stress and noise exceedances and air pollution) and before more irreversible damage is done to the agricultural soils and water resources.

I urge you to strongly consider this submission, and the submissions of other objectors to NAC's proposed mine and AWL. Please refuse NAC's application for an AWL and refuse it the opportunity to impair our groundwater and to cause all the other adverse impacts that would go with stage 3 if it is approved.



⁹ There was considerable evidence about this in court, including during my cross examination of Mr Denney as well as evidence from many witnesses, including some called by NAC as well as objectors. Further examples are also provided in my affidavit to the Supreme Court which Mr Geritz for NAC included in his recent affidavit filed in this court in relation to the remitted hearing.

[REDACTED]
To: EHP delegate via EHPsubmissions@ehp.qld.gov.au

11 December 2017

**[REDACTED] Submission to EHP's new process for New Acland Coal's proposed Acland
Stage 3 EA considerations**

Dear EHP Delegate,

I am writing to make a submission in accordance with the letter from EHP's Mr Cagney dated 24 October 2017 and related correspondence. This should not be taken to mean I agree with the process set out by EHP, and I wish to reserve any rights I may have in that regard.

My family and I have already suffered from impacts from the mine and are very concerned about the proposed expansion. Although it cost us dearly, our concerns about the proposed stage 3 mine were (and remain) so grave that we committed time and resources to the Land Court process. I was in court every single day of the hearing, either at the bar table or in the witness box.

It is disappointing and frustrating that no current staff member of EHP seemed to be in court to hear all the evidence throughout the hearing. It was an opportunity missed. I believe that EHP would have found it informative and worthwhile. As the lack of technical staff viewing the court proceedings, the fact that even EHP's legal representatives changed so that the solicitor and barrister who were there for a larger portion of the hearing are no longer employed by EHP, unfortunately leaves a gap in EHP's corporate knowledge of this issue.

I hope by now you have fully read the Judgment by Member Smith. I do not intend to reiterate it here. I have read it and commend it to you. The written remarks and ultimate recommendations are His Honour's considered view, as an experienced, independent and competent Judge in the Land Court after over a year deeply immersed in and seriously considering this issue. They are the result of an enormous amount of evidence and very rigorous and comprehensive interrogation by subject experts, QCs and other lawyers and a range of others with various perspectives, including people with a lot of local knowledge and experience of impacts from NAC's Acland operations.

There was a lot of material presented and examined and a lot of testimony and cross examination and volumes of submissions at various stages through the process. I am concerned that, not having been an active party in this, the delegate and his or her advisors may accidentally underestimate both the evidence already presented and the basis for His Honour's findings in the Land Court matter. There was so much more than just the 459 or so pages of his final Judgment. Indeed, as Member Smith specifically stated in his

judgment, he considered a lot more of the arguments and evidence than what he specifically mentions in his judgment.

For example, His Honour noted:

[113] In making these recommendations, I have taken into account all of the evidence presented in this case including all evidence from expert witnesses and lay witnesses and all exhibits tendered. I have also considered and taken into account all of the objections and submissions of each party. These recommendations refer to the salient points, but not all of the material, which I have considered. As previously indicated, the sheer size of the evidence in these matters prevents a more fulsome analysis of all of the evidence in these written recommendations.

Similarly, in paras 36-38 His Honour Member Smith explains that the “amount of material before the Court can only be described as immense”. He explains that he has “been present for every moment of every piece of evidence throughout this entire hearing [and] taken into account all of the evidence that has been placed before me. I have considered all of the submissions. I have done my best to assess all of the evidence provided to the Court by the myriad of witnesses, both lay and expert.” He notes that although “many will be able to say that there are huge parts of evidence that I have not specifically referred to” this “must necessarily be the case, but that should not be taken as meaning that I have not fully taken into account all such evidence.” He explained that “a decision running into many thousands of pages” would have been “impractical and intolerable” and “of little utility to those tasked with the job of reading this decision and making their own decisions in light of my recommendations”.

It is frustrating and disappointing that both the Court’s and the Objectors’ efforts towards expediency as then sought by NAC, have been for nothing. Instead, NAC’s changed approach, as evidenced by the stay application to the Supreme Court and their provision of new material to the government, has now been accommodated. During this time NAC has also caused further problems in the community.

It should be kept firmly in mind that the Judgment isn’t just another document. It is the result of the robust consideration of an experienced and independent Judge, who was there for every single moment of every piece of evidence and argument in court. Member Smith was in a unique position as all of the dozens of witnesses gave evidence and were cross examined, including some in closed court, and the approximately 2000 exhibits, some of them hundreds of pages long, were scrutinised and tendered. He dealt with submissions, arguments and replies from all parties, including Queens Counsel and another barrister representing the mine, as well as Counsel representing EHP. He had to be actively engaged and keep up with the information and arguments and prepared to make rulings every step of the way. His Honour Member Smith also made multiple site visits and listened to noise, including at night.

During this process, the mine called twenty (20) expert witnesses that it chose to help advance its case. The mine also chose to call numerous lay witnesses including senior management. The mine was represented by Clayton Utz, who dedicated resources from

multiple solicitors to this matter, including Partner Mark Geritz and Partner and National Practice Group Leader in Environment and Planning Karen Trainor. The mine was clearly resourced and motivated to bring its most best evidence and arguments to the Land Court to help secure an approval, which would be worth significant money to New Hope shareholders. If there was any evidence that the mine had that they did not present in the Land Court, then it should be safe to assume that they made such decisions advisedly.

Notwithstanding the above, and the limited resources of the objectors, after hearing (and seeing) all the evidence and arguments, the Land Court found resoundingly against the mine and in favour of the objectors. I hope that in any deliberations, EHP will read the judgment carefully and understand it.

For example, as you will see in the Judgment, the Judge found that:

- the mine's past performance "has not been satisfactory"
- "there has been a chasm between NAC rhetoric and action"
- "It is beyond doubt that the mining proposed by NAC in revised Stage 3 will cause disruptions to aquifers in the Acland region which will have an impact on nearby landholders."
- "The principles of intergenerational equity are breached in at least one regard by the proposed revised Stage 3, with the potential for groundwater impacts to adversely affect landholders in the vicinity of the mine for hundreds of years to come"
- the land to be mined was in the best 1.5% of land in Queensland and that to mine this land would also jeopardise intergenerational equity,
- there have been significant problems caused by the mine regarding noise, dust, health and community and the proposed stage 3 has significant problems in these regards also.
- that Acland had been growing (see par 50) and NAC's actions have now caused Acland to "effectively, ceased to exist"

If you are sitting there with the Land Court recommendations on one side of your desk and the post-Land Court submissions from the mine on the other, never forget that there is a vast discrepancy in the trust you can have in them and weighting they should be given. The new stuff from the mine isn't even sworn testimony and has been submitted at this stage knowing that there is no opportunity for the authors, or others, to be cross examined on it or to have to provide evidence under oath about basis for the various statements and assumptions. The mine has even refused to provide background documents (which even on its own makes one wonder what they are hiding, as many of the failings of the previous model only became more obvious with the examination of just how dubious the basis behind it was). On the other hand, the court's recommendation has vast and solid foundations. It is based on a wealth of information, the justice and scrutiny of the Court process and our legal system established over many years, input and testing from all parties and the dedicated consideration of an experienced Judge. Don't be fooled by the relative

brevity of the Land Court's Judgment. There is a mountain of evidence behind it, supporting its findings.

In this submission, I will try to deal briefly with some of the most relevant issues. It is very difficult to find time within the timeframe and competing responsibilities to adequately respond to this new material and process. If the government has decided to create a new process specifically to try to override the Land Court and allow NAC to present more propaganda that won't be tested in the court with a view to ultimately approving the process, then one wonders if it is even worth the effort!

Some overarching issues

The process EHP seems to now be proposing to undertake is unfair, inappropriate, inconsistent with the law and unjust.

The court decided fairly and resoundingly against the proposed stage 3 project. We really shouldn't have to go through this. If you are looking to test the objector's resources or stamina, then maybe we will fall short. Writing submissions is not our profession, it was not anticipated that this, rather than the facts and the Land Court Judgment, would be the criteria. We need to earn a living and our responsibilities to our farms, business and families need our attention too. However, the facts remain in our favour and the mine should not be approved.

The recommendation from the Land Court in this instance, is surely almost as far from favourable as a recommendation could be. It is highly critical both of NAC's conduct in this district and the proposed project.

The findings of the Land Court and its ultimate recommendations were no surprise. The judgment was, and still is, appropriate in regards to NAC and its proposed mine in this area.

NAC's proposed stage 3 coal mine is a bad project, proposed by a company with a very poor history in this area. It is inappropriately proposed entirely within a Priority Agricultural Area, the vast majority of which is also mapped as Strategic Cropping Land, in a productive and relatively intensely settled area. It will drawdown groundwater substantially and in perpetuity. It fails intergenerational equity principles and is problematic in terms of noise, dust and community wellbeing.

NAC's choice to progress with the version of model and data they chose

It is important to remember that it was entirely NAC's choice to progress through the various processes, including the Land Court process, with the data and modelling they

presented at the time. They had had years to review the model and address any deficiencies prior to the Land Court process. They did not.

NAC's own modelling and own data collection was no secret to them. They knew what they had and had not done. It was work they commissioned and paid for. They had every opportunity to ask questions of their staff and consultants at any stage even prior to the EIS being lodged and certainly prior to the Land Court process. It should not have been any surprise to NAC that the water modelling was based on such limited data and dodgy modelling inputs.

The fact that NAC chose to progress their application with limited and flawed data and modelling was no-one's fault but NAC's. If NAC wanted to collect more data or present a different model they could have done so at the time of the EIS, or at worst, at the time of the Land Court hearing. They did not.

It is not appropriate for a resources company to rock up to the Land Court ill-prepared and waste everyone's time on something they expect to be able to treat as a rough draft and revise, as part of the same application, after it is refused. Resources companies should know that they need to present their best proposals and best arguments to the Land Court.

It is questionable whether NAC would have otherwise changed their modelling if their earlier version wasn't shown to be so dodgy through the Land Court process. Regardless, they chose to present what they presented and this "new" material wasn't part of it. Whether due to cunning, carelessness or slovenly progression of data collection and modelling, what NAC chose to have before the Land Court was their choice. The EP Act is clear that the Land Court is the final process. We've been through all the other steps. There shouldn't be any more chances for this application.

Inconsistent with legislation

There are processes enshrined in legislation for the Department to make Environmental Authority (EA) decisions. These are known to all parties in advance. This current process was not.

The Environmental Protection Act (EP Act) sets out the processes every step of the way. Notably, it does not include, envisage or even accommodate the process recently proposed by EHP for the New Acland Coal (NAC) EA decision.

Within the EP Act, Chapter 5 (Environmental authorities and environmentally relevant activities), Division 3 (Applications for mining activities relating to a mining lease), Subdivision 4 (Final decision on application) Section 194 (Final decision on application) specifically sets out the process for, unsurprisingly, making the final decision on the EA application for a mining activity. In s194(4) it states "In making the decision, the administering authority must (a) have regard to (i) the objections decision, if any; and

(ii) all advice, if any, given by the MRA Minister or the State Development Minister to the administering authority under section 193; and (iii) if a draft environmental authority was given for the application—the draft environmental authority”. That is the end of it. Unlike some other legislation, it specifically doesn’t have a discretionary clause allowing “anything else the delegate considers relevant” or anything similar.

Some may argue that it doesn’t specifically list all the things that the decision-maker is prohibited from considering. It would be difficult to make an exhaustive list of all the things that shouldn’t be considered. But clearly this is not the approach taken in the drafting anyway. As is common practice, rather than listing what should not be done and what should not be considered, instead the legislation lists the process that should be followed and what should be considered. If the legislation wanted to enable the delegate to initiate a further process, allow in new material outside the scrutiny of the court, consult an astrology reader, conduct a survey or respond to donations then it is my view that it would have said so, particularly given the detail and structure of the EP Act.

Dangerous precedent

It would be a very dangerous precedent and slippery slope for a Government officer to go outside the process in the EP Act or consider things not listed in s194(4). Political donations, politics, quid-pro-quo deals, who went to school with who, paperwork submitted by a project’s proponent outside the usual processes, backstage promises (perhaps a new hospital in exchange for a mine approval?), – surely decisions on EAs should be based on the EP Act, not on things that were not part of the EIS or the transparent Land Court process. If you allowed in new material from New Hope now, and allowed it to override a resounding refusal from the Land Court, where would it end? Both the process now proposed and the material submitted are outside the EP Act. This unusual and unsanctioned situation doesn’t only jeopardize this decision but risks the integrity of all government, and public servant, decision-making.

Unfair – NAC has had many, many chances

New Acland Coal (NAC) has had many years to gather information, develop modelling and put together their best case. In regards to Stage 3 specifically:

- first they had their original Stage 3 EIS,
- then rather than this being outright refused they were somehow allowed to have a revised Stage 3 EIS in 2012,
- then an AEIS and
- then, as the information they provided was still inadequate, they were allowed a further supplementary report (which was not published until the Coordinator General’s (CG) report and for which public submissions were not allowed).

It was entirely up to NAC when they chose to lodge their EIS, when they chose to apply for an EA and when they chose to apply for a ML, as well as when they could apply for a water licence or an approval under the Regional Planning Interests Act. They have been in this area for 16 years or so, and so have had every opportunity to gather data on geology, hydrology or any number of things and to prepare modelling.

Beyond this, NAC had all the opportunities in the Land Court to get in further lay and expert evidence and documents. More time could have been allowed in the Land Court process, however NAC repeatedly argued for expedited timeframes and an expedited Land Court process.

Despite NAC's consistent pressure on objectors to compress Court timeframes, NAC successfully had some of the groundwater evidence delayed to allow one of their experts, Mr Durick, more time. Then, when unsatisfied with the evidence from the 4 groundwater experts already giving evidence before the court (two (2) of which NAC chose and called to give evidence to advance their case), NAC were accommodated by the Land Court and allowed to bring in a further (3rd) groundwater expert of their choice (Mr Brian Barnett) during the trial, months after everyone else had to nominate their experts and have reports in and even a couple of months into the actual hearing¹ (and after NAC had successfully argued to deny any objectors the right to have even one expert in an area for which another objector already had an expert).

In addition to this NAC, also reopened evidence in the Land Court this year and provided new evidence to the court on groundwater and surface water in March and April 2017. This was many months after not only the end of evidence but the closing submissions in October 2016.

It is completely inconceivable that NAC could now legitimately argue that the information before the court was three years out of date when they reopened the evidence just a few months ago so they could submit evidence that they said was then new and wasn't available earlier.

If somehow NAC did have new information that they did not make available to the Land Court and parties for assessment through that process, then they should not be rewarded for this bad behaviour ie they should not be allowed to have it considered now, though this far less rigorous or transparent process. If NAC had relevant information during the court or reopened hearing and chose not to provide it, it would be contrary to their obligations for disclosure.

¹ It seems the debate to allow NAC to have evidence from Mr Barnett also was raised in court on 9th and 10th May 2016 and it was acknowledge that it risked prejudicing the objectors and causing additional costs to objectors.

Throughout the Land Court process NAC pushed for, and was accommodated with, an expedited timeframe, to the detriment of objectors, causing significant stress and constraining the evidence we could put before the court. This contrasts with their actions since.

After the rigour, intensity, volume and duration and of the Land Court process and all the opportunities for NAC to submit their best case before now, it is ludicrous to even contemplate considering new information from NAC at this stage.

Fundamentally, NAC should not be given any more chances. It isn't fair or appropriate. It would be a very dangerous precedent and undermine public confidence and the legal system.

Too many chances for one application

NAC has been given so many chances within their one application. This is unfair, stressful, unjust, inappropriate and has to end.

In regards to stage 3 specifically, NAC had their original Stage 3 EIS, then when this was stated by the incoming Newman Government to be unacceptable NAC were somehow allowed to have a revised Stage 3 EIS, then an AEIS when the EIS was inadequate and then they were allowed a further supplementary report when the AEIS was inadequate. Throughout each of these processes NAC presented information that it intended all stakeholders, including the Government, to trust and rely on. Yet each time their project failed, they were given a chance to amend the project and / or submit more information.

By New Hope's Managing Director's own admission:

"Since the initial application for the project in 2007 ... the project has been through not just one, but two EIS processes, two additional information and response to submissions periods, and four public comment opportunities..... This type of scrutiny is exceptional for such a project in Queensland – and possibly in Australia."²

(<http://www.newhopegroup.com.au/news/2015/new-hope-welcomes-start-of-land-court-process> accessed 8 December 2017 and as attached)

NAC have then had all the opportunities in the Land Court to submit further lay and expert evidence and documents. NAC was even allowed to call a 3rd groundwater expert to advance their case late in the process, months after other experts had been notified and even completed joint expert meetings. Even after this NAC reopened evidence earlier this year, months after not only the end of evidence but the closing submissions, to submit new evidence about water.

² I am not sure how they came to four public comment opportunities unless they included the opportunity to comment on the terms of reference for the EIS.

Throughout, NAC has stated that they had already done all the work needed and claimed falsely and publicly that other it was other parties causing delay. The mine claimed that Stage 3 didn't warrant assessment under the Associated Water Licence process as it had already been thoroughly assessed, including in regards to groundwater impacts. For example, in November 2016, New Hope Group Managing Director Shane Stephan said in a New Hope Group Statement (bold added):

"New Hope Group lodged the original application for Stage 3 in 2007 and has been battling green lawfare ever since.

This is **without doubt the most scrutinised mine in Australian history. We have been through the process of public scrutiny at least six times** and now we have yet another hurdle thrust in our way"

.....

"All we requested was that the transitional provisions be modified so that **projects like New Acland Stage 3 that had already been through detailed underground water impact assessment studies would not have to needlessly repeat the process."**

(<http://www.newhopegroup.com.au/news/2016/reckless-job-destroying-legislation-passed> accessed 8 December 2017 and as attached).

In court, even from the first day, 4th November 2015, NAC's QC was pushing to expedite the hearing and constrain evidence from objectors. It was argued by NAC's representative that objectors should already be fully prepared. For example, at T1-36 (4 Nov 2015) NAC's QC (Mr Ambrose) argues that objectors should have already been ready with all their experts and evidence and able to accommodate an expedited timeframe (which NAC sought and was granted). Representing NAC, Mr Ambrose stated:

".. The only reason this court is seized of the matter is because objectors, who have made submissions, have said, "Please accept our submissions as objections. The environmental authority should not issue because – " and they give their reasons.

They ought to be in a position to support their objections by evidence, and that's the whole purpose of it. It's not a case of coming to court and saying, "Now we want time to find evidence to support our objections." It's not a matter of them coming to court to say, "We need more material by way of disclosure to see if that might support our objection." They must come to court to have their objections determined, and that is what progresses the matter, not saying, "We need disclosure to see – to give to our experts."

... It's not a case of them coming along cold and saying, "Now we're going to find witnesses," or it shouldn't be. So if they are able to identify issues that they want to have the experts argue about, then they ought to be able to produce their experts.

The hypocrisy of NAC now arguing that they should be allowed to have new material considered is suffocating.

NAC has had many years to get their act together, to reduce noise and dust, to test a better noise management system, and to collect sufficient dependable data and prepare reliable modelling. They had set the timetable for assessment and chosen what they submitted. NAC have repeatedly led people to believe that they had done all that they should have but that it was other parties or “green lawfare” that was the only reason they didn’t have an approval up to 10 years ago. As above, even in late 2016 they were still pushing this line. The juxtaposition of this with NAC’s recent attempts to have yet another go at getting new information in to get stage 3 approved is striking, to say the least.

That the applicant now seeks this admission of late material, outside the scrutiny of the court is doubly unjust given that the demands for expedition have led to significant curtailing of the opportunities for objectors to prepare their case prior to the hearing and to submit evidence. Even within the hearing there have been many instances where the objectors’ opportunities to add evidence has been curtailed. For example, orders of November 2015 which meant that individual objectors did not have the right to have their own expert witnesses on a field in which another objector had a witness and that even cross examination should not overlap.

Further, it is well known, including by legal practitioners representing NAC, that there are limited timeframes and opportunities for additional evidence and the like and that this is appropriate and necessary. This was clear in the Land court, and should be clear here too.

There were directions given in the Land Court such as at T4-41 L1-to 44 including where His Honour explained (to me, in seeking to avoid people asking for another chance to cross examine a witness) that:

“This would never end if we continued to have second and third and fourth bites”.

Another example in the Land Court can be found at T76-57 L15-19 where His Honour explains (to me, in explaining that even when giving evidence this had to be limited) that:

“The bites of the cherry have to reach an end, otherwise litigation generally, and this case in particular, never finish. So if there is anything further that you wish to put in after you’ve already finished your evidence there are considerable difficulties in that regard”.

Other examples of directions from the court of the need to “draw a line under” the evidence to conclude the case can be found at T27-57 and 58 and T20-11 L1 to 6 for example.

This application has been through all the usual processes. It has failed. It should be refused. We cannot keep going round this loop or allowing NAC unlimited further chances. It isn’t reasonable or fair or appropriate.

This whole new water model information hasn't even been made available to all potentially impacted people, let alone part of the public notification process.

If NAC want to have another go, then they can consider whether or not to make another application. However, this application should be refused.

Unfair – impact on others

For about a decade now, to the detriment of my family and other responsibilities including our farm and business opportunities, due to our legitimate concerns about this project, my family and I have made time to participate in all the relevant submissions processes regarding Stage 3 (various EIS related, EA and ML submissions and court submissions) and the Land Court hearing and reopened hearing. NAC has also been aware of these processes and would have known that they needed to have all their evidence submitted in accordance with dates set out in court orders. Indeed, NAC largely controlled these timeframes, due to their discretion about when to apply for and progress various processes and their arguments before the court about the need for expediency. In directions hearings before the Land Court NAC generally argued for these dates to be brought forward, not delayed.

In good faith, we have put our lives on hold and met the requirements of both statutory submissions processes (eg EIS and EA submissions and EA and ML objections) and the Land Court as Level 2 objectors. I do not say this lightly.

The lead up to, the preparation for and the participation in every day of the Land Court hearing was an enormous stress on our family and on our business. It meant being away, geographically, for many months and having to spend thousands of hours focusing intently in the various documents, evidence and land court requirements and processes rather than on our usual responsibilities and concerns or things of our choosing. Well beyond detracting from one's social life, even addressing important health issues was delayed to accommodate Land Court processes, and the process and stress even impacted on eating and sleeping for many months. Being away from one's home, business and / or children for months takes a toll and the direct and business opportunity costs across the objectors of this time investment could add up to the millions. Yet we committed to this process and did this because A) fundamentally NAC's proposed project is a very bad one and the impacts on us, if it were to proceed, were really concerning and B) we understood, as did NAC³, that this would be the appropriate process that would scrutinise the project and define the decision.

Our concerns were upheld and the Land Court clearly recommended against allowing an ML or EA to be issued to accommodate NAC's proposed Stage 3 coal mine. To allow NAC

³ Eg their press release "New Hope welcomes start of Land Court process" 4 November 2015

yet another chance, or worse still, to override the Land Court recommendation, would be an insult to all of us who invested so much in the Land Court process.

Disdain for legal system

I understand that NAC's proposed stage 3 mine is the only mine for which the Land Court has ever recommended outright refusal in a contested hearing in the decade or so of the Land Court's operation in this manner (see attached). To impulsively and reactively create a new avenue for NAC at this stage is a slap in the face to all who have had faith in the integrity of Queensland Government processes and our legal system. For this to then result in the mine being approved would show nothing but contempt for the Land Court make a mockery of the Court process. It would make us wonder why we made the efforts to endure the significant costs and stresses of the Land Court processes, and the processes leading up to it if the Government could be so corrupted. I'd wonder at the cruelty of the Government to put us through all these processes and allow false hope that the facts are relevant and a court decision in our favour would mean something, if at the end of the day they are determined to approve the mine anyway. To state the situation mildly: it would cause immense despair!

Not tested through the same rigorous process

It would also be very dangerous to rely on any information or propaganda from NAC at this late stage. Anything they present now has not had the scrutiny of the court (and QC's, experts, legal teams and parties), unlike all the other evidence to date. We have seen that NAC documents, including their EIS documents have had many deficiencies, errors, inaccuracies and misleading and ill-founded statements. Some of these have been highly significant, but yet the full understanding of these deficiencies was not apparent to EHP or other assessment through the Coordinator General (CG), but only revealed and understood through the court process.

For example, the water modelling that now all parties acknowledge had big problems, was promoted by NAC for many years as being good enough, and the problems with it (such as the unrealistic treatment of faults in the model and the fact that the calibration targets were so flawed) did not seem to be even noticed by the CG, or any of the assessment available to him, or the Department of Environment and Heritage Protection (EHP), even after submissions on the EIS documents. If EHP was to take the recently provided material from NAC at face value, without the scrutiny of the court, there would be no confidence that such similarly dramatic, and potentially disastrous problems would not also be missed.

Not only won't the new material be subject to scrutiny or cross examination in the courts, nor will it have to be given in sworn evidence in person before a group of people, but the authors know this in advance. Knowing they cannot be cross examined on material now may make some people a little less careful in what they present.

The Land Court Judgment was critical in places of both EHP's regulation of the existing mine and (limited) assessment of the proposed stage 3. To allow new material cooked up by NAC since the hearing in April 2017 and not provided for the Land Court scrutiny, to override the whole Land Court investigation, would be a further blow to the integrity of the Department of Environment and Heritage Protection.

In addition to the injustice of allowing NAC yet another special extra chance, considering and relying on new information from NAC now would pose a very high risk. I understand that the government has people who consider various documents and proposals, (as they did the EIS documents I expect) but any government processes at this stage should not and could not replace the Land Court process and the transparency and rigour and public confidence that it provides.

Any information only provided by NAC after or outside the Land Court process has not been properly scrutinised and tested through the Land Court unlike all the other evidence, including the 2000 or so exhibits and the testimony of dozens of expert and lay witnesses who were cross examined by both Queens Council, and others.

As NAC's recent information wasn't made available for such scrutiny, despite NAC being on site for over 15 years, one should be very sceptical about why not! Even on the absolute most favourable viewing, they were slack not to do so.

No justification for different process

The undated letter from EHP was the first we heard of this proposed new process and NAC submitting new info. This was out of the blue.

In this undated letter, Mr Connor noted that "ordinarily, the delegate would consider the Land Court's recommendations and the NRM Minister's advice, and there would be no need for further material or submissions to be put before them." This is consistent with what we would have expected of this case too, and it seems to be in keeping with what the EP Act sets out.

However, in the same letter in par 10 EHP's Mr Connor states that in "the particular circumstances of this case, it is appropriate to afford the opportunity to provide further material and make further submissions". No justification is provided there or elsewhere (even in response to direct questions to EHP) as to why a different approach should be considered for "this case". There is no justification for EHP taking a different approach to NAC's EA application.

In EHP's undated letter Mr Connor refers in par 9 to the second objective being specifically to "afford an opportunity to put further material and submissions before the delegate".

Yet, I have never been aware of this being the process. I see no reason why NAC should be allowed such an opportunity now.

It seems to me that the only difference between this case and any other is that the hearing was extensive and the mine resoundingly lost.

RPIA Implications of allowing further changes to this old (and unacceptable) application

You may or may not be aware but in NAC's submissions to the court (in reply to other submissions sub section 2.86) they indicated that because this project was still a revised version of the original Stage 3 application (prior to the LNP saying they would not approve the original application and allowing the proposal to be revised) NAC thought they would not need to apply under the Regional Planning Interests Act for an approval to mine on the SCL or PAAs. They say "section 288 of the RPIA which is the relevant provision that provides the Applicant with the exemption for the strategic cropping area given that:

- (i) ML 50170 and ML 50216 were contiguous with MDL 244 on 23 August 2010;
- (ii) on or before 23 August 2012, MLA 50232 had been made with respect to part of the area of MDL 244 (this was made on 27 May 2007) and a certificate of application had been issued for MLA 50232 (this was issued on 23 August 2012); and
- (iii) on 23 August 2010, the Applicant was the holder of MLs 50170 and 50216 and the holder of MDL 244."

(I think they mean section 288 of the repealed SCL as the RPIA doesn't seem to have a s288 and they reply to other parties references to various sections of the SCL legislation.)

If NAC's current application for Stage 3 is refused there is (unfortunately for us) currently no impediment to NAC reapplying for a further revised stage 3 mine in the district. However, if they have to reapply, this would, appropriately, at least remove any doubt about the applicability of the Regional Planning Interest Act (RPIA) and make sure they are subject to the restrictions of the RPIA. Given various Queensland Government's stated policies of wanting to protect strategic cropping land and the like, then surely, given both NAC's plans to avoid applying for a RPIA, together with the resounding refusal recommended by the Land Court, is more than adequate reason to refuse NAC's application for Stage 3.

The current decision should be made on the information available before the Land Court and NAC should not be allowed to submit new information or proposals for consideration at this late stage. The current application should rightly be refused on the basis of all the appropriate processes to date, particularly the Land Court. This does not restrict NAC from making any new applications in the future in accordance with the laws applicable at the time, as is appropriate.

If NAC want to make a new application then that is something they can consider but they should not get unlimited chances with this application, especially when it would involve something outside the proper processes, as would seem to be the case here.

Changes to the project

There have been material changes to the project compared to what was actually applied for. For example, during the Land Court hearing, it became apparent that there was an entirely new pit being mined. This became known as “west pit”. This pit was not shown in any of the Stage 2 EIS documents, nor advertised publicly in any way. It was not subject to public submissions, government assessment or scrutiny of any modelling of its impacts. Further, it included areas that were instead mapped as pits that were applied for as part of stage 3. Clearly, if they are already mined, they will no longer be part of stage 3. This influences the assessment of the project. For example, stage 3 will no longer include any economic benefit from areas that would no longer be mined as part of stage 3.

Additionally, the mining of the new pit, “west pit”, undermines NAC’s arguments about the need for an expedient decision. The proposed new pits (see below) provide further reason why there is no need to rush to approve this proposed project, and further concerns about the overall groundwater, noise, dust, health and amenity impacts of the mine on other people and the environment.

Proposed New Pits

New Hope’s 2017 AGM was on 16 November and in their report at p21 it includes:

“New Acland’s key achievements in 2017 include:

The installation and commissioning of a Fleet Monitoring System;

Lower seams and additional blocks of economic coal added to the mine plan which extends the Stage 2 mine life;

Identification of a number of other resource areas that, if economic, may further prolong Stage 2 operations. These areas will be fully evaluated during the 2018 financial year”

<http://www.newhopegroup.com.au/files/files/1725683.pdf>

NAC met with a small number of the nearest landholders recently (my family wasn’t invited to this meeting, notwithstanding our proximity to these proposed new pits, but have since been invited to meet with NAC) and confessed that they now plan to mine yet more new pits on the existing mining lease/s. These weren’t part of their environmental impacts statement for stage 2 or anything similar and have not been publicly notified.

I’ve attached 2 pics of this new mine plan. Given that the evidence in the court seemed to indicate that the noise limits had been exceeded a lot eg at Mrs Anglea Mason’s house

even with the pits several km away, I cannot see how they could possibly operate these pits without causing an unreasonable level of noise (or dust) at people's places.

Further, these proposed new pits exacerbate questions about what has been considered in the water modelling and the risk of a substantial increase in the cumulative impact of NAC's mining activities on landholders' water supplies.

Neither these proposed new pits, or the now operational west pit, were included in the Stage 2 EIS, nor to my knowledge, as any modelling about their impacts on noise, water, dust or any other environmental impacts ever been provided.

Timeframes

The Environmental Protection Act set out just days for this decision. It clearly didn't intend to allow time for further processes such as this. Yet this timeframe has been extended in this instance. It is hard not to be cynical about Government just allowing NAC as many chances as they need to get the project is approved.

In par 12 of the undated EHP letter it said that "I understand that NAC has undertaken further work on that [groundwater modelling] subject". This is very troubling and it seems to imply that EHP was already aware of this material and specifically sought to create a process to try to legitimise EHP's consideration of it.

Conversely, for objectors this process came completely out of the blue and the time EHP allowed for objectors to put in further information was miniscule. Even some level 2 objectors only received the letter a business day or a few business days at most, to consider and submit further information before the first deadline. Some didn't receive it until after this deadline. It was clear that NAC had already prepared information, of course this was not a limiting factor for them. Hence, the process further prejudiced objectors.

The timeframe now is also inadequate for the scope of what is required, and may be relevant for these submissions. I make this comment also noting the context of the whole process and the demands it has put on us and also His Honours comments and findings about the dedication of the objectors. This includes as below (emphasis added):

[115] Accepting on face value (and without any contra evidence at that stage) the material put forward by NAC in support of its claim for urgency, this Court expedited the pre-hearing processes so as to enable the hearing to commence in early March 2016. **It is noteworthy that, generally speaking, despite the time constraints placed on them by the Court, the objectors have met the expedited time frame sought by NAC both before and throughout the hearing.**

No urgency

Any arguments NAC may make about 'urgency' have been shown to be ill-founded. This can be seen clearly in the Judgment, as well as in other evidence before the court as well as by NAC's actions in seeking a stay to delay the decision until after a Judicial Review, and by the new information that, as well as west pit, NAC has plans to mine other coal reserves on their existing MLs. This buys NAC time to consider whether or not to make a new application after this one is refused.

Water

Water is critical for local farmers and others and future generations. Obviously assessment of the mine in this regard is well within the scope, and requirements, of what must be considered very gravely in this decision.

NAC expected water would be assessed through the Land Court

It is an absolute nonsense for NAC to now argue that the water impacts shouldn't be assessed under the EP Act or the MR Act or at this stage but instead left for the Associated Water Licence (AWL) process. NAC knew the Land Court would be assessing water impacts. Indeed, the Land Court is obviously required to consider water impacts under the MR Act and EP Act.

Further, NAC didn't even expect to go through an Associate Water Licence (AWL) process. By NAC's own admission on 11 November 2016 they said:

"Nobody in Department of Natural Resources and Mines (DNRM) or Department of Environment and Heritage Protection (DEHP) that New Hope Group have been dealing with regularly in our application process for Stage 3, advised the company to expect new ground water licensing."

(see <http://www.aclandproject.com.au/news/2016/incorrect-commentary-from-queensland-government> accessed 3 December 2017 and as attached).

Hence, NAC applied for the EA amendment and a ML and went to the Land Court and through the main hearing, expecting that this was the place and the process by which their water impact would be assessed and that there wouldn't be any more chances through the AML process. To now argue otherwise may be convenient for NAC, given the Land Court's findings as to its groundwater modeling and impacts, but it would not be accurate.

AWL different criteria to MRA and EP Act

Whilst NAC repeatedly now stresses that they think water impacts should be assessed under the AWL process and not in relation to the EA, it is important to remember that:

- A) there are obligations and expectations under the EP Act that are not negated by the AWL process and
 - B) the criteria under the AWL assessment is different from that under the EP Act.
- Importantly, as NAC may be hoping the department forgets, whilst the EP Act requires

assessment in relation to ecologically sustainable development and intergenerational equity, as I understand it, the AWL does not.

It is critical that EHP fully assess the proposed stage 3 under the EP Act, including in relation to all impacts on water and intergenerational equity. These things cannot justly be deferred to an AWL process.

Also, it is concerning to only find out about an AWL application through this process. Isn't there supposed to be notification of an AWL application at some stage? Has this happened?

Relevant information was not provided

There were very reasonable requests made by EHP to NAC for information on which the new water modelling is based. Mr Cagney wrote on behalf of EHP "NAC is requested to provide the further documentation and information described above to the delegate by email at EHPsubmissions@ehp.qld.gov.au by **Friday 17 November 2017**". Yet NAC was condescending and dismissive of this request. NAC refused to provide the information. NAC stated, seemingly spuriously, that it was "commercial in confidence". (for example, one of the documents I believe was tendered by NAC in the planning and environment court some years ago when they were appealing the Rosalie Shire Council's refusal of their proposed feedlot without any caveats about confidentiality.)

It is expected that information, such as was reasonable and appropriately requested, would have been available if the assessment was done through the Land Court process, or adverse findings be made against the applicant for not disclosing. If indeed the information was "commercial in confidence" it could be provided to the parties on an appropriate confidentiality basis and evidence and cross-examination about it could have been heard in closed session, as indeed NAC sought and was granted in regards to some of their economic evidence.

Pit inflows

One example of one of the major problems with the previous model was that the model's calibration target for pit inflow was highly unreliable. It seems that the decision about pit inflow targets for this version of the model may be based on equally shaky foundations. Yet we do not have enough of the background information, or the cross-examination capacity, to ascertain this. The fact that NAC has deliberately chosen to withhold information, would seem to imply that even NAC is aware that the background information is likely to show problems.

Logically by reducing the pit inflow calibration target, excluding other effects, this will show a reduction in the water impacts. But there are serious questions about whether it was actually appropriate for NAC to limit the pit inflow targets in the way they did. If this was subject to proper scrutiny then I expect it would not stack up.

Myall Valley Alluvium very important and not well calibrated

The model is not well calibrated to some of the “calibration” bores. Ecological report notes that regarding calibration bores in the Myall Valley Alluvium, the model is “not well calibrated and [impacts on the Myall Creek alluvium bores] cannot be predicted.” p14

Particular concerns are noted relating to the Myall Valley Alluvium. The reviewer seems less concerned about this as the bores in this aquifer used for calibration are further from the site. However, this situation is greatly concerning to those of us who rely on this aquifer but are much closer to the site.

What really matters to us is the extent to which the mine would impact on our water supplies. It is a serious concern as many of us (including dairy farmers, beef farmers and irrigators that I am aware of locally, within a few km NNW and NW of the mine) rely heavily on the Myall Valley alluvial aquifer. There don't seem to be any bores in this aquifer used in calibration either close to us (or these other farmers) or between us and the mine. The model has been shown to be poorly correlated with the calibration bores in this aquifer. The model does not provide any comfort in relation to impacts on these precious bores.

Model parameters and calibration

In addition to concerns about pit inflow estimates, there are many areas for concern in the modeling provided by SLR.

There also seem to be significant calibration problems in multiple aquifers and locations. Also, I noticed, for example, that there seems to be only one bore used in the calibration of the Durabilla formation (p894)

Amongst other things, of which I won't be able to get into the detail in this submission, I also query the specific process of averaging as outlined on sp883. Notwithstanding NAC's reference to Mr Barnett's guidelines, the average water level for the year cannot be expected to appropriately represent things like rainfall and evaporation which can change substantially between months. Indeed, the report acknowledges “The filtering of the water level database described above was for all intents and purposes a broad scale, general filtering of the data, with little to no quality review or assessment of the data itself” (p886)

Water supplies already suffering

There are numerous local land holders who have already, particularly in the last year or so, experienced problems with their bores. This has included supply reducing, and water levels dropping and bores even becoming dry. Many suspect the mine's operations to have been

a cause or the cause of this. Several of these bores have NAC water monitors on them and others NAC would also have been aware of since well before this new water information. Indeed, until NAC objected, I raised some of them in cross examination during cross examination of experts in court in the reopened hearing earlier this year. Yet, it seems that this information has been ignored in NAC's recently provided water information.

In the new NAC info, for example Marburg sandstone p 1284 and 1285 and 1320-1329 and for example, we can see significant and seemingly increased drawdown impacts and extent to the north of the mine extending nearly to Kulpi even in 2018 at 50th percentile. What we have seen in reality, especially over the last year or so, is that people in this area have already had bores with substantially dropping water levels, dwindling supply and even go dry, beyond what is indicated in this mapping. Given these impacts from pits, when it was predicted that stage 1 and 2 would have less impact than the stage 3 pits, this would indicate that the modelling has not adequately represented the impacts of stage 3.

The shape of the revised modelling does not alleviate concerns that the mine may well be responsible for the problems with bores to the north of the mine.

Also bear in mind that, consistent with the findings of His Honour Judge Smith, the mine has already begun stage 3 operations (eg parts of west pit were included in the stage 3 proposal and application), and that some of the problems in local bores correlated roughly with the mine's workings in this area, it may be that Stage 3 mining has already caused groundwater problems in excess of what is modelled. In this case, imagine the devastation if NAC are allowed to mine the rest of stage 3, with its more, deep, bigger pits across a wider area!

Importantly, what matters, both to landholders and under the legislation (eg Water Act) is whether, and the extent to which, the mine's activities impact on landholders water supplies and other bores. This is also critical in terms of implementing make good arrangements. NAC has not provided modelling or information which predicts, or recognises the total impacts of the mine on water. This is a big problem.

Closer to the mine boundaries, we are also increasingly concerned about our groundwater supplies, particularly in relation to a sandstone bore towards the north-eastern side of our property. Also, possibly completely unrelated, but we have recently had 10 dead turtles suddenly appear in our main water supply's storage dam which is supplied entirely by our bore water. There have not been any changes in water levels, temperature or sources which would explain the mass death of turtles. Not sure what to make of this. Sabotage? Contamination? Surely no-one would deliberately poison the water supply for all our livestock and some of our domestic use? Can't quite rule anything out, after the dead chook at the mail box and the sabotage of the airstrip (see Judgment and evidence before the court), and other issues such as the recent poisoning of a dog on our property and in the context of the tensions from this mine, exacerbated by NAC's advertising and campaigns.

Just to the East of the mine I am also aware that a major dairy farm, producing around 5,500,000 litres of milk a year, is threatened by stage 3. The owners have already indicated that a bore stopped working even while NAC was working on a nearby test hole and indicated that if stage 3 goes ahead, it would be the end of their operation. They were not parties in the Land Court case and so don't have this new material. But surely they are "stakeholders" who should, at least, be informed. I don't expect they are the only ones.

Still big problems with water impacts and Intergenerational Equity

Regardless of changes to the model, and serious questions about its reliability, it is apparent that there are likely to be massive groundwater impacts caused by stage 3 if it is allowed to proceed. Various maps, eg sp1349, 1389 and others, show large areas with high probability of more than 2m drawdown (though use of "incremental" in the title of some of these makes one suspect that the cumulative impact would actually be much higher).

No amount of remodelling would change the fact that whilst mine voids remain as groundwater sinks (and the alternative is where they are sources of pollution to groundwater) and have water draining into them, it will continue to evaporate and deplete groundwater supplies. Even given all the evidence, there is no reason to believe that the ground water would ever return to its existing levels if stage 3 is conducted.

As His Honour noted:

[1337]I am satisfied, given the totality of the groundwater evidence before me in this case, that there is a real possibility of landholders proximate to Stage 3 suffering a loss or depletion of groundwater supplies because of the interaction between the revised Stage 3 mining operations and the aquifers. I am also convinced that the potential for that loss or interference with water continues at least hundreds of years into the future, if not indefinitely.

This situation remains unchanged.

Make good agreements do not solve the problems

As I have explained numerous times in other submissions relating to this project, and as noted by the court, make good agreements won't solve the problems here or mean that the project should be approved. I won't reiterate all my previous submissions here but obviously make good agreements do not mean that all projects should be approved. Also there are substantial problems in terms of the impacts lasting far longer than the project or probably NAC and the imperfections in the model, combined with the high number of groundwater users in their intensely settled and farmed area with complex geology means that make good agreements are unlikely to be effective here and the project should not be approved.

As noted elsewhere, 'make good' 'agreements' also need to consider the whole of the mine's impact on water supplies. Relevant information has not been provided. Indeed, given that NAC even still seems to argue in its submissions that, contrary to the findings of the court, it has not yet started "stage 3" the messiness of this is itself even further reason why 'negotiating' (actually landholders have little choice and little, if any, power) such so called "make good agreements" is problematic.

I have written much more on the problems with the proposed make good agreements elsewhere, including in my submissions to the Land Court. These remain relevant. As with other topics and issues, to the extent that they remain relevant, I repeat and rely on my previous submissions and evidence. Importantly, the concerns expressed by His Honour in regards to make good agreements also remain relevant.

This new model in some ways makes make good agreement consideration even more difficult. It potentially creates further arguments about which model to consider, and it is problematic to rely on a model that hasn't been through the court process for make good.

My starting point in the make good discussions we had with NAC in 2015 was to ask them what they think the impacts of their mine on our bores will be. We still don't have a reliable answer for this. Yet this is the obvious starting point for setting trigger levels for investigations and helps in defining parameters for when NAC would be required to "make good". Further, it is critical for determining what impacts are due to the mine versus other causes – a subject NAC would undoubtedly argue in the face of having to otherwise provide alternative water supplies until the end of the world.

New problems

The new model introduces new problems, many of which we have not had access to adequate information or opportunities to fully understand. In addition, it does not resolve all the problems that were shown to exist in the previous version.

Modelers and reviewers not in stand

It should be obvious, and is stated elsewhere, but without the opportunity to cross the modelers and people whose statements may now be sought to be relied upon, this model is not nearly as thoroughly tested as the previous version and should not be relied upon.

Just reliant on info from NAC

Even NAC's consultants, SLR have a disclaimer on the maps in their report. They state:

"The content contained within this document may be based on third party data. SLR Consulting Australia Pty Ltd does not guarantee the accuracy of such information".

This doesn't provide confidence if even NAC's consultants SLR are not willing to vouch for the integrity of inputs.

The fact that in this process, unlike the court, the inputs and assumptions provided by NAC, and other documents they have chosen not to disclose, cannot be assessed, is inappropriate and unreliable.

As was shown resoundingly in the court, information from NAC cannot simply be relied upon. Numerous errors were found as well as even senior executive not being found to be lacking in integrity and not a reliable witness.

Impacts beyond original modeling

It seems in the model's outputs, some impacts are larger and some are smaller, than the previous version. If this was presented at the EIS stage, perhaps other people would have made submissions and even objections to the EA and ML and progressed to the Land Court. However, this material has not been available for public submissions or objections or for scrutiny of the court. This is further reason why this application must be refused.

Mr Barnett not an unbiased or reliable expert

The court had significant concerns about Mr Barnett's evidence and credibility, as do I. His Honour Member Smith's Judgment noted for example, that:

- "I was dissatisfied and concerned regarding Mr Barnett's evidence and assistance to the Court" [1493],
- "I could scarcely believe some of the evidence I heard from Mr Barnett regarding the placing of faults in the model which clearly did not reflect reality." [1492]
- "... Mr Barnett's evidence at the original hearing of this matter was tentatively cast; without conviction; and not in my view reliable." [1583]
- "[Mr Barnett's] focus was clearly placed on making adjustments to the model to make the model work, even if he knew that the amendments that he was making either did not exist in real life or, in some instances, despite the fact features were known by actual observations of consultants such as WSA to exist. That is, the actual situation was removed from the model or not included in the model. One example of this evidence is as follows:

228 T 29-10, lines 24 to 46.

"Can we proceed on this assumption: do you agree with me that Waste Solutions Australia describe, having been on site – describe, and have shown us in photographs, F5 acting as a conduit to flow – because we can see water coming into the pit?---I agree. Yeah. 323 Right. So to that extent, really, no better evidence that a fault is acting as a conduit to flow along its length than intersecting it and seeing water come out?---Correct.

Right. You tried modelling what was actually really happening, that is, conductance along the fault's length; right?---Mmm.

It didn't – your outcomes – your bore measurement and things didn't fit that; right?---Right.

So - - ?---No – well, sorry, the model didn't fit the bore measurements.

Sure. The model didn't fit the bore measurements. So you took that feature that you knew actually existed out of the model and didn't use it?---That's correct. [1491]

- "... At times, it also sounded as though [Mr Barnett] was making points for NAC rather than as an expert assisting the court." [1494]
- "I will indicate my agreement with OCAA's submissions as to the unreliability of Mr Barnett's evidence and the acceptance by the Court of evidence provided by Mr Irvine and Mr Durick, and indeed Dr Currell and Professor Werner, regarding faulting." [1584]
- "It is noteworthy that Mr Barnett accepted that his approach was "a pretty crude method". Further, he said that, in isolating one bore his actions were "crude and ill-advised". Overall, Mr Barnett accepted that in other respects his actions were not particularly good modelling practice." [1610]
- "Importantly, Mr Barnett agreed that modelling faults in the way he did was something that should only ever be done as an absolute last step. He stated his view that a modeller should "explain very clearly, very articulately, very properly, in a level of detail" that decision and the reasons for it, and that he did not do that." [1611]
- [1612] "I accept OCAA's submissions at paragraph 1100 that [NAC groundwater expert] Mr Durick accepted that Mr Barnett's justification "does not stand up to even five minutes' worth of questioning"
- "... My assessment of Mr Barnett's evidence from the original hearing was that it was quite poor, lacking in plausibility and credit in various respects. However, as I pointed out, his evidence was markedly different at the rehearing. I wrote the comment about his evidence appearing 'schooled up' or the like before considering and taking into account the 2017 submissions. I was accordingly not surprised in the least to read at paragraph 152(c) of the statutory party's submissions its view that:

"...Mr Barnett appeared to have pre-prepared a list of topics and attempted to give evidence concerning those topics without notice to either Professor Werner or Dr Currell or without providing forewarning of his views on those topics in his statement of evidence to the Court. In the Statutory Party's submission, Mr Barnett's attempt to provide such evidence was an attempt to cure the purported deficiencies with the Applicant's groundwater modelling rather than to assist the Court with its understanding of the 2016 IESC advice and the IESC's views with respect to that modelling. In the Statutory Party's submission, this reflected a deference by Mr Barnett to the interests of the Applicant or to the defence of his own

role in the modelling process rather than to the Courts interests.”
[1647]

- “My opinion of Mr Barnett’s evidence at the resumed hearing is much more in line with that of the statutory party than that of NAC.” [1649]

As noted in [1521] Mr Barnett was not one of the four of the five groundwater experts who agreed that the conceptualisation of the faulting is inadequate, and that there are significant concerns about the locations and properties of the modelled faults.

NAC knew all this. NAC also knew that other groundwater experts before the court, including some called by them, were considered vastly more credible. And yet the best NAC thought they could do to advance their case now is to provide a so called ‘peer review’ of their new modelling by Mr Barnett. One could reasonably wonder “why?”. Why would NAC choose Mr Barnett as their peer reviewer to advance their argument for an approval for stage 3, even though the court did not find him credible and found him more interested in advocating for NAC than assisting the court. Clearly there are good reasons why such a report from Mr Barnett as has recently been provided should not be given any weight in encouraging EHP to have confidence in the new modelling.

Ecological and SLR

It is clear in Ecological’s Mr Cresswell’s report that he often seems to give NAC the benefit of the doubt without there seeming to be any overt justification for him doing so. There are numerous examples of this.

In a court process, it would be reasonable, to expect to be able to cross examine Mr Cresswell about this and understand why this is the case. Also in a court context, it is known and understood that generally reports and statements aren’t given much weight unless the author is available to be cross examined and the court is able to assess the author and find their evidence reliable.

As we do not have any such opportunities to ask questions of these people under oath, unlike all the other people who provided statements to assist the court, it is important to at least note that:

- Ecological is also a member of the Queensland Resources Council (QRC) as per their website (see attached).
- Ecological also had work from New Hope in regards to their grazing trials at Acland. As attached to NAC expert’s (Tom Newsome) report and an exhibit in the court the title page said “Final Report On Performance Of Cattle Grazing On Rehabilitated Mining Land, Prepared by Tom Newsome, Outcross Pty Ltd for New Hope Coal Ltd 18 May 2012 In collaboration with Dr Paul Frazier, Ecological Australia Pty Ltd.”

In addition, I note that the people, SLR, doing the new modeling are the same as the people who did the previous modeling and reports and did not disclose the problems that later became apparent during the court processes and the IESC assessments.

Cumulative impacts

It is important to also understand and consider the impacts of stage 1 and 2. It seems that this has not been well recognized or understood.

The proposed new pits (see attached), are also relevant in considering the mine's impact on water, as is His Honour's finding that NAC has already begun stage 3 operations.

It would seem that west pit impacts, and the proposed new pits, have not been modeled and made available.

More on this elsewhere.

Inaccurate mapping re make good agreements

Whilst we do not have a make good agreement, it is inaccurate and misleading of NAC to map our property as having declined make good arrangements (see p8). We met with NAC's General Manager Jim Randall, Environmental Manager David Genn and Derwin Lyons (just before his employer became SLR) in June 2015 with a view to progressing this. However, it has not yet been much progressed. Many of the issues raised then have still not been addressed by NAC, and NAC has been a substantial drain on our time and resources in other ways since then too. It is not simply that we have "refused" to have a make good agreement, as someone might infer from the map NAC provided. This issue was also the subject of evidence in court on multiple occasions.

Need to at least read all transcripts and all exhibits and all submissions.

There was a lot behind His Honour's recommendations. For example, as noted by His Honour Member Smith in Judgment pars 1655-1657 as below:

[1655] ...Notwithstanding that this is an e-trial, I have many, many metres thickness of core documents in printed form which I have laboriously waded through, as well of course the electronic material.

[1656] I raise this because of the continuing cry of urgency hanging over my head for the delivery of this decision as quickly as possible. I have already expressed my views that this urgency is primarily of NAC's own making, but that does not alter the fact that in the interests of NAC; the objectors; those employed by NAC and related contractors etcetera; and the community in general, requires in the interest of justice a decision on this matter at the earliest possible opportunity.

[1657] Although this decision in some respects is horribly lengthy, I fear that I have not put into words expressly my views on all of the evidence and all of the submissions. I do not have the luxury of that much time; nor do the parties or the community or those ultimate decision makers who will have to consider my recommendations. The same is very much the case with respect to my views on the evidence and submissions of the reopened hearing. My commentary, analysis and ultimate decision on the reopened evidence will be much shorter, and accordingly, not cover each and every detail of this important key issue. Again, lack of time and the overriding interests of justice simply do not allow me to go into forensic detail, even though I am sure that is precisely what some of the parties would like to see.

It would be ludicrous to consider making any changes contrary to his recommendations, particularly without at least first reading and understanding all transcripts and all exhibits and all submissions. There were many issues raised, including in relation to groundwater, that were not specifically mentioned in his Judgment.

Other issues

There are numerous things that could be relevant that weren't available to be before the court at the time. Below, some are outlined but is not necessarily an exhaustive list.

Removing more houses from the district

As well as all the houses NAC had already had removed from or demolished in Acland and district, NAC also had an auction on 22 November 2017 to sell yet more of the houses they own in this district for removal (and some other infrastructure eg tanks) (see <http://auctionsplus.com.au/auctionV2/New/#/catalogue/10911>). I haven't counted all the houses it included but see that it does seem to include all the houses in Muldu except for the one they use as an office, as well as Lot 600 seeming to be the historic Mill Glen. This is an ironic twist on their PR's "save regional towns" slogan when, rather than saving regional towns, as well as deliberately causing Acland to almost disappear (which was clear from the evidence before the court and the Judgment), they seem to be also about to wipe Muldu off the map! It reminds me again of the quote for the judgment that "there has been a chasm between NAC rhetoric and action" [1405].

Increased division in community due to NAC actions since the Land court

Since the Land Court decision recommending refusal of NAC's proposed stage 3 coal mine, NAC has been very active, and even more divisive in the community.

In a sworn affidavit for the Supreme Court in relation to NAC's application for a stay on the EA and ML decisions I stated as below.

Since the Land Court made its recommendation of refusal, I have seen a change in NAC's community engagement and advertising, which I believe is increasing conflict and division in the community.

Despite the Land Court's recommendation of refusal, NAC has advertised in the High Country Herald inviting community members to "drop-in and meet" on 15 June 2017 to ask any questions or "help out", and indicating that it would "love to help you better understand the Land Court recommendation and how we are actively progressing final approvals for the Project."

Exhibited to this affidavit and marked 'TMP-2' is a true and correct copy of the advertisement referred to above, taken from the online publication of the High Country Herald dated 13 June 2017

(<http://highfieldsvillage.com.au/wp-content/uploads/2017/06/Herald-20170613.pdf>).

In the period since this "Drop-in Day", a number of signs have been erected around the local community indicating support for the New Acland Mine.

On the morning of 22 June 2017, I discovered that one of these signs had been erected on one of the gates into our property and someone had written "Syd" (a common misspelling of my father's name) in the space indicated for the signature under the statement "I support New Acland Mine".

Exhibited to this affidavit and marked 'TMP-3' are photographs of the sign on the gate to Samarai, taken by me on the morning of 22 June 2017.

Quite aside from the possibility of trespass and fraud by whoever put this sign up, it is concerning that it purports to indicate my father's support for the mine, particularly given that he has publicly opposed the expansion in the Land Court as a level 2 objector.

The unauthorised erection of this sign on our property makes me upset and uncomfortable, not least because it indicates that someone supporting the mine specifically targeted my family at our property in this manner. I fear that the recent campaign of NAC signs and advertisements will cause further division and antagonism in the community and I fear any escalation of how this may manifest.

The attachments referred to in the above are also attached to this. This situation, both the targeting of my family and the erection of these prefabricated signs provided by New Hope, have caused additional stress and further divided the community.

Since the Land Court Judgment, NAC's PR campaign has ramped up. NAC have been running a substantial number of big advertisements trying to increase support for the mine's expansion eg many times a day on TV and full page advertisements in papers such as the Courier Mail, Queensland Country Life and local papers. Many people have found these to be upsetting, divisive and misleading.

Many of these promotional activities are badged as "Country Jobs City Jobs" or "Save Regional Towns" or "Friends of Acland". However, in the fine print they are authorised by L Beath, who is "Manager, Corporate Affairs, New Hope Group" according to <https://au.linkedin.com/in/libby-beath-4736b228> and other sources eg New Hope media release at <http://www.asx.com.au/asxpdf/20170504/pdf/43j0pnkgg9n7h8.pdf> and [list a Libby Beath as a spokeswoman for the company](#)) and has the same address as New Hope (ie New Hope Group, 3/22 Magnolia Drive, Brookwater Qld 4300 <http://www.newhopegroup.com.au/content/contact-us>).

One such advertisement claims that "many farmers in the area support the mine's expansion. Without it a lot of us will have to walk off our farms." Yet this too is misleading. And it makes it very personal, stressful and divisive. For example, two were in the process of trying to sell to the mine and since that fell through have recently auctioned their 240 acre⁴ block on the open market, with the advertisement stating that "Retiring owners are ready for their new venture", which is unsurprising as it is well known that they wanted to move to Toowoomba. Mr Don Ballon is the only one in this advertisements that NAC called as a witness, and you can read in the transcript and judgment about how he initially failed to mention that NAC gave him a house and the little weight the court put in his evidence. In the interests of transparency, it would have been good if NAC had called them all to give evidence and be cross examined in the Land Court, so all the facts could come out in court, but NAC chose not to. I understand that each of the people in this advert may have their own reasons for supporting New Hope in this way. However, as noted in the judgment, and was clear from the evidence, the vast majority of farmers near the mine suffer adverse impacts and receive no benefit.

The impact of New Hope's signs being put up on public places (such as per photos attached) has been upsetting and frustrating for people nearby who do not support the mine and feel NAC and its' supporters are seeking to misrepresent the community. The signs some business owners have put up, with the encouragement of NAC, have unfortunately made it very difficult for some people to continue to want to shop locally. It is hard to want to support a business that in effect (perhaps without even being aware of having read the judgment) is advocating for something that would cause more stress, noise, dust, health problems, water risks and community damage that my family would suffer. Why be loyal to a business that is so clearly opposing the interests of my family? This has clearly not had a positive impact on the local community or local businesses. Electrical store owner Andrew Langton has stated publicly that as a result of his support of the mine, some people have threatened to boycott his business. Indeed, since placing a sign in their window, the

⁴ Small enough that the planning scheme discourages subdivision of rural land to this size or smaller to encourage it to remain productive rather than just a proliferation of lifestyle blocks.

clothing business M&Ms that had been operating in Oakey for decades has since advertised that it is now “closing down” (eg the recent Highfields Herald has an advertisement for their closing down sale.) In the last year or so, whilst shopping there, the business operation had said to me that they were getting more business since they relocated to the IGA arcade, so there was no indication of the business closing down then. From my own personal experience, although I could buy clothing elsewhere (often cheaper), my family and I had continued to buy things there because I thought it was good to support a local business. However, a few months ago I went there to buy school shoes for one of my kids and saw NAC’s red signs in their front window. I was hurt to think that they would advocate for the adverse impacts of the mine to impact on my family in the way they would if stage 3 is approved (and this would be even worse with the EA amendments NAC now seek through this ‘backdoor’ process). I didn’t make a fuss but quietly decided that I would buy the shoes next time I was in Toowoomba instead. I have heard others say that they feel they have been treated so disrespectfully by Oakey businesses since the signs went up that they now shop in Dalby or Toowoomba instead of some of the shops in Oakey. I guess, like me, these people didn’t seek to have a situation where they could no longer feel good about shopping locally but are simply choosing not to support the handful of businesses that are actively promoting something so clearly against these families and former customer’s interests. Other people’s experience of this division can be seen as written in recent letters to the editor of the Oakey Champion newspaper (as attached), just for example.

NAC’s save regional towns website includes a so called “facts” section which fails to include much at all (eg re the findings of the court, the problems they have caused re noise, dust, health etc). It boasts that the mine pays millions of dollars to the port, but doesn’t mention that New Hope owns it. According to the 10 December 2015 sworn affidavit before the Land Court of Bruce Denney (who was the Chief Operating Officer of New Hope) “Queensland Bulk Handling Pty Ltd (QBH), which is ultimately 100% owned by New Hope, holds a 99 year lease from the Port of Brisbane”.

New Hope also chose to organise a protest in Brisbane and email all their Acland employees to advise that other than a skeleton crew “all other rostered employees (day, afternoon and night shifts) will be expected to attend the activity in Brisbane... [and] we will pay you to attend Brisbane. Employees not rostered to be at work will be asked to show their support by attending. If you are a farmer please wear your check shirt and Akubra – everyone else is asked to wear their hi vis shirts.” Well if your boss tells you to go I guess you have to, especially if they are paying you.

As well as TV, radio and print media, apparently NAC funded some sort of advertisement on an electronic billboard on the main government building 1 William St in Brisbane.

NAC didn’t seem to even pause to consider the Judgment. Within a couple of weeks New Hope’s Managing Director had full page advertisements in newspapers saying that “New Hope remains committed to delivering the Acland Stage 3 Project and will actively progress this project to the approval.” (see attached). This seems highly disrespectful of the court

and provides no indication that they even acknowledge or have actually addressed any of the concerns it raises, nor that they would ever intend to.

Health

Health impacts are a big concern to numerous local residents and health was a big issue in this court case. Since the close of evidence on this matter there have been numerous published pieces of information that add further weight to concerns about the impact of a coal mine on human health. Please see attached document prepared by Dr McCarron as well as other recent relevant documents including the Parliamentary inquiry "Black lung White lies: Inquiry into the re-identification of Coal Workers' Pneumoconiosis in Queensland"; "Health Effects of Toxic Organic Substances from Coal: Toward "Panendemic" Nephropathy"; "Handle with Care: The Local Air Pollution Costs of Coal Storage" and "Even when it's sitting in storage coal threatens human health". Again this is not an exhaustive list at this stage.

Climate Change, water and other issues

Since the Judgment there have been numerous scientific reports of further concerns about anthropogenic climate change and the need to move away from polluting energy sources such as coal to address these very concerning trends.

In addition, there have been papers published specifically considering this situation. Of relevance please see attached RMIT paper "Water or coal? The increasingly clear choice". It places this decision in the context of wider issues, such as climate change and water security. It notes that "[this] decision signals a realization of the water dimensions of coal mining, acknowledging the growing nexus between water and fossil fuels, and prioritizing long term water security over short-term economic benefits of more coal". It also acknowledges the way that coal mining and combustion doesn't only threaten climate change (water supplies are also threatened in this way – eg it has been predicted that there El Ninos will be increasing, persistent and drying) but also directly threaten water supplies – and we all know that water is one of the most critical things to our survival.

Election shows opposition to mine

One thing that struck me from the recent election was not only the strength of the vote for the "green" party, but the strong support for the local candidates opposing the mine expansion and the very low vote for the only candidate actively supporting the mine. Whereas the LNP and ALP had both recently stated fairly neutral stances, indicating that they would abide by the court's findings after the Judicial Review, the Greens candidate and the One Nation Candidate both had policies strongly opposing the Acland Stage 3 mine and, to my surprise the Katter party candidate John Hill stated publicly and in his advertisements and on the badges of people handing out his 'how to vote' cards that he was supportive of the mine.

One may have thought that in what has traditionally been a fairly conservative ('safe LNP') seat, the obvious alternatives to any conservative disenfranchised by the LNP and wanting to vote for another right-leaning party would have been either the Katters or One Nation. The Katters ran a pro-regional Queensland campaign, which I thought may have resonated, whereas there were numerous issues in the media with Pauline Hanson and One Nation that I'd have thought may have discouraged some voters.

As you can see from ecq data (eg <https://results.ecq.qld.gov.au/elections/state/State2017/results/booth20.html> accessed 11 December 2017) the One Nation candidate polled particularly well in areas close to the mine such as the Kulpi, Oakey, Goombungee polling booths as well as in Pittsworth where concerns about resource developments at Felton have been a sensitive issue. Overall the One Nation candidate outpolled the Katter candidate by more than 2 to 1, and had there been a different distribution of preferences may have come even closer to being elected, despite the strong loyalty to the major parties, particularly the LNP, traditionally in this area.

NAC says need to assume they will comply, but there are good reasons not to assume this

In their submission NAC says that we need to assume that they will comply with their EA. However, given past performance, there are so many reasons not to assume this.

There was heaps of evidence about this before the court, including the repeated omission of many sensitive receptors from their various maps of "sensitive receptors", their arguments not to include some people as sensitive receptors, their poor treatment of Muldu and Acland, the problems they caused in terms of noise, dust and amenity and the handling of complaints.

There are many references to NAC's poor past performance in the Land Court's Judgment too. These include, but are not limited to the examples below:

[841] ..., Mrs Mason has established from her cross examination that the actions undertaken by NAC during Stages 1 and 2 as regards to the visual amenity of those who reside to the north of the project area, such as Mrs Mason and her family, has not only been less than ideal; one would expect that the creation of a serious adverse impact would be inconsistent with the requirements and commitments that NAC had to fulfil in Stages 1 and 2 of the project; and casts doubt on whether or not NAC will implement all of the necessary measures so ensure that there is no serious adverse visual amenity impact caused by Stage 3.

[721] Looking at all of the evidence before me in its entirety, in my view the objectors who have made noise complaints have not been well served in the past by either NAC or the statutory party. My independent, considered view on what I have

before me is consistent with the evidence given by the objectors that they have actually been treated very poorly by both NAC and the statutory party.

[1405] I agree with Dr Plant that in the past there has been a chasm between NAC rhetoric and action...

[1416] I am not assessing NAC's past performance in this section of the decision – I have already done this and found NAC's past performance has not been satisfactory.

[1419] I disagree with NAC's submission that there is no evidence or reason to believe that NAC will ignore its neighbours in the future. The way NAC has acted towards its neighbours in the past and its characterisation of them during this hearing would indicate they have been and can be very dismissive of their neighbours' complaints and issues. Given my concern with the veracity of Ms Elliott's evidence I do not share her confidence in NAC's current complaint management process and it should be tightened to ensure its neighbour's complaints are recorded, assessed and resolved fairly.

[1247] I accept the evidence of the lay witnesses and objectors that the mine has caused them stress/distress and from their own evidence there can be no doubt this stress/distress has negatively impacted their mental health. Such evidence is supported by the concessions of Dr Chalk. For NAC to suggest otherwise is completely disregarding, devaluing and dismissing the evidence of multiple witnesses in this matter and such outright dismissal is a cause for concern. It is indicative of the lack of respect with which NAC has at times treated local objectors and I am concerned that NAC may continue to treat local objectors this way in the future.

With all the evidence to the contrary, it has hard to see why anyone would assume that NAC would not be willing to exceed their EA in any means that suited them and which they thought they could get away with.

Comments on draft EA revisions by NAC

It should be abundantly clear from all the evidence before the Land Court and the Court's findings that the if an EA is issued, (which itself would be contrary to the Land Court's considered recommendations), it should be vastly strengthened, not weakened. If an EA is issued, as a minimum it should include all the recommendations His Honour made as well as further amendments to strengthen it in the areas where otherwise refusal is warranted. There is absolutely no justification for watering it down.

In their submission, NAC seem to attempt to have another go at arguments they have already raised and lost. Rather than rewrite all submissions again here, I refer you to the

Judgment, to all the exhibits before the Land Court, and to all the relevant submissions to the Land Court throughout the whole process from myself and other objectors, to all my previous submissions on the EIS, revised EIS and AEIS and to my submission on the draft EA and my EA and ML objection. Do not even contemplate diluting the requirements or the stringency of the EA without reading and understanding all of this. All these things were considered by His Honour Member Smith before he made his recommendations.

His Honour Member Smith's orders were clear in this regard:

- "1. I recommend to the Honourable the Minister responsible for the MRA that MLA 50232 be rejected.
2. In light of Order 1, I recommend to the Honourable the Minister responsible for the MRA that MLA 700002 be rejected.
3. I recommend to the administering authority responsible for the EPA that Draft EA Number EPML 00335713 be refused.
4. I direct the Registrar of the Land Court provide a copy of these reasons and access to the Land Court e-trial site to the Honourable the Minister administering the *Mineral Resources Act 1989* and to the administering authority under the *Environmental Protection Act 1994*."

In addition to order 3 which recommends refusal in completely unambiguous terms, order 4 makes available to EHP the material on the e-trial site, should the administering authority wish to further understand the documents referred to.

His Honour's specific recommendations regarding the EA, if one is issued

In the Judgment, His Honour Member Smith made numerous recommendations for strengthening the EA. As far as I can recall, he did not make a single recommendation for weakening the EA, notwithstanding that NAC put forward its best arguments to various witnesses (seeking endorsement) and in its submissions.

There are numerous places in the Judgment where His Honour found the draft EA to be inadequate. In many places he made recommendations of changes and improvements to the EA, if issued. As a minimum, these recommendations should be adopted in the EA, if one is issued. I note that NAC's documentation, erroneously (and perhaps deliberately misleadingly?), does not include quite a number of these.

Below are some examples of the specific recommendations of amendments to the EA found in the Land Court Judgment and specifically recommended by His Honour. This is not necessarily an exhaustive list. It includes as below. As an absolute minimum, these should all be included.

Dust

[601] I agree with Dr Taylor when he states that monitoring is the only reliable method of obtaining data regarding air quality and dust levels. **I recommend that an additional monitoring location be inserted in the draft EA within 1 kilometre to the south of the**

mine to ensure that all people living in this area are not subjected to unsafe air quality and dust levels. I recommend that exactly the same monitoring be undertaken to the south as that proposed in the draft EA for the other monitoring locations.

[611] Despite the failure of the existing complaints based EA to meet community concerns with respect to air quality near the mine (such as EHP only requiring monitoring of air quality after a complaint has been lodged when conditions may be different, and then to look at dispute resolution with the complainant), the current EA provisions requiring NAC to meet specific air quality and dust limits is sound. **A logical extension to this limits based system is to have monitoring publically available in real time so when community members believe that they are being impacted by excessive dust or particulate matter levels, they can immediately check the nearest monitor online for recorded levels. Such a system ensures compliance as EHP (the regulator) has immediate access to the monitoring data and the monthly environmental reports (see clause A14 in the draft EA). The availability of the monitoring data may also assist nearby residents and NAC, as although residents may believe they are being unlawfully impacted, monitoring may show that limits are being met.**

[612] **Importantly, not just monitoring results, but, as Dr Taylor recommended, the dust forecasting system should also be made available online in real time,** so that residents can ascertain what the current risks for them are and take appropriate action.

[613] There is in my view a great distrust (in both directions) between many members of the Acland community and NAC. In fact EHP received the highest number of submissions they have ever received with respect to a mining application (over 1,400). The great majority of community members who gave evidence for NAC have either received, or will receive, a benefit (directly or indirectly) from NAC, or are in line to receive a benefit from NAC if Stage 3 proceeds. It is understandable that community members living close to the mine and who are not receiving a benefit from NAC are concerned about the mine's impact on them, whether that be air quality, dust, noise, water etc. **By the provision of online real time air quality and dust monitoring and forecasting data NAC will become accountable and hopefully trusted by all community members.**

[614] **I endorse the view of Dr Taylor with respect to this matter:**

"In my opinion making real-time and historic monitoring data available online is an important step in New Acland demonstrating their commitment to understand and manage the potential impacts to air quality resulting from the proposed Stage 3 operations. Provision of system operational detail and forecasts for future days will also assist those closest to the mining operations to manage their activities with respect to the mines activities: i.e. when to avoid, and when it may be most suitable, carrying out activities close to the mine."

[621] In light of the uncertainty with respect to the actual ratio of PM2.5 to PM10 existing at the mine and at nearby residences; the potential serious health consequences of exposure to PM2.5; the changing level of knowledge and concern with respect to safe levels

of exposure to particulate matter particularly PM2.5; and the insignificant costs of monitoring PM2.5 when compared to the overall costs of the revised Stage 3 expansion project; **I believe that NAC should provide a PM2.5 monitor at Acland as suggested by Dr Taylor.⁹⁴ I make this recommendation ...**

[623] **"As PM2.5 is to be monitored, then it would make sense that the EPP(Air) and NEPM PM2.5 standards are included in the draft EA, and NAC be required to comply with these PM2.5 limits. Hence I recommend that condition d) be added to clause B1 of the draft EA to provide for the addition of PM2.5 limits as follows – 25ug/m3 (24 hour average) and 8ug/m3 (annual average)."**

[635] Although the latest version of the EPP (Air) (8 July 2016) has not included the annual PM10 standard, I can see no valid reason why the nearby residents to the New Acland coal mine should not have the benefit of the latest scientific understanding with respect to safe exposure levels to particulate matter, being the requirement not to exceed the annual average PM10 standard contained in the NEPM of 25ug/m3. Hence **with respect to the draft EA I recommend that this annual average PM10 standard of 25ug/m3 be included as a compliance condition in clause B1b) and a standard to monitor for in each of the monitoring locations described in Table B1.**

[641] Given its presence in the draft EA to be monitored it would make sense to have this standard conditioned as a limit not to be exceeded. I can see no logical reason not to have it as a conditioned limit in the draft EA and in that regard I agree with Mr Welchman. Therefore **I recommend that the 24 hour average standard for TSP of 80ug/m3 be inserted as a conditioned limit as part of clause B1c) of the draft EA.**

[650] In my view, **it would make sense to condition the draft EA as per an *exceptional event rule* as outlined in the current NEPM**, so that NAC would have to always meet the 24 hour average PM 10 limit of 50ug/m3 unless there was an exceptional event such as a bushfire, with the onus being placed upon NAC to prove that the exceptional event influenced the PM10 readings.

[655] In this matter it is both necessary and desirable that the 5 exceedances condition in the draft EA be made clear and explained so that everybody knows what it means. That is the 5 days of exceedances mentioned in the draft EA are limited to those exceptional events as described in the MMCG and they are not available generally as 5 free days for NAC to emit unsafe levels of PM10 for exposure to nearby residents.

[673] I note the words *reasonable and feasible* are part of the MMCG, however having carefully considered all the evidence on this point, I do not see how these words add anything worthwhile to the condition and **I believe that these words should be removed from the draft EA. I recommend that condition B1 now read:**

"The environmental authority holder shall ensure that dust and particulate matter emissions generated by the mining activities do not cause exceedances of the following levels when measured at any sensitive receptor or commercial place."

[696] I do though **recommend that the dust forecasting system as defined in commitment 257/258 of NAC's register of commitments for Stage 3 be specifically conditioned in the EA as part of Condition B3.** This dust forecasting system is an important tool for both NAC and nearby residents and given NAC have agreed to it as part of their commitments to Stage 3, there would appear no reason why it should not be conditioned in the EA.

[697] The object of the overall forecasting system is to reduce or minimise dust at nearby residents and hence **I recommend that the wording of B3d) be altered as per the request of OCAA. B3d) should read;**

"A dust control strategy which activates a timely implementation of dust control management actions aimed to avoid or minimise dust including PM10 at a sensitive receptor or commercial place due to mining activities."

[699] NAC has proposed to **add the words *and experienced*** after the words, *suitably qualified* ... in B3 when describing the person who will develop and implement the AEMP. NAC has also added in the draft EA, the definition of a suitably qualified and experienced person in relation to air emissions as ***a person who is a Registered Professional Engineer of Queensland (RPEQ) under the provisions of the Professional Engineers Act 2002 and has demonstrated competency and relevant experience in relation to air emissions.***

[700] **I see no issues with these two proposed additions to the draft EA and would recommend them.** I do not believe the addition of these words is inconsistent with the CG condition but are an integral part of them.

[701] NAC has proposed to **add the word *holder* in the first line of the second clause in B1 after the words *The environment...*** Again this proposed amendment is necessary to make sense of this clause.

Onus of proof

[702] **Mr Loveday in cross-examination by Mr Holt and Dr Plant said that an environmental authority holder such as NAC should bear the onus of proving to EHP that they are complying with the EA conditions,** otherwise compliance action may be taken.¹⁰³ 103 T 81-71, lines 3 to 14; T 81-114, lines 30 to 33; T 81-130, lines 39 to 42. Though Mr Loveday was mainly talking about noise issues it was apparent from his evidence he felt the onus should be on an environmental authority holder to prove compliance with set limits in an EA such as air quality and dust.

[703] **EHP in its submissions at Annexure A 1.5 confirm that they would be prepared to reword the draft EA to make it clear that NAC would bear the onus of proof (not sensitive receptors) in terms of showing they have been compliant with set limits in the draft EA.**

[704] There does not appear to be any submissions made to the contrary to this position.

[705] **In any event I strongly endorse this position. NAC is the one who is, and will potentially, creating environmental harm for its own profit in this relatively closely settled farming community, with many residents residing there long before NAC arrived. If NAC is provided with an environmental authority to mine, then the onus of proof should be on it to show EHP that they have not caused environmental harm and have not**

exceeded air quality and dust standards prescribed in the EA. I recommend the EA be altered to make this position clear and unambiguous.

Automatic update to include more stringent EPP limits

[707] Mr Loveday's attention (in cross-examination by Dr McCarron) was drawn to the fact that the EPP (Air) 24 hour PM10 limit has been 50ug/m3 since 2008 and yet NAC's EA has not changed in those 8 years to reflect this, as the current EA still has a 24 hour PM10 limit of 150ug/m3. Mr Loveday was concerned that NAC's current EA had not changed but could not offer any valid reason why it had not changed to reflect the EPP (Air) standards.

[708] In response to the question whether the draft EA should contain a clause that it will automatically update to reflect any change in EPPs, Mr Loveday agreed such a change was worth consideration by EHP.104

[709] No submissions were made contrary to this position.

[710] Given that sensitive receptors and nearby residents to the mine have likely been exposed to higher PM10 limits than prescribed under the EPP (Air) and NEPM for the last 8 years because EHP has not bothered to change NAC's current EA, **it is imperative that EHP implement a condition in the draft EA (perhaps by consent with NAC) that limits set in the EA will automatically change to reflect changes in the EPPs, if not the NEPM.**

Commencement

[684] However in my view NAC has already undertaken Stage 3 mining activities in the broad sense as understood by the bulk of witnesses (lay and expert) and other evidence by mining that part of the Manning Vale East Pit located within the existing ML50216.

[685] Therefore **as NAC has already commenced its Stage 3 mining activities there is no need for either the NAC amendment of the first paragraph in clause B1 to delay applicability of the new air quality and dust limits until Stage 3 commences, or NAC's proposed definition of what constitutes the commencement of its Stage 3 operations in the definition section of the draft EA. The same comments apply with respect to F2.**

[686] Further as the draft EA will be effective as soon as EHP issues it and DNRM grants the relevant MLs, **there is no need for the entire first paragraph in B1. I would also recommend that conditions B5-B12 be deleted from the draft EA.** There is no need for these conditions (reflective of the existing EA) to be part of the draft EA for as soon as it is issued and DNRM grant the MLs, the EA will be fully operative and conditions B1-B4 will be effective to govern all of NAC's existing and new operations after that time.

[687] **The first paragraph of clause B1 and conditions B5-B12 in the draft EA are not CG imposed conditions and can be deleted. Mirrored changes should occur with respect to part F of the draft EA relating to noise.**

[802] As explained in my assessment of the Air Quality and Dust objections, I believe NAC has already in a sense begun its revised Stage 3 mining activities by mining the proposed Manning Vale East Pit (West Pit) albeit under the existing ML. As per my previous reasoning (in Air Quality and Dust), draft EA conditions that relate to NAC's operations prior to commencing Stage 3 need no longer be included in the draft EA. In my view, as soon as the

draft EA is approved and MLs are granted, then Stage 3 has begun and hence there is no need for conditions to regulate NAC's existing operations. On this basis Table F1b noise limits will immediately apply and hence there is no need to include Table F1a noise limits in F1 or as a table in the draft EA.

Sensitive receptor definition

[598] However in my view particularly with regards to air quality, more so than dust, exposure to potentially high levels should not be contracted out of under any circumstances. There is emerging evidence that short term and long term exposure to particulate matter particularly PM2.5 particles, is dangerous to health and there is no evidence of a safe level of exposure to these particles.

Every person whether they be a mine worker or their spouse or their children or their grandparents, or people who rent properties from NAC or APC should not be exposed to unsafe levels of particulate matter. I note Dr McCarron, Dr Plant and Mrs Mason have adopted this view in their submissions.

[599] Consequently I disagree with NAC's amendment of the definition of sensitive place in the draft EA. I recommend that the definition remain as it is to include a dwelling or other residential premises. Mitigation measures may go some way to reducing a person's exposure to particulate matter and dust but even short term exposure to high levels of PM2.5 can be unsafe, particularly to vulnerable members of society such as children and the elderly. Hence **NAC should not be able to contract out of its obligation to provide safe and clean air for all nearby residents. Consequently there would also be no need to update Figure X for sensitive receptors as proposed by NAC in its amendments to Figures in the draft EA.**

[600] I also do not agree with the addition of clause A16 in the draft EA proposed by NAC in relation to Mitigation. Mitigation measures should be a matter of agreement between the parties and should not be forced on nearby residents.

[814] I have already rejected the definition of when Stage 3 commences, and the definition of sensitive receptor (in Air Quality and Dust), as proposed by NAC.

Roads

[866] NAC has stressed throughout the hearing the relatively short duration of its mining operations on the revised Stage 3. Given that fact, I am of the opinion that to the greatest extent possible, post mining, **NAC should be required to reopen as many closed roads as possible to give additional access to Acland in general and the war memorial in particular. The draft EA should be amended with the inclusion of special conditions to that effect.**

Noise

[773] Having read and carefully considered all of the evidence and all of the submissions on this topic, on balance I prefer the evidence of Mr Savery. That means that, **in my view, the appropriate noise level for evening and night operations should be set at 35 dB for each and not at 42 dB and 37 dB as contended for by Mr Elkin.** (though as we know in later

paragraphs, His Honour indicates that he cannot actually recommend this as it is inconsistent with the CG).

His Honour has a whole section on amendments to EA noise conditions in paragraphs [800] to [816] he would have made were it not for the limitation of the noise limits he found as appropriate not consistent with the CG.

[792] I do not consider it appropriate for the model to apply a 2 dB utilisation factor in accordance with the so called utilisation rule.

Health

[11] All aspects of concerns regarding mental and physical health are able to be satisfied provided that additional conditions as recommended by this Court are made.

[1190] In terms of **air quality**, I note that the draft EA has reduced the 24 hour PM10 limit from 150ug/m3 (current EA) to 50ug/m3. Also **I have recommended in this decision that the full NEPM standards be introduced into the draft EA (annual PM10 standard, PM 2.5 standards), plus the TSP 24 hour standard.**

[1199] The draft EA is based on NAC complying with strict limits for air quality and noise, rather than it being complaint based. Also **the draft EA as I have recommended it to be, has real time publically available monitoring regimes surrounding the mine. The draft EA also has a monthly environmental reporting requirement.** Only in these circumstances, am I confident that NAC will comply with set limits or be subject to immediate enforcement action by EHP. This of course does not in any way diminish my view as to the appropriateness of lowering the noise limits as indicated.

[1206] **It would appear from these submissions that NAC is prepared to install “first flush” systems were necessary. I support NAC’s commitment in this regard which would resolve concerns regarding drinking contaminated water. I recommend that this commitment by NAC be conditioned in the draft EA.**

[1207] I note that the installation of “first flush” systems is captured by NAC within commitment 277 of its Commitment Register, however NAC’s commitment here to the “first flush” system is not as strong as it could be. Hence **I recommend that the draft EA be conditioned so that NAC will provide a “first flush’ system to any nearby resident (say within 5 kms from a boundary of the mine) who asks for same to be installed, to ensure their drinking water is not contaminated by dust from the mine.**

[1229] Dr McCarron and Dr Plant submit that due to long standing stressors resulting from this mine and the likelihood of these stressors continuing to distress/harm local residents in the future, revised Stage 3 should not be approved. **If the revised Stage 3 is approved, then NAC should be conditioned to provide ongoing independent counselling services to support local landowners through stress related matters resulting from the mines development.** They submit that Dr Chalk supported the provision of counselling services.

Recommended conditions with respect to mental health

[1259] I recommend that the counselling service suggested by Dr McCarron and Dr Plant and as supported in principle by Dr Chalk be implemented. This should be an independent counselling service funded by NAC which local residents can utilise to gain support and assistance in dealing with their concerns, stress, and emotional distress flowing from NAC's mining operations. To quote from Dr Chalk, "Prevention is better than cure".¹⁹⁵

[1260] I further recommend that all the noise and air quality conditions proposed in this decision with respect to the draft EA be adopted, including extending the monitoring regimes and providing real time publically available data. In this way EHP noting the high level of community concern with respect to Stage 3 (they received 1,421 submissions with respect to this project, the highest number of submissions ever received) can regularly monitor the limits itself and take appropriate compliance action to enforce those limits without local residents having to complain.

[1261] Part of the stress suffered by local landowners over the last 15 years has been the complaint driven process of the current EA which has put the onus on the local residents to pursue complaints and engage in an adversarial process with NAC. It is recognised that the draft EA (together with the conditions recommended in this decision) will serve to tighten limits and ensure through appropriate monitoring and real time publically available data, that EHP can take appropriate compliance action on its own initiative if those limits are exceeded.

[1262] I recommend that condition M12 of the draft EA be amended to require NAC to submit environmental complaint related information to EHP within 30 days of any complaint being dealt with by NAC. EHP can then review this information and if necessary or where appropriate conduct an audit of this information by contacting complainants to ensure they have had their complaint adequately dealt with by NAC. NAC in the past (even on their own evidence) have not always interacted well with local landowners and it would appear on the evidence to this enquiry, they have taken a dismissive approach to local residents' complaints on occasions. To ensure NAC adequately meet complaints made to it and hence comply with the draft EA – selective auditing by EHP would assist.

[1263] Hence I recommend the following sentence be added to condition M12 – "The information as outlined in paragraphs (a) to (h) with the consent of the complainant, must be sent to EHP (and the complainant) within 28 day of the action taken to resolve the complaint." I do not consider this additional requirement to be inconsistent with the terms of CG stated condition A12.

Lighting

[814] I have already rejected the definition of when Stage 3 commences, and the definition of sensitive receptor (in Air Quality and Dust), as proposed by NAC.

Soil

[1294] In my view, it makes absolute sense that **topsoil should first be stripped off any place where out-of-pit dumping is to occur so as to cause as little loss of topsoil as possible. The draft EA should be specially conditioned to ensure that this occurs.**

[1296] I completely agree that excess topsoil should not be put back in a pit.

[1297] **The special condition that I recommend with respect to stripping of topsoil before placing soil dumps on land should also incorporate a clause consistent with what Mr Thompson said in the extract from T35 above. The special condition should make it a requirement that excess topsoil is used for rehabilitation and not otherwise sterilised.**

Flora and Fauna

[1130] Conditions I11 and I12 are imposed conditions from the CG and hence I cannot recommend any conditions inconsistent with these conditions. The amendment suggested by Dr Daniel is reasonable and would assist with the overall protection of flora and fauna. In my view, such an amendment is complementary and in harmony with the CG conditions, and not directly inconsistent with them. Therefore, **I recommend that conditions I11 and I12 of the draft EA be amended to include the words *and communities* after the word *species* in both conditions.**

Complaints and Community issues

[1425] As discussed in my recommendations re Mental Health, **I recommend that condition M1 of the draft EA conditions²²⁴ be amended to require NAC to submit environmental complaint related information to EHP within 30 days of any complaint being dealt with by NAC.** EHP can then review this information and if necessary or where appropriate conduct an audit of this information by contacting complainants to ensure they have had their complaint adequately dealt with by NAC. NAC in the past (even on their own evidence) have not always interacted well with local landowners and it would appear on the evidence to this enquiry, they have taken a dismissive approach to local residents' complaints on occasions. To ensure NAC adequately meet complaints made to it and hence comply with the draft EA – selective auditing by EHP would assist.

[1426] **I recommend the following sentence be added to Condition M12 – *The information as outlined in paragraphs (a) to (h) with the consent of the complainant, must be sent to EHP (and the complainant) within 28 days of the last action taken to resolve the complaint.***

[1424] To ensure NAC abides by its own rhetoric that community consultation and engagement is now a priority, **I recommend that Conditions 17(b)(i) and 18(b)(i) be expanded so the CG can be informed as follows – *the actions taken to inform the community about project impacts and show that community concerns about the project impacts have been taken into account, including the provision of all complaints received by NAC during this period (de-identified) and how NAC has sought to resolve those complaints.***⁵

[1435] **If the MLA 50232 is granted, it should contain a special condition requiring the converge report at paragraphs 21 and 22 to be complied with, with respect to the Wells children's graves.**⁶

⁵ I notice that this refers to a CG condition, but am unclear whether refers to an EA condition.

⁶ I notice that this refers to if the ML is granted, but it would seem that the EA would be the appropriate place for such a condition, but if not, it should certainly be conditioned either in the EA or ML if either is granted.

Surface water

[1729] As already indicated, NAC in its 2017 reply submissions agrees with the statutory party's 2017 submissions regarding the amendment of condition C15. I agree with the following extract from paragraph 129 of the statutory party's 2017 submissions:

“(a) condition C15 be modified to read as follows (amendments indicated in underline):

“If quality characteristics of the receiving water at the downstream monitoring points exceed any of the trigger levels specified in Table C4: Receiving waters contaminant trigger levels during a release event the environmental authority holder must compare the downstream results to the upstream results in the receiving waters and:

a) where the downstream result is the same or lower value than the upstream value for the quality characteristic then no additional monitoring and reporting action is required;

or

b) where the downstream results exceed the upstream results complete an investigation into the potential for environmental harm and provide a written report to the administering authority within 90 days of receiving the results and in the next annual return, outlining:

c) details of the investigations carried out; and actions taken to prevent environmental harm.

NOTE: Where an exceedance of a trigger level has occurred and is being investigated, in accordance with (b) of this condition, no further reporting is required for subsequent trigger events for that quality characteristic.”

(b) condition C24 be deleted; and

(c) condition C25 be renumbered as condition C24, be modified to remove the reference to condition C24(b)(2) and insert in its place reference to condition C15(b)(2) so that the condition will read as follows:

“C24 If an exceedance in accordance with Condition C15(b)(2) is identified, the holder of the environmental authority must notify the administering authority in writing within 24 hours of receiving the result.””

Further specific comments in reply to NAC's submissions – some of which are relevant more generally also

I question many of the claims made by NAC in their submissions, even where I may not have specifically referred to them below. Reasons to justify this scepticism are littered throughout the evidence before the court and elsewhere.

I strongly disagree with the characterisation that it would be “illogical and unreasonable” for the delegate to consider the model NAC provided through the EIS and Court process and the findings of the court in their decision. It is what the delegate should of course do. I strongly disagree that the health and wellbeing of the community would be protected under the draft EA and the CG's conditions. This has already been thoroughly considered in the “truckloads” of evidence before the land court, including witness statements, physical

and mental health experts, noise experts, complaints information to NAC and EHP, other documents from NAC relating to complaints, monitoring and investigations. It is also discussed by His Honour Member Smith in his Judgment. There is no justification for EHP to reach any other conclusion or to reduce the requirements of the EA in this (or any other) manner.

It is a nonsense for NAC to argue (eg 3.2.7) that an additional 2db would have no impact on sensitive receptors! Of course it would. On this basis NAC would argue that they can increase the limits by 2db an infinite number of times. How nonsensical. The noise is a massive issue for us, and for many others. There is so much evidence before the court about this.

NAC then has the audacity to argue that it would not be “reasonable or necessary to require NAC to undergo added mitigation to achieve the 2dB(A) reduction”. Are they serious! They haven’t even got an approval and they are arguing that it is unreasonable to ask them to keep the noise down. The noise experienced by numerous locals has been hell and has lasted many years and has impacted on physical and mental health (as noted in the judgment). And NAC are seriously trying to argue here that it is too inconvenient for them to reduce the noise another 2bd. I refute this. It is untrue, denies a vast amount of evidence and is offensive at best.

NAC’s argument about background noise in 3.2.11 is flawed in many ways. Of course, as was often presented before the court in evidence, the background noise caused by the mine will cease when stage 1 and 2 end, which NAC have repeatedly said is soon. There was evidence that in such a quiet rural environment the background noise levels would be more like low 20s, sometimes lower. I have written substantially about this in other submissions, as have other objectors I expect.

3.2.13 is, like much of the content of NAC’s submission, things they have raised previously and which we have already made submissions to the court against and which were not supported by the court. Putting people in a situation where their homes are so unbearable that they are forced to sell to NAC (because there would be few other buyers in that situation) is not a desirable outcome. Unless they have changed something, they only indicated that they would buy part of our place anyway. That is no solution.

It is incorrect and inappropriate for NAC to argue that “it must be assumed that ... the Land Court made an error”. This is incorrect and disrespectful to the court. There is no reason to assume that the court made an error in its findings in relation to either Intergenerational Equity or the difficulties with “make good” agreements.

In 3.3.5 NAC again try to argue that by marking on a map existing land that is already cropped and calling it an “offset” that it somehow makes up for the land they destroy. Evidence and arguments about this have already been well aired before the court. For example, I refer to my cross examination of Mr Thompson and my various submissions on

this issue and on the relevant sections of the Judgment. This is a nonsense. NAC will destroy land irreparably and will not be 'creating' new land to 'offset' it. The problem remains and is in no way diminished by the words NAC have written here.

Further, in 3.3.5 NAC is again seeking to misinform the decision maker. As per the Judgment, my submissions and my cross examination of Mr Thompson, this is not what CG condition 7 requires at all. See below pars form the Judgment for example:

[1291] The point at which Mr Thompson fell into error relates to 7.1(b) above. It is not correct to say that the CG's imposed conditions require NAC to return disturbed areas (other than the depressed area) to their pre mining land and crops suitability.

[1292] Imposed condition 7(b) requires NAC to rehabilitate disturbed land to support the best post-disturbance land use possible. 7b(iii) requires that collectively at least 50% of the total area of disturbed land originally meeting or exceeding the criteria for either class 3 grazing land or class 4 cropping land still meet or exceed those classifications. In short, good quality cropping or grazing land is only required to be

returned to, at a minimum, class 3 grazing land or class 4 cropping land. This falls a long way short of Mr Thompsons understanding of the CG's imposed conditions as set out in 7.1(b), as was amply brought to his attention by Dr Plant during her cross examination. She also makes the point well in her submissions at page 63.

NAC has not agreed to have the EA amended to actually require the land to be returned to "strategic cropping quality". I think I suggested this previously. Perhaps the reason they don't want to do this is the cost, or maybe it just isn't possible.

It is, again, nonsense, for NAC to imply that "there would be no loss in productivity nor any alienation of land from rural uses outside the depressed landform area" (3.3.7). This statement is unfounded.

Most of NAC's proposed changes to the EA seek to dilute NAC's requirements and the stringency of conditions. These should not be contemplated. The draft EA and the additional conditions recommended by the Court have been through considerable assessment and consideration and based on a substantial amount of evidence and argument in court. There is no justification for diluting the requirements. Indeed, there were recommendations for strengthening these by the court, which should be included, but that do not seem to have been included in the document NAC provided.

There is no reason to include "unrelated farming activities" in the footnote as NAC suggest. His Honour was clear (as were the documents he referred to) that the exceedances only related to "exceptional events". Farming activities in this area are clearly not "exceptional events". Any dust from such activities is simply part of the normal background. Also, if this exemption was included it would cause no end of stress and frustration as I can see that NAC would argue that any soil particles came from farming rather than from NAC's

activities which of course disturb enormous amounts of non-coal soil and overburden and inter-burden.

There is no justification for changing the condition relating to the first flush devices from the wording recommended by His Honour. As His Honour noted in the Judgment, NAC had already agreed to do this, including in its commitments register and response to concerns people raised. To change this now would be for NAC to already walk away from a commitment they gave, including before the court. It was also supported by Dr Jeremijenko in his expert evidence.

As I have noted elsewhere, and His Honour noted repeatedly in his Judgment, it is not appropriate for NAC to have more lenient conditions for any other operations after this EA is approved. It would be unworkable and they have commenced stage 3 already anyway. Such changes as proposed by NAC must not be entertained.

I do not agree that the real time monitoring should not also be for compliance monitoring. I thought that was also the position of His Honour.

I disagree with NAC's proposal to make the compliance monitoring only monthly. This was not what the court intended. To do as NAC proposes would not in any way increase trust in the community or compel NAC to actually comply with the limits. NAC would foreseeably just argue repeatedly that the "performance" monitoring didn't count if it showed exceedances. Already they are trying wriggle out of conditions.

M6 should not be altered in the way NAC suggest. Again, NAC are just trying to dilute the requirements. His Honour recommended these specific words after careful consideration of evidence and submissions.

Condition H1A should be included as recommended (repeatedly) by His Honour. This is important. This issue is very important in this location and in this community and was the subject, as His Honour notes, of significant evidence and cross examination. It is essential that it is included here. If the requirement here is just to prepare a plan, such as NAC proposes, then there can be no assurances that this will actually be required.

As you can see in the attached google earth images dated 1984, 1996, 2000 and 2004 (which were not all available at the time of the hearing) as well numerous exhibits before the court, this land has a strong history of highly productive farming. It would be terrible to allow NAC to further destroy the land (as can be seen in various similar time series that I tendered to the court showing later years). The conditions required by His Honour, in addition to the conditions elsewhere would be the absolute minimum. As noted elsewhere, if the EA is approved, the conditions should also actually require NAC to return it to SCL quality, especially as they are continuing to misleadingly imply that this is already a requirement.

As should be clear elsewhere, I strongly disagree with NAC's proposed definition of commencement. My view is consistent with that of His Honour in this regard and the EA should reflect His Honour's recommendations.

As noted elsewhere, and repeatedly in evidence, and submissions, I strongly disagree with NAC's proposed definition of sensitive place. Importantly, so does His Honour. Several examples of relevant statements from the Land Court judgment are included above. This is not just a hypothetical issue. There are real lives and real homes that would be impacted if NAC was allowed to modify the definition in this way. Also, it would make it even less likely that people would ultimately sign any sort of agreement with NAC (eg water make good agreements) if the cost was that they were no longer protected from unreasonable and unsafe levels of noise and dust etc. it also has consequences for future owners or residents of various properties. His Honour explains this more too.

I don't believe the court's non-inclusion of NAC's proposed condition A16 was an oversight. In the Judgment His Honour raises concerns about people effectively having 'mitigation' measures forced upon them and that this is unacceptable. Of course, this does not stop NAC from providing mitigation measures if people agree to them. This may be welcomed in some instances. However, the downside of such a condition as proposed by NAC is simply too high.

I note that in par 2.2.2 NAC argue that their reply statements in the JR process should be considered by the delegate. However, these have not been provided to parties to this process for our consideration, again breaching procedural fairness.

There is no sound basis for the statement in 2.1.7 that "The modellers had indicated previously that the AEIS model was based on conservative assumptions and this has now generally been proven correct by the 2017 modelling." Whilst the 2017 modelling indicates lower impacts in some locations, there are significant concerns about its veracity and it certainly doesn't prove that the earlier modelling was "conservative".

The points a) to i) in 2.1.11 are examples of the kinds of issues that would need to be better assessed and understood before there could be confidence in the model. Through NAC refusing to provide background information and the lack of cross examination capacity in this process, as well as other concerns about the model based on what I have read and understand in regards to groundwater modelling, it is in my view not possible to have confidence in this model.

2.1.12 cannot be verified without access to the feedback from DNR.

Judicial Review

A judicial review is simply a review of the legalities of the decision-making. Any party can apply for one. This doesn't mean that they will win, or that they can bring in new material. There should not be any new 'evidence' presented. It is not a new hearing of the facts or any kind of merit assessment.

As explained clearly by Justice Applegarth in the Supreme Court in relation to NAC's application for a "stay", the Land Court ruling should be treated with respect and not in any way considered provisional.

The findings of the land court remain. It would seem that, on the back of a recommendation for outright refusal, NAC may have made the decision that lodging an appeal is worth a shot, but this in no way means that they are likely to win. If NAC can successfully create enough perception of doubt about the veracity of the Land Court findings and have an EA and ML granted before they lose the appeal, this may even be their ideal outcome.

As I recall from the hearing of NAC's stay application and the extempore decision and his Honour Judge Applegarth seemed quite sceptical about various of NAC's arguments and indicated that some of their grounds seemed unlikely to be upheld. Also, if I understood correctly, after reading the Land Court Judgment, the Supreme Court Judge hearing NAC's appeal, during a directions hearing, expressed the preliminary view that bias had not been evident. Having been served with NAC's appeal documents and given them some consideration, I certainly don't anticipate NAC winning their appeal.

Regardless of the above, and any arguments NAC make, we will not know the outcome of the judicial review before the deadline for EHP's decision. As such, the Land Court ruling still stands and should be respected.

Concluding comments

NAC's recent saturating and seemingly well-orchestrated publicity campaign, should not be allowed to gloss over their 15 years of poor performance, as validated through the Land Court process. Nor should the Land Court decision be disrespected or subverted. NAC's serious failures in obtaining and maintaining a social licence, together with the other substantial problems with NAC's proposed Stage 3 mine, are the real issues for consideration. This should not be swayed by any of NAC's advertising or self-promoting campaigns.

It would be ludicrous if the decision turned on these few documents, submitted late, outside the usual process, and without the scrutiny of the court, or being sworn testimony.

The court case took an enormous toll on us, physically, financially and emotionally. I don't know if we will fully recover. But that was part of the process. All parties knew that and we decided we had to commit to it, as the consequences of not doing so, and having the mine go ahead and cause more impacts on us was even worse. Unsurprisingly, given the company's poor past performance, and the impacts of the proposed project, we won in court resoundingly, and fair and square.

This new material is not part of that process. In fact, it would probably not even have been admissible as evidence in that process (ie not even 1/2000-th of the evidence), without being able to be tested and subject to cross examination of experts under oath.

In some situations, in this matter the foundations of statements, even expert statements, were found to be highly inappropriate, unfounded or unreliable, in others the authors themselves were found not to be reliable. The court process was important in better understanding the evidence. It exists for a reason. It would be a crazy lawless society, based on highly dubious principles, created if this new material, not tested in the court or any of the usual process, was allowed to influence the decision in NAC's favour.

There have been significant difficulties in preparing this document within the timeframe. It is not as well written or prepared as I would have liked and is likely incomplete. However, I hope that EHP thoroughly considers its contents and finds it helpful. My contact details are, of course, available to you elsewhere if you wish to have anything clarified or seek further information.

Season's Greetings.

Sincerely,

[REDACTED]

[REDACTED] (Level 2 objector, local farmer etc)

To: EHP delegate via EHPsubmissions@ehp.qld.gov.au

29 December 2017

**[REDACTED] submission to EHP's new process for New Acland Coal's proposed
Acland Stage 3 EA considerations**

Dear EHP Delegate,

Further to my previous submission, I am writing to make a submission in accordance with the next step of the process proposed by EHP i.e. reply to other submissions. This should not be taken to mean I agree with the process set out by EHP, and I wish to reserve any rights I may have in that regard.

Overarching comment

1. The majority of the submissions made by various objectors strengthen and add further weight to my previous submissions dated 11 December 2017. I do not currently have the resources to specifically refer to every individual statement in every submission and highlight in this document all the many ways in which they strengthen my arguments and submissions. However, I reiterate the concerns I have raised previously and note that these are reinforced by the submissions of various the objectors. The submissions of other objectors share many common concerns with my own submission, albeit expressed differently, and in some cases with more evidence, detail or force. Along with my own submission of 11 December, I commend the submissions of other objectors to you for your consideration, including the fact that many of them also object to EHP allowing NAC yet another chance.
2. Themes that come through from various objector's submissions strongly reinforce and strengthen the arguments I have made previously in submissions including:
 - inappropriateness of the process
 - substantial concerns about water impacts, intergenerational equity and water modelling that are not remediated by NAC's further material
 - concerns about NAC's increased adverse impacts on the community and community cohesion
 - ongoing concerns about noise, dust and human health
 - concerns about NAC trying to dilute conditions in any EA that might be issued

Procedural Fairness

3. I have recently become aware that Mr Beutel did lodge a submission with EHP early in October 2017. I understand that EHP did acknowledge receipt of this. Where is Mr Beutel's submission? To be consistent with EHP's process, I cannot envisage any valid reason why this has not been forwarded to all parties. This does not seem fair or appropriate. If EHP is going to consider any submissions then it should also consider Mr Beutel's submissions, and it should have been forwarded to all parties, like other submissions. This situation adds further weight to my concerns previously expressed about the inappropriateness of this new process proposed by EHP outside of the statutory processes.
4. I understand that Mr Beutel has not received much of the correspondence that I have received in relation to this matter and has not been able to participate fully. As such, I am concerned about procedural fairness, and that EHP may be missing his important contribution to this issue. Again, this adds further weight to my concerns about the process as previously expressed.
5. In addition to the (seemingly extreme) lack of procedural fairness afforded to Mr Beutel, other objectors, and presumably other parties, have not been afforded the opportunity to respond to Mr Beutel's submissions, including the new evidence it contains.
6. From my recollection, Mr Beutel, as a level 2 objector, was in court every single day of the hearing. Mr Beutel lives in Acland in very close proximity to the existing NAC operations and would be totally surrounded by NAC if stage 3 is approved. It would be inconceivable to argue that Mr Beutel was not adequately engaged with the project or significantly impacted by it.
7. Mr Beutel's letter to EHP dated 4th November 2017 seems to indicate that he had not even received any of the information that he would be expected to respond to eg NAC's groundwater model or submissions. This is a massive concern in regards to procedural fairness. I only became aware of Mr Beutel's situation and this letter very recently, but this situation adds further to my concerns about this improvised process that EHP has currently proposed.
8. If EHP is considering information that wasn't available to the Land Court, then Mr Beutel's information should be very much part of it, and EHP should have ensured that he was fully informed about, and able to participate in, the process.

Noise, dust, blasting and human health

9. Various submissions, such as from Mr Vonhoff and Mrs Plant as well as Mr Beutel, have raised concerns about ongoing noise and dust since the Land Court hearings. These submissions add further weight to my submissions regarding my concerns about noise and health risks from NAC's operations. As such, it is further reason why Stage 3 should not be approved.

10. I have very recently become aware that since the Land Court hearing, even NAC's limited data provided to Mr Beutel for monitoring over the last year or so has shown many, many exceedances of noise limits, blast limits, and other problems including lack of local weather data and supposedly not being able to determine noise levels on multiple occasions. This is consistent with the submissions of others and adds weight to my concerns expressed in my submissions about noise and health impacts and NAC's lack of regard for other people.
11. NAC already have all this information. It was produced and provided by them. NAC could have provided it to EHP and parties but, despite wanting to provide new groundwater material, chose not to provide this information. This is yet further evidence in support of submissions that have been made in regards to NAC's lack of transparency, and the findings of the Court, which I have repeatedly submitted that EHP should weight very heavily in their deliberations.
12. In the monitoring data Mr Beutel received from NAC in January 2017, after the closing of evidence, it indicated that between June and November 2016, the noise limits exceeded 40db in three (3) of the six samples. Regarding a further one (1) sample it was said that the noise level could not be determined. A further one (1) of the six samples exceeded 37db. This meant that only 2 out of the six samples showed compliance with the existing EA limit and only one was under 37db. (See Att1 and Att2 which are the monitoring results and noise reports from NAC for this period). This is consistent with the submissions of other objectors and adds further weight to my submissions that NAC will not comply with noise limits if stage 3 is approved.
13. I note that in each of these noise reports the contractor engaged by NAC notes that "the purpose of this environmental noise assessment was to provide NAC with an indication of state of compliance with respect to their Environmental Authority". (see Att2) Given that this monitoring repeatedly showed that NAC was not in compliance, this is consistent with the submissions I have made previously, and those of other objectors, and the judgment in regards to the lack of concern NAC has for its neighbours. As his Honour noted in par 1419 (as referred to in my submission) NAC "have been and can be very dismissive of their neighbours' complaints and issues".
14. The blast data for this time period also showed multiple blast exceedances eg 2 blasts within 10 blasts over 115db. There was also dust deposition averaging 100mg/m2/day over a month.
15. This was all NAC's own data, some of which NAC even had before the first close of evidence, but NAC didn't feel the need to update either the court or EHP on this. Similarly, NAC didn't make this sort of data available to Mr Beutel or anyone else until after the relevant close of evidence.
16. The December 2016 and January 2017 results were sent to Mr Beutel in March 2017 by NAC and showed one noise reading just under 40db and one that couldn't be

determined, as well as the only PM10 result (February 2017) being over 50 at 71micrograms /m3, well beyond the EPP threshold.

17. NAC's monitoring results forwarded to Mr Beutel on 25 May 2017 for Feb - April 2017 results include 3 noise monitoring results: 43.2, 39.9 and 1 "could not be determined". In other words, there was only one sample in the 3 months that was under 40bd and it was 39.9. This same data also included a blast exceedance at 125.5. (see attached Att3).
18. In the monitoring data Mr Beutel received in September 2017 (relating to monitoring in May to July, you will see that there was high dust eg deposition over 300 and PM10 over 50, as well as multiple blasts exceeding the limit of 5mm/s. The 3 noise samples were all 37db or more.
19. Also note that the 14 June 2017 blasting exceedance relates to the letter Mr Beutel got from EHP (in his submission and in response to a complaint) dated 23 June 2017 where EHP said NAC won't do it again but you will see NAC exceeded 5mm/s again as soon as 26 July 2017.
20. All these exceedances strengthen my submissions, and those of other objectors, that NAC will not comply with EA limits and that stage 3 poses an unreasonable risk to our lives, health, amenity and wellbeing.
21. In the technical reports from NAC relating to the monitoring data there are some dubious statements such as seeming to consider any even vaguely conceivable dust sources other than the mine and seeming to be confused or misleading about the wind direction, eg presenting a different day or stating a different direction in the text than indicated by the wind roses.
22. I understand that, although Mr Beutel has been reluctant to complain unless the noise or blasting is very bad (and NAC data verifies that there were exceedances on many nights on which he did not make a complaint), he has had cause to make numerous complaints, including to EHP, since the Land Court hearing, even as recently as in the last few days. Whilst during the court NAC tried to argue that they had improved their performance, there is now strong evidence to the contrary. This adds further gravity to my submissions.
23. In the Land Court proceedings, both experts put forward by the parties agreed that blasting is an 'inherently dangerous activity and needs to be managed appropriately'¹. However, Mr Beutel's submission, which I have only seen in the last couple of days after asking him directly, cast further doubt about the management of NAC's current operations.
24. Mr Beutel's submission includes photos on page 8 taken from his back yard just after a blast on 15th February 2017 and some 40 minutes later. The dust is striking and looks suffocatingly thick. It certainly blocked the view considerably.

¹Decision at [1148].

25. Mr Beutel's submission also includes photos of remnant dust plumes of yet another blast in the sky above his home following blasting activities just 2 days later on 17 February 2017.
26. The February 2017 blast monitoring results don't seem to have been provided to Mr Beutel. This is the month coinciding with his complaint to EHP about blasting and the pictures that were part of his submission on page 8 and elsewhere.
27. In correspondence attached to Mr Beutel's submission it refers to him describing a blast as on 14th June as "extremely loud", "caus[ing] intense shuddering within [his] house", "violent" and the "worst blast from NAC's mining operations that you have ever experienced". Near the photos he commented on the blast resulting a small like fireworks. Little wonder when quite a bit of the recent blasting has been close to his house and this blast recorded a particle velocity of 8.33mm/s.
28. All this was after NAC told us months ago in court that their blasting operations were much better now and there shouldn't be any more problems.
29. Mr Beutel's further experiences since the Land Court hearing add further to concerns about health impacts local residents risk, such as through the sort of long-term exposure to noise, vibrations, odour and dust plumes from blasting activities by NAC, such as Mr Beutel has experienced, and continues to experience.
30. It seems from observations that the blasting and mining is now only a few hundred metres from Mr Beutel's house. As I, and others, have noted previously, this is contrary to what was presented as stage 2 and stage 3 and various commitments given by NAC such as their statements about revising stage 3 to stay further from Acland.
31. The experiences of Mr Beutel, including as evidenced in his submission and the most recent data received from NAC and EHP, is consistent with the submission of various objections including Mrs Marilyn Plant and Mrs Aileen Harrison, as well as my own submission which continued to raise health concerns.
32. This data was already in NAC's possession, but they chose not to disclose it – again presenting a very biased subsection of information to the government in the hope that they will get their project approved in their own self-interest. This further highlights a concern that I, and many other objectors, mentioned in our various submissions in terms of the relative lack of rigour, fairness and certainty in this process compared to the Land Court process and the general inappropriateness and inequity of this uniquely created EHP process.
33. In his submission, David Vonhoff has expressed concern about further elevated levels of dust since the Land Court hearing. This would seem to be consistent with the data at Mr Beutel's place and NAC showing even less care about neighbours now that it is no longer under the scrutiny of the Land Court. Many of us have expressed concerns, including in submissions, that the mine's performance would be even worse once they were not under the scrutiny of the Land Court, and this would seem to have been what has happened, as evidenced by high levels of noise,

dust, blasting exceedances and also by the proposals to mine much closer to Acland and other sensitive receptors (such as to the north and north west) than had previously been indicated – actually in stark contrast with what had previously been indicated by NAC.

34. This is further reason why, (as argued in my previous submission) if an EA is granted, it must include permanent, every moment of every day monitoring for the life of the mine. This is consistent with the Judgement and reinforces my previous submissions in this regard.
35. As clear in the evidence before the court, there was no way NAC could comply with either noise or dust limits without ceasing a lot, if not all, of their operations for considerable periods. There was considerable evidence from the noise and dust experts about this.
36. In the Judgment His Honour Member Smith specifically notes in relation to dust at par 669 that “I do not find it necessary to determine which evidence I prefer from Mr Welchman or Dr Taylor regarding the predicted time that NAC will have to shut down at least part of its operations; it is sufficient to note it is likely to be quite substantial.” Consistent with my previous submission, this further highlights the importance of not reducing the monitoring requirements recommended by His Honour Member Smith, or allowing NAC any more changes to change locations, type of monitoring, limits or anything else to their advantage and that there must be permanent fulltime COMPLIANCE monitoring. His Honour noted elsewhere that this was essential in terms of trying to rebuild any sort of community trust in NAC too.
37. Mr Beutel’s comment on the cover page of his submission that “the horror continues to unfurl” is very much consistent with the views expressed in my own submission and those of so many other objectors. There can be no doubt that the impact of NAC’s operations on neighbours has been severely detrimental. Indeed, as I noted my previous submission His Honour Member Smith found that NAC’s past performance had been poor and that it had treated local people poorly. There can be no doubt that if stage 3 is approved, it would unleash many years more of extreme suffering on locals. NAC’s performance has been so poor even while they have been under the pressure of seeking to get stage 3 approved. As I have submitted previously it is very hard to envisage that they would make any more effort to comply if stage 3 was already granted.
38. As I noted in my previous submission on p33 “With all the evidence to the contrary, it has hard to see why anyone would assume that NAC would not be willing to exceed their EA in any means that suited them and which they thought they could get away with.” Everything that has happened since and the content of the submissions of other objectors has only strengthened my view, and my submission, in this regard.
39. The extreme anguish felt by many of the objectors is clear in many of their submissions, including Mr Sid Plant, Mrs Marilyn Plant, Dr Steven Ward, Mrs Angela Mason, Mr Noel Wieck, Mr Glenn Beutel and others. This is consistent with my

submission and my experience. And adds further weight to my submission that NAC should not be allowed more chances and stage 3 should be refused.

Water

40. Many submitters also provided material and raised concerns about the impacts of the proposed mine on water and the questionable veracity of the 'new' information provided. This supports the concerns expressed in my submission and adds weight to my submissions.
41. The detail about bores dropping and going completely dry in Mrs Spies's submission provides enormous concern and further reason, consistent with my submissions, that the proposed stage 3 mine should not go ahead. Water supplies here are too precious and stage 3 poses too greater risk to them. Mrs Spies submission also notes that some of these bores had NAC monitors on them at the time. Yet NAC did not seem to address this at all in their 'new' modelling or the info they were so keen for the government to receive. This adds further weight to my submissions about the poor conduct by NAC, its untrustworthiness and the unfair cherry picking this EHP process has afforded NAC without the scrutiny of the court. As many submissions noted, as did I, we are not in a position to fully understand the failings of the model NAC now espouse. And, like others, I am frustrated and confounded that NAC can say for so many years that we should trust their info and then just walk away from it and seek to discredit it themselves now in favour of something that they think will better advance their self-interest. Were they lying before when they told us to try and rely on the previous model? What will they argue when they try to avoid having to "make good"? I reiterate my concerns about this as noted in my previous submissions to EHP and the documents it referred to such as my submissions to the court.
42. There were many very pertinent points raised by Dr Currell in his report attached to OCAA's submission. Many of these are consistent with my submission, but go into further technical detail and highlight additional concerns. This further enhances my submissions and exacerbates reasons why this project should not be approved. It should be remembered that Dr Currell gave evidence throughout the court process and his evidence was viewed very highly by the Court, even in the face of intense and lengthy cross examination by NAC's Queens Counsel and others. Of particular note, with regards to Dr Currell's report:
 - a. 5.3.1 raises concerns that pit inflow calibration targets still aren't reliable and that this makes the whole model unreliable.
 - b. 5.3.3 indicates that NAC still don't know much about other water users and probably underestimate this in the model
 - c. 5.4 "It should be noted however that much of the revised material with respect to faulting (including the report SLR, 2017c) was already thoroughly examined during the re-opening of groundwater evidence in the Land Court

case in March/April 2017.” And notes that NAC still have limited data and didn’t properly consider faults acting in other ways eg conduits.eg
 “...Nonetheless, the horizontal flow barrier is the only conceptualisation applied to faults. Testing of alternative conceptualisations - such as conduit behaviour - has not been conducted, despite this possibility having been raised during the Land Court proceedings on multiple occasions. This results in ongoing uncertainty in relation to this issue.”

- d. 5.5 still not much done re vertical hydraulic conductivity, or storage properties. Additionally, most of the Kh values are low which would underestimate the drawdown (par 2, p12). Also, the model seems to use lower storativity than the pump test indicated “the calibrated model values (see Figure 4-108 of the revised modelling) indicate that the model has adopted values of specific storage of approximately 1×10^{-6} , which would correspond to lower values of storativity (S) than those determined based on the pumping tests in this unit (which produced a median value of 1×10^{-3}).” Which (I think) would also have the effect of underestimating drawdown.
- e. 5.6 indicates that the data and revised model is still not good enough to use for make good eg “De-convolution of the cause(s) of water level changes in landholder bores on the order of a few meters, which in many cases may be critical to the function of the bore(s), and attribution of the cause of such change based on the revised conceptualisation and modelling would in this context be highly impractical or impossible in many instances.” This is a massive concern, and is consistent with the submissions of numerous objectors, including local farmers.
- f. Also critical of Ecological saying is “conservative” eg “The argument that, notwithstanding the level of mis-match, the model produces ‘conservative’ estimates of impact (e.g. ‘over predicted’ estimates of groundwater impact)¹⁸ is tenuous in this context.” And “The combination of many calibration hydrographs which under-estimate or over-estimate water levels in particular bores, and the poor fit between water level maps using observed and modelled data, indicates that rather than providing ubiquitously ‘conservative’ estimates of impacts on water levels, the modelling in fact produces predictions that should still be viewed as highly uncertain (with the potential for under-prediction, as well as over-prediction of specific impacts).”
- g. 5.7 that other modelling shows greater drawdown than this modelling does
- h. “Earlier in the Land Court proceedings, I noted on the basis of some of the Lay Witness statements that many landholders’ bores only have a small amount of water level clearance (e.g. less than 5m) sitting above the pumps in their supply wells, and hence drawdowns of these magnitudes could result in a loss of bore function²⁰. Regarding the timelines of impact to

groundwater, both the AEIS model, updated NAC modelling and Bioregional Assessment indicate that impacts to groundwater will persist beyond 100 years following the proposed Stage 3 mining.”

- i. “All of the new information provided by NAC, including the revised conceptualisation, modelling and impact predictions, as well as the other work recently conducted in the region under the Bioregional Assessment, remains consistent with the Land Court’s finding in relation to groundwater, namely that there is the “*..potential for groundwater impacts to adversely affect landholders in the vicinity of the mine for hundreds of years to come*”. None of the new NAC materials relating to groundwater provide new convincing evidence that such impacts will not occur under the proposed Stage 3 expansion.”
- j. Section 6 highlights lots of problems and even that a value NAC consultants claimed is “essentially physically impossible”.

Community

43. In addition to my own, numerous submissions note the additional community fracturing directly caused by NAC’s heightened activities on a PR front. In this context, it is also pertinent to contrast this with the status of the community before NAC and caused this loss of long term residents and extreme division amongst people in the wider community. See attached picture of Acland community in 1996. This is conduct by NAC, to win at any cost, is in stark contrast with claims they made previously about being good for the community. I strengthen my submission that NAC is severely detrimental to this community – divisive, destructive and toxic. Whilst I cannot presume to know what the court would have decided, I suspect that if this information had been available to the court during the hearing, the Land Court’s recommendations would likely have been stronger against NAC in this regard.

Flora and Fauna

44. I am also concerned by the evidence in Mr Beutel’s submission of the continued threat to ecological communities caused directly or indirectly by the mine’s activities. The evidence of further koala deaths, as graphically portrayed in Mr Beutels’ submission, is concerning. I understand that there aren’t that many now, and Mr Beutel knows the koalas around Acland individually. The grief this causes Mr Beutel should not be underestimated, nor should the ongoing risks (to people and nature) if stage 3 is approved.

NAC having yet another crack

45. I agree with Mrs Mason and others that NAC’s approach now, seems to be just to try again to get what they want. Their submissions in this regard complement and reinforce my own. In particular regards to NAC’s draft changes to the draft conditions, some of these are exactly as per their submissions to the court, which

the court rejected. For example, there is no basis on which to allow NAC not to be required to put monitoring equipment in all the locations and types expressed by His Honour. Of course, NAC always has the flexibility to add more if they think more locations would be useful. There is no justification for not explicitly requiring what the Judge has already recommended on the basis of extensive evidence, argument and submissions. NAC chose not to present new noise or dust evidence. However, on the basis of the data from Mr Beutel's residence, and the qualitative comments in other submissions, there is, if anything, only cause to further strengthen such conditions. Certainly, there are no grounds to reduce requirements or to provide more wriggle room to NAC or ambiguity about enforcement.

Although this is not how I wanted to spend the Christmas period, I have endeavoured to comply with your process. I hope that this submission is helpful to you and, along with my previous submission to this process (and other submissions and exhibits provided to the court), and all the information before the Land Court and particularly the Land Court's recommendation, will be considered thoroughly.

Sincerely,

[REDACTED]



Projects

Operations

Coal

- New Acland

- West Moreton

- Bengalla

Agriculture

Oil

Port Management

Exploration & Development

Connect with us



Agriculture

New Hope believes that mining and agriculture can exist together and are demonstrating this at New Acland where mine buffer zones are farmed and rehabilitated mine areas are returned to grazing.

Acland Pastoral Company (APC), established in 2006, is a farming, grazing and land management enterprise based at New Acland. The company oversees 10,000 hectares of land, including grazing 2,000 head of cattle, and manages 2,400 hectares of crops, which are primarily sold in the Darling Downs region. The business continues to investigate new crop types.

[Click here to watch our video on sustainable practice.](#)

Rehabilitation

The company manages the progressive rehabilitation program that forms a central aspect to the sustainability plan for New Acland. At any one time, only 10% of lease area is actively mined. More than 300 hectares of land have been rehabilitated and returned to cattle grazing land. This ensures that mined land converts back to productive agricultural uses as well as conservation areas. As a member of AgForce Queensland, the peak organisation representing Queensland's rural producers, APC is committed to best practice agricultural and land management operations.



Cattle grazing trials

Through APC, two exciting initiatives are in progress. The first is a scientifically-controlled cattle grazing trial monitored in conjunction with

t livestock consultants and a local university. The trial
o mobs of cattle – one on rehabilitated mining land at New
a non-mined paddock comparable in feed quantity and
ults indicate that rehabilitated mining land has the
r more, productive than non-mined land.

s for the trial, it offers positive potential for the mining
lly. Further third party supervised trials are scheduled for
rify the viability of rehabilitated land and optimise
e. The second initiative is with Greening Australia. This is
e species planting to revegetate the area with native and
udes areas set aside for protected species relocation.

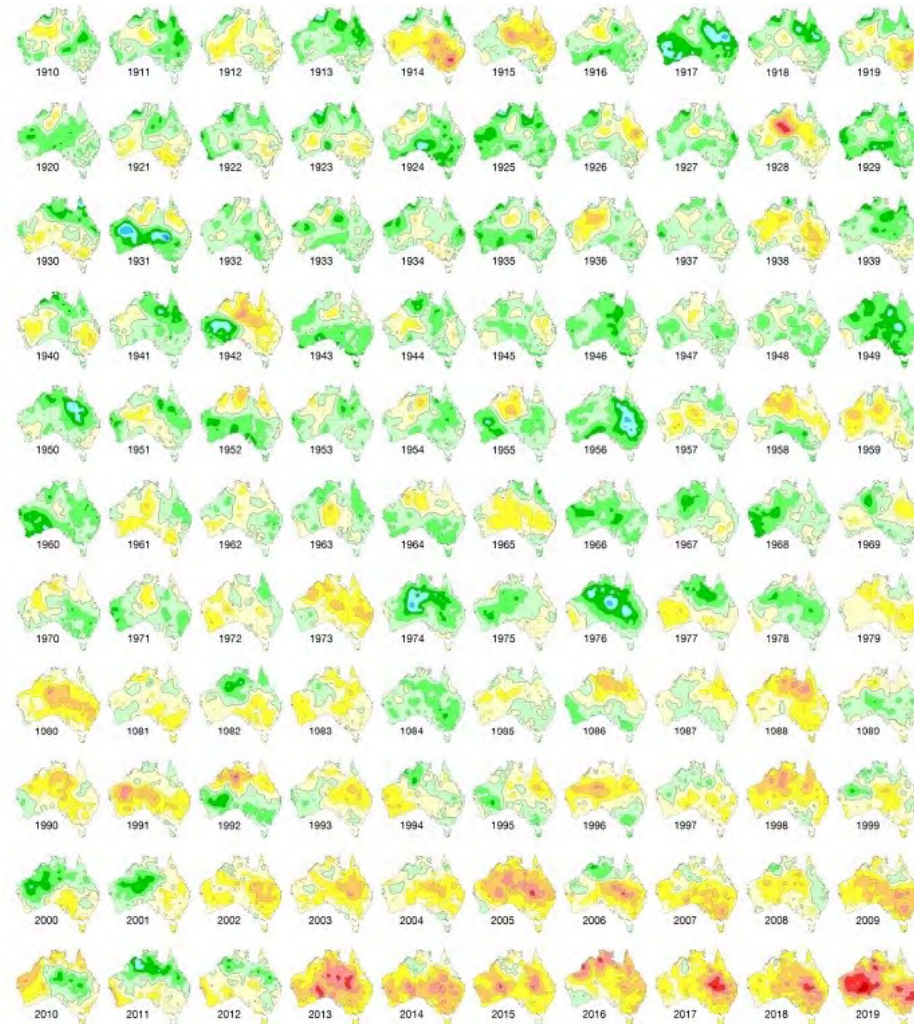


ibuting to Queensland's agricultural sector is an important
of New Hope's operations. It shares the same ethos as
asising local employment and use of local services and
nise the benefits for the region.

Bureau of Meteorology chart shows how temperatures have soared in Australia over the past century

ABC News Breakfast By Patrick Wood

Updated Tue 14 Jan 2020, 7:42am



INFOGRAPHIC: Temperatures across Australia over the past 110 years. (Supplied: Bureau Of Meteorology)

Australia just had its warmest and driest year on record, according to the Bureau of Meteorology, continuing a long-running trend in the country.

A chart produced by the bureau and updated with 2019 figures (shown above) displays a stark transformation over the past century.

It shows the anomaly of mean temperature for each calendar year from 1910 to 2019, compared to the average over the standard reference period of 1961–1990.

RELATED STORY: 'Well-defined and clear trends': Australia just faced down its hottest and driest year on record

RELATED STORY: Scientists explain why this summer is 'smashing the extremes'

The colours range from dark blue (more than 3 degrees Celsius below average), through blues and greens (below average), yellow and orange (above average), and then brown (more than 3C above average).

"Australia's climate has warmed by more than a degree since 1910, which means very warm years like 2019 are now more likely to occur," said Karl Braganza, the bureau's head of climate monitoring.

Dr Braganza said alongside warmer temperatures, we were also seeing a trend in recent decades towards drier winter and spring seasons in some parts of the country.

Andrew Watkins, manager of long-range forecasting at the bureau, said the hot 2019 — which had an average mean temperature 1.52C above average — was front of mind for many.

"It was the talking point of all last year," he said.

"All the states and territories were in the top handfuls of temperature. Hot everywhere, pretty much.

"Almost by definition if they're records they are unusual."

The bureau has also produced another chart showing rainfall in each year since 1900.

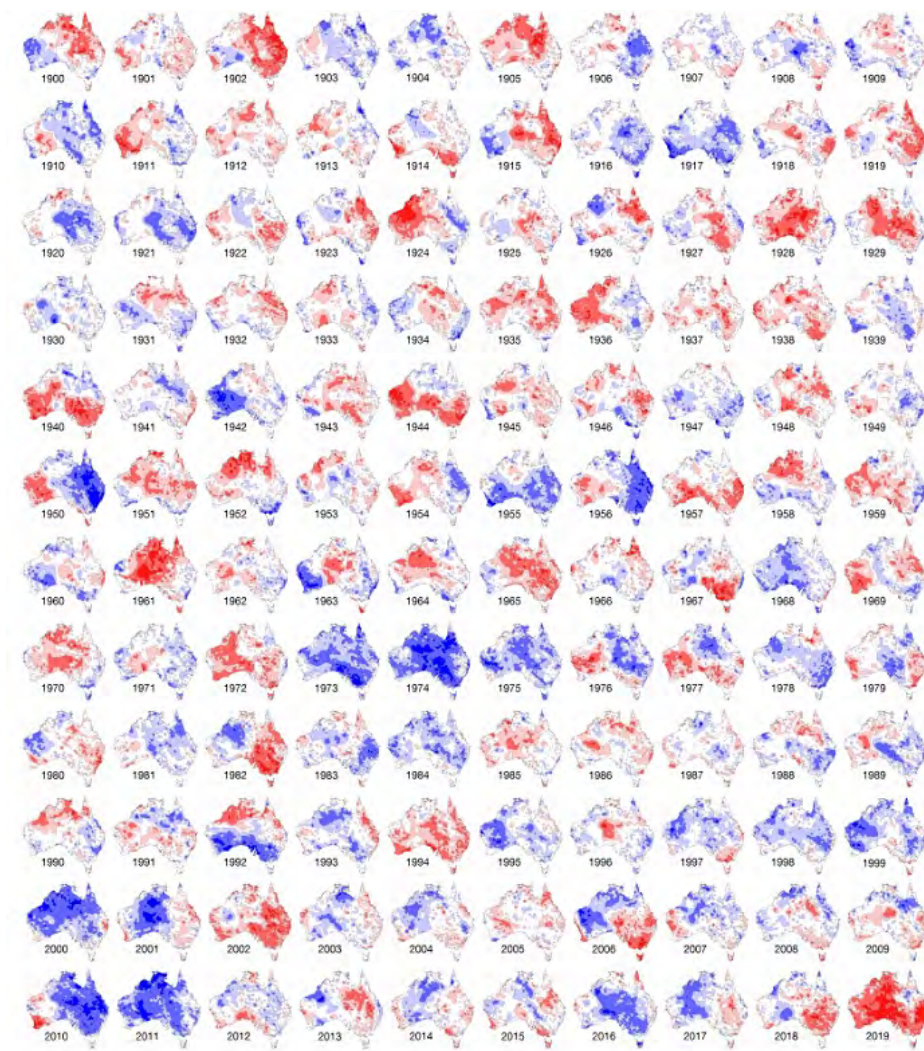
Key points:

- Australia's climate has warmed by more than 1 degree Celsius since 1910
- BOM says very warm years like 2019 are now more likely to occur
- A rainfall chart shows drying out over the last couple of decades in southern Australia

How climate change has impacted the world since your childhood



Global warming is already changing the world before our eyes — let's see what has happened in your lifetime, and what's in store for your future.



INFOGRAPHIC: 120 years of Australian rainfall. (Supplied: Bureau Of Meteorology)

The colours range from dark red (lowest on record) to white (average) and dark blue (highest on record).

"We've seen a warming up, and also a drying out, of southern Australia," Dr Watkins said.

"About 10 to 15 per cent drying over the last couple of decades in southern Australia.

"Hopefully the year will head a bit more towards average rainfall and temperature pattern.

"Probably still a bit warmer than normal though, but gee, it shouldn't be as bad as [2019]."

Topics: climate-change, weather, rainfall, environment, australia

First posted Tue 14 Jan 2020, 4:51am



About Us

[About New Hope Group](#)[Leadership](#)[Shane Stephan](#)[Andrew Boyd](#)[Matthew Busch](#)[Ben Armitage](#)[Kim Franks](#)[Sam Fisher](#)[Janelle Moody](#)[What we believe](#)[Health and Safety](#)[Environment](#)[Our History](#)[Rehabilitation](#)[Fact Sheets](#)

Andrew Boyd



Chief Operating Officer

Andrew is the Chief Operating Officer for the New Hope Group. He has operating responsibility for mining, port and resource development activities.

Andrew is a Mining Engineer with over 20 years industry experience with a range of mine owners, service providers and financial investors.

Over this time Andrew has led a number of merger and acquisition activities and been involved in IPOs and corporate finance.

[Return to the Leadership main page](#)

[Connect with us](#)

Climate change and the Murray–Darling Basin Plan

MDBA Discussion Paper

February 2019

Published by the Murray–Darling Basin Authority
MDBA publication no: 09/19
ISBN (online): 978-1-925762-24-2



GPO Box 1801, Canberra ACT 2601

engagement@mdba.gov.au



1800 230 067



mdba.gov.au

© Murray–Darling Basin Authority 2019

Ownership of intellectual property rights



With the exception of the Commonwealth Coat of Arms, the MDBA logo, trademarks and any exempt photographs and graphics (these are identified), this publication is provided under a *Creative Commons Attribution 4.0* licence. (<https://creativecommons.org/licenses/by/4.0>)

The Australian Government acting through the Murray–Darling Basin Authority has exercised due care and skill in preparing and compiling the information and data in this publication. Notwithstanding, the Murray–Darling Basin Authority, its employees and advisers disclaim all liability, including liability for negligence and for any loss, damage, injury, expense or cost incurred by any person as a result of accessing, using or relying upon any of the information or data in this publication to the maximum extent permitted by law.

The Murray–Darling Basin Authority's preference is that you attribute this publication (and any Murray–Darling Basin Authority material sourced from it) using the following wording within your work:

Cataloguing data

Title: Climate change and the Murray–Darling Basin Plan Murray–Darling Basin Authority Canberra, 2019. CC BY 4.0

Accessibility

The Murray–Darling Basin Authority makes its documents and information available in accessible formats. On some occasions the highly technical nature of the document means that we cannot make some sections fully accessible. If you encounter accessibility problems or the document is in a format that you cannot access, please contact us.

Acknowledgement of the Traditional Owners of the Murray–Darling Basin

The Murray–Darling Basin Authority pays respect to the Traditional Owners and their Nations of the Murray–Darling Basin. We acknowledge their deep cultural, social, environmental, spiritual and economic connection to their lands and waters.

The guidance and support received from the Murray Lower Darling Rivers Indigenous Nations, the Northern Basin Aboriginal Nations and our many Traditional Owner friends and colleagues is very much valued and appreciated.

Aboriginal people should be aware that this publication may contain images, names or quotations of deceased persons.

Contents

Executive Summary	3
Climate change and the Murray–Darling Basin.....	4
Observed changes	4
Temperature.....	4
Rainfall	5
Climate change projections.....	8
Implications and risks of climate change for the Basin	9
The Basin Plan	12
Development of the Basin Plan	12
Water management in a changing climate	14
The challenges ahead	18
Hydrology and ecology	19
Water quality.....	20
Irrigated agriculture, Basin economies, trade and the water market.....	22
River Murray operations	23
MDBA climate change research program	25
References.....	27

Tables and Figures

Figure 1: Mean temperature change in Australia relative to 1910. (BOM and CSIRO, 2016).....	4
Figure 2: Annual mean temperature anomaly for the Murray–Darling Basin (1910 to 2018)	5
Figure 3: Winter rainfall: April to October rainfall deciles for the last 20 years (1998–99 to 2017–18) (BOM and CSIRO, 2018).....	7
Table 1: Synthesis of trends associated with climate change impacts in the Murray–Darling Basin (adapted from CSIRO et al., 2016).....	9
Figure 4: Main elements of the Basin Plan.....	12
Table 2: Mean annual rainfall and runoff over the southern MDB averaged over different climate periods prior to Basin Plan modelling (modified from Chiew et al., 2009).....	14
Figure 5: Basin Plan timeline.	15
Figure 6: water allocations and usage in different climatic conditions	16
Figure 7: Actions taken in the Basin Plan that address climate change/variability (Neave et al., 2015)	17

Executive Summary

The climate of the Murray–Darling Basin is changing. Average temperatures are increasing, droughts are occurring more often and the volume of inflows into the Murray–Darling Basin have decreased over the last 20 years.

In this context, after the worst drought in recent history, the Basin Plan was developed and began in 2012. It represents a significant advance in Australian water management and provides a consistent water policy across five state and territory governments. At its core, it seeks to ensure environmental outcomes are realised and balance all interests. The Basin Plan currently addresses the risks of climate change. Water rights and markets are stronger, climate risks in water resource plans are comprehensively assessed and more water has been secured as an ongoing entitlement for the environment. The Basin Plan also includes mechanisms that ensure the Basin Plan settings can be reviewed as new science comes to hand. However, more needs to be done to deal comprehensively with a changing climate. The MDBA is responsible for ensuring a healthy working Basin and ensuring that settings under the Basin Plan provide long-term resilience to a changing climate.

With the Basin Plan settings still being put in place, we need to understand whether current policies can be improved to assist the environment, communities and irrigators to adapt to a future with potentially even less water than planned in 2012. We need to further understand specifically what climate change is likely to mean for the hydrology of our rivers, the way we operate them, the effect on water quality and water-dependent ecosystems and how water markets and trade will operate in the future.

This paper outlines:

- what we know about climate change and the Murray–Darling Basin
- how the Basin Plan currently addresses climate change risks
- how those risks might have changed since 2012
- the challenges ahead and what further Basin-specific research is required to translate these risks into Basin-specific risks, and
- the MDBA's climate change research program.

The MDBA is open to feedback from all stakeholders on this paper and the questions it poses.

We look forward to working with all stakeholders on this key issue.

Climate change and the Murray–Darling Basin

The Basin's climate is changing. The atmosphere is warming, rainfall patterns are shifting, and extreme weather events such as storms, droughts and floods are becoming more frequent and intense. These changes are attributed to increasing concentrations of greenhouse gases in the atmosphere associated with human activities, in particular, growing emissions of carbon dioxide (IPCC, 2014). Climate change is expected to impact water availability in the Murray–Darling Basin, and the communities, businesses and ecosystems which depend on them (CSIRO, 2008; MDBA, 2010; CSIRO et al., 2016; Steffen et al., 2018).

Observed changes

Temperature

Australia's climate is changing in response to a warming global climate system (BOM and CSIRO, 2018). Temperatures across Australia are now 1°C hotter (on average) relative to 1910 (Figure 1) and further increases are expected (BOM and CSIRO, 2016; 2018).

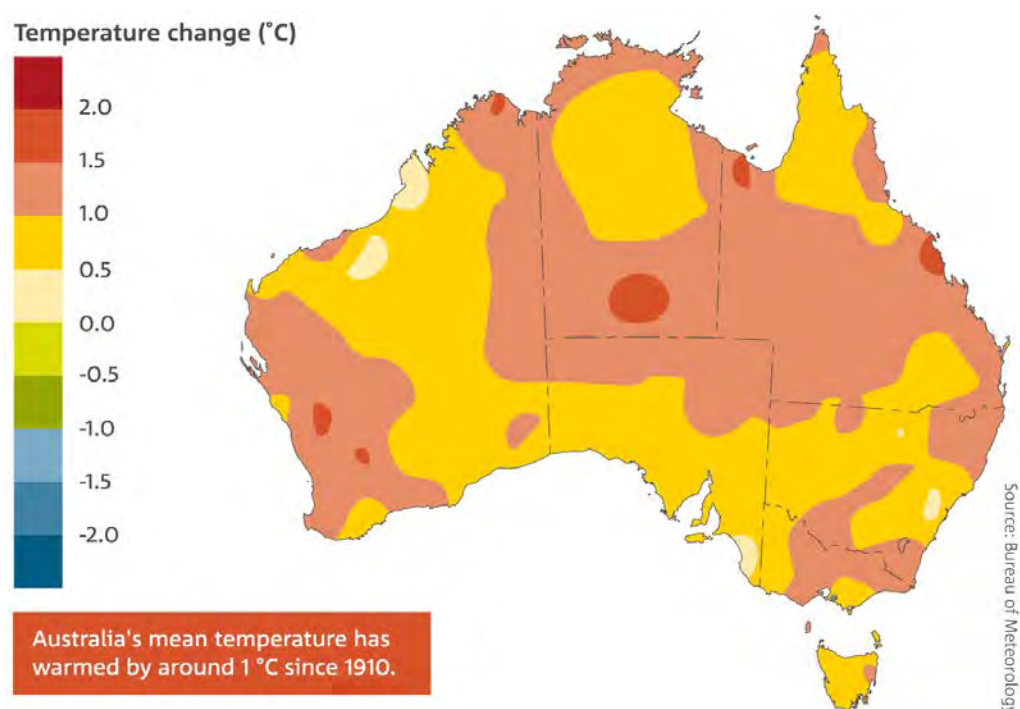


Figure 1: Mean temperature change in Australia relative to 1910. (BOM and CSIRO, 2016)

Temperatures in the Basin reflect this national trend, with annual mean temperatures continuing to increase above the long term average (1910 to 2017), year after year. Figure 2 demonstrates that temperature increases in the Basin are particularly evident over the last 20 years.

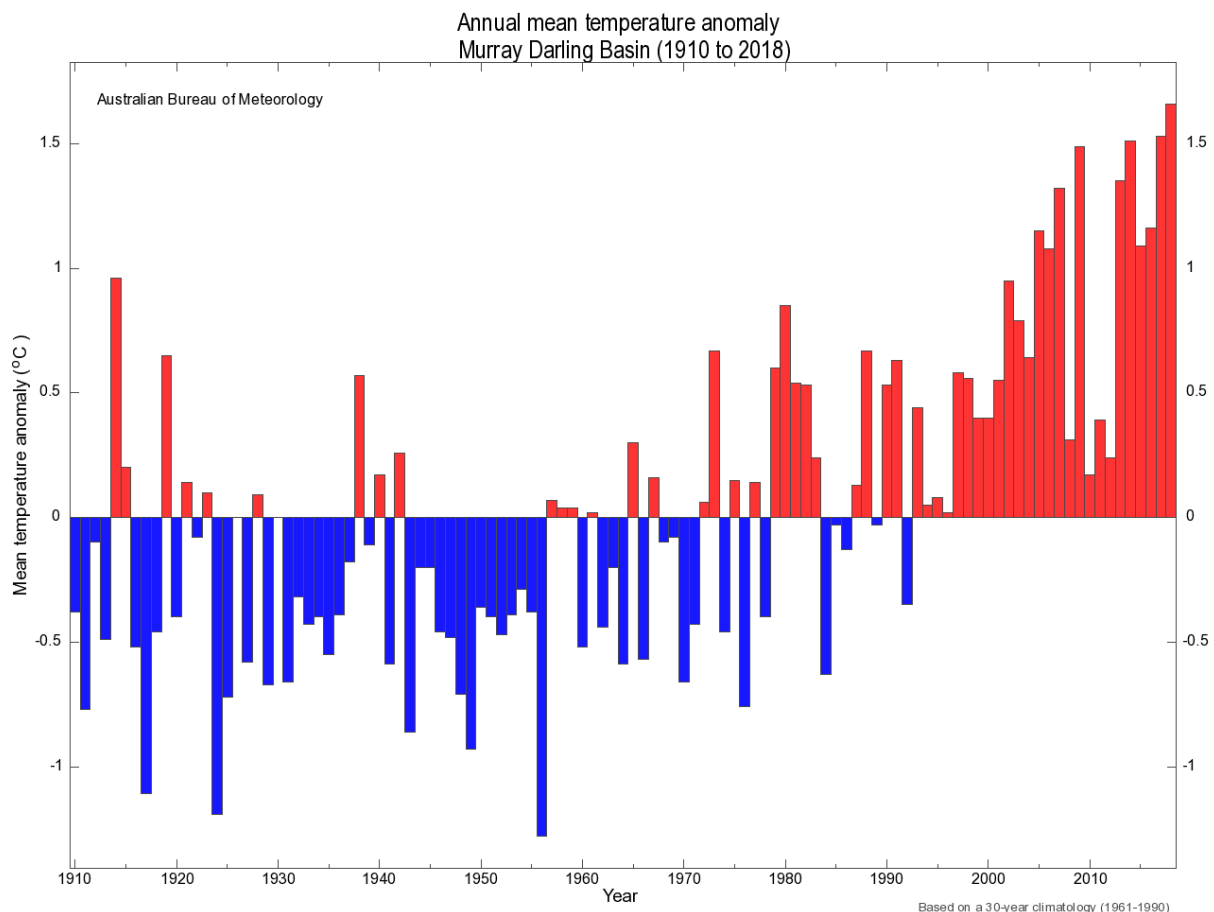


Figure 2: Annual mean temperature anomaly for the Murray–Darling Basin (1910 to 2018) (BOM, 2018)

Rainfall

Multiple large-scale weather patterns influence the Basin’s climate. Dynamic interactions between these systems results in a highly variable climate, and extreme variations in rainfall both spatially and temporally. This variability makes it difficult to determine the exact effect climate change is having on rainfall. Nevertheless, scientists agree that rainfall patterns are changing as a result of climate change.

Rainfall patterns vary between the Basin’s north and south. The climate in the southern Basin receives more consistent, rain-bearing weather systems, such as the Southern Annular Mode (SAM). Historically, this system brings regular winter rainfall to south-east Australia and is often responsible for the majority of inflows entering the Basin in a given year. Inter-annual variability in this weather system is common, and associated with interactions between the SAM, Indian Ocean Dipole (IOD) and ENSO systems (Hope et al., 2017; BOM & CSIRO, 2018).

Southern Basin

Over the last 20 years, there has been an observed shift in the amount of rainfall in south-east Australia, particularly via the SAM. Less rainfall is falling during the winter and spring, and slightly more rainfall is falling during autumn. Overall, the southern Basin is receiving less annual rainfall

compared to the long term average. These changes are attributed to climate change (Hope et al., 2017, BOM & CSIRO, 2018).

Northern Basin

The northern Basin has a more variable and intermittent rainfall pattern, with long dry periods and droughts interspersed with intense rainfall events. Rainfall in the northern Basin is generated by a more complicated mix of weather systems than in the southern basin, giving rise to greater variability and unreliability (Ekström et al., 2015; BOM & CSIRO, 2018). Over the last 20 years the northern Basin has also seen a shift in rainfall patterns, with declines in winter and spring rainfall, and increases in summer and autumn rainfall. Differences in the summer and winter rainfall over the past 20 years (relative to the long term average) for Australia are shown in Figure 3.

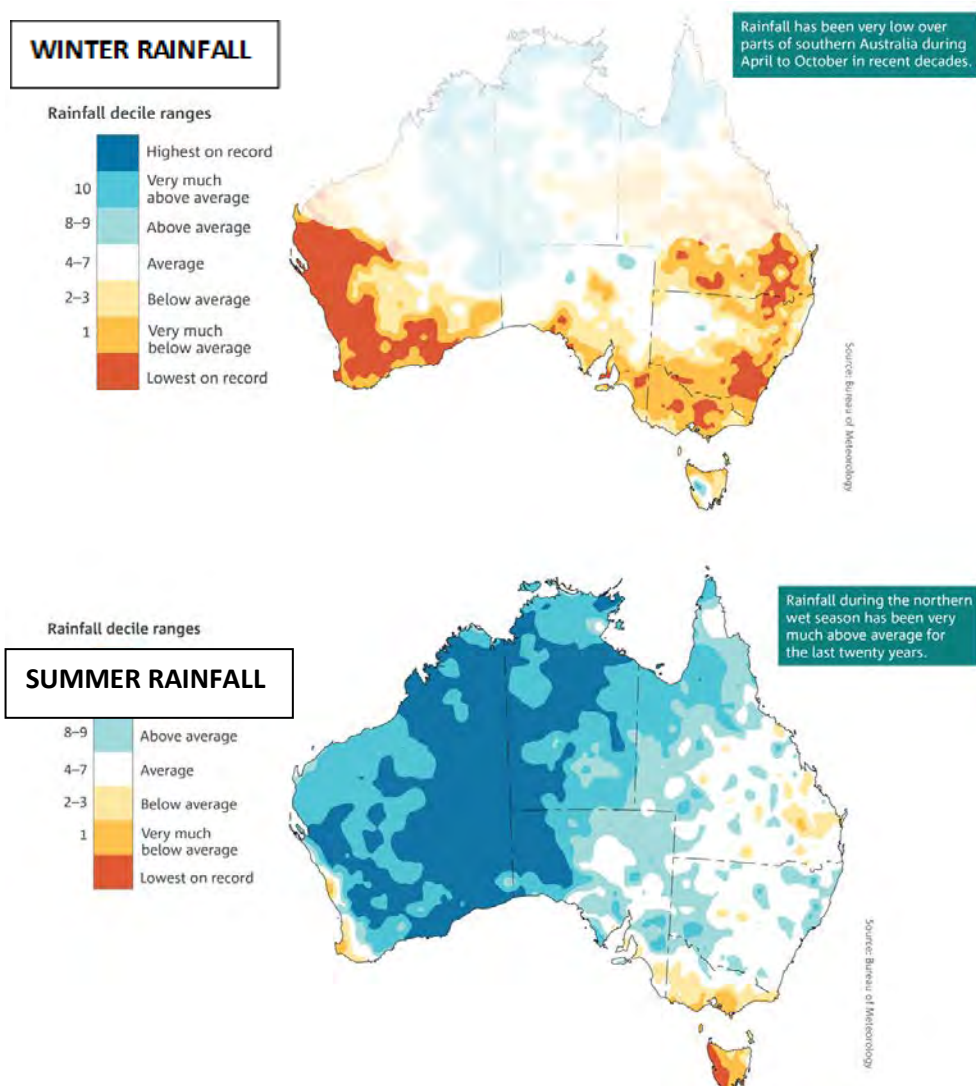


Figure 3: Winter rainfall: April to October rainfall deciles for the last 20 years (1998–99 to 2017–18). Summer rainfall: October to April rainfall deciles for the last 20 years. A decile map shows where rainfall is above average, average or below average for the recent period, in comparison with the entire national rainfall record from 1900. (BOM and CSIRO, 2018)

Climate change projections




Governments and research institutions are continually improving the understanding of how global climate change will influence the Australian climate. This research applies up to 40 global climate models that represent the relationship between greenhouse gas concentrations, global temperatures and global circulation patterns. Using these models, scientists are able to project the impacts of global climate change in the Australian context. Significant variation between projected outcomes makes it difficult to precisely forecast the effect of climate change on future weather patterns, nevertheless these models remain highly useful tools to examine the potential range of future impacts due to climate change.

Over the past decade, several studies have applied global climate models to identify potential changes in the Basin's climate, and estimate the scale of potential impacts on water availability. Two such investigations, the [Murray–Darling Basin Sustainable Yields \(MDBSY\) project](#) and the [South Eastern Australian Climate Initiative \(SEACI\)](#), both found a greater likelihood of declining rainfall at the basin-scale, and that water availability in the southern basin would continue to decline.

The MDBSY study projected the average volume of available surface water could decline 11% by 2030 under the median climate scenario. Subsequent projections by SEACI found a 1°C increase in the mean global temperature (by 2030) could lead to changes in mean annual runoff by between –2 and –22% in the southern Basin, and –29 and +12% in the northern Basin (CSIRO, 2010, 2012). Work under the [Climate Change in Australia](#) initiative indicates the Australian climate will experience longer dry periods and more severe droughts (comprising more frequent and intense heat waves) in the future.

The combination of model uncertainty and unpredictable phenomena (such as El Niño and La Niña events) means the capacity to predict future temperatures and rainfall patterns is limited (BOM and CSIRO, 2018). However, consistency between temperature and rainfall patterns and climate change projections provides confidence that climate models represent the key processes driving the warming trend (BOM and CSIRO, 2018). This also provides confidence that several climatic trends are likely to emerge (Table 1).

Table 1: Synthesis of trends associated with climate change impacts in the Murray–Darling Basin (adapted from CSIRO et al., 2016)

Temperature metrics 	Average temperature	Increasing
	Daily maximum temperature	Increasing
	Daily minimum temperature	Increasing
	Number of hot days	Increasing
Water yield Metrics 	Cool season rainfall	Decreasing
	Snowfall	Decreasing
	Soil moisture	Decreasing
	Evapotranspiration (evaporation from soil and plants)	Increasing
	Runoff	Decreasing
Water extreme metrics 	Intensity of extreme rainfall	Increasing
	Time in drought	Increasing
	Frequency of severe drought	Increasing

Implications and risks of climate change for the Basin

The impacts of climate change on Basin water resources are wide ranging and significant. Higher average temperatures will increase the amount of water lost to evaporation and reduce soil moisture. This means more rainfall will be absorbed into the soil, resulting in less runoff, reduced river flows and less water being stored and regulated by dams.

Higher temperatures are also expected to lead to an increased dependency on river flows, as crops and native vegetation have less access to soil moisture and suffer increased losses from transpiration. This may be further compounded by increased growth rates associated with higher concentrations of carbon dioxide. Studies have shown that ‘carbon dioxide fertilisation’ can further reduce catchment inflows by as much as 28% (Ukkola et al., 2015).

Research indicates climate change will influence weather systems differently in the northern Basin, compared to the southern Basin.

Projections indicate a small increase in total annual rainfall in the northern Basin is more likely in the medium to long-term (Ekström et al., 2015; BOM & CSIRO, 2018; NARClIM, 2019), whereas decreasing winter and spring rainfall is consistently predicted to occur in the southern Basin over the rest of this century (Hope et al., 2017, BOM & CSIRO, 2018).

Climate change can be expected to increase river salinity levels (where control measures are not present) as a result of more frequent and longer periods of low or zero flow. Longer periods of low flow with higher temperatures will also increase the likelihood of blue-green algal blooms, with potentially devastating impacts on native fish and town water supplies. Storages, such as Lake Hume, are subject to increases in bloom formation under drought conditions and if dry conditions become more frequent, so too will water quality issues.

Reduced rainfall and streamflow, and increased temperature will also impact on the natural cycle of floods and droughts, changing the hydrology of the river system. Animals and vegetation have both temperature and watering requirements (and tolerances) and these are less likely to be met under climate change, with adverse outcomes, like species extinction, occurring more often.

The risks identified have significant consequences for the environmental health of the Murray–Darling Basin. This is also true for the communities living in the Basin, and the industries and agribusinesses reliant on the river system for their water supply.

Climate change will have significant implications in the Basin, increasing pressure on the health of the Basin’s environment, its communities and its economy. It is also likely that the management, sharing and delivery of the basin water resources will become significantly more complex, and contested.

Climate change is expected to increase production risks to agriculture, through reduced water availability, higher evapotranspiration and higher temperatures. Agricultural industries have been adapting to these risks through changes in business and operating models. Highly water-dependent industries (e.g. irrigation industries) are also adapting to the reality of less water and will continue to do so.

Some of the responses by irrigators to future climate changes include:

- A change of crop types such as:
 - a shift to more drought tolerant or water efficient varieties
 - a spatial shift in where crops are grown
 - a reduction in total permanent plantings and an increase in annual crops under a future of reduced water availability. Annual crops allow for greater inter-annual flexibility in water use because perennial planting require water every year. The shift to annual crops could be substantially more if the current irrigation footprint is maintained.
- A possible shift in the irrigation season from summer to autumn/spring – such changes have already been observed in the southern basin dairy industry.
- A reduction in both annual and permanent crop types under the more severe climate change scenarios that see substantial reductions in water availability.

There are also other businesses indirectly impacted by reducing water availability. For example, tourism, fishing and recreation-based enterprises that depend on healthy rivers and wetlands are likely to be impacted by drier climatic conditions and the prevalence of stressed ecosystems. There could be implications for other types of ecosystem services provided by healthy rivers, wetlands and floodplains, such as flood and soil erosion risk mitigation, climate regulation (via carbon sequestration) and water purification, that also affect the welfare of communities across the Basin.

As well as water-dependent economic sectors in the Basin, there are many communities that also rely on a healthy river system for their sense of healthy living. This may link to things such as particular cultural needs or identities; a desire for a particular aesthetic; or a sense of wellbeing or psychological health that river systems can support.

We are all, in some way, susceptible to the impacts of climate change.

The Basin Plan

In the early 2000s there was widespread agreement across governments that a plan was needed to manage our water carefully and protect the Basin for future generations. The Murray–Darling Basin Plan was developed to manage the Basin as a whole and connected system. The Basin Plan aims to restore the Basin back to a healthier and more environmentally sustainable level, while continuing to support farming and other industries for the benefit of the Australian community.

The Basin Plan, amongst other things, sets limits (known as sustainable diversion limits or SDLs) on the amount of water that can be taken from the Basin each year, leaving more water for our rivers, lakes and wetlands, and the plants and animals that depend on them. Figure 4 provides a summary of the main elements of the Basin Plan.

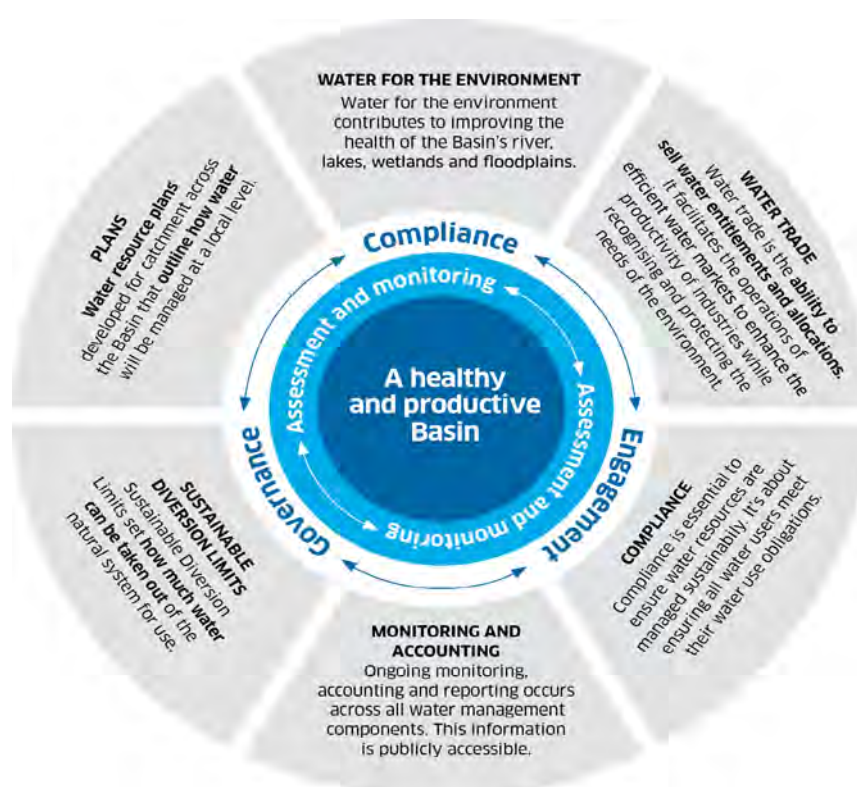


Figure 4: Main elements of the Basin Plan

Development of the Basin Plan

Understanding the effects of climate change on the Murray–Darling Basin is a complex undertaking. Broadly, the task can be divided into two fields of investigation: understanding how each aspect of the climate will change; and anticipating how these changes will affect the natural and human developed components of the Basin.

At the time of Basin Plan development (2009–12), there was significant uncertainty in both fields of study. As outlined by Neave et al. (2015), the models designed to forecast the specific climatic impacts displayed significant range and uncertainty. Overall, there was a broad understanding of the

impacts of climate change at the global scale (e.g. a warming atmosphere, changing patterns of rainfall), but it was more difficult to anticipate exactly how these changes would play out at smaller scales such as across the Murray–Darling Basin. Translating these uncertain climatological and hydrological changes through to matters relevant to stakeholders and decision-makers (such as water availability, ecosystem health, water quality, and agricultural production) was also subject to much uncertainty and the difficulties associated with separating a global warming signal from the high natural climate variability.

In 2009, the Authority sought advice from the CSIRO regarding selection of climate change inputs to three elements of the Basin Plan modelling program: a climate baseline to describe the Basin’s water resource, future climate scenarios to examine climate change risks to water availability and climate sequences to support operational planning.

The [CSIRO recommended](#) the MDBA use the longest possible climate record for hydrologic modelling to encapsulate a range of climate conditions, noting the South Eastern Australia Climate Change Initiative also suggested a running baseline based on the past 30 years data was also appropriate. Guided by this advice, in 2009 the Authority selected the 114-year climate history (1895–2009) as the climate baseline for the Basin Plan modelling. This was considered the most scientifically credible option available at that time. A key strength of long climatic sequences is that they take into account the extremes of climate experienced in the past, including three prolonged drought periods—the ‘Federation’ drought (1895–1903), the ‘World War Two’ drought (1939–1945) and the ‘Millennium’ drought (1996–2010). This scenario also includes climatic extremes similar to what we can expect under the range of climate change projections. The 114-year climate sequence also has similar mean annual rainfall and mean annual runoff as both the 30 years preceding the Basin Plan and the 1961–2008 IPCC climate baseline (Table 2).

To examine climate change risks, the 2030 dry, median and wet climate change scenarios recommended by CSIRO were adopted and extended by the MDBA in 2010 to assess the risks to the Basin’s water resources from climate change (MDBA, 2010). It was not considered necessary to apply the CSIRO’s suggested scaling method in other modelling activities given the climate baseline was deemed sufficiently robust. It was also not feasible to represent natural and human responses to different levels of water availability (associated with each climate change scenario) in a scientifically robust and defensible way.

Climate sequences to inform operational planning scenarios (next 10 to 15 years) over the period of the Basin Plan’s implementation recommended by the CSIRO consisted of short and medium-term sequences that consider the recent climate period (past 10 to 20 years). However, time limitations and the significant uncertainties at that time regarding Basin Plan implementation (i.e. Northern Basin Review and Sustainable Diversion Limit Adjustment Mechanism) diminished the value of pursuing this work, and short term planning scenarios were not pursued.

Table 2: Mean annual rainfall and runoff over the southern MDB averaged over different climate periods prior to Basin Plan modelling (modified from Chiew et al., 2009).

Climate period		Mean annual rainfall (mm)	Mean annual runoff (mm)
1895–2006	Historical climate in MDBSY	436	42
1895–2008	Historical climate in MDBSY extended to 2008	435	42
1961–1990	IPCC climate period	461	48
1961–2008	IPCC period extended to 2008	446	43
1979–2008	30 years	432	40
1989–2008	20 years	429	37
1994–2008	15 years	398	30
1999–2008	10 years	390	27

Initial thinking was to include a uniform 3% allowance for climate change into the sustainable diversion limit, based on a proportion of the estimated average 10% decline in water availability under a median 2030 climate scenario. This was criticised by CSIRO because it oversimplifies climate change projections. Instead, it was recommended that further analyses should be undertaken to understand environmental water requirements and ecological responses under future climate scenarios. These were carried out in the process of [setting the Environmentally Sustainable Level of Take](#) (ESLT) and informed the final Basin Plan settings (Swirepik et al., 2015). More detailed exploration of climate change effects can be considered in future reviews of the Basin Plan.

Water management in a changing climate

Managing a complex river system with a highly variable climate such as the Murray–Darling Basin is a dilemma for decision-makers. Scientific understanding generally contains a level of uncertainty, and yet significant investments in policy reforms are more easily justified when the evidence base is more certain. For example, the impacts of climate change in the Murray–Darling Basin are intertwined with the natural variability of the system. The timing and magnitude of long term climate changes remain uncertain and difficult to identify and measure separately from natural variability.

Taking action to address future risks can have immediate costs, which need to be weighed up against future benefits, which are less clearly understood.

The MDBA's response to climate change in 2012, was to ensure the Basin Plan recommended the immediate action of recovering additional water for the environment which, combined with refinements to existing water sharing arrangements, would buffer the system from stress under a drying climate. Secondly, the Basin Plan was designed to be adaptive, and regularly reviewed and updated with the best available science and emerging knowledge about climate change (Neave et al., 2015).

The Basin Plan itself is designed to adapt to new knowledge. The settings made in 2012 were based on the best available information. Regular reviews are built into the Plan to allow for changes as the knowledge base improves. This includes the requirement for the MDBA to conduct future reviews with an updated assessment of climate change risks. The first major review point for the Basin Plan is in 2026. The objective of the MDBA's climate change program is to build our understanding of, and capacity to analyse, climate change impacts to inform this review.

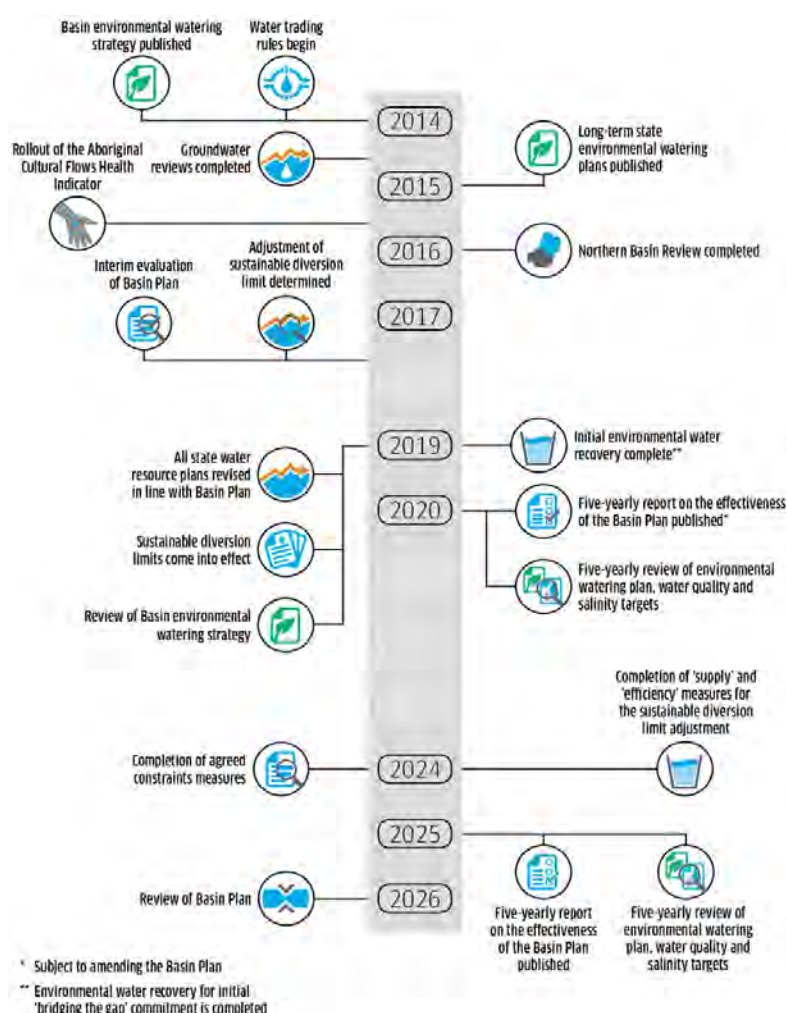


Figure 5: Basin Plan timeline.

The adaptive approach employed by the Basin Plan also gives effect to the requirements of the *Water Act 2007* (Cth), which includes:

- improved water resource monitoring and accounting
- requirements for Basin governments and the MDBA to monitor the outcomes of environmental flows and the condition of key environmental assets
- periodic evaluation and review of the outcomes of water management arrangements that may be used to adapt operations, water sharing arrangements or policy.

The Basin Plan also requires that, where appropriate, climate risks to the implementation of these policies must be identified, and where possible, addressed by water resource plans. In this way, future water sharing arrangements, policies and management practices, along with the broader water reform package will deliver a healthy working Basin that is more resilient to the threats posed by climate change.

The Sustainable Diversion Limits (SDLs) are a key element of the Basin Plan, and deliver on several Basin Plan policy objectives simultaneously, including addressing the risks of climate change. These limits determine how much water, on average, can be used in the Basin by towns and communities, farmers and industries.

Sustainable diversion limits are estimates, using a formula to determine how much water can be taken for consumptive purposes in any given year. These formulas consider inflow volumes, water allocation policies, user behaviours, water trades, and infrastructure.

Water usage patterns in the Basin are diverse. Usage varies year-to-year depending on climatic conditions, rainfall, trade, infrastructure development and individual business decisions. The new system of limits will consider both the water available for use, the water expected to be used and the actual amount of water used. Water accounting occurs following the end of each water year.

Under the existing system of entitlements and allocations, water is allocated based on availability—in a dry year less water is allocated and available for use, in a wet year there is more available for use. The allocations system is therefore naturally adaptive to climate variations, and adjusts year-to-year.

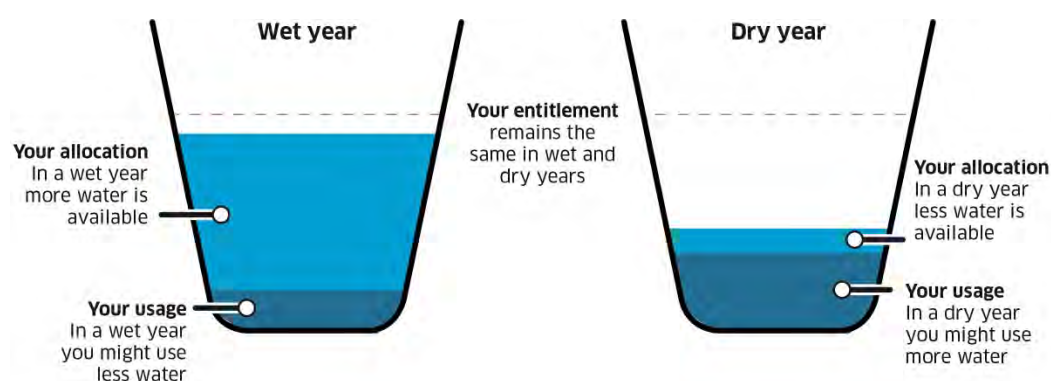


Figure 6: water allocations and usage in different climatic conditions

A number of other Basin Plan policy provisions also address climate change. These are given effect though the Plan's policies for water accounting, water quality and salinity, environmental water management, and water trade policies and elements contained in water resource plans.

Incorporating climate change/variability considerations in the Basin Plan				
	Refining	Buffering	Enhancing	Adapting
Provision	Basin Plan	Description of Provision		
Refining existing arrangements				
Annual water allocations based on prevailing climatic conditions	Chapter 6	The Basin Plan continues to support and strengthen States' annual allocation process. The process is responsive to climate variability and change.		
Hydrological modelling covering extremes of climate	Chapter 6	Modelling to support development of SDLs used an extended climate sequence (1895-2009) and therefore captured all the dry and wet periods of that 114 year period.		
Strengthening existing water trading framework	Chapter 12	The Basin Plan refines and strengthens the existing water trading framework, allowing the most productive use of scarce water in dry times.		
Buffering the system from stress				
SDLs provide additional water to support healthy ecosystems	Chapter 5 & 6	Recovery of additional water (average of 2,750 GL/year) from consumptive use for environmental purposes will help to build the resilience of water-dependent ecosystems in the face of a drying climate.		
Inclusion of groundwater and interception in SDL framework	Chapter 6	The Basin Plan brings groundwater diversions and interception activities into SDLs.		
Protection of planned environmental water	s10.28	The Basin Plan requires States to ensure there is no net reduction in protection of planned environmental water when updated water resource plans are developed.		
Enhancing with new arrangements				
Identification of risks, and strategies to address those risks	s4.03(3)(g)(iii) s4.03(3)(h)(iii)	The Basin Plan identifies climate change as a risk to the condition and continued availability of water resources and provides that new knowledge about its impacts is required.		
Setting an environmental objective and outcome that considers climate change	s5.03(1)(c) s5.03(2) s8.04(c) s8.07(1)&(2) s9.04(2)(a)	A Basin Plan objective is ensuring that water-dependent ecosystems are resilient to climate change (Chapter 5, 8 and 9) and an outcome is that water-dependent ecosystems have strengthened resilience to climate change (Chapter 5).		
Setting a water trade outcome that considers climate change	s5.07(2)(c)(ii)	A Basin Plan outcome is the creation of a more efficient and effective market that enables water-dependent industries to strengthen their capacity to adapt to future climate change		
Annual environmental watering priorities based on prevailing climatic conditions	s8.23-s8.31	The annual environmental watering priorities are determined from an assessment of the amount of water likely to be available in the year in question.		
Maximising the benefits of environmental watering	s8.35(f)	Environmental watering is to be undertaken in a way that incorporates strategies to deal with a variable and changing climate.		
Arrangements to meet human water needs under extended dry periods	Chapter 11	The Basin Plan has identified the volume of water required to deliver and meet critical human needs on the shared River Murray system, and has arrangements to manage the risks that this cannot be provided.		
Water resource plans to develop strategies to address the risk of climate change, protect groundwater systems and manage extreme dry conditions	Chapter 10	States must consider the risks of climate change and determine how to respond. States must consider what rules are required to protect the groundwater-dependent ecosystems and the productive base of groundwater. States must describe how an extreme dry period will be managed, and consider whether management should change if new science about climate change suggests a change in the chance of such events occurring.		
Adapting to future changes				
Discrete-point adaptation	s6.06	The Basin Plan must be reviewed at least every 10 years (Water Act s50) and reviews under s6.06 of the Basin Plan must be undertaken having regard to the management of climate change risks and include an up-to-date assessment of those risks. The Environmental Watering Plan and water quality and salinity targets in the Water Quality and Salinity Management Plan must be reviewed every five years (Water Act s22).		
Continuous adaptation	s8.17 s8.31	The Basin-wide environmental watering strategy can be reviewed at any time and at least every five years, and the Basin's environmental watering priorities are determined annually and can be updated at any time.		
Monitoring and evaluation	Schedule 12 Item 3&17	The matters for evaluation of the Basin Plan include the protection and restoration of water-dependent ecosystems and ecosystem functions, including for the purposes of strengthening their resilience in a changing climate; and the effectiveness of the water resource plan in providing a robust framework under a changing climate.		

Figure 7: Actions taken in the Basin Plan that address climate change/variability (Neave et al., 2015)

The challenges ahead

The implementation of the Basin Plan has already benefitted the environment, industry and Basin communities in the face of a changing climate. The Basin Plan will continue to evolve to address the impacts of climate change into the future. This is achieved by using the best available science to underpin the way in which the Plan is implemented, evaluated and reviewed—a key reason the Basin Plan was designed to be adaptive. Regular review points are built in to ensure each component is evaluated, reviewed and improved over time. This requires continual investment in new science, knowledge and capacity.

With responsibility for Basin Plan policy, compliance and river operations, the MDBA must be prepared to adapt to risks of climate change at multiple timeframes, including:



- **Short term** adaptations for river operations
- **Medium term** adaptations to optimise social-economic and environmental outcomes – progressed through five-yearly evaluations of major Basin Plan policies (commencing in 2020), and
- **Long term** adaptations to optimise social-economic and environmental outcomes through a review of the Basin Plan – including by investing in new science, knowledge and capacity to evaluate adaptations to climate change (commencing with the first Basin Plan review in 2026).

To inform the development of these strategies, governments need to ensure that the right information is available to identify adaptations and their appropriate scale.

The MDBA, in partnership with Basin governments and scientific research bodies, is working to improve its understanding of the links between climate change, Basin Plan policy and outcomes in the Basin. The Sustainable Diversion Limit Adjustment Mechanism and the Northern Basin Review are both examples of adaptation built into the Basin Plan, embedding improvements in understanding and science in the Basin Plans implementation. Adaptation is key to ensuring water is managed in the interests of all Australians.

Improved science will be vital for ongoing adaptive management of the Plan. As the science improves there is likely to be difficult questions that must be answered.

One of the fundamental questions is, are the current macro settings of the Basin Plan, such as the sustainable diversion limits, adequate to ensure a healthy working Basin under climate change? The more difficult question that follows is, if not, should these macro settings be changed? Or should the expectations of what the Basin Plan can achieve be tempered? Or is it a combination of each?

There are other Basin Plan implementation instruments which must also be examined as climate science continues to strengthen, such as the environmental management framework. This framework (described in Chapter 8 of the Basin Plan) outlines the long-term ecological aims of the Basin Plan (through the Basin-wide Environmental Watering Strategy and long-term watering plans), and details the year-to-year environmental watering actions (the annual watering priorities) necessary to achieve these long-term aims. This framework will be reviewed by the end of 2020. This review will examine whether the guidance provided by the framework is effective. As part of the proposed 2022 review of the Basin-wide Environmental Watering Strategy, consideration will be given to whether the expected ecological objectives and outcomes are still relevant given future climate projections, and also whether the timeframes for achieving those outcomes are still realistic.

The challenges of climate change in the Murray–Darling Basin are complex. The MDBA will engage actively with expert agencies and researchers to ensure the MDBA is accessing the latest climate science; understanding the implications and risk for the Basin; and exploring management strategies and possible policy changes that will work to build Basin resilience in a drier, hotter future climate.

Hydrology and ecology

Focus questions

- What will the macro hydrological settings of the Basin Plan deliver in terms of a healthy working Basin?
- Under climate change, and the water management measures in place, what are the likely trajectories for the Basin’s environmental health?
- What management and operational measures can be put in place to improve the resilience of the Basin’s environmental assets?
- What other changes to the Basin Plan might need to be considered, and how effective might they be in delivering a healthy working basin?

The MDBA is committed to improving knowledge about climate change impacts on the hydrology of the Basin. There is still uncertainty over the precise impacts climate change will have on the hydrology and ecology in the Basin. However, we need to start preparing for these impacts now, and climate science is at the point where some trends are becoming apparent and some impacts can be anticipated. As in 2012, the MDBA will use a multiple-lines-of-evidence approach to best anticipate and manage these impacts. It has also partnered with the University of Melbourne to develop a method for testing the effect of altered quantities and patterns of water availability (due to climate change) on the ecology of the Basin’s water-dependent ecosystems.

Climate change may also mean that protection or restoration of some ecological sites/values is not feasible and so alternate strategies may need to be developed (e.g. adaptation) to sustain these values. In order to achieve Basin Plan objectives, the MDBA is investigating ecological climate adaption options and is identifying potential climate refuges in the Basin—places in the Basin that will be less affected by climate change and may be able to continue supporting vulnerable flora, fauna and ecosystems. As stated by Neave et al. (2015):

A drying climate would lead to some ecosystems moving to a new state (e.g. from river red gum forest with a flood-dependent understorey to river red gum woodland with a flood-tolerant understorey). A better understanding of ecological responses to climate change will have a bearing on the water requirements of water-dependent ecosystems and consequently on how reductions in water availability due to climate change are shared between users and the environment.

Climate change is expected to reduce water resources, altering the pattern of flow in rivers. Climate science is confirming the trend of declining April-to-October rainfall and run-off in the southern Basin, and indicates it will continue to decrease further (Hope et al., 2017). Similarly, a recent study by the MDBA found that climate change is one contributor to the reduced flows experienced by the northern Basin since the year 2000 (MDBA, 2018). These climate change induced reductions in flow will affect all aspects of Basin condition and raise new management issues.

For example, work by CSIRO (2008) indicates that water not held in entitlements (planned environmental water or 'PEW') is particularly susceptible to reductions in water availability from climate change. This occurs because rules in state water plans have the effect of partly shielding consumptive users and environmental water holders from these reductions. Under a drying climate, the reduced quantity of planned environmental water will have to be factored into the determination of an environmentally sustainable level of take.

The Water Act envisages the inherent complexity of the river system and makes it clear that the Basin Plan is to serve environmental purposes, and is also to provide for the use and management of the Basin water resources in a way that optimises economic and social outcomes. This poses two challenges for the MDBA. First, measuring and assessing each of these outcomes involves a diversity of research disciplines, research methods and evidence, including community and Aboriginal knowledge and learnings. Secondly, it requires a holistic approach, in which communities and their associated activities are considered to be part of the system. This approach requires that relationships between parts of the system, including interdependencies and trade-offs, are understood.

New research, including updated climate change science, will be crucial to the 2026, or earlier, review.

Water quality

Focus question:

- As water quality risks change under climate change, what strategies can be implemented to ensure that water quality remains fit for purpose across the Basin?

Water quality is managed in partnership with the Basin state and territory governments, with a key management arrangement being the Basin Salinity Management 2030 strategy (MDBMC, 2015) which sets out clear objectives and targets for managing salinity in rivers. It remains critical that the right information is collected to inform adaptive management toward these objectives.

While salinity is managed through existing control measures implemented along the River Murray, lower flows present salinity issues in other areas such as the Darling River and Lower Lakes where there is potential for large saline groundwater ingress.

In recent years, blue-green algal blooms in the Murray River are becoming more frequent with five major blooms occurring in the last 13 years, compared to at most four in the preceding 65 years (Joehnk et al., 2018). These blooms have significant environmental, economic and social impacts as they cause disruptions to drinking water supplies, the environment, recreational activities, tourism and agriculture.

The mass fish kills that occurred in the Darling River downstream of Menindee in January 2019, triggered by algal bloom die-offs and low dissolved oxygen, are a clear example of these potential impacts.

In recent years, some river reaches have seen hypoxic blackwater events and low dissolved oxygen events. Low dissolved oxygen events are generally associated with very low flows and hot weather conditions, while blackwater events result from inundating floodplains that have remained dry for an extended period (i.e. multiple years) and have accumulated high levels of eucalyptus leaf litter. The effects of blackwater are highly dependent on temperature, with warmer weather greatly exacerbating their effects. Given predicted climate change scenarios, maintaining adequate minimum flow rates where practical, particularly in warmer weather, and re-commencing flows with sufficient dilution will be important measures for managing or ameliorating low dissolved oxygen events. Blackwater events are a more difficult phenomenon to manage, given the only known way to ameliorate them, at present, is regular flooding of floodplains—a generally unfeasible measure in a river system increasingly constrained by user demands and climate change. Research into alternate ways of managing or ameliorating blackwater may be needed.

There is also need to expand our knowledge of the influence of water temperature itself on animal and plant populations. High water temperatures are potentially harmful for animals and plants. For example, the iconic Murray cray (*Euastacus armatus*) has a long term maximum temperature tolerance of 27 degrees (Geddes et al., 1993) and future heatwave conditions may see these thresholds exceeded in some southern Murray–Darling Basin habitats. Thresholds for other species that are either iconic and/or essential for ecosystem functioning may be approached in the future e.g. river prawn larvae (*Macrobrachium australiense*) struggle to survive at water temperatures approaching 35 degrees (Lee and Fielder, 1981). Another issue is sub-lethal thresholds that impact on population viability, e.g. the possibility of pre-spawning egg failure in Murray cod if spring water temperatures substantially exceed 21 degrees (Lake, 1967).

It is clear that flow is a key driver of water quality issues, both in terms of drought and low or no flow conditions leading to increased salinity, increased frequency of algal blooms and the potential for low dissolved oxygen events, and at the other extreme large floods causing excessive carbon loading and hypoxic blackwater events. Key knowledge priorities include:

- Salinity planning and management—an improved understanding of floodplain processes and salinity impacts from changed flow regimes, including from climate change.

- Algal blooms—an improved understanding of the impact of climate change on triggers and conditions leading to algal blooms in key storages and locks and weirs and along the river.
- Hypoxic blackwater and low dissolved oxygen events—to increase capacity to understand the risk of hypoxic blackwater and other low dissolved oxygen events occurring under different climate change scenarios, to inform river management and water use planning decisions.

The Independent Assessment of Lower Darling fish kills, which commenced on 22 January 2019, may also give insights into future monitoring requirements or knowledge needs.

Irrigated agriculture, Basin economies, trade and the water market

Focus questions:

- Will existing trade rules continue to be effective in achieving productive and resilient water-dependent industries and communities under a changing climate?
- What are the business risks to irrigators, and what strategies can irrigators adopt to adapt to a future with less water availability?
- What are the climate change risks to other economic sources in the Basin, and will changes to sustainable diversion limits be needed to ensure the future flow of ecosystem services and economic benefits

The introduction of water trade and a water market that was separate from land holdings allowed water to be bought and sold as a commodity. Consequently, water can be directed to its highest value uses and irrigators have the flexibility to use water allocated to them; or not use water and sell the allocations (trade) as an alternative income source in any given water year. Conversely, people who need more water do not have to go to without water and can buy more water.

Research by Jiang and Grafton (2012) demonstrated that inter-regional water trade in periods of a much reduced water availability can mitigate the on-farm impacts of climate change and improve on-farm profit reductions caused by climate change. For example, under an extreme dry scenario, water trade improved the profit reductions by 7% (Jiang and Grafton, 2012). Qureshi et al. (2018) also showed that the ability to trade water from low value crops to high value crops can result in economic losses that are much lower than the proportional decline in water availability during periods of drought.

Loch et al. (2013) conclude that irrigators can use water markets in a number of ways to adapt to less water availability under climate change. The use of water markets by irrigators can be transformational (e.g. selling all water entitlements and relocating or switching to dryland) or incremental (e.g. trading water allocations, using carry-over, changing water management techniques).

Under declining water availability, the water market products offered by states need to remain fit-for-purpose. Inter-regional trade rules and limits need to be responsive to and sufficiently flexible to allow irrigators to trade water to mitigate risks associated with an increasingly warmer and drier

climate. The reliability of water being able to be delivered to market users, particularly during an increasingly drier and low water availability future, needs to be well-understood. Research is needed into how production and financial risks of irrigators change and how irrigators may then respond to these changing risks (e.g. changing the extent, types and timing of crop plantings). Better understanding of these risks to irrigation will have implications for river operations with water management and planning decisions, and will reveal whether current water market rules are able to support irrigators mitigating and adapting to climate change risks.

Other water-dependent economic sectors in the Basin also face risks and uncertainty under climate change. For example, tourism, fishing and recreational based enterprises that depend on healthy rivers and wetlands may be impacted by drier climates that place stress on ecosystems. Other types of ecosystem services provided by healthy rivers, wetlands and floodplains, such as flood and soil erosion risk mitigation, climate regulation (via carbon sequestration) and water purification, all have direct economic benefit to Basin communities. These economic benefits are also at risk from an increasingly warmer and drier climate, but very little is understood about the impacts of climate change on these ecosystem services in the Basin (Alamgir et al., 2014). Furthermore, how much environmental water will be needed and how will it need to be managed to sustain these other water-dependent economic sectors under climate change?

River Murray operations

Focus question:

- What more can be done to adapt the operation of the Murray River in response to the changing climate and how can we work with all other river operators in the Basin to help adaptation?

The MDBA operates and manages the water resources of the River Murray upstream of the South Australian border on behalf of the governments of Victoria, New South Wales, South Australia and the Commonwealth. In this role, the MDBA is responsible for managing water storages to maximise water conservation, ensuring that state water entitlements are delivered as ordered, and that the water is shared between the states in accordance with the agreed rules. The MDBA is also responsible for the management of key infrastructure along the river and the management and operation of the salt interception schemes. The River Murray system downstream of the SA border is managed by the South Australian government.

The shift in water ownership, arising from trading of water between irrigation areas and through the transfer of water to environmental water holders as a result of the Basin Plan, has increased the complexity of river operations. Dealing with this complexity within the current operating framework has, on occasions, been challenging.

Climate change is expected to bring additional challenges to river operations in the form of larger floods, prolonged droughts, more intensive heatwaves driving spikes in demands and more regular water quality incidents. Although the system experiences these types of events already, the frequency, size and extent of these events may change and challenge existing approaches.

The framework that guides River Murray Operations is designed, by necessity, to allow for adaptable operations—as every day, month and year on the river can be markedly different. This flexibility is supported by the state allocation frameworks that adjust allocations according to water availability. However there are some areas of the operating framework and water sharing rules that may require refinement or adjustment if they are to remain relevant under a changed future climate and achieve the intended outcomes.

For example, minimum passing flows in the river and the tributaries may not be sufficient under a warming climate to keep the system in good shape. Another relevant example is the hard coded access rules regarding the operation and control of the Menindee Lakes and the assumption that 480 GL of water in storage is sufficient drought protection until the next major inflow.

Improvements in climate, streamflow and demand forecasting will provide much needed intelligence for day to day operations. The ability to assess the probabilities of various scenarios occurring will improve operational decision making. Front-line operators will be better able to manage the impacts of climate change using forecasts rather than depending only on the historic record, as they are already beginning to do.

Any change to the operating framework for the River Murray will require the approval of the joint governments. Thus the focus should also be to support and bolster the adaptive framework that is already built into the operating framework such that when Basin propose changes to operations and water sharing rules, these are supported by informed decision makers.

MDBA climate change research program

The Basin Plan adapts to new information. Adaptation has been occurring since the Basin Plan's inception in response to the changes in rainfall and streamflow patterns. Adaptations are also occurring over the medium term, building in the knowledge gained through periodic evaluations, like the 2017 Evaluation of the Basin Plan.

Effective adaptation over the short, medium and long term relies on accurate and timely information and an understanding of the current and forecast implications of climate change on the Murray–Darling Basin.

The complexity of climate science, the inherent climate variability of the Basin, and the multitude of water users within the Basin means that the MDBA must progress its climate change forward work program, in partnership with key agencies and the scientific research community. The MDBA will ensure we are well placed to incorporate new climate change science into elements of adaptive management.

This includes working alongside independent and eminent scientists, such as those on the MDBA's independent Advisory Committee on Social, Economic and Environmental Sciences to ensure we access the best available science for our investigations and assessments.

We will also be working with government, industry, First Nations people, community stakeholders and partners to identify opportunities to enhance water management in the Basin.

The MDBA climate change program aims to enhance understanding of:

- global climate change patterns and trajectory predictions
- potential climate change impacts on the hydro-climatic conditions in the Basin
- potential impacts and risks to social, environmental and economic outcomes in the Basin
- opportunities and strategies to improve the arrangements within the Basin Plan

The program will be developed collaboratively, but as a starting point the MDBA considers the following five elements important for early consideration:

1. Continued collaboration with the Bureau of Meteorology, CSIRO and other research partners to understand and utilise the latest climate change science.
2. Review of adaptation actions implemented by Basin governments and environmental water holders, and working with these stakeholders to create a unified approach to identifying and addressing climate risks.
3. Work with policy institutions, eminent scientists and governments to advance discussions around difficult policy questions arising from climate change impacts.
4. Assessment of progress to addressing climate change risks through state water resource plans.
5. Enhance our capacity to assess climate change impacts on the Basin; refine the way we test policy robustness; develop planning and operational tools to support decision making; and explore alternative strategies to provide for a better future.

As this work evolves, the MDBA will continually improve what it delivers across all timescales (annually, five yearly, etc.). The program will be sequenced to ensure major milestones are delivered in time for the 2026 Basin Plan review.

As a next step, the MDBA will work the MDBA's independent Advisory Committee on Social, Economic and Environmental Sciences, and other stakeholders, to articulate a climate change work plan for the MDBA. The workplan will be endorsed and publicly available by mid-2019. The workplan is the first step in the climate change work program for the MDBA.

References

Alamgir M, Pert P and Turton S. (2014). A review of ecosystem services research in Australia reveals a gap in integrating climate change and impacts on ecosystem services. *The International Journal of Biodiversity Science, Ecosystem Services and Management*, 10, 112–127.

BOM (2018). Australian climate variability and change—trend maps.

Online at: <http://www.bom.gov.au/climate/change/index.shtml#tabs=Tracker&tracker=trend-maps>

Accessed: 14 January 2019.

BOM and CSIRO (2016). State of the Climate 2016.

Available online at: <http://www.bom.gov.au/state-of-the-climate/2016/>

Accessed: 15 January 2019.

BOM and CSIRO (2018). State of the Climate 2018.

Available online at: <http://www.bom.gov.au/state-of-the-climate/>

Accessed: 15 January 2019.

Chiew FHS, Cai W and Smith IN (2009). Advice on defining climate scenarios for use in Murray–Darling Basin Authority Basin Plan modelling. CSIRO report for the Murray–Darling Basin Authority.

CSIRO (2008). Water availability in the Murray–Darling Basin. A report to the Australian Government from the CSIRO Murray–Darling Basin Sustainable Yields Project. CSIRO, Australia. 67pp.

CSIRO (2010). Climate variability and change in south-eastern Australia: A synthesis of findings from Phase 1 of the South Eastern Australian Climate Initiative (SEACI). CSIRO, Australia.

CSIRO (2012). Climate and water availability in south-eastern Australia: A synthesis of findings from Phase 2 of the South Eastern Australian Climate Initiative (SEACI). CSIRO, Australia. 41 pp.

CSIRO, BOM and DOE (2016). Climate Change in Australia—Murray Basin Projection Summaries.

Online at: <https://www.climatechangeinaustralia.gov.au/en/climate-projections/future-climate/regional-climate-change-explorer/clusters/?current=MBC&popup=true&tooltip=true>

Accessed: 15 January 2019.

Ekström M. et al. (2015). Central Slopes Cluster Report, Climate Change in Australia Projections for Australia’s Natural Resource Management Regions: Cluster Reports, eds. Ekström M. et al., CSIRO and Bureau of Meteorology, Australia.

Online at: <https://www.climatechangeinaustralia.gov.au/en/publications-library/cluster-reports/>

Accessed: 7 February 2019.

Geddes MC, Musgrove RJ and Campbell NJH (1993). The feasibility of re-establishing the River Murray crayfish, *Euastacus armatus*, in the lower River Murray. *Freshwater Crayfish* 9, 368–379.

Hope P, Timba B, Hendon H, Ekström M and Potter N (2017). A synthesis of findings from the Victorian Climate Initiative (VicCI). Bureau of Meteorology, Australia. 56 pp.

Available online at: <http://www.bom.gov.au/research/projects/vicci/>

Accessed: 24 January 2019.

IPCC (2014). Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, RK Pachauri and LA Meyer (eds.)]. IPCC, Geneva, Switzerland. 151 pp.

Jiang Q and Grafton RQ (2012). Economic effects of climate change in the Murray–Darling Basin, Australia. *Agricultural Systems*, 110, 10–16.

Joehnk K, Biswas T, Anstee J, Ford P (2018). Managing the risk of cyanobacteria blooms in Lake Hume. In: ASLO summer meeting; 10–16 June 2018; Victoria, BC, Canada. ASLO; 2018. 1.

Lake JS (1967). Rearing experiments with five species of Australian freshwater fishes. I. Inducement to spawning. *Australian Journal of Marine and Freshwater Research* 18, 137–53.

Lee CL and Fielder DR (1981). The effect of salinity and temperature on the larval development of the freshwater prawn, *Macrobrachium australiense* Holthuis, 1950 from south eastern Queensland, Australia. *Aquaculture* 26, 167–172.

Loch A, Wheeler S, Bjornlund H, Beecham S, Edwards J, Zuo A and Shanahan M (2013). The role of water markets in climate change adaptation. National Climate Change Adaptation Research Facility, Gold Coast. 125 pp.

MDBA (2010). Water Availability in the Murray–Darling Basin—An update of the CSIRO Murray–Darling Basin Sustainable Yields Assessment. MDBA Publication No. 112/10. Murray–Darling Basin Commission, Canberra.

MDBA (2018). Hydrologic assessment of flow changes in the northern Basin. Murray–Darling Basin Authority Canberra.

Online at: <https://www.mdba.gov.au/sites/default/files/pubs/1209-Hydrologic-assessment-of-flow-changes-in-the-northern-basin.pdf>

Accessed: 22 January 2019.

MDB Ministerial Council (2015). Basin Salinity Management 2030 (BSM2030)

Online at: https://www.mdba.gov.au/sites/default/files/pubs/D16-34851-basin_salinity_management_strategy_BSM2030.pdf

Accessed: 15 January 2019.

NSW and ACT Regional Climate Modelling (NARClIM) (2019). NSW climate projections map for 2020–2039.

Online at: <https://climatechange.environment.nsw.gov.au/Climate-projections-for-NSW/Interactive-map>

Accessed: 7 February 2019.

Neave I, McLeod A, Raisin G and Swirepik J (2015). Managing water in the Murray–Darling Basin under a variable and changing climate. *Water: Journal of the Australian Water Association*, Volume 42 Issue 2 (Apr 2015).

Qureshi ME, Ahmad MD, Whitten SM, Reeson A and Kirby M (2018). Impact of climate variability including drought on the residual value of irrigation water across the Murray–Darling Basin, Australia. *Water Economics and Policy*, 04:01.


Steffen W, Vertessy R, Dean A, Hughes L, Bambrick H, Gergis J and Rice M (2018). *Deluge and Drought: Australia’s Water Security in a Changing Climate*. Climate Council of Australia Ltd.

Swirepik JL, Burns IC, Dyer FJ, Neave IA, O’Brien MG, Pryde GM and Thompson RM (2015). Establishing environmental water requirements for the Murray–Darling Basin, Australia’s largest developed river system. *River Research and Applications*. DOI: 10.1002/rra.2975

Ukkola AM, Prentice IC, Keenan TF, van Dijk AIJM, Viney NR, Myneni RB and Bi J (2016). Reduced streamflow in water-stressed climates consistent with CO₂ effects on vegetation. *Nature Climate Change* **6**, 75–78.

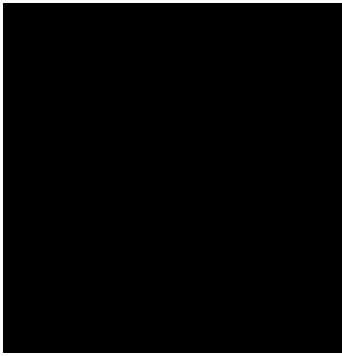
Office locations

Adelaide
Albury–Wodonga
Canberra
Goondiwindi
Toowoomba

 mdba.gov.au

 1800 230 067

 engagement@mdba.gov.au



20 July 2019

Attention: Coordinator-General

C/- Project Manager – New Acland Coal Mine Stage 3 project

Office of the Coordinator-General

PO Box 15517

City East QLD 4002 Australia

By email: newaclandproject@coordinatorgeneral.qld.gov.au

Dear Sir,

I am writing to make a submission on the New Acland Coal Mine Stage 3 Project – project change application 2 (Train load-out facility).

My family and I are neighbours to the north, north west of the New Acland Mine. We already suffer from impacts from the existing mine and are opposed to the proposed stage 3 expansion. I was a level 2 objector and active in court every single day of the Land Court hearings.

Generally speaking, it is not in my family's interest to have coal handling facilities closer to us. As such I have often raised that moving the Jondaryan problem closer to us is not a solution. However, the current proposal by NAC to extend the use of the coal load out facility at Jondaryan is of significant concern. I will outline some of the reasons for this below.

1. Together with some other neighbours to the north of the mine, on the evening of Thursday 9th May I attended a group meeting arranged by NAC at New Acland Coal Mine – Conference Room with New Acland Mine General Manager, David O'Dwyer, New Hope Group's Projects and Operational Improvement Manager David Vink and New Hope Group's Senior Landholder & Community Coordinator Grant Higgs. The purpose of this meeting was to "update [us] on New Acland's Stage 2 extension planning". The key take home message they expressed to us was that 'the stage 2 expansion is not being progressed as stage 3 is looking positive'. In this context, NAC spokespeople were specifically asked about the construction of the rail loop and the timeframe for this and what implications this has. NAC staff did not answer this

question and pretended not to know the answer and to not have thought about it at all. For many questions they said they'd get back to us. However, I have not received any further information from NAC. Yet I see now that just a few days later (on 24 May) NAC had lodged this application. This is just one example of what a mockery it is for NAC to include in this application information purporting that they have undertaken adequate community consultation on this issue when they refused to answer even broad and direct questions about it even so recently.

2. I only became aware of the proposed change to the project and the opportunity to make a submission after a friend brought a newspaper advertisement to my attention. I have still not received anything from NAC making me aware of this situation.
3. The rail load out facility at Jondaryan (JRLF) was originally designed for a much smaller operation. Even the stage 2 EIS Executive Summary, explained that it was to produce "up to 4 million tonnes per annum". This is far less than is indicated with this proposal.
4. Little faith can be had in NAC's commitment on page 10 of this application for change that "the quantity of product coal transported through the JRLF during this period will not exceed the existing approved level of 5.2Mtpa". This mine has changed and expanded many times from the original 1Mt p.a and not 24 x7 operation, often without public notification or formal opportunities for comment. We have also already experienced commitments not being kept. This has included NAC mining a whole new pit ("West Pit") in stage 2 that was not part of the stage 2 EIS application documents or assessment process or in any way publicly notified and which includes areas of the original stage 3 proposal that that revision of stage 3 specifically and publicly excluded from mining plans as part of a commitment to keep mining operations further from Acland. NAC also removed and mined under the trees that were planted and committed to as part of the stage 2 EIS and Qld Government Stage 2 EIS Assessment Report requirements as being a buffer from mining activities. Hence, there can be no confidence in this commitment, especially if the ML allows more coal to be produced.
5. NAC implies that this amendment is consistent with the CG's intent for a definitive timeframe for the relocation and improvement of the rail loading facility. This is clearly misleading. Condition 4 must be viewed in the context of NAC's frequent promises to improve / change the Jondaryan facility and NAC's back tracks on these commitments over many years prior to the CG report and also significant community concern about the impacts of this facility at Jondaryan. The CG requirement is unambiguous in its intent that "The new train load-out facility, rail loop and rail spur for the project is **required to be the sole distribution point for all railed product from the first day of operations of the stage 3 project**" (emphasis added). The proposed amendment in no way meets this requirement.

6. Throughout the revised EIS prepared by NAC dated January 2014 and the supplementary EIS of September 2014, the decommissioning and closure was a big feature of NAC's application. For example:
 - a. On page 3-88 NAC describes "the closure of the JRLF" as one of the "main efficiencies for the revised Project"
 - b. On page 2-8 NAC explains that "impacts from the JRLF" were one of the "Key community comments and concerns relating to the EIS" as identified by NAC in consultation regarding the 2009 EIS.
 - c. NAC identified on page 2-8 that "The key elements of the New Acland Stage 3 EIS - revised Project include decommissioning of the JRLF"
 - d. On page 2-16 NAC discusses that "benefits associated with the construction of the new TLF on MLA 50232 [and decommissioning of the JRLF] include a reduced potential for dust and noise impacts at Jondaryan and improved amenity at Jondaryan through the removal of coal stockpiles".
 - e. Further, NAC states that "Consultation has identified the operation of the JRLF is a key concern for the local community" and "there is a reduced potential for dust and noise impacts, improved amenity and community acceptance at Jondaryan through the decommissioning of the JRLF." (page 2-16)
7. Throughout the assessment of the revised stage 3 project including not only the CG assessment in 2014 and but also throughout the more recent Land Court processes, continued operation of the JRLF was not assessed as it was specifically not part of the project.
8. In its formal written submissions to the court NAC specifically argued:

"The relocation of the TLF and decommissioning of the Jondaryan TLF was one of the key suggestions of the CG that came out of the public submissions on the Initial Expansion Project. It is submitted that there will be an overall benefit to the general public as a result of the relocation. Further, CG's Imposed Condition 4(a) provides that the new TLF, rail loop and rail spur for the project is required to be the sole distribution point for all railed product from the first day of operations of the Revised Expansion Project. It would clearly be inconsistent with that condition (and therefore impermissible)⁵ to have the TLF remain at Jondaryan. Mr Welchman also noted that the MHF and the TLF proposed for the Revised Expansion Project will be superior, in terms of dust control, compared to the existing facility at Jondaryan."⁶ ¹
9. The closure of the JRLF and the absence of use of the JRLF has been a cornerstone of the revised stage 3 project and part of the basis of any recommendations favourable to NAC regarding its revised stage 3 project.

¹ par 1.15 NAC written submissions dated 26 August 2016. NAC footnote 6 refers to Air Quality, Dust and GHG JER, paragraph 3.2(jj), page 28. These submissions were signed by Peter Ambrose QC Queens Counsel for the Applicant, Ben Job Counsel for the Applicant and Clayton Utz Lawyers who also represented NAC throughout.

10. Further, the continued use of the JRLF has not been assessed. Nor has its use at this scale, or on the basis of more modern air quality regulations, been assessed.
11. In the Land Court experts from both sides acknowledged that there had been in the vicinity of 40 exceedances of the EA limits around the JRLF even within a very limited period of specific monitoring.² In addition, there have been many other complaints and evidence provided of dust problems at Jondaryan.
12. It seems likely that if continued use of the JRLF was part of the stage 3 application then:
 - a. There might have been more objections, especially from people in the vicinity of Jondaryan. (NAC seemed to 'market' stage 3 to Jondaryan residents as a benefit as it would mean that the rail load out would change whereas if stage 3 was not approved they would be stuck with the current JRLF).
 - b. The various adverse impacts from the JRLF (eg dust, noise and health impacts) would have been assessed including through the Land Court. This may well have resulted in the Land Court (and Government agencies) making further and more significant adverse findings in relation to the proposed Stage 3 project. For example, the dust, noise and health impacts may have resulted in strong recommendations of refusal in both the Land Court judgments of Member Smith and President Kingham, and further conditions may have been considered if the project was approved including continued use of the JRLF. Also, the Department of Environment and Science may have refused the EA amendment application or added further conditions.
13. As acknowledged by NAC (eg page 2-16 EIS Jan 2014), one of the "benefits associated with the continued operation of the JRLF include ... reduction in the overall capital costs of the revised Project." This is consistent with various public statements by NAC to the effect that economic reasons stopped them changing or improving the JRLF. See for example: Toowoomba Chronicle article titled "New Hope rail facility upgrade ditched for economic reasons" which includes "Oct 8, 2013 - ... Group says "economic circumstances" are behind the company's decision to abandon expansion plans at its *Jondaryan rail loading facility*." <https://www.thechronicle.com.au/news/new-hope-withdraws-plans...rail.../2044456/>
14. It was previously considered that "NAC's mining operations, if Stage 3 is approved, will only last for some 12 years".³ However, since 2016, quite a lot of the coal proposed to be mined in Stage 3 has already been mined by virtue of the west pit and other mining activities outside what was previously intended to be Stage 2 and including areas that were mapped as Stage 3 pits. This is consistent with the findings of Member Smith in his judgment 31 May 2017⁴ and also the judgment of President

² See OCAA submission, Joint experts report Welchman and Taylor and also transcript page 52-37, lines 27-33 for example

³ [325] Judgment of Member Smith but also 12 years is referenced in many other places.

⁴ *New Acland Coal Pty Ltd v Ashman & Ors and Chief Executive, Department of Environment and Heritage Protection* (No. 4) [2017]

Kingham in 2018⁵. As such, if NAC is allowed to mine a further 5 years of its already depleted stage 3 operations and export this via the JRLF, it seems unlikely that they would ever make the investment to build the new facility, particularly as the economics of coal mining might be less favourable for NAC in the years ahead.⁶ (Although I don't want this potentially dusty and noisy coal handling facility closer to me, it must be recognised that as well as continued operation of the JRLF disadvantaging the residents of Jondaryn this would also mean that the construction jobs would not be created).

15. The fact that some of the coal previously considered to be part of stage 3 has already been mined, and the possibility that the rail loop and related infrastructure may not be built, also reduces any economic benefits from the proposed stage 3 and again casts further doubt on whether the proposed project should be approved. It has clear environmental and community disadvantages (eg groundwater impacts, noise, dust, destruction of strategic cropping land and priority agricultural areas, road closures, community division etc) so the erosion of any economic benefits further tips the balance in favour of refusing the project.
16. I question the accuracy and relevance of the job figures provided in NAC's document. In the Land Court if it was found that figures provided by NAC in the past had been significantly overstated. It should not be assumed that all the contractors are full time for example. Further these figures seem to relate to the whole of stage 3, rather than being a specific benefit of allowing the proposed amendment to the CG condition. NAC has not committed to abandon the whole Stage 3 project if this amendment isn't approved so it is not appropriate to consider all supposed economic or employment benefits of stage 3 as relying on approval of this amendment.
17. Throughout the Land Court hearings NAC has made various threats and statements about the need for "urgency" and that workers will be put off unless the processes were expedited and approval granted by various dates now in the past. As found by Member Smith in both his Judgment in relation to NAC's application to reopen the Land Court hearing months after the close of evidence⁷ and in the main judgment⁸ in relation to NAC's repeated calls for "urgency" the fault of so called "delays" lies squarely at the feet of NAC.⁹
18. Member Smith specifically found that:

"It is my clear view that any urgency in these matters has risen as a direct consequence of the actions by NAC. These actions include the failed initial

⁵ *New Acland Coal Pty Ltd v Ashman & Ors* (No 7) [2018] QLC 41

⁶ There was evidence by Economic and Coal Market experts in the Land Court on this issue.

⁷ *New Acland Coal Pty Ltd v Ashman & Ors* (No. 3) [2017] QLC 1

⁸ *New Acland Coal Pty Ltd v Ashman & Ors and Chief Executive, Department of Environment and Heritage Protection* (No. 4) [2017] QLC 24

⁹ "falls squarely at the feet of NAC" is actually a quote from Member Smith [97] *New Acland Coal Pty Ltd v Ashman & Ors* (No. 3) [2017] QLC 1.

Stage 3 expansion after 5 years; a quicker depletion than earlier anticipated of the coal reserves in Stage 2; and the reopening of this hearing.” [126]

19. Other paragraphs from Member Smith’s 31 May 2017 Judgment are also relevant in regards to the credibility of NAC’s repeated claims of urgency including [114] – [126].¹⁰

20. Further, time and the non-occurrence of the various predicted apocalypses, has proved that many of these claims by NAC were ill-founded, even though they were successfully used by NAC to compress the timeframes available for objectors to prepare and present their cases. I cannot help but be concerned by how much more unfair leeway NAC may be given in the future to, bit by bit, get more favourable outcomes for its shareholders. The approval of the original smaller stage 1 mine has been used as leverage many times to allow NAC to get increasingly bigger and cause ‘just a bit more’ destruction to good ag land. NAC has also used the noise and dust it causes to argue that future operations wouldn’t make things that much worse, completely disregarding how much better our amenity is without its operations. The ‘workers’ are repeatedly flagged for political leverage even though NAC’s core goals relate to the interests of its shareholders and the many union signs around this district indicate that workers are dissatisfied with NAC.

21. NAC states that “Imposed Condition 4 was inserted at a time when the timeline for the Project anticipated construction commencing in 2015” Yet the CG report was

¹⁰ Member Smith also found in *New Acland Coal Pty Ltd v Ashman & Ors and Chief Executive, Department of Environment and Heritage Protection (No. 4)* [2017] QLC 24 that “this Court expedited the pre-hearing processes so as to enable the hearing to commence in early March 2016. It is noteworthy that, generally speaking, despite the time constraints placed on them by the Court, the objectors have met the expedited time frame sought by NAC both before and throughout the hearing” [115]

Yet “after that evidence was given and those submissions written by NAC, NAC brought a formal application for the reopening of the matter” [118].

“[121] It was only then in the latter part of 2012 that NAC began taking formal steps with respect to its revised Stage 3 expansion, and indeed it was not until June 2014 that MLA 50232 was amended by the abandonment of a significant amount of area applied for. Further, it was not until January 2015 that MLA 700002 was lodged, and it was even later still, on 13 April 2015, that NAC lodged the current EA amendment application.”

[123] There is another fact which I find telling against NAC in its claims for urgency. The application for MLA 50216, being Stage 2, was lodged by NAC in February 2005. Accordingly, the Stage 2 EIS, although undated in the material before me, must be of a similar vintage. The Stage 2 EIS is exhibit 871. Exhibit 871 was tendered by Dr Plant, not NAC. Interestingly, NAC did not include the Stage 2 EIS in its chronology that accompanied its submissions.

[124] Part 2 of exhibit 871 is titled “Description of the Project”. The second paragraph of 2.1 has this to say: The New Acland Coal Mine Stage 2 Expansion Project (‘Project’) involves the expansion of the mine producing thermal coal for the export and domestic markets. An increase in production from 2.5 Mtpa (from approximately 4 Mtpa ROM Coal) up to 4 Mtpa (from approximately 7.4 Mtpa ROM Coal) product coal is planned. A production rate of 4 Mtpa would give a mine life of coal production until approximately 2021.

[125] I would expect a company with the expertise of NAC to have been quite precise in the production of its Stage 2 EIS. It is unexplained by NAC how it is that Stage 2 coal reserves will be exhausted by either 2017 or 2018, rather than the anticipated 2021. Of course, the current coal production, or at least an important part of it is, it would appear, only able to proceed until later in 2017 or 2018 because of the opening of West Pit, something unforeseen in the Stage 2 EIS.”

only released just before Christmas in 2014, and legal appeals against the project were always a realistic possibility as NAC would have been well aware of the significant community opposition to the project. As Member Smith found:

“[121]... it was not until January 2015 that MLA 700002 was lodged, and it was even later still, on 13 April 2015, that NAC lodged the current EA amendment application. [122] On any level, when viewed objectively, to have a matter of this volume and complexity determined by this court by the date of delivery of this decision in May 2017 is rather extraordinary.”

22. By the time the matter was considered in the Land Court in 2016 and 2017 – it would have been clear that construction of the rail loop and related infrastructure was not going to occur in 2015. Yet NAC maintained throughout this period (and until now) that continued use of the JRLF was not part of the plan for Stage 3. If they wanted it to be considered then they should have sought this amendment years ago so that it could have been considered as part of the Land Court hearing.
23. Additionally, it is arguable that the multiple changes to the Water Act etc have meant that there is no more imposition on NAC than they would have anticipated at the time of the revised EIS in 2014. Further, in relation to water, it has long been apparent (eg in the Land Court in 2017) that NAC still had a long way to go to prepare more accurate water modelling. NAC even conceded this in the Land Court and argued that it planned to do more work on this issue later.
24. To my knowledge, there hasn't been a significant delay in the assessment process caused by anyone other than NAC. The Land Court process was expedited and a decision made in 2017 and a refusal of the EA amendment for stage issued in February 2018. That would have been the end of it if NAC itself hadn't begun an appeals process, thereby extending the litigation process and the burden on all parties.
25. The fact that NAC still even in this document refers to “the delay in securing the approvals” means that NAC either completely misunderstands or deliberately misconstrues its rights and the assessment process. NAC has no right to an approval. It is not simply about “delay” but about the many problems with NAC's proposed stage 3 project and that it would cause many adverse impacts.
26. I note that despite mentioning coordinated project gazettal in 2007 the chronology NAC provides completely leaves out its original stage 3 proposal and the EIS process and the time taken by it, and submitters on this and that, in response to the immense adverse impacts of this proposed project and community outcry against it, NAC was effectively told “no” to this proposal by the Queensland Government and Campbell Newman in early 2012. Again, it also fails to mention the fact that it expedited Stage 2 production.¹¹

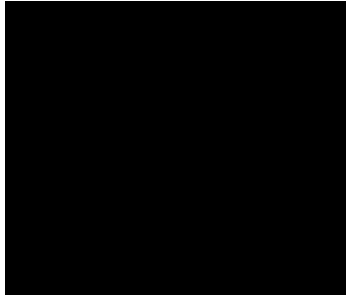
¹¹ See [123]-[125] *New Acland Coal Pty Ltd v Ashman & Ors and Chief Executive, Department of Environment and Heritage Protection* (No. 4) [2017] QLC 24

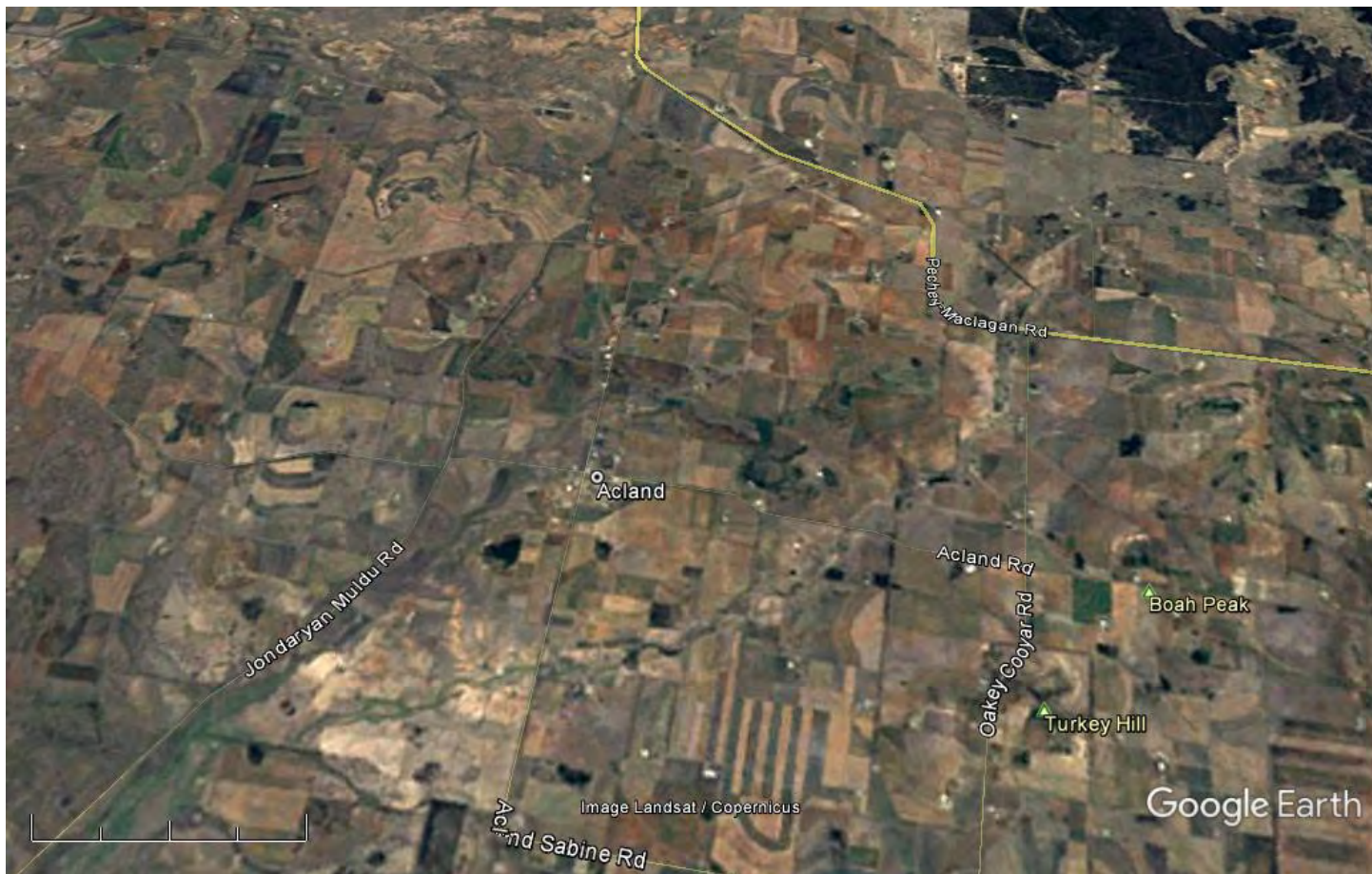
27. Unfortunately, I do not currently have the time or resources to write or reference a more thorough and detailed reply. If you are in any way inclined to approve NAC's application, I urge you to read all the court documents and transcripts first for more information.

As I stated at the outset, I am not an advocate for NAC building more coal processing infrastructure closer to our homes and farms. However, in terms of the basic principles of right and wrong and transparency of decision making, I have concerns about NAC potentially being allowed to operate the JRLF as part of stage 3 when this was clearly not part of the stage 3 application or assessment of stage 3 impacts and there already seem to have been problems with the JRLF.

If NAC is to use the JRLF as part of stage 3, then it should be required to improve this operation, conduct a lot more air quality and noise monitoring and ensure that it does not breach EA, EPP or NEPM limits.

Yours sincerely,





Google Earth

miles 4
km 6





Google Earth

miles 5
km 9





Google Earth

miles 5
km 9





Google Earth



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

16 January 2020

To the assessor at:

RPI Act Development Assessment Division

Department of State Development, Manufacturing, Infrastructure and Planning PO Box

15009 City East QLD 4002

RPIAct@dsdmip.qld.gov.au

Dear Assessor,

**Re: Submission on New Acland Coal's (NAC) Application for a Regional Interests
Development Approval**

[REDACTED]

Please accept this submission from [REDACTED]
[REDACTED] in relation to NAC's application for a Regional Interests Development Approval
(RIDA) for the New Acland Coal Stage 3 project (Ref RPI19/009).

[REDACTED] consists
predominantly of agricultural landholders in the Acland district who are concerned about the
impacts of the proposed Stage 3 project and ongoing sustainability of our groundwater
resources and their ongoing availability for agricultural purposes.

[REDACTED] is aware of an Application by New Acland Coal (NAC) for a Regional Interests
Development Approval in relation to the New Acland Coal Stage 3 Project and remain
concerned about the proposed impacts of this project.

[REDACTED] is writing to ask the Department refuse NAC's application for a Regional Interests
Development Approval.

■■■■■ concerns include but are not limited to;

- Loss of good quality agricultural land
- Impacts on agricultural businesses
- Impacts on groundwater
- Adverse impacts on people
- Intergenerational equity and sustainability
- NAC Conduct
- Lack of merit of the project and significant adverse impacts
- Inconsistent with the purpose of policies to protect agricultural land
- Deliberate change of land use
- Relationship with land owner
- Area of application
- Failure to meet Required Outcome

Loss of good quality agricultural land

It is well known and has been recognised by the Land Court that the agricultural land that would be impacted by the proposed stage 3 project is amongst the best 1.5% in Queensland.¹ This makes it highly significant, in terms of a limited resources and also agricultural production. It is well known that the proposed stage 3 project would destroy a significant area of the land and that the lands that are rehabilitated will not be restored to their former productivity. This was also recognised in the Land Court.²

■■■■■ is concerned about the destruction of good quality agricultural land. It is a precious resource that, if destroyed, is not readily renewed or replaced. It is important for not only the agricultural industry now and into the future but also for future generation's food security and ability to meet their needs in to the future.

Membership of ■■■■■ includes people that have been living and farming in this district for many decades and recall the very high productivity of some of the land that is now at risk of being destroyed if this application is approved. Members of POWER have expressed strong concerns about this loss of productivity and the loss of opportunity for future generations and residents in this district.

¹ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1299]

² <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1291] and [1292]

Impacts on agricultural businesses

It cannot be emphasised strongly enough that without reliable access to quality groundwater businesses in the local area cannot survive. It is essential for livestock, cropping and domestic use. It is also intrinsically linked to the value of land and considered an asset of every agricultural business.

In addition to the direct impact on farm there are many other local businesses which rely on the farming section. Some sell farm inputs and others are involved in the processing and marketing of grains, livestock, and products for consumption such as milk.

Any adverse impact on farm businesses, such as through loss of groundwater and diminished productivity or profitability or reduced liveability of the area, also risks flow on effects to other businesses and the wider community. If this makes other businesses or services unviable in this district, this also risks causing problems for other agricultural businesses and people in a wider area than those directly impacted by the proposed coal mine.

Impacts on groundwater

The local area is highly productive and closely settled and has been established as one of the most important agricultural areas in Queensland for a long time. This has been facilitated not only by the rich agricultural soils and relatively benevolent climate but also by the availability of groundwater.

Many adverse findings in relation to groundwater can be found in Member Smith's Land Court Judgement. Despite revisions to groundwater modelling in the more recent Associated Water Licence (AWL) documents, which have not been through a thorough examination in the Land Court, significant groundwater impacts remain predicted.

The impacts predicted to result from the proposed coal mine are not limited to one aquifer but seem likely to impact on the Alluvial, Basalt, Walloon Coal Measures and Sandstone aquifers.

██████ views are consistent with the views of Member Smith about groundwater. He found:

“there is an important starting point with respect to groundwater; that is, that groundwater is a fundamental issue to those living and working in the Acland area. There is no doubt that legal access to groundwater is held by numerous landholders in the general vicinity of the new

Acland Mine, and that the groundwater obtained by those landholders is essential to their rural businesses...”³

He also found “it is further beyond doubt, and accepted by NAC, that mining operations under the revised Stage 3 will impact on groundwater aquifers...”⁴ Member Smith said;

“there is of course a relatively high concentration of landholder bores which rely upon groundwater from aquifers which will be impacted by NAC’s revised Stage 3 operations.”⁵ and;

“I am satisfied, given the totality of the groundwater evidence before me in this case, that there is a real possibility of landholders proximate to Stage 3 suffering a loss or depletion of groundwater supplies because of the interaction between the revised Stage 3 mining operations and the aquifers. I am also convinced that the potential for that loss or interference with water continues at least hundreds of years into the future, if not indefinitely.”⁶

In addition to finding there will be significant impacts Member Smith found;

“Taking the totality of the evidence into account, I am at a loss to see how a landholder could prove any loss of groundwater at one of their bores was caused directly and with certainty by NAC’s revised Stage 3 mining operations, such is the **high degree of uncertainty of the groundwater evidence. It would be an unacceptable situation, in my view, for NAC to simply to be able to say that it was not satisfied that a landholder lost drawdown in a bore due to NAC’s mining operations, and then leave it to the landholder to undertake what would be very expensive litigation to establish otherwise.**”⁷

He concluded “make good agreements cannot be a complete answer to this uncertainty....This is particularly so in formations with the degree of faulting as found in the Acland area.”⁸

Given the actions of NAC to date, its poor treatment of neighbours with concerns about the mine, the very poor modelling it presented to the Land Court and the lack of confidence in the modelling, there remain very real concerns about NAC’s willingness or ability to negotiate

³ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1517]

⁴ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1518]

⁵ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1629]

⁶ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1337]

⁷ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1630]

⁸ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1629]

in good faith and to actually avoid neighbours and their businesses suffering as a result of diminished groundwater.

All these issues remain deeply concerning to [REDACTED]. The importance of groundwater and the level of stress caused by the threat of its loss cannot be underestimated. Nor should the level of mistrust of NAC given past actions of this company in this district. There is little or no faith in NAC actually appropriately ameliorating groundwater losses and impacts on impacted neighbours.

In addition to the impacts during mining operations, [REDACTED] is also concerned about the voids (massive holes) that would remain after mining. Although there are many concerns about the groundwater modelling provided by NAC, the evidence indicates that it is likely that these voids will drain groundwater in perpetuity.

The impacts will remain not only long after mining but potentially well after NAC ceases to exist as a corporate entity to take responsibility for this. It is also unclear whether making good impacts of this extent and duration is even possible.

In addition to concerns about groundwater quantity, [REDACTED] has concerns about the proposed mine's impacts on groundwater quality. Risks include cross contamination and mine voids ending up as sources, and through contamination by mining by products. In addition, there are concerns about impacts on surface water flows and of polluted mine waters ending up in local creeks and contaminating water and soils.

Adverse impacts on people

Adverse impacts on the people who own and operate the local farms and agricultural businesses risk adversely impacting agricultural production. If the amenity of the area declines then land values, and the population and productivity of people servicing the agricultural industry could diminish also.

There are concerns that impacts from the proposed mine would adversely impact on the health and wellbeing of local farmers, their families or others in the community and on the amenity and liveability of the district. If the proposed Stage 3 Project is approved, it is anticipated, and backed by significant evidence and findings of fact by the Land Court, that residents will suffer substantially increased noise, air pollution, light pollution, road closures.

There is also significant evidence and findings of the Land Court in relation to community division driven by NAC's mining operations and proposed Stage 3 Project. Member Smith

noted concern about this and the actions of some pro-mine supporters.⁹ However, Member Smith indicated an expectation that "... once mining ceases, the division in the community will effectively dissipate."¹⁰

Intergenerational equity and sustainability

The impacts of the proposed mine, which this application relates to, risks destroying valuable soils and groundwater resources. These resources may not recover even after hundreds of years. The groundwater modelling provided by NAC (such as in the EIS) only seemed to look out to 300 years and at that point there was still significant diminution of groundwater caused by the mine. Similarly, it takes a very, very long time for top quality soils to form and there is no evidence suggesting that the soils on this site would ever recover to the same level of productive capacity if NAC is allowed to progress with this application.

From a farming perspective, looking after the farm very much includes looking after the land and water resources is critical. It is top of mind for many farmers. This is critical for the sustainability of the existing operation but also many view it as of the utmost important to ensure that they can hand 'the farm' (ie the land and resources) over to future generations in the best condition possible and certainly in at least a good a condition as it was in when they started farming the land. This ethos has supported the sustainability of Australian agriculture and ensured the sustainability of many family farming operations.

If approved the proposed Stage 3 Project will also make a significant contribution to climate change, not only through the emissions caused by the mining and transport of coal but also by making more coal available to be burned – where ever in the world this ultimately occurs. To allow the destruction of good agricultural land and precious water resources and other adverse environmental impacts to facilitated this seems ridiculous at a time when scientists warn anthropogenic global warming has almost reached a tipping point where the outcomes may be catastrophic and very difficult to reverse.

In addition to exacerbating climate change the proposed Project's impacts on groundwater would also make it more difficult for agricultural businesses and production to survive in a climate change environment given the dire changes to future weather patterns that are predicted.

The application promotes a short-term land use that is not sustainable but would destroy important resources for many generations to come. This does not seem appropriate or

⁹ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1389]

¹⁰ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1391]

consistent with the principles of intergenerational equity or of sustainability. Nor is it consistent with definitions of 'sustainable development, such as the frequently cited definition "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs".¹¹

NAC Conduct

██████ has deep concerns about NAC's conduct if this application is approved and the proposed Stage 3 Project is allowed to proceed. Members of ██████ have significant reasons to mistrust NAC and there is substantial evidence before the Land Court of the poor treatment of those who do not support mining at this location and in relation to NAC's past performance. NAC tries again to paint a rosy picture of a good corporate citizen however this is not the case. Findings in the Land Court concluded that:

"I am not assessing NAC's past performance in this section of the decision – I have already done this and found NAC's past performance has not been satisfactory." ¹²

"I disagree with NAC's submission that there is no evidence or reason to believe that NAC will ignore its neighbours in the future. The way NAC has acted towards its neighbours in the past and its characterisation of them during this hearing would indicate they have been and can be very dismissive of their neighbours' complaints and issues." ¹³

"NAC has much work to do to regain the trust of many in the local community. Its actions in removing approximately 27 buildings from Acland township, downplaying a significant community divide, dismissive treatment of people who do not agree with it, lack of appropriate community engagement and loose complaints management system has negatively impacted the local community." ¹⁴

"I agree with Dr Plant that in the past there has been a chasm between NAC rhetoric and action." ¹⁵

¹¹ Brundtland Commission Report "Report of the World Commission on Environment and Development: Our Common Future" eg see https://en.wikipedia.org/wiki/Brundtland_Commission and <https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf>

¹² <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1416]

¹³ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1419]

¹⁴ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1420]

¹⁵ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1405]

“NAC has sought to portray the local objectors as bigoted individuals who are not interested in facts, only in spreading misinformation about NAC. I do not believe this to be the case. As discussed previously in this decision, I find the majority of the objectors and the witnesses who supported them are honest, hardworking, regular folk whose character has been unfairly besmirched by NAC. In effect, NAC’s treatment of objectors and their witnesses in these proceedings confirms their evidence that NAC has a tendency to treat anyone who disagrees with it in a dismissive and disrespectful manner.”¹⁶

“My independent, considered view on what I have before me is consistent with the evidence given by the objectors that they have actually been treated very poorly by both NAC and the statutory party.”¹⁷

“.... NAC in the past (even on their own evidence) have not always interacted well with local landowners and it would appear on the evidence to this enquiry, they have taken a dismissive approach to local residents’ complaints on occasions.”¹⁸

And further, President Kingham found;

“But for Smith M’s individual conclusions on each issue, I would have weighed his positive and adverse findings in the balance, in a more comprehensive and holistic way. Some issues may have had greater significance than I can give them because of his Honour’s conclusions. One example is his Honour’s findings on NAC’s past performance. There is a distinct incongruity between Smith M’s findings and his conclusion on this issue, particularly given his concerns about past performance included NAC’s response to noise complaints. However, I must give effect to his conclusion that NAC’s unsatisfactory past performance is not a reason to refuse the applications.”¹⁹

In addition, there are reasons to mistrust material and modelling put forward by NAC in applications such as this. For example, the groundwater modelling in the EIS was presented by NAC as high quality fit for purpose and something decision makers and landholders could

¹⁶ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1390]

¹⁷ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [721]

¹⁸ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1262]

¹⁹ <https://www.sclqld.org.au/caselaw/QLC/2018/41> [236]

rely upon. The Land Court process revealed clearly that this was not the case. For example, Member Smith found that:

“To be as blunt as possible, I find the state of the groundwater evidence before me, save for the 2016 IESC Advice and indeed, the 2015 and 2014 IESC Advices, as a muddle. There are simply too many unresolved questions; too many issues upon which the experts agree that the current model is inadequate, and too little of substance in promises and assurances for the future without the ability to give reasoned views on specific data at this time of the approval process, for me to be satisfied that groundwater issues have been properly addressed. Hence, I recommend that NAC’s revised Stage 3 project not be approved due to groundwater concerns.”²⁰

The current material provided by NAC in this application has not yet been given the same level of scrutiny as the documents that were before the Land Court. However, they should be assessed carefully and nothing taken for granted.

Lack of merit of the project does not justify the significant adverse impacts

New Acland Coal currently does not and will not pay future royalties to the state of Queensland on approximately 93% of the coal they mine.²¹

The supposed economic benefits of the mine are questionable. Jobs are not certain, profits, if any, may mainly flow to shareholders outside Queensland and modelling or estimates of ‘indirect’ benefits should be viewed with appropriate cynicism.

Since NAC arrived in the district, they have displaced many local residents and landholders and many businesses have closed or suffered permanently reduced incomes.

Inconsistent with the purpose of policies to protect agricultural land

State politicians on both sides of politics have advocated for and even introduced legislation designed to protect exactly this sort of high quality agricultural land from exactly this sort of destruction. Labor Government then led by Premier Bligh legislated the Strategic Cropping Land Act, and the LNP Government led by Premier Newman (with the legislation also specifically championed by Deputy Premier Seeney) brought in the Regional Planning Interests Act. The statements from the politicians, and Government representatives,

²⁰ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [1680]

²¹ <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf> [882]

indicated that they recognised agricultural land is important and should be preserved for future use. This project is vastly contradictory with these goals and the stated purposes and intent of these and other related policies.

The application is also inconsistent with the Darling Downs Regional Plan which says that *“Priority Agricultural Land Uses (PALU) are the land use priority. PALUs within the PAA will be recognised as the primary land use and given priority over any other proposed land use.”* The DDRP defines a PALU as *‘a land use included in class 3.3, 3.4, 3.5, 4 or 5.1 under the Australian Land Use and Management Classification Version 7’*. The vast majority of the area applied for by NAC is mapped as class 3.3 under the ALUM and therefore qualifies as a PALU under the DDRP. Therefore, the only way to give priority to the cropping land use in this assessment as required by the DDRP is to prevent it being mined. NACs own assessment documentation indicates that the post-mine land use quality will be largely limited to grazing. However, if it is not mined it will retain its cropping potential.

The land is mostly mapped as Strategic Cropping Land (SCL) and that SCL is acknowledged as valuable and should be protected, regardless of whether it is currently being cropped or not. The application also does not even address the fact that the land is SCL. To approve this destruction of SCL is not consistent with the policy intent of protecting good quality agricultural land from permanent destruction.

Deliberate change of Land Use

Since purchasing the land over which the application is sought it seems clear that NAC have deliberately stopped cropping it specifically to aid this application. By stopping cropping land that had a long history of cropping and other intensive agricultural land uses NAC has now sought for it to no longer be classified as Priority Agricultural Land Use (PALU) ie land ‘used for a priority agricultural land use’ under the Regional Planning Interests Act and related regulation and plans, in order for it to then become available for mining.

This seems an attempt to abuse the fine print in a deliberate attempt to circumvent the purpose of the Act. Government should not reward this behaviour.

Relationship with land owner

It is misleading in the application documents that the Acland Pastoral Company provided a letter of ‘support’ without stating clearly that it is also a wholly-owned subsidiary of the New Hope Group, and hence the landowner and the proponent are effectively one and the same.

██████ is also concerned about NAC's claim they should be exempt from s22 of the Regional Planning Interests Act 2014 (RPIA) because they have approval from the landholder. The Act specifies that only applies if the resource authority holder is not the owner of the land. In this case, it is clear that they are one and the same and the exemption should not apply.

Area of application

██████ is concerned that NAC have only applied for a subset of the area that relates to their proposed Stage 3 mining operations. If NAC was genuinely seeking to reduce the scale of its Stage 3 mine then that might be welcomed. However, that does not appear to be the case. The application references the 12 years of the Stage 3 mine but then also states that this application only relates to 5 years of the mine's operations.

It is thought that this 'bit by bit' approach is inappropriate and misleading. It allows NAC to downplay the extent of their impact, with each application only being for a smaller portion of the agricultural land in Queensland than if it was stated as a whole. It may also be a deliberate strategy to exclude areas that would definitely not pass the relevant tests under the RPIA at this stage but to apply for them in the future once they have chosen not to crop them for a few more years. This approach of carving up the application also appears inconsistent with s161) of the RPIA as it does not include accommodate assessment of the *"extent of the expected impact of the activity on the area"*.

In considering this application be aware that it may be the 'thin edge of the wedge' type approach and, if approved, be used as leverage in seeking approval for future stages. That is certainly what has happened in the past as the mine has repeatedly expanded beyond the smaller and not 24x7 stage 1 mine. The assessment should consider the full extent of the area of regional interest NAC are expected to impact on all MLs and areas where associated infrastructure will be located.

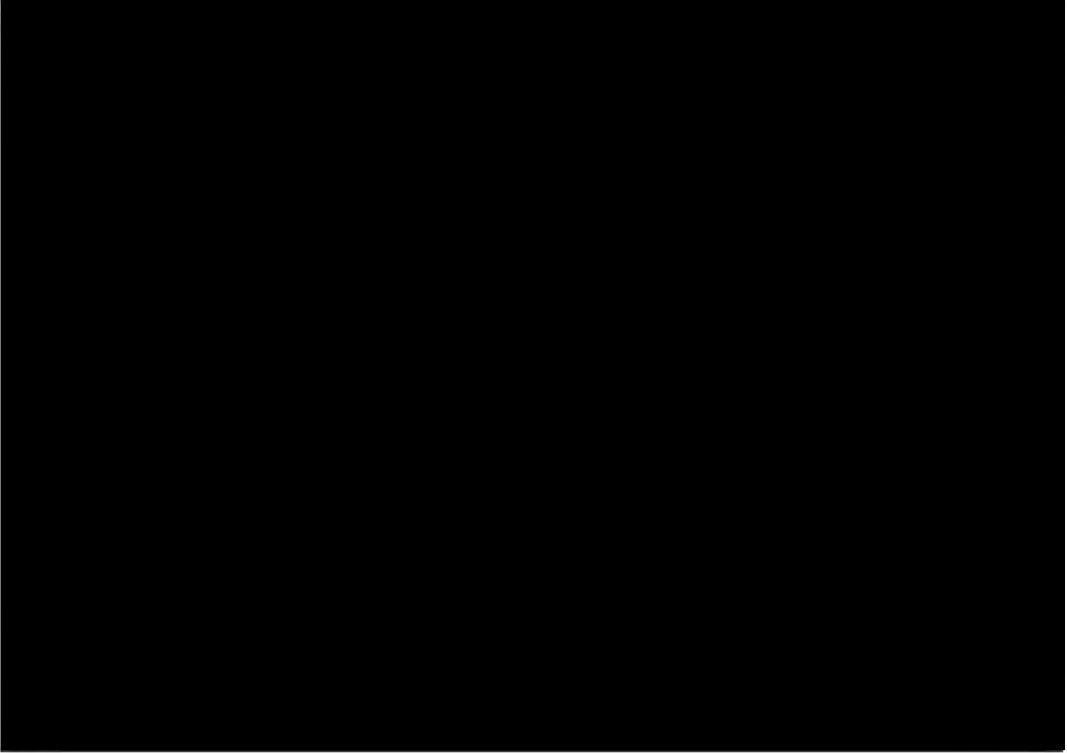
Failure to meet Required Outcome

NAC seem to be relying on the wrong 'Required Outcome' from the Regional Planning Interests Regulation to argue that the activity will not result in a material impact of the use of the property for a Priority Agricultural Land use. Statutory guideline 02/14 for carrying out resource activities in a PAA specifies that *"Required outcome 1 applies where the application is over one property. Required outcome 2 applies where the application is over more than one property"*. NAC / APC / New Hope not only purchased many lots, but they purchased many properties from dozens of separate farming families. This was not a typical farm expansion at all. NAC / APC / New Hope purchased the properties for the purpose of seeking approval

for and operating its proposed stage 3 coal mine. As such, it should be recognised that the land the subject of this application actually comprised multiple properties and Required Outcome 2 should apply.

However, it is clear that the application does not meet the prescribed solution for Required Outcome 2, because the NAC cannot demonstrate that the activity will not result in widespread or irreversible impacts on the future use of the area. In fact, their own application indicates that the future use of the area will be limited to grazing at best. The impact of the activity is also likely to have an impact over a large area where groundwater drawdown is predicted to occur, which is a second consideration under Required Outcome 2.

██████ asks the Government to consider all the problems with application and the proposed project and to consider the issues such as raised above and to refuse NAC's Application for a Regional Interests Development Approval.



Submission to New Acland Coal Mine Stage 3 –

Regional Interest Development Application by [REDACTED]

My name is [REDACTED]

[REDACTED] I completed my education at the end of 1959. For the past 60 years I have had the privilege of working with world class cropping land, as a third generation farmer on the family property [REDACTED], which is located approximately 300 metres from the north-west corner of New Acland Coal's ML244.

The public notice for NAC's application for exemption from cropping land legislation, states the regional interest associated with the proposed mine expansion is "Priority Agricultural Area" (PAA). It must be noted that the Co-ordinator General requires that land removed from cropping permanently by the final voids, be offset with "like for like" land because the final voids are located on land that is almost entirely Primary Agricultural Land Use (PALU) classification. At the Land Court hearing, NAC's soil expert acknowledged that the proposed expansion of modified stage 3 was in the most productive 1.5 percent of land in Queensland. The provisions of the Darling Downs Regional Plan should have automatically disqualified this proposed expansion. The cropping land on ML50232 is equal to the best in the region. It has been cropped for six generations. It is the heritage and birthright of future generations forevermore. The objectives of the RPI Act are to promote ecologically sustainable development and maintain Intergenerational equity. NAC intends to attempt to rehabilitate parts of revised stage 3 mined land back to cropping land. This plan of NAC is doomed to failure. Returning one metre of current surface material over 70 metres of porous mine rubble will require four times the average district rain fall to provide a viable crop.

2.

New Hope Coal knew five years ago that they would have to apply for an exemption from Cropping Legislation. I was rather annoyed that the Land Court conducted a hearing into objections to NAC's proposed modified stage 3 expansion before NAC had secured access to the land for mining. Neighbouring land holders were subjected to enormous costs in time, money and effort to participate in the longest hearing in the Land Court history to protect their properties from potentially damaging environmental impacts from stage 3, particularly permanent groundwater drawdown caused by final voids.

NAC is seeking to gain approval for stage 3 by applying for exemption from RPI legislation over only part of ML50232. This must be seen as a dishonest and deceitful attempt to avoid scrutiny of the final voids. The public notice refers to rehabilitated depressed land forms. This is the area which leads into the final voids that will be below pre-mined ground level.

In November 2012, the then LNP Minister for State Development, by announcing the revised stage 3 project and stating his government's support for the project, broke an election promise that the LNP would not support any further expansion at Acland. He claimed the modified stage 3 project would reduce the agricultural footprint by 56%. The local member, now state Opposition Leader, said she could support the modified project because it was vastly different to the original stage 3 proposal. To the casual observer, it would seem that NAC had made a significant concession. However, one needs to understand the topography of the Acland district to assess the current proposal of NAC. Stage 1 of the New Acland Coal mine was

3.

located on elevated land which contained lighter productive scrub soil and was used extensively for cropping. Stage 2 moved from the ridgelines and extended onto the lower slopes, also extensively used for cropping.

The proposed modified stage 3 is almost entirely located on the most fertile and productive land in the region on the lower slopes. The original stage 3, proposed in 2007, extended much further to the south and encompassed a large area of flood plain which is used predominantly for grazing. If NAC had adopted a morally responsible approach and proposed to mine the poorer quality land, they would have given credence to the co-existence provisions of the Darling Downs Regional Plan. The only way that the intergenerational equity principle can be maintained with open cut mining is for land proposed for mining is of a standard that it can be rehabilitated back to its original state ie grazing land back to grazing land.

Landholders who rely on the weather for their livelihood are acutely aware of the impacts of the rapid onset of climate change. The unprecedented early summer bush-fire situation that has impacted many areas of Australia is a wake-up call to decision makers. It is evident that the exponential increase in the atmospheric levels of carbon dioxide means the world cannot continue business as usual. Queensland exports the largest tonnage of coal of any state in the world and must take its share of the responsibility for dealing with the effects of climate change. Adapting to climate change is an academic pipe-dream. The level of atmospheric CO₂ must be reduced. It is an established fact that if all the cropping land on the planet was managed by biological regenerative farming practices, the level of CO₂ in the atmosphere could be reduced to 300 parts per

4.

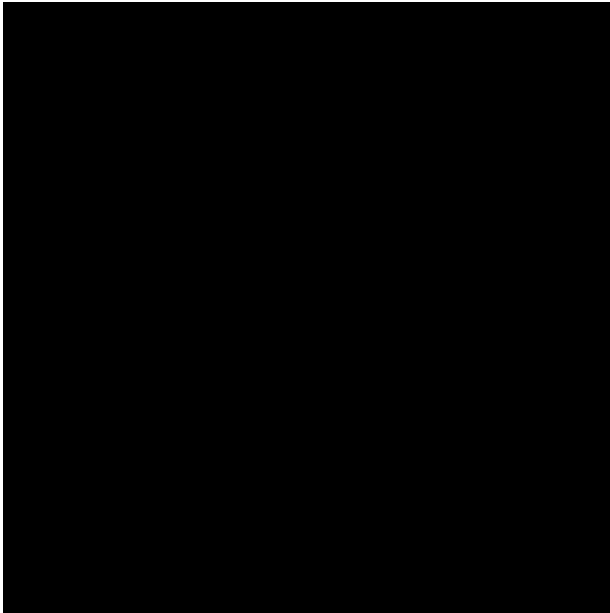
million within 20 years. In evidence in the Land Court hearing, I stated "if the land on modified stage 3 was farmed by biological farming methods, it could sequester 10 tonnes per hectare per annum of CO₂ into the soil". Also, in a verbal submission to the court, I stated, "4.5 square kilometres of final voids on world class cropping land, holding stagnant saline water is of no use to anyone". What is the point of having legislation to protect cropping land if no one is taking any notice of it.

At an information session on the Terms of Reference in the January 2013, I urged New Hope Coal officials to abandon Stage 3 and mine poor quality land. NAC is determined to mine the modified stage 3 project so it can receive a windfall profit from retained royalties of approximately half a billion dollars. This is corporate greed at its worst.

In mid 2019, New Hope Coal set a deadline of September 1st for the government to approve its stage 3 project or it would have to retrench workers. In December 2019, New Hope applied for an exemption from RPI legislation. This behaviour by New Hope indicates an arrogant contempt for the rule of law. There are vast reserves of coal in this state. There is no need to destroy renewable prime cropping land to provide economic benefit and employment because very limited royalties will accrue to the state of Queensland. It is not in the long term public interest for the modified stage 3 project to proceed. I therefore request the State Development Department refuse to grant New Hope Coal's New Acland coal mine an exemption from the provisions of the RPI Act.

Submission
on the application for
a R I D A for the New
Acland Coal Stage 3
project

January 2020



[Redacted text block]

[Redacted text block]

[Redacted text block]

Please accept this submission on the application for a regional interest's development approval (RIDA) for the New Acland Coal Stage 3 project (Ref RPI19/009).

<https://planning.dsdmip.qld.gov.au/planning/regional-planning-interests-act/rpi-act-applications-submissions-and-decision-notice>

[REDACTED] in all Australian States and Territories. Our members work across all specialties in community, hospital and private practices. We work to prevent and address the diseases - local, national and global - caused by damage to our natural environment. We are a public health voice in the sphere of environmental health with a primary focus on the health harms from pollution and climate change.

Recommendations

We recommend the application be rejected based on

- Its impacts on climate change, water resources and biodiversity which along with other mining is rendering the Surat Basin unsustainable as a prime agricultural source
- The legacy of poor health and environmental management of this company and poor regulatory management that have conferred harm on local communities as detailed in legal judgement
- The detrimental impacts on Australia and the state of Queensland from the expansion of the mine.
- The irregularities in the application from New Acland Coal (NAC)

Previous involvement of [REDACTED]

[REDACTED] has worked on the health and environmental consequences of the Acland mine since 2011 when we received a plea for help for the Oakey Coal Action Alliance. (1)

Since 2012 [REDACTED] has written 5 submissions to government and made extensive representations to governments, Ministers and other elected representatives. (2-6)

Submission

New Acland Coal (NAC) is seeking a Regional Interest Development approval for Acland Stage 3, to allow them to mine coal in this mapped Priority Agricultural Area which encompasses some of the richest farmland in Queensland. The Darling Downs is widely

recognised as being the food bowl of Queensland. The original Land Court judgement on this issue recognised the area as being amongst the best 1.5% of agricultural land in State.

This application to the Regional Planning Interests Act (RPIA) must be seen in the context of the sustainability of Australia under rapid environmental change due to the climate, water and biodiversity crises.

The 2019 Underground Water Impact Report for the Surat Cumulative Management Area (7) provided an important snapshot of the sustainability of the Surat basin.

Our submission on this report (8) seriously questions the current sustainability of the Basin on the basis of water usage; yet many more coal and gas mining approvals requiring water are being made including the current application by Acland which will support the mines expansion. We recommended:

1. The Queensland government take note of current scientific findings in the climate emergency and the biodiversity crisis and review its policy for further expansion of mining in the Surat and related regions.
2. Accordingly, it would be prudent to have sustainability as the main objective with the pillars of human health, water and productive land, as the prime considerations.
3. Current water usage by mining is of concern and the evidence suggests the underground water system is becoming depleted; particular concern is expressed for the use of Great Artesian water usage and state-wide cumulative use studies should be initiated. Climate modelling must be done to aid further assessment.

Indeed, the Surat basin and its agricultural capability is compromised by climate change, water and biodiversity all of which are being harmed by fossil fuel mining.

Climate change

It is essential that the climate emergency be taken into account in the current deliberations. As we have seen from the current bushfire season, Australia has now moved into different “new normal” for climate change and its consequences. For the Surat Basin, further diminution of decreasing rainfall, increasing air temperatures and increasing evaporation will compromise sustainability.

National Consequences

The recent IPCC report demands urgent and deep reductions in the emissions of carbon dioxide methane, tropospheric ozone and black carbon. IPCC modelling shows that if emissions of these pollutants are not in rapid decline by 2030, we have little chance of limiting warming to 1.5°C or even 2°C.

“Limiting warming to 1.5°C implies reaching net zero CO2 emissions globally around 2050 and concurrent deep reductions in emissions of non-CO2 forcers, particularly

methane (high confidence)". (9) Accordingly, fossil fuel production and use have to be seriously curtailed by 2030.

Many more coal and gas mines are being approved for the Surat and lower Bowen Basins and it is difficult to understand the Queensland government's support. In effect short term financial gain is being traded against increasing and irreversible damage to the sustainability of the region.

International consequences

Australia's inadequate climate policy, emission reductions reduction and coal exports are the subject of protest in the UK and many European cities. We are seen as a wealthy, advanced, technologically able country which is not taking its international responsibilities seriously in this world crisis. It is incomprehensible to many countries which accept their own responsibilities that Australia is approving coal mines which export coal during a bushfire crisis that threatens our own land. It is noted by many that Australia is the world's largest exporter of coal and the top exporter of gas.

The Surat and lower Bowen basins have played a key role in the coal and gas production at the behest of successive Queensland governments.

In addition, we now know from the Land Court Judgement that this mine has subjected local communities to health and environmental hazards over ten years which have not been addressed by the mine owners or the government.

The international outcomes are already evident.

- Loss of standing which will harm Australia's and Queensland's tourism industry - a vital sustainable future role.
- Harm to Australia's trade from climate diplomacy (10), which is now increasing from Europe in relation to trade negotiations. (11)

Furthermore, our standing with international institutions is harmed for we are a wealthy country not fulfilling its Sustainable Development Goals on Energy (Goal 7) and Climate Change (Goal 13). (12)

Water Resources

The issue of current cumulative modelling of water resources for the region arises because the current report does not cover the use of water by other developments such as current and future coal mining.

The New Hope Acland mine was subjected to a recent Land Court judgement (13) which, on review of all past and current evidence, is condemnatory of government and industry for the unsustainable use of water. The words used in refusing a water Licence in Land Court judgment were:

"There is an important starting point with respect to groundwater; that is, that groundwater is a fundamental issue to those living and working in the Acland area. There is no doubt that legal access to groundwater is held by numerous land holders in

the general vicinity of the New Acland Mine, and that the groundwater obtained by those landholders is essential to their rural businesses. Groundwater is not only used for irrigation; it is also used for stock watering purposes in the beef cattle sector and for both stock and production purposes by dairy farmers such as Mr Wieck. It is further beyond doubt, and accepted by NAC, that mining operations under the revised Stage 3 will impact on groundwater aquifers. The key issue is the nature and the extent of any such impact on groundwater supplies.

"I am satisfied, given the totality of the groundwater evidence before me in this case, that there is a real possibility of landholders proximate to Stage 3 suffering a loss or depletion of groundwater supplies because of the interaction between the revised Stage 3 mining operations and the aquifers. I am also convinced that the potential for that loss or interference with water continues at least hundreds of years into the future, if not indefinitely.

"In key areas NAC's own experts agreed with major shortcomings of the current model. I was also highly concerned regarding the modelling of faulting and other aspects of the groundwater studies undertaken to date. These issues have not been answered by the 2016 IESC Advice for reasons including the unfortunate fact that the IESC did not have the advantage of the material before the Court on groundwater. Groundwater considerations are such that the revised Stage 3 project should not proceed given the risks to the surrounding landholders and the poor state of the current model."

The Land Court judge said:

"The principles of intergenerational equity are breached in at least one regard by the proposed revised Stage 3, with the potential for groundwater impacts to adversely affect landholders in the vicinity of the mine for hundreds of years to come.

"In conclusion, over 6 years this company had trampled on the complaints and health concerns of the local residents.

"Their concerns were ignored by the instruments of government which were supposed to protect them."

It is important to note that this is one of the few occasions that assessment of a mining company and government regulation of it has escaped the confines of a very closed system of assessment in Queensland. As a result of a Land Court hearing expert witnesses exposed health, water, sustainability and many of the other unacceptable aspects detailed in this current submission.

Additional Legal aspects

The Land Court decision referred to above is being appealed in relation to the jurisdiction of the Court on make judgement on water usage. The current Planning Permission application is part of this proposed expansion of the mine and should be rejected.

Of relevance, the Queensland Government Human Rights Act 20 was passed by Parliament 11 January 2020 and it is recommended that government departments take the Act into consideration in their deliberations. The right to water by individuals and communities is accepted as an international human rights issue In terms of the Land Court Judgement on water and Acland, it is accepted that courts are generally reluctant

to give legislation retrospective effect, the Act needs to be taken into account in any new deliberation and could be subject to human rights challenge.

Harm to biodiversity as a sustainability issue

The world and national biodiversity crises are highly relevant to this application.

The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) summarised this crisis and stated: "The overwhelming evidence of the IPBES Global Assessment, from a wide range of different fields of knowledge, presents an ominous picture," said IPBES Chair, Sir Robert Watson from Queensland. "The health of ecosystems on which we and all other species depend is deteriorating more rapidly than ever. We are eroding the very foundations of our economies, livelihoods, food security, health and quality of life worldwide." (14)

In Australia, the Interim Report by the Senate Inquiry into Faunal Extinction, Senate Environment and Communications References Committee Australia's faunal extinction crisis (15), provides a damning testimony of the appalling loss of wildlife and habitats facilitated by the failures of the Federal and state Governments to protect the environment.

"The State of the world's biodiversity for food and agriculture" from the Commission on Genetic Resources for Food and Agriculture, organisation of the United Nations (16) and The 2019 IPCC special report Climate Change and Land (17) covering desertification, land degradation, sustainable land management, and food security, is highly relevant to Australia's water scarcity and sustainability and doubtless these reports will be essential reading for the Planning Committee.

The Surat Basin needs to retain and nurture its biodiversity to maintain sustainability as a viable food producing resource for biodiversity loss resulting in deteriorating soil ecology will have a critical impact on food production as detailed by the IPBES report.

Anomalies in the planning application

Doctors for the Environment Australia has donated hundreds of hours of medical time voluntarily to supporting the claims of the local communities. The assessment committee must please forgive us in not having time to read all of the 962 pages of the planning application in the limited time provided over the holiday period. However, we support the points raised by experts from Lock the Gate

We agree with the point that by NAC's own admission this mine will effectively destroy the cropping potential of this Priority Agricultural Area - in future it will only be able to be used for grazing at best, and there is much conjecture as to whether even that will be possible over large areas.

It seems clear from NAC's submission that since purchasing the land over which the application is sought they have deliberately stopped cropping it so that it would no longer be classified as a land 'used for a priority agricultural land use' under the Regional Planning Interests regulation, in order for it to then become available for mining.

Therefore, if the application is approved you will approve the deliberate degradation of mapped high-quality cropping land to very marginal grazing land, which is clearly in breach of the purposes of the Regional Planning Interests Act 2014 and contravenes the Darling Downs Regional Plan.

The following specific points are raised in relation to NAC's application:

1. It is misleading in the application documents that the Acland Pastoral Company provided a letter of 'support' without stating clearly that it is also a wholly owned subsidiary of the New Hope group, and hence the landowner and the proponent are effectively one and the same. We also note that NAC claim they should be exempt from s22 of the Regional Planning Interests Act 2014 (RPIA) because they have approval from the landholder, but the Act specifies that only applies if the resource authority holder is not the owner of the land. In this case, it is clear that they are one and the same.
2. NAC should not be allowed to apply only for the area that is the subject of the first five years of mining. They should be required to apply for a RIDA for the full extent of the area of regional interest they are expected to impact on all MLs and areas where associated infrastructure will be located. We are concerned that NAC have only applied for a subset of the area because they would not pass the relevant tests under the RPIA on the lands that have been excluded from the application. This approach of carving up the application appears inconsistent with s 16 1) of the RPIA and should not be allowed.
3. The application is inconsistent with the Darling Downs Regional Plan which says that *"Priority Agricultural Land Uses (PALU) are the land use priority. PALUs within the PAA will be recognised as the primary land use and given priority over any other proposed land use."* The DDRP defines a PALU as *'a land use included in class 3.3, 3.4, 3.5, 4 or 5.1 under the Australian Land Use and Management Classification Version 7'*. The vast majority of the area applied for by NAC is mapped as class 3.3 under the ALUM and therefore qualifies as a PALU under the DDRP. Therefore, the only way to give priority to the cropping land use in this assessment as required by the DDRP is to prevent it being mined, because NACs own assessment document indicates that the post-mine land use quality will be largely limited to grazing.
4. The application is inconsistent with the purposes of the RPIA, which requires that policies in regional plans are given effect and that the impact of resource activities on areas of regional interest is managed. By deliberately converting high quality cropping land to grazing land at best, NAC is contravening the requirements of the DDRP and hence the purpose of the RPIA.
5. NAC are relying on the wrong 'Required Outcome' from the Regional Planning Interests Regulation to argue that the activity will not result in a material impact of the use of the property for a Priority Agricultural Land use. Statutory guideline 02/14 for carrying out resource activities in a PAA specifies that *"Required outcome 1 applies where the application is over one property. Required outcome 2 applies where the application is over more than one property"*. It is clear that

this application stretches across multiple lots which constitute different properties. Therefore, Required Outcome 2 should apply.

6. However, it is clear that the application does not meet the prescribed solution for Required Outcome 2, because the NAC cannot demonstrate that the activity will not result in widespread or irreversible impacts on the future use of the area. In fact, their own application indicates that the future use of the area will be limited to grazing at best. The impact of the activity is all likely to have an impact over a large area where groundwater drawdown is predicted to occur, which is a second consideration under Required Outcome 2. In addition, the proliferation of weeds and feral animals on the site due to an absence of agricultural management is likely to lead to the spread of those weeds and animals onto adjoining PALUs.



References

1. <https://www.dea.org.au/wp-content/uploads/2019/07/Appendix-1---Project-Changes-to-the-New-Acland-Coal-Mine-Stage-3-Submission-07-19.pdf>
2. <https://www.dea.org.au/wp-content/uploads/2013/02/New-Acland-Stage-3-Submission-02-13.pdf>
3. https://www.dea.org.au/wp-content/uploads/Acland_Stage_3_EIS_Submission_02-14.pdf
4. <https://www.dea.org.au/wp-content/uploads/2019/05/New-Acland-Coal-NAC-application-for-an-Associated-Water-Licence-AWL-for-the-Acland-Stage-3-coal-mine-expansion-Submission-05-19.pdf>
5. <https://www.dea.org.au/wp-content/uploads/2019/07/New-Acland-Coal-NAC-application-for-an-Associated-Water-Licence-AWL-for-the-Acland-Stage-3-coal-mine-expansion-Submission-05-19.pdf>
6. <https://www.dea.org.au/wp-content/uploads/2019/07/Project-Changes-to-the-New-Acland-Coal-Mine-Stage-3-Submission-07-19.pdf>
7. <https://www.business.qld.gov.au/industries/mining-energy-water/resources/environment-water/coal-seam-gas/surat-cma/uwir>
8. <https://www.dea.org.au/wp-content/uploads/2019/07/Underground-Water-Impact-Report-for-the-Surat-Cumulative-Management-Area-07-19.pdf>
9. https://report.ipcc.ch/sr15/pdf/sr15_chapter2.pdf

10. <https://johnmenadue.com/david-shearman-climate-change-diplomacy-one-big-step-for-humanity/>
11. <https://thenewdaily.com.au/life/science/environment/2020/01/09/denial-climate-change-scott-morrison/>
12. <https://www.dea.org.au/wp-content/uploads/2018/04/United-Nations-Sustainable-Development-Goals-SDG-Submission-03-18.pdf>
13. <https://archive.sclqld.org.au/qjudgment/2017/QLC17-024.pdf>
14. <https://ipbes.net/news/Media-Release-Global-Assessment>
15. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Faunalextinction/Interim_report
16. <http://www.fao.org/3/CA3129EN/CA3129EN.pdf>
17. <https://www.ipcc.ch/srccl/>



To the assessor at:

RPI Act Development Assessment Division

Department of State Development, Manufacturing, Infrastructure and Planning PO Box 15009 City East QLD 4002

RPIAct@dsdmip.qld.gov.au

Dear Assessor,

Re: New Acland Coal

I am a farmer. I have been farming all my life, like various generations before me. Our farm is near where New Hope later began its operations and now proposes to expand. Like most farmers, we depend on the climate and the weather and we spend a lot of time watching and trying to understand well enough to make all of our decisions – most of which have an element of climate and weather risk in them. In addition to that, I have studied weather in relation to my pilots' licence to the senior commercial licence level, since the 1960s. Ever since then I have studied all that I can about weather and climate and climate change and have been involved in all sorts of scientific conferences and the like in this regard, including being an invited speaker at a couple of United Nations Climate Change in Agriculture Conferences in various locations around the world.

There have been stark warnings from experts such as the IPCC scientists for many years, based on increasingly reliable and ground-truthed science, about the impacts of greenhouse gas emissions and the future climate we are creating. Each time more data comes in, it seems that the impacts are occurring more quickly and more strongly than earlier predictions indicated.

In the last year or so, we have experienced unprecedented bushfires as well as massive floods we have had in parts of Australia, along with a drought which is more severe and widespread than anyone can remember. So many records, including temperature records, have been dramatically exceeded to the extent that the data shows that it can't be just a coincidence that we have had the

hottest ever decade. The last 20 years with the exception of only 2, have been the hottest years on record. Australia is seen as recalcitrant on the world stage in terms of shouldering its responsibility to substantially reduce greenhouse gas emissions and move away from polluting coal fired electricity. Yet there is now even almost Australia-wide recognition (community and scientists though not politicians and industry leaders) that there is significant climate change driving the ferocity of both the floods and the fires and that coal is part of the cause of this. Coal fired power stations are being shut down and few new ones being built in the US and around the world – being replaced with wind, solar and pumped hydro and batteries. Given all of this, and the stark warning, anybody that would do anything to facilitate the mining of coal or the burning of coal or the opening of new mines or approving coal mine extensions will be seen to be committing crimes against humanity.

Anybody who would be prepared to be part of approving the continued destruction of high quality agricultural land, like the land in this district and on the proposed mine site, just for the sake of government or corporate or personal greed, should hang their head in shame.

Turning this beautiful country that could grow such wonderful crops into poor quality grazing and open voids is treasonous enough, without adding the fact that it would also be significantly contributing to further climate change.

Australian farmers have been among the first in the world to be affected by climate change and are also the most affected compared to most of global agriculture. Increasing climate change is a significant risk to the future of agriculture, through changes to rainfall and temperature. Things like the Priority Agricultural Land Uses and the potential productivity of our Strategic Cropping Land and the sustainability of our aquifers – all things that the Regional Planning Interests Act and Darling Downs Regional Plan seek to protect - are at risk due to climate change. Approving a coal mine is contrary to protecting these resources.

For Australian farmers that have been looking after their land for generations the biggest sin of all is to allow, or worse – to cause, its destruction. It is terrible to see good agricultural land destroyed for short term greed, to suffer the immediate impacts of the mine (such as noise and pollution), to have to be concerned about the impacts on the availability of water and to know that it is also contributing to climate change – and the severe droughts and floods that also make sustainable land management more difficult.

In terms of the direct risks to our own farm from the proposed project, groundwater is a significant concern. As well as being critical for domestic and stock use, our irrigation licence and the cropping potential it affords, including for high value crops, is very important and valuable to us. Dust, noise, health and community impacts are a constant concern too.

There has been a lack of honesty, understanding and leadership amongst the supposed leaders in this country. Within all levels of government and the government bureaucracies and the mining industry there seems to be a culture of people who are determined to mislead and deceive, and are selfish and greed driven and have absolutely failed to provide leadership appropriate to protect our society from climate change.

There are a lot of reasons why Australia could be and should be leading the world in terms of policy and action regarding climate change. Australia has a lot to lose from climate change and could actually do well from leading mitigation. Large parts of Australia could be unliveable due to heat or lack of water in 30 years' time. Food security and water supplies are in jeopardy. Damaging 'natural disasters' such as floods, fires and droughts will be more extreme due to climate change, making them harder to cope with and recover from (and many assets, risks and events are likely to be uninsurable). However, as well as helping to avoid climate change disasters, there are also more jobs (and these would be sustainable jobs) in building and maintaining renewable energy systems than in the coal industry.

In addition to the comments above, I have read and understood and support [redacted] submissions to this process.

It would be so wrong to approve NAC's application.

Yours sincerely,

[redacted]
16 January 2020

Proposed New Acland Coal Mine Stage 3 - Regional Interests Development Application over 2,787 hectares of Mining Lease Application 50232

Queensland Government
State Development, Manufacturing,
Infrastructure and Planning
By email RPIAct@dsdmip.qld.gov.au

[REDACTED] is an incorporated association, which includes amongst its' membership farmers and landholders likely to be affected should the Acland Stage 3 thermal coal mine be approved. As such we make this submission in support of the agricultural interests and values sought to be preserved by the *Regional Planning Interests Act (Qld) 2014*. We submit that the entirety of the land subject to the application contributes, and is likely to continue to contribute, to Queensland's economic, social and environmental prosperity if not mined. Further, it is our submission that land which is currently not making a significant contribution, for reason of either neglect or deliberate under-use, is easily capable of making such a contribution in the future.

We further note the designation of Prime Agricultural Land use over the majority of land under the Darling Downs Regional Plan. We note the impact of resource activities on the land which has been outlined in the environmental impact statement of the applicant (notably the drawdown of underground aquifers at the perimeter in a 21 km radius), and note the subsequent recovery period, estimated at 300 years. We note that the RPI act applies to underground water as it relates to the lands productive capacity despite any provision or requirement under the Water Act 2000.


We note further that coexistence of strategic cropping land in the mine lease area is impossible where disturbances have been caused by open cut mining, and we assert strongly and provide evidence that the activities carried on by Acland Pastoral, a wholly owned subsidiary of New Hope group, do not represent the best possible uses of the undisturbed land, but rather the uses that are available in the context of a coal mine. It is our submission that the abandonment of cropping by the applicant does not represent a lack of capacity of the land to support it.

Applicant's Application Deficient

Our primary submission is that the applicant's application is deficient in that it does not meet the requirements of an application and should not be considered. S16 (1) of the Regional Planning Interests act 2014 provides as follows;

A regional interests development approval is an approval issued under section 53 that approves the carrying out of a resource activity or regulated activity in an area of regional interest following an assessment of the extent of the expected impact of the activity on the area.¹

¹ S16(1) *Regional Planning Interests Act 2014* (Qld)



The expected impact of the activity is not limited to the 5 years applied for and does not address the expected impact of the resource activity, which is variously projected by the applicant to continue for between 9 and 15 years. The application does not meet the criteria for approval as it only represents a portion of the extent of the project. There is no provision which we are aware of that allows for a staged or partial assessment as a valid application.

Area of Application not Area of Disturbances

The area of disturbance applied for does not represent the area for which the mining lease(s), if granted, will encapsulate The Coordinator-General's evaluation report on the environmental impact statement of 2014 states:

*The total mining lease area for MLA50232 has been reduced from 5,069ha for the original stage 3 project to **3,668ha**, (emphasis added) a 28 per cent reduction; with the proponent also abandoning the mining lease area over the town of Acland.²*

In their application, however, the Applicant states:

The application is proposed to be made over an area totalling approximately 2,787hectares, being the lots to be disturbed within the first 5 years of mining.³

In case there is any doubt, the area applied for does not represent the area requiring an authority, even if blasting and carting of coal are not currently occurring.

A resource activity is—

(a) an activity for which a resource authority is required to lawfully carry out; or

(b) for a provision about a resource authority or proposed resource authority—an authorised activity for the authority or proposed authority (if granted) under the relevant resource Act.

(3) In this Act, a reference to a resource activity includes a reference to the carrying out of the activity.⁴

The mining leases, if granted, will cover the entirety of the lease area and authorise resource activities.

A person must not wilfully carry out, or allow the carrying out of, a resource activity or regulated activity in an area of regional interest unless the person holds, or is acting under, a regional interests development approval for the activity.

² New Acland Coal Mine Stage 3 project

Coordinator-General's evaluation report on the environmental impact statement 2014 p iv para 4

³ New Acland Coal Pty Ltd Priority Agricultural Land Use Assessment MLA 50232 New Acland Mine Stage 3 Project p3

⁴ *RPI Act 2014* s12(2)

Any activity associated with a resource activity will breach the act. This will include the building of the Rail Spur which is conditioned by the Co ordinator General. It is conditioned for the *commencement* of Stage 3 operations.

Condition 4.

Train load-out facility: New Acland Coal Mine Stage 3

*(a) The new train load-out facility, rail loop and rail spur for the project is required to be the sole distribution point for all railed product **from the first day of operations** of the stage 3 project.⁵*

The PALU assessment and RIDA application must include all areas of the lease and should not be considered otherwise.

The Co ordinator General confirms the time-frame scope and area of the resource activities applied for, which does not accord with the area the of the Applicants RIDA application.

*“The expansion of the mine would produce up to 7.5 million tonnes per annum (Mtpa) of thermal coal until the year 2029. The existing mine is a 5.2Mtpa open-cut coal mine on mining leases 50170 and 50216, granted under the approval of Environmental Authority (EA) EPML00335713. **Most** (emphasis added) of the stage 3 expansion will be located on mining lease application (MLA) 50232.*

The proponent has applied to amend its existing EA to include the MLA area. For the rail spur, the proponent has lodged an application for an infrastructure mining lease (MLA (infrastructure) 700001).”

The Applicant submitted the following in relation to MLA 700001 to the Co ordinator General:

The majority of land in the Road and Rail Corridor is used for cropping where water supply is sufficient (through irrigation or rainfall). Where land is not cropped, livestock grazing of native and improved pasture is common. The baseline capability for the majority of land proposed to be disturbed (76%) is considered to be suitable for cropping (GQAL Class A), whilst the remainder of the Road and Rail Corridor (24%) is considered suitable for grazing of livestock on native pasture (GQAL Class C2). The impact of the project on the land suitability on areas of the Road and Rail Corridor currently under grazing or native bushland is considered to be minor.⁶

This emphasises a disparity between claims and omissions in the present application.

The entirety of the applied for leases must be subject to a PALU assessment. To be valid, the application must address the impacted areas, not just some, or even most. It does not do so.

⁵ New Acland Coal Mine Stage 3 project

Coordinator-General's evaluation report on the environmental impact statement

⁶ New Acland Coal Mine Stage 3 ROAD AND RAIL CORRIDOR SOIL TECHNICAL REPORT
September 2013

- An assessment application must be—
- (a) made to the chief executive in the approved form; and
 - (b) accompanied by a report—
 - (i) assessing the resource activity or regulated activity's impact on the area of regional interest; (emphasis added)
 - and
 - (ii) identifying any constraints on the configuration or operation of the activity; and
 - (c) accompanied by the fee prescribed under a regulation.

Paddock Assessments

The Applicant asserts that the assessments conducted find that none of the land is Prime Agricultural land. The assertions contend that where PALU has been identified and mapped, it constitutes a mapping error. No substantiation is provided. This contradicts submissions by the applicant themselves to the Co ordinator General. (Appendix G Supporting Technical Reports and Data – copy appended)

The Report states:

Cropping for grain production is one of the largest agricultural land uses and industries within the Study area cultivation for cropping and/or sown pasture carried out to some extent within the Study area. While both summer and winter crops are grown, summer crops are preferred due to higher economic returns and the summer dominant rainfall patterns within the Central Darling Downs region. Certain soil types with in the Eastern Uplands(which include the Study area) depend largely on seasonal soil moisture or, in limited areas, irrigation, where it is available.⁷

At 3.1, the applicant notes;

*Paddock 1 – estimated total crop frequency mapping shows a very small area of potential PALU in the centre of paddock, **likely to be a mapping error**. There is a large difference in estimated crop frequency between the July 2019 and September 2019 Forage Report, also **likely to be a mapping error**. In 2015 APC farm manager confirmed no cultivation or crop planted after 2010. See photos for sites 68, 69, 71, 72, 104, 105, 105 and 225 in Appendix D (Manning Vale East) of regenerating grassland from 2015. Verified as non-PALU. (emphases added).*

Paddock 1 includes sample site 5 from the Soil Sampling Site Assessment Report – Mining Area submitted to the Co ordinator General. It describes the area as *Wheat paddock. Mid to upper slope 2-3%. At least 50 cm of good light clay soil.*⁸

NAC has not provided evidence to back the assertion of a mapping area.

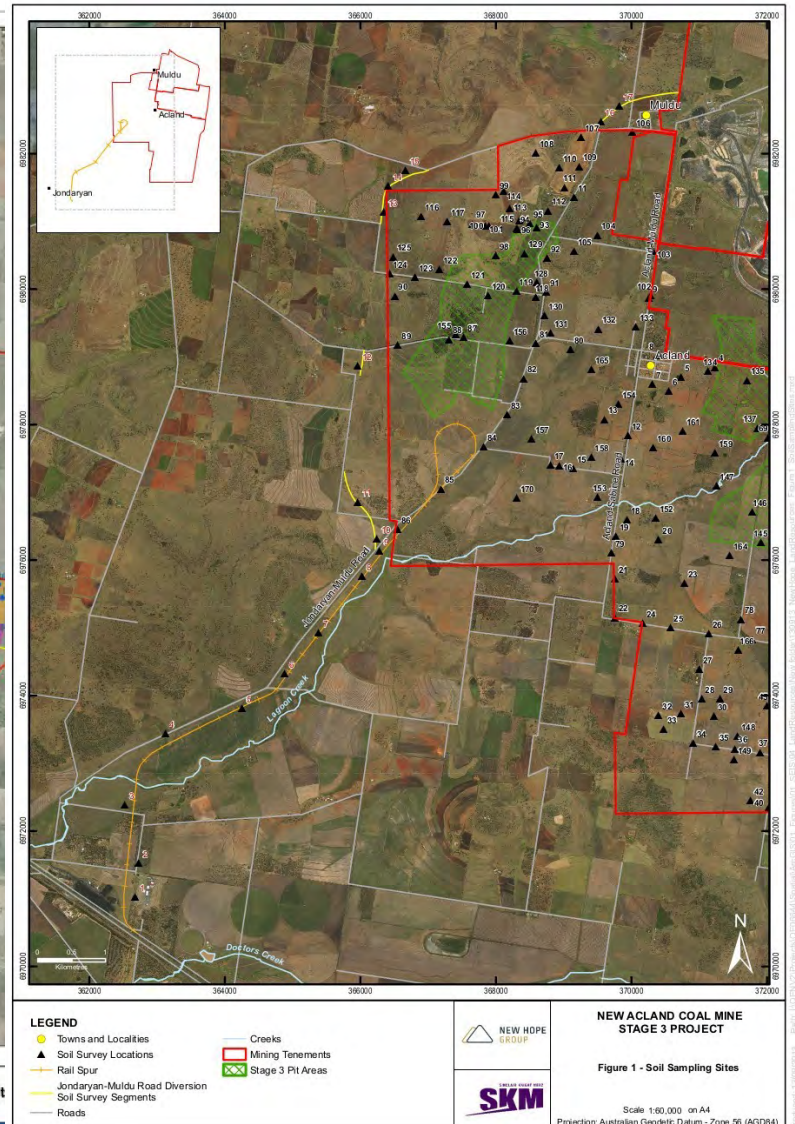
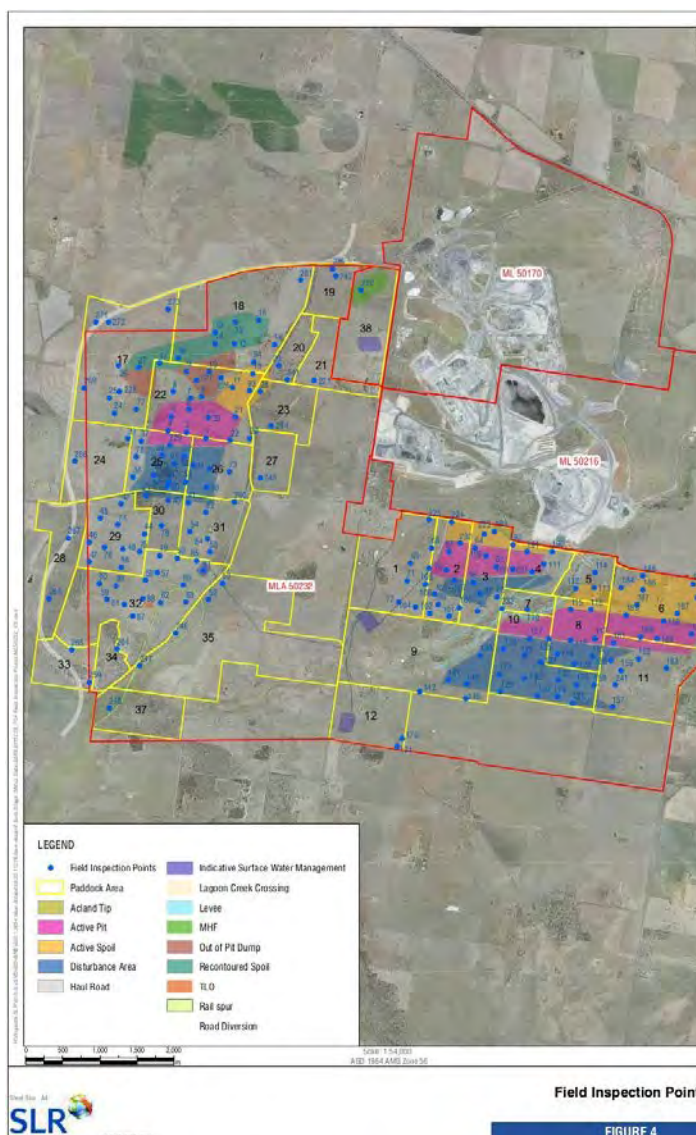
⁷ FINAL LANDFORM TECHNICAL REPORT New Acland Coal Mine Stage 3 Project JANUARY 2014 p5 para2

⁸ New Hope Group G.1.4 Soil Sampling Site Assessment Report – Mining Area p1

Samples 135 and 137 appear to be in Paddock 2. The description given is *Brigalow scrub soils on Greenwood School road. Lower midslope. 1%.2.20pm, Dark brown/black uniform clay. Possible linear gilgai pre cropping*⁹

The application describes *Paddock 2 – estimated total crop frequency mapping shows a small area of potential PALU in the south of paddock, **likely to be a mapping error**. In 2015 APC farm manager confirmed no cultivation or crop planted after 2010. See photos for sites 67, 70, 99 – 103, 107, 224 and 230 in Appendix D (Manning Vale East) of regenerating grassland from 2015. Verified as non-PALU.*

There is again no substantiation of the claim or explanation of the difference. The claim of mapping errors is made repeatedly, and for most paddocks. Not all Paddocks conform to the same areas as soil sampling, but where they do, the assessment varies wildly from that submitted to the CG.



Left: Paddock sites RIDA application, 2019 Right: Soil Sample sites Soil Sampling Assessment 2013

Of those which correspond, inconsistencies and contra indications to the Applicants assertions are to be found in each case.

*Paddock 9 – estimated total crop frequency mapping shows very small areas of potential PALU in the east and west of the paddock, **likely to be a mapping error**. In 2015 APC farm manager confirmed no cultivation or crop planted since 2009. See photos for sites 139 – 142 and 146 in Appendix D (Willeroo) of regenerated grassland from 2015. Verified as non-PALU*

Contrasting this is the assessment from sample points 152- Poss old cultivation. Some scattered trees. Level old Soil type.

Sample site 20 - Old cultivation. Level old alluvial plain. Same as 19. 15-20cm conspicuous bleach, pH 7.5, Used for crops but quite poor, very hard, poor infiltration with shallow topsoil.

Sample site 19 -Same as 18. Old Brigalow Poplar Box now cultivation. Slope 0.5%, alluvial plain.

The assessments of paddocks 6, 8, 9 and 10 relate to Willeroo Pit and the applicant finds no PALU or cropping land. In evidence to the Court, the Applicants agriculture expert, Mr Thompson, said this:

The area that has been referred to in this case, and it's the Willeroo area that's got crop – that has – there's evidence there that there's a recent stubble left over from recent cropping in the last – presumably, in the last one or two summer or winter seasons, and in – in areas south of that also there's some evidence of recent crop stubble being on the – being on the surface of the soil.¹⁰

There is a consistent pattern across the Applicants RIDA application of direct contradiction of earlier assessments conducted by the Applicant and evidence presented that is not explained or justified, and contradicts land mapping for the area. The Applicants assessments cannot be considered a true and proven accurate reflection of the PALU areas in the lease.

The Application does not identify all land affected

As noted, almost all of the Land to be affected by the Applicants proposal is designated PALU under the Darling Downs regional plan. This land extends well beyond the footprint of the lease and land owned by the Applicant. The Applicant, in its own estimation, has acknowledged a draw-down in underground water levels will ensue if the project proceeds.

Groundwater is used for stock watering, cropping and human consumption in the project area. The proponent's modelling predicts that at the end of mining the project may affect four aquifers. The largest impact is anticipated to be on the Walloon Coal Measures, a brackish system where drawdown at the project site may be up to 47m. Beyond the project site, the drawdown contour of around 1m in depth may extend across an area of around 21km in diameter.¹¹

¹⁰ *New Acland v Ashman* tt 35-8 lines 7-11

¹¹ New Acland Coal Mine Stage 3 project

The effects will be long lasting.

The long term post-mining scenario was modelled as 300 years after mining ceases. This figure allows sufficient time for the pit lakes to reach equilibrium (generally within 200 years).¹²

In this Act, a resource activity or a regulated activity has an impact on an area of regional interest if the impact—

*(a)
affects—*

*(i) feature, quality, characteristic or other attribute of the area;
or*

(ii) the suitability of land in the area to be used for a particular purpose; and

(b) relates to a matter mentioned in the following—

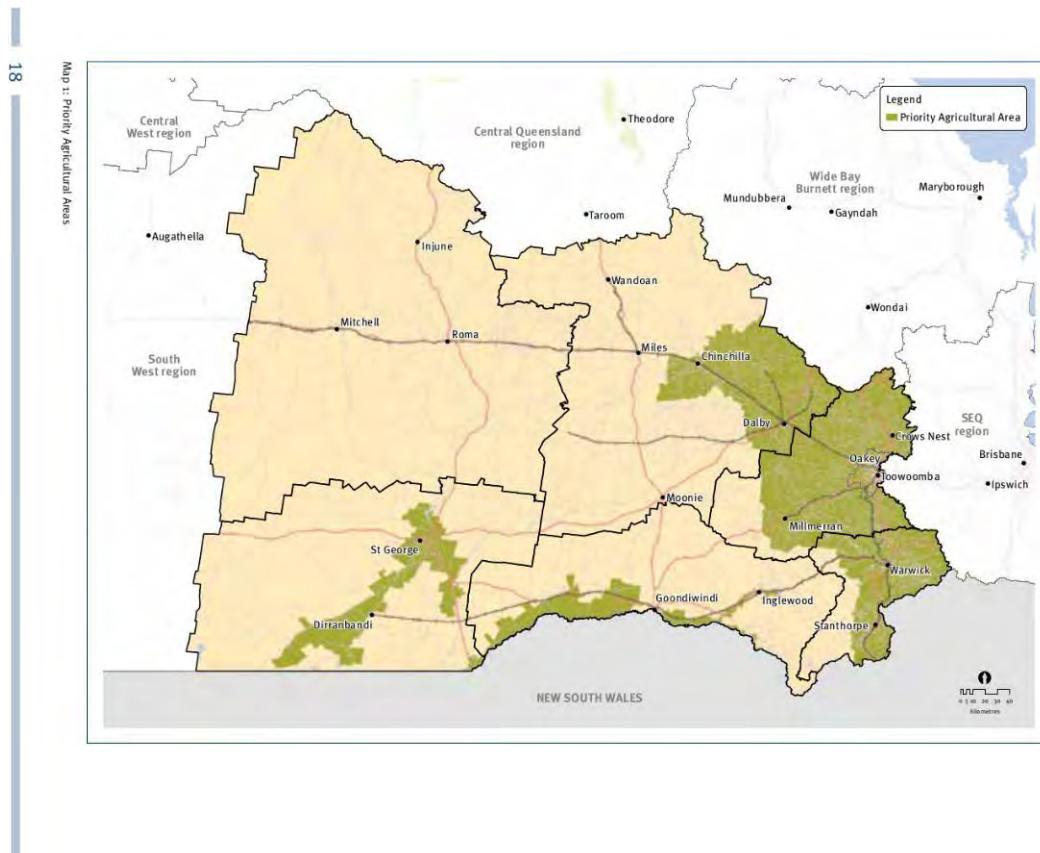
(i) for a priority agricultural area—section 8(1)(a);

(ii) for a priority living area—section 9(b);

(iii) for the strategic cropping area—section 10(1);

(iv) for a strategic area—section 11(1)(a).¹³

The Acland District, and areas in a 21 km radius, are mapped PAA.



Darling Downs Regional Plan p18 ¹⁴

¹² Ibid, p136

¹³ RPI Act s27

¹⁴ Darling Downs Regional Plan p18

The expected water draw down will impact on any farm relying on groundwater and those properties outside the footprint should have been notified the RIDA process. There are substantial unquantified risks with groundwater supply, as noted in findings in the Land Court.

As regarding groundwater, a huge amount of evidence was before the Court. In key areas NAC's own experts agreed with major shortcomings of the current model. I was also highly concerned regarding the modelling of faulting and other aspects of the groundwater studies undertaken to date. These issues have not been answered by the 2016 IESC Advice for reasons including the unfortunate fact that the IESC did not have the advantage of the material before the Court on groundwater. Groundwater considerations are such that the revised Stage 3 project should not proceed given the risks to the surrounding landholders and the poor state of the current model.¹⁵

Given the degree of uncertainty with water modeling, and the fact that no mechanism for providing water to fulfil any make good agreements that have been struck has been identified, it is for the applicant to provide all affected Landholders with notice and treat all land within a 21km radius at least, as requiring a PALU assessment. The current application does not address this.

A copy of OCAA's water licence submission is attached. It details concerns about continuing access to water, and therefore agricultural development.

Argument for Exemption

The Applicant claims exemption from PALU analysis applies to them because the 'owner' of the land, has provided a letter of support.

The owner of the Land is Acland Pastoral Company, a wholly owned subsidiary of New Hope Group, the owner of New Acland. The registered office of Acland Pastoral is that of New Hope, and New Acland has no legal ability to act in a way contrary to New Hope Groups interests in New Acland Coal. The locus of control, and therefore the beneficial ownership of the land controlled by New Acland Pastoral lays entirely with New Hope.

"Once the pasture on our rehabilitated mined land is well established it is fenced off and handed to our pastoral operations Acland Pastoral Company (APC). - Shane Stephan, Managing Director – New Hope¹⁶

Through APC, contributing to Queensland's agricultural sector is an important and long-term part of New Hope's operations. It shares the same ethos as New Hope in emphasising local employment and use of local services and contractors to maximise the benefits for the region.¹⁷

15 *New Acland Coal Pty Ltd v Ashman & Ors* (No. 3) [2017] QLC 1 at [16]

16 New Acland mine boasts largest single area of certified rehabilitation in Queensland

5 November 2018 <https://www.newhopegroup.com.au/news/2018/new-acland-mine-boasts-largest-single-area-of-certified-rehabilitation-in-queensland>

17 <https://www.newhopegroup.com.au/content/projects/operations/agriculture>

And from New Hope's Annual Report:

A. DESCRIPTION OF SEGMENTS

The Group has three reportable segments, namely Coal mining in Queensland (including mining related production, processing, transportation, port operations and marketing), Coal mining in New South Wales (including mining related production, processing, transportation and marketing) and Other (including coal exploration, oil and gas related exploration, development, production and processing, pastoral operations and administration). Treasury and income tax expense have not been allocated to an operating segment and are reconciliation items.

Operating segments have been determined based on the analysis provided in the reports reviewed by the Board, MD, COO, CFO and CDO (being the CODM). The reportable segments reflect how performance is measured, and decisions regarding allocations of resources are made by the CODM.¹⁸

It is plain and clear that the locus of control and beneficial interest of Acland Pastoral lay with the New Hope Group, who exercise the same rights over New Acland Coal.

As such, the exemption claimed by New Hope Group is not available as they are the true beneficial owner of the land on which they are, and intend to operate on. They cannot claim exemption under s22 of the *RPI Act*.

Abandonment of Cropping

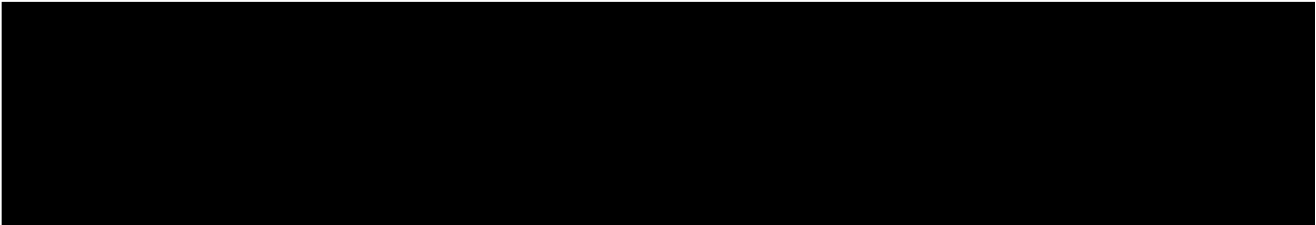
Contrary to information supplied in the Applicants application, cropping does occur on substantial swathes of Land owned by New Hope and its subsidiaries.

Dryland sorghum crops totalling 458 hectares were planted, however the drought severely impacted yield with 550 round bales harvested, of which 291 bales remain as inventory. On a positive note, rain in March promoted substantial regrowth in the previously harvested sorghum paddocks, allowing in crop grazing. The 100 hectare corn crop suffered similar yield impacts as the sorghum and cattle were introduced to the corn paddocks for in crop grazing.¹⁹

This intensity of cropping is not reflected in the application, casting doubt on its veracity. Further, it appears that the lack of cropping on cropping land may be part of a deliberate management strategy, rather than a measure of productive capacity. Further, the Applicants agriculture expert, Mr Thompson, said the decision to crop or not was a business decision

¹⁸ New Hope Group, 2019 Annual Report, p59

¹⁹ New Hope Group, 2019 Annual Report, p15



The reason why – as I’ve said in my evidence, the reason why a particular landowner crops or grazes are – one of the reasons obviously is the quality of the land, and the second reason is their own particular circumstances. So I can give you a personal response to that, because I actually have very identical soils on my property. I crop some

of it and I graze the rest of it. So it’s – it’s – it’s an individual businesslike call, and – and – and part of the stuff that informs the individual’s decisions is the quality of soils. Quality of soils I’ve assessed: you know, you – to my technical jargon or quality of soils as assessed, you know, by those methods that other landowners themselves use.²⁰

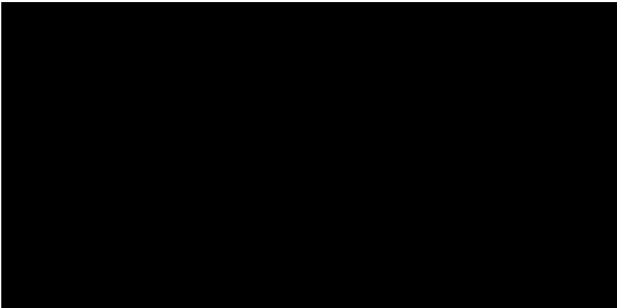
In essence, it is submitted that the decision not to crop certain lands was a business decision and should not be used to artificially reduce the true value of SCL land.

Conclusion

The Oakey Coal Action Alliance submits that the Applicants application for a Regional Interests Development Approval be rejected.

- The Application is deficient because it does not address the entire area that will be subject to mining
- The Application is deficient because it does not include the Mining lease covering the Rail loop
- The Application is deficient because it does not cover the entire time period that is expected to be granted for the carrying out of resource activities
- The Application is deficient because it does not correctly map and identify PALU land
- The Application is deficient because it does not consider the impacts to PALU land that is not owned by New Hope
- The Application underplays and does not take account of cropping that has occurred, and further, seeks to portray business decisions not to crop as indicative of the potential of land
- The Application does not address the impacts of water draw down
- No exemption under s22 can apply as the beneficial and true owner of the land is the Applicant.

Under all the circumstances, the RIDA application should be rejected as deficient, but in any event, no approvals should be given as the objects of the RPI act are directly offended by the proposal to effectively sterilise large tracts of PAA and SCL or reduce their capacity significantly.



Submission by the [REDACTED]

[REDACTED] is an incorporated association, which includes amongst its' membership farmers and landholders likely to be affected should the Acland Stage 3 thermal coal mine be approved. As such we make this submission in support of the agricultural interests and values sought to be preserved by the *Regional Planning Interests Act (Qld) 2014*. We submit that the entirety of the land subject to the application contributes, and is likely to continue to contribute, to Queensland's economic, social and environmental prosperity if not mined. Further, it is our submission that land which is currently not making a significant contribution, for reason of either neglect or deliberate under-use, is easily capable of making such a contribution in the future.

We further note the designation of Prime Agricultural Land use over the majority of land under the Darling Downs Regional Plan. We note the impact of resource activities on the land which has been outlined in the environmental impact statement of the applicant (notably the drawdown of underground aquifers at the perimeter in a 21 km radius), and note the subsequent recovery period, estimated at 300 years. We note that the RPI act applies to underground water as it relates to the lands productive capacity despite any provision or requirement under the Water Act 2000.

We note further that coexistence of strategic cropping land in the mine lease area is impossible where disturbances have been caused by open cut mining, and we assert strongly and provide evidence that the activities carried on by Acland Pastoral, a wholly owned subsidiary of New Hope group, do not represent the best possible uses of the undisturbed land, but rather the uses that are available in the context of a coal mine. It is our submission that the abandonment of cropping by the applicant does not represent a lack of capacity of the land to support it.

Applicant's Application Deficient

Our primary submission is that the applicant's application is deficient in that it does not meet the requirements of an application and should not be considered. S16 (1) of the Regional Planning Interests act 2014 provides as follows;

A regional interests development approval is an approval issued under section 53 that approves the carrying out of a resource activity or regulated activity in an area of regional interest following an assessment of the extent of the expected impact of the activity on the area.¹

1 S16(1) *Regional Planning Interests Act 2014* (Qld)

The expected impact of the activity is not limited to the 5 years applied for and does not address the expected impact of the resource activity, which is variously projected by the applicant to continue for between 9 and 15 years. The application does not meet the criteria for approval as it only represents a portion of the extent of the project. There is no provision which we are aware of that allows for a staged or partial assessment as a valid application.

Area of Application not Area of Disturbances

The area of disturbance applied for does not represent the area for which the mining lease(s), if granted, will encapsulate The Coordinator-General's evaluation report on the environmental impact statement of 2014 states:

*The total mining lease area for MLA50232 has been reduced from 5,069ha for the original stage 3 project to **3,668ha**, (emphasis added) a 28 per cent reduction; with the proponent also abandoning the mining lease area over the town of Acland.²*

In their application, however, the Applicant states:

The application is proposed to be made over an area totalling approximately 2,787hectares, being the lots to be disturbed within the first 5 years of mining.³

In case there is any doubt, the area applied for does not represent the area requiring an authority, even if blasting and carting of coal are not currently occurring.

A resource activity is—

- (a) an activity for which a resource authority is required to lawfully carry out; or*
- (b) for a provision about a resource authority or proposed resource authority—an authorised activity for the authority or proposed authority (if granted) under the relevant resource Act.*
- (3) In this Act, a reference to a resource activity includes a reference to the carrying out of the activity.⁴*

The mining leases, if granted, will cover the entirety of the lease area and authorise resource activities.

A person must not wilfully carry out, or allow the carrying out of, a resource activity or regulated activity in an area of regional interest unless the person holds, or is acting under, a regional interests development approval for the activity.

² New Acland Coal Mine Stage 3 project

Coordinator-General's evaluation report on the environmental impact statement 2014 p iv para 4

³ New Acland Coal Pty Ltd Priority Agricultural Land Use Assessment MLA 50232 New Acland Mine Stage 3 Project p3

⁴ RPI Act 2014 s12(2)

Any activity associated with a resource activity will breach the act. This will include the building of the Rail Spur which is conditioned by the Co ordinator General. It is conditioned for the *commencement* of Stage 3 operations.

Condition 4.

Train load-out facility: New Acland Coal Mine Stage 3

*(a) The new train load-out facility, rail loop and rail spur for the project is required to be the sole distribution point for all railed product **from the first day of operations** of the stage 3 project.⁵*

The PALU assessment and RIDA application must include all areas of the lease and should not be considered otherwise.

The Co ordinator General confirms the time-frame scope and area of the resource activities applied for, which does not accord with the area the of the Applicants RIDA application.

*“The expansion of the mine would produce up to 7.5 million tonnes per annum (Mtpa) of thermal coal until the year 2029. The existing mine is a 5.2Mtpa open-cut coal mine on mining leases 50170 and 50216, granted under the approval of Environmental Authority (EA) EPML00335713. **Most** (emphasis added) of the stage 3 expansion will be located on mining lease application (MLA) 50232.*

The proponent has applied to amend its existing EA to include the MLA area. For the rail spur, the proponent has lodged an application for an infrastructure mining lease (MLA (infrastructure) 700001).”

The Applicant submitted the following in relation to MLA 700001 to the Co ordinator General:

The majority of land in the Road and Rail Corridor is used for cropping where water supply is sufficient (through irrigation or rainfall). Where land is not cropped, livestock grazing of native and improved pasture is common. The baseline capability for the majority of land proposed to be disturbed (76%) is considered to be suitable for cropping (GQAL Class A), whilst the remainder of the Road and Rail Corridor (24%) is considered suitable for grazing of livestock on native pasture (GQAL Class C2). The impact of the project on the land suitability on areas of the Road and Rail Corridor currently under grazing or native bushland is considered to be minor.⁶

This emphasises a disparity between claims and omissions in the present application.

The entirety of the applied for leases must be subject to a PALU assessment. To be valid, the application must address the impacted areas, not just some, or even most. It does not do so.

⁵ New Acland Coal Mine Stage 3 project

Coordinator-General's evaluation report on the environmental impact statement

⁶ New Acland Coal Mine Stage 3 ROAD AND RAIL CORRIDOR SOIL TECHNICAL REPORT
September 2013

An assessment application must be—
(a) made to the chief executive in the approved form; and
(b) accompanied by a report—
(i) assessing the resource activity or regulated activity's impact on the area of regional interest; (emphasis added)
and
(ii) identifying any constraints on the configuration or operation of the activity; and
(c) accompanied by the fee prescribed under a regulation.

Paddock Assessments

The Applicant asserts that the assessments conducted find that none of the land is Prime Agricultural land. The assertions contend that where PALU has been identified and mapped, it constitutes a mapping error. No substantiation is provided. This contradicts submissions by the applicant themselves to the Co ordinator General. (Appendix G Supporting Technical Reports and Data – copy appended)

The Report states:

Cropping for grain production is one of the largest agricultural land uses and industries within the Study area cultivation for cropping and/or sown pasture carried out to some extent within the Study area. While both summer and winter crops are grown, summer crops are preferred due to higher economic returns and the summer dominant rainfall patterns within the Central Darling Downs region. Certain soil types with in the Eastern Uplands(which include the Study area) depend largely on seasonal soil moisture or, in limited areas, irrigation, where it is available.⁷

At 3.1, the applicant notes;

*Paddock 1 – estimated total crop frequency mapping shows a very small area of potential PALU in the centre of paddock, **likely to be a mapping error**. There is a large difference in estimated crop frequency between the July 2019 and September 2019 Forage Report, also **likely to be a mapping error**. In 2015 APC farm manager confirmed no cultivation or crop planted after 2010. See photos for sites 68, 69, 71, 72, 104, 105, 105 and 225 in Appendix D (Manning Vale East) of regenerating grassland from 2015. Verified as non-PALU. (emphases added).*

Paddock 1 includes sample site 5 from the Soil Sampling Site Assessment Report – Mining Area submitted to the Co ordinator General. It describes the area as *Wheat paddock. Mid to upper slope 2-3%. At least 50 cm of good light clay soil.⁸*

NAC has not provided evidence to back the assertion of a mapping area.

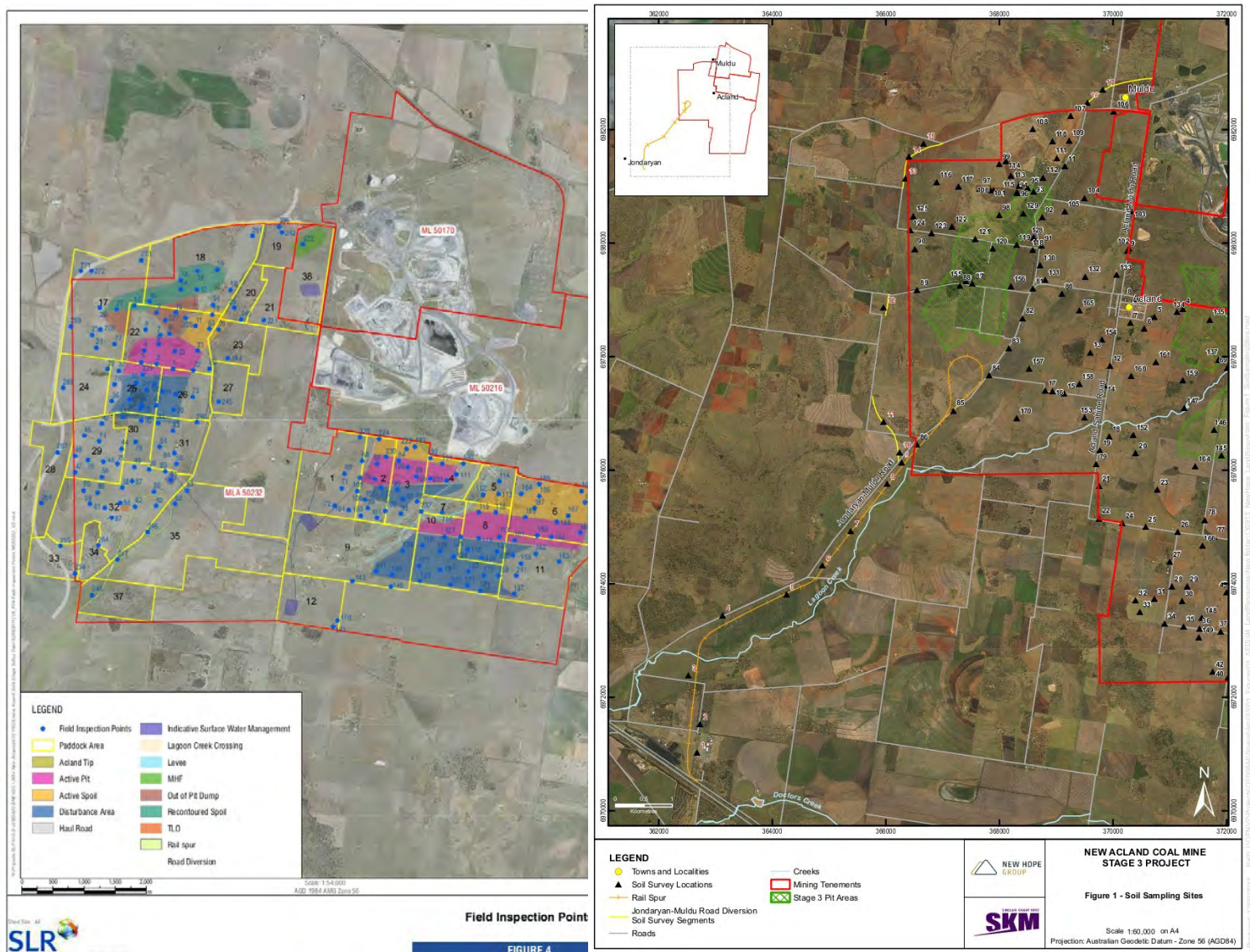
⁷ FINAL LANDFORM TECHNICAL REPORT New Acland Coal Mine Stage 3 Project JANUARY 2014 p5 para 2

⁸ New Hope Group G.1.4 Soil Sampling Site Assessment Report – Mining Area p1

Samples 135 and 137 appear to be in Paddock 2. The description given is *Brigalow scrub* soils on Greenwood School road. Lower midslope. 1%. 2.20pm, Dark brown/black uniform clay. Possible linear gilgai pre cropping⁹

The application describes Paddock 2 – estimated total crop frequency mapping shows a small area of potential PALU in the south of paddock, **likely to be a mapping error**. In 2015 APC farm manager confirmed no cultivation or crop planted after 2010. See photos for sites 67, 70, 99 – 103, 107, 224 and 230 in Appendix D (Manning Vale East) of regenerating grassland from 2015. Verified as non-PALU.

There is again no substantiation of the claim or explanation of the difference. The claim of mapping errors is made repeatedly, and for most paddocks. Not all Paddocks conform to the same areas as soil sampling, but where they do, the assessment varies wildly from that submitted to the CG.



Left: Paddock sites RIDA application, 2019 Right: Soil Sample sites Soil Sampling Assessment 2013

Of those which correspond, inconsistencies and contra indications to the Applicants assertions are to be found in each case.

*Paddock 9 – estimated total crop frequency mapping shows very small areas of potential PALU in the east and west of the paddock, **likely to be a mapping error**. In 2015 APC farm manager confirmed no cultivation or crop planted since 2009. See photos for sites 139 – 142 and 146 in Appendix D (Willeroo) of regenerated grassland from 2015. Verified as non-PALU*

Contrasting this is the assessment from sample points 152- *Poss old cultivation. Some scattered trees. Level old Soil type.*

Sample site 20 - Old cultivation. Level old alluvial plain. Same as 19. 15-20cm conspicuous bleach, pH 7.5, Used for crops but quite poor, very hard, poor infiltration with shallow topsoil.

Sample site 19 -Same as 18. Old BrigalowPoplar Box now cultivation. Slope 0.5%, alluvial plain.

The assessments of paddocks 6, 8, 9 and 10 relate to Willeroo Pit and the applicant finds no PALU or cropping land. In evidence to the Court, the Applicants agriculture expert, Mr Thompson, said this:

The area that has been referred to in this case, and it's the Willeroo area that's got crop – that has – there's evidence there that there's a recent stubble left over from recent cropping in the last – presumably, in the last one or two summer or winter seasons, and in – in areas south of that also there's some evidence of recent crop stubble being on the – being on the surface of the soil.¹⁰

There is a consistent pattern across the Applicants RIDA application of direct contradiction of earlier assessments conducted by the Applicant and evidence presented that is not explained or justified, and contradicts land mapping for the area. The Applicants assessments cannot be considered a true and proven accurate reflection of the PALU areas in the lease.

The Application does not identify all land affected

As noted, almost all of the Land to be affected by the Applicants proposal is designated PALU under the Darling Downs regional plan. This land extends well beyond the footprint of the lease and land owned by the Applicant. The Applicant, in its own estimation, has acknowledged a draw-down in underground water levels will ensue if the project proceeds.

Groundwater is used for stock watering, cropping and human consumption in the project area. The proponent's modelling predicts that at the end of mining the project may affect four aquifers. The largest impact is anticipated to be on the Walloon Coal Measures, a brackish system where drawdown at the project site may be up to 47m. Beyond the project site, the drawdown contour of around 1m in depth may extend across an area of around 21km in diameter.¹¹

¹⁰ *New Acland v Ashman* tt 35-8 lines 7-11

¹¹ *New Acland Coal Mine Stage 3 project*

Coordinator-General's evaluation report on the environmental impact statement p vii

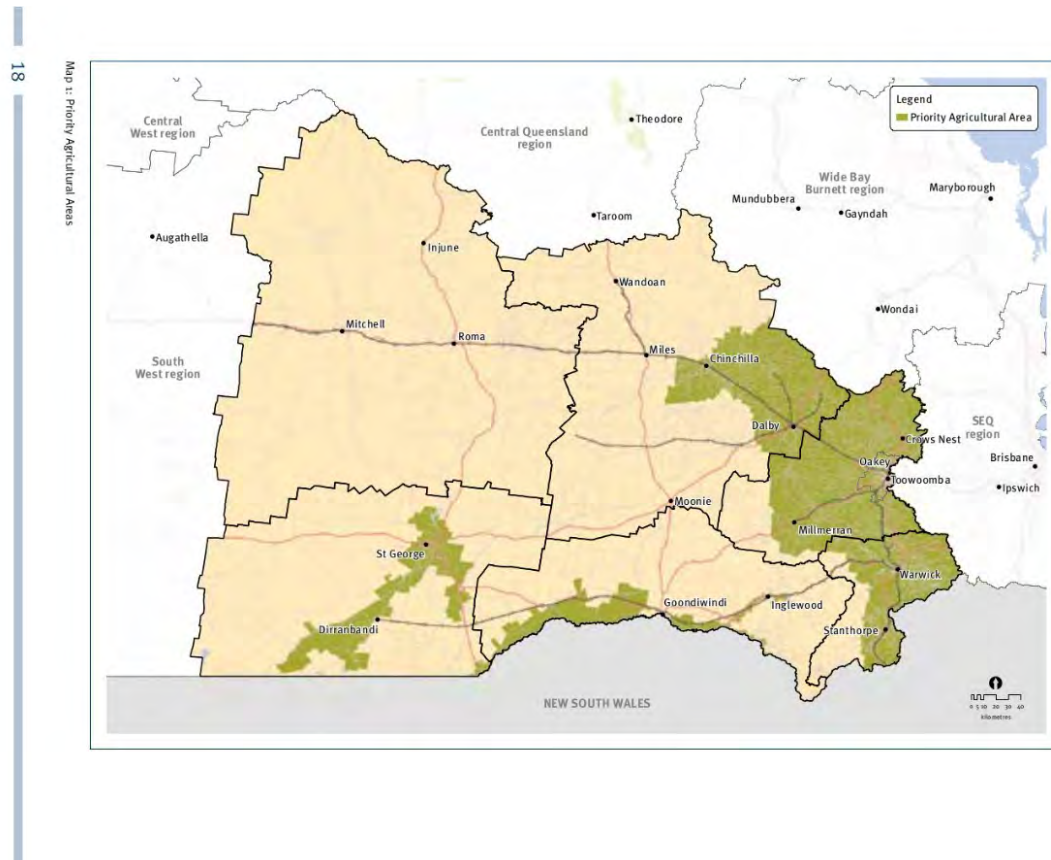
The effects will be long lasting:

The long term post-mining scenario was modelled as 300 years after mining ceases. This figure allows sufficient time for the pit lakes to reach equilibrium (generally within 200 years).¹²

In this Act, a resource activity or a regulated activity has an impact on an area of regional interest if the impact—

- (a)
affects—
 - (i) feature, quality, characteristic or other attribute of the area;
 - or
 - (ii) the suitability of land in the area to be used for a particular purpose; and
- (b) relates to a matter mentioned in the following—
 - (i) for a priority agricultural area—section 8(1)(a);
 - (ii) for a priority living area—section 9(b);
 - (iii) for the strategic cropping area—section 10(1);
 - (iv) for a strategic area—section 11(1)(a).¹³

The Acland District, and areas in a 21 km radius, are mapped PAA.



Darling Downs Regional Plan p18 ¹⁴

¹² Ibid, p136

¹³ RPI Act s27

¹⁴ Darling Downs Regional Plan p18

The expected water draw down will impact on any farm relying on groundwater and those properties outside the footprint should have been notified the RIDA process. There are substantial unquantified risks with groundwater supply, as noted in findings in the Land Court.

As regarding groundwater, a huge amount of evidence was before the Court. In key areas NAC's own experts agreed with major shortcomings of the current model. I was also highly concerned regarding the modelling of faulting and other aspects of the groundwater studies undertaken to date. These issues have not been answered by the 2016 IESC Advice for reasons including the unfortunate fact that the IESC did not have the advantage of the material before the Court on groundwater. Groundwater considerations are such that the revised Stage 3 project should not proceed given the risks to the surrounding landholders and the poor state of the current model.¹⁵

Given the degree of uncertainty with water modeling, and the fact that no mechanism for providing water to fulfil any make good agreements that have been struck has been identified, it is for the applicant to provide all affected Landholders with notice and treat all land within a 21km radius at least, as requiring a PALU assessment. The current application does not address this.

A copy of OCAA's water licence submission is attached. It details concerns about continuing access to water, and therefore agricultural development.

Argument for Exemption

The Applicant claims exemption from PALU analysis applies to them because the 'owner' of the land, has provided a letter of support.

The owner of the Land is Acland Pastoral Company, a wholly owned subsidiary of New Hope Group, the owner of New Acland. The registered office of Acland Pastoral is that of New Hope, and New Acland has no legal ability to act in a way contrary to New Hope Groups interests in New Acland Coal. The locus of control, and therefore the beneficial ownership of the land controlled by New Acland Pastoral lays entirely with New Hope.

"Once the pasture on our rehabilitated mined land is well established it is fenced off and handed to our pastoral operations Acland Pastoral Company (APC). - Shane Stephan, Managing Director – New Hope¹⁶

Through APC, contributing to Queensland's agricultural sector is an important and long-term part of New Hope's operations. It shares the same ethos as New Hope in emphasising local employment and use of local services and contractors to maximise the benefits for the region.¹⁷

¹⁵ *New Acland Coal Pty Ltd v Ashman & Ors* (No. 3) [2017] QLC 1 at [16]

¹⁶ New Acland mine boasts largest single area of certified rehabilitation in Queensland

¹⁷ 5 November 2018 <https://www.newhopegroup.com.au/news/2018/new-acland-mine-boasts-largest-single-area-of-certified-rehabilitation-in-queensland>

¹⁷ <https://www.newhopegroup.com.au/content/projects/operations/agriculture>

And from New Hope's Annual Report:

A. DESCRIPTION OF SEGMENTS

The Group has three reportable segments, namely Coal mining in Queensland (including mining related production, processing, transportation, port operations and marketing), Coal mining in New South Wales (including mining related production, processing, transportation and marketing) and Other (including coal exploration, oil and gas related exploration, development, production and processing, pastoral operations and administration). Treasury and income tax expense have not been allocated to an operating segment and are reconciliation items.

Operating segments have been determined based on the analysis provided in the reports reviewed by the Board, MD, COO, CFO and CDO (being the CODM). The reportable segments reflect how performance is measured, and decisions regarding allocations of resources are made by the CODM.¹⁸

It is plain and clear that the locus of control and beneficial interest of Acland Pastoral lay with the New Hope Group, who exercise the same rights over New Acland Coal.

As such, the exemption claimed by New Hope Group is not available as they are the true beneficial owner of the land on which they are, and intend to operate on. They cannot claim exemption under s22 of the *RPI Act*.

Abandonment of Cropping

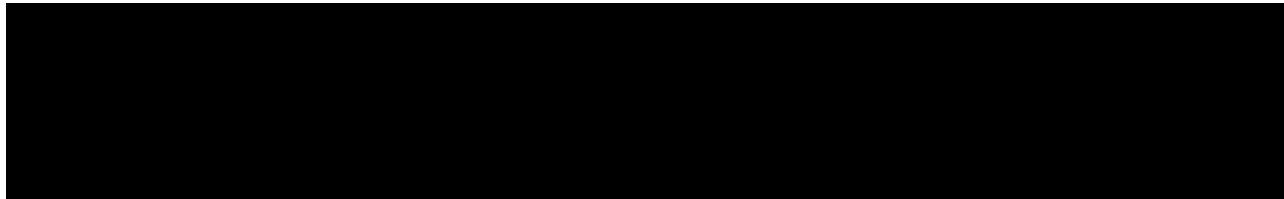
Contrary to information supplied in the Applicants application, cropping does occur on substantial swathes of Land owned by New Hope and its subsidiaries.

Dryland sorghum crops totalling 458 hectares were planted, however the drought severely impacted yield with 550 round bales harvested, of which 291 bales remain as inventory. On a positive note, rain in March promoted substantial regrowth in the previously harvested sorghum paddocks, allowing in crop grazing. The 100 hectare corn crop suffered similar yield impacts as the sorghum and cattle were introduced to the corn paddocks for in crop grazing.¹⁹

This intensity of cropping is not reflected in the application, casting doubt on its veracity. Further, it appears that the lack of cropping on cropping land may be part of a deliberate management strategy, rather than a measure of productive capacity. Further, the Applicants agriculture expert, Mr Thompson, said the decision to crop or not was a business decision

¹⁸ New Hope Group, 2019 Annual Report, p59

¹⁹ New Hope Group, 2019 Annual Report, p15



The reason why – as I've said in my evidence, the reason why a particular landowner crops or grazes are – one of the reasons obviously is the quality of the land, and the second reason is their own particular circumstances. So I can give you a personal response to that, because I actually have very identical soils on my property. I crop some

of it and I graze the rest of it. So it's – it's – it's an individual businesslike call, and – and – and part of the stuff that informs the individual's decisions is the quality of soils. Quality of soils I've assessed: you know, you – to my technical jargon or quality of soils as assessed, you know, by those methods that other landowners themselves use.²⁰

In essence, it is submitted that the decision not to crop certain lands was a business decision and should not be used to artificially reduce the true value of SCL land.

Conclusion

The Oakey Coal Action Alliance submits that the Applicants application for a Regional Interests Development Approval be rejected.

- The Application is deficient because it does not address the entire area that will be subject to mining
- The Application is deficient because it does not include the Mining lease covering the Rail loop
- The Application is deficient because it does not cover the entire time period that is expected to be granted for the carrying out of resource activities
- The Application is deficient because it does not correctly map and identify PALU land
- The Application is deficient because it does not consider the impacts to PALU land that is not owned by New Hope
- The Application underplays and does not take account of cropping that has occurred, and further, seeks to portray business decisions not to crop as indicative of the potential of land
- The Application does not address the impacts of water draw down
- No exemption under s22 can apply as the beneficial and true owner of the land is the Applicant.

Under all the circumstances, the RIDA application should be rejected as deficient, but in any event, no approvals should be given as the objects of the RPI act are directly offended by the proposal to effectively sterilise large tracts of PAA and SCL or reduce their capacity significantly.

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

17 January 2020

The assessor at :

RPI Act Development Assessment Division
Department of State Development, Manufacturing, Infrastructure and Planning
PO Box 15009
City East QLD 4002

Response to Application no.: RPI 19/009 for the proposed New Acland Coal Mine Stage 3 development

Having read the Application and supporting documents, including the Priority Agricultural Land Use Assessment MLA 50232 – New Acland Mine Stage 3 Project prepared by SLR Consulting in November 2019, I have prepared my response for your consideration.

Basically I claim that the Assessment Application for a Regional Interests Development Approval is too limited, being predominantly preoccupied with showing that in Priority Agricultural Areas Primary Agricultural Land Use for cropping has been superseded by grazing in the Stage 3 area. It fails to take into account the impacts of the Stage 3 development across a larger geographical area, especially on groundwater. For the reasons given in SECTIONS 1 and 2, the Application should be rejected.

This response is in two sections. SECTION 1 is an overview. SECTION 2 concentrates in more detail on groundwater impacts.

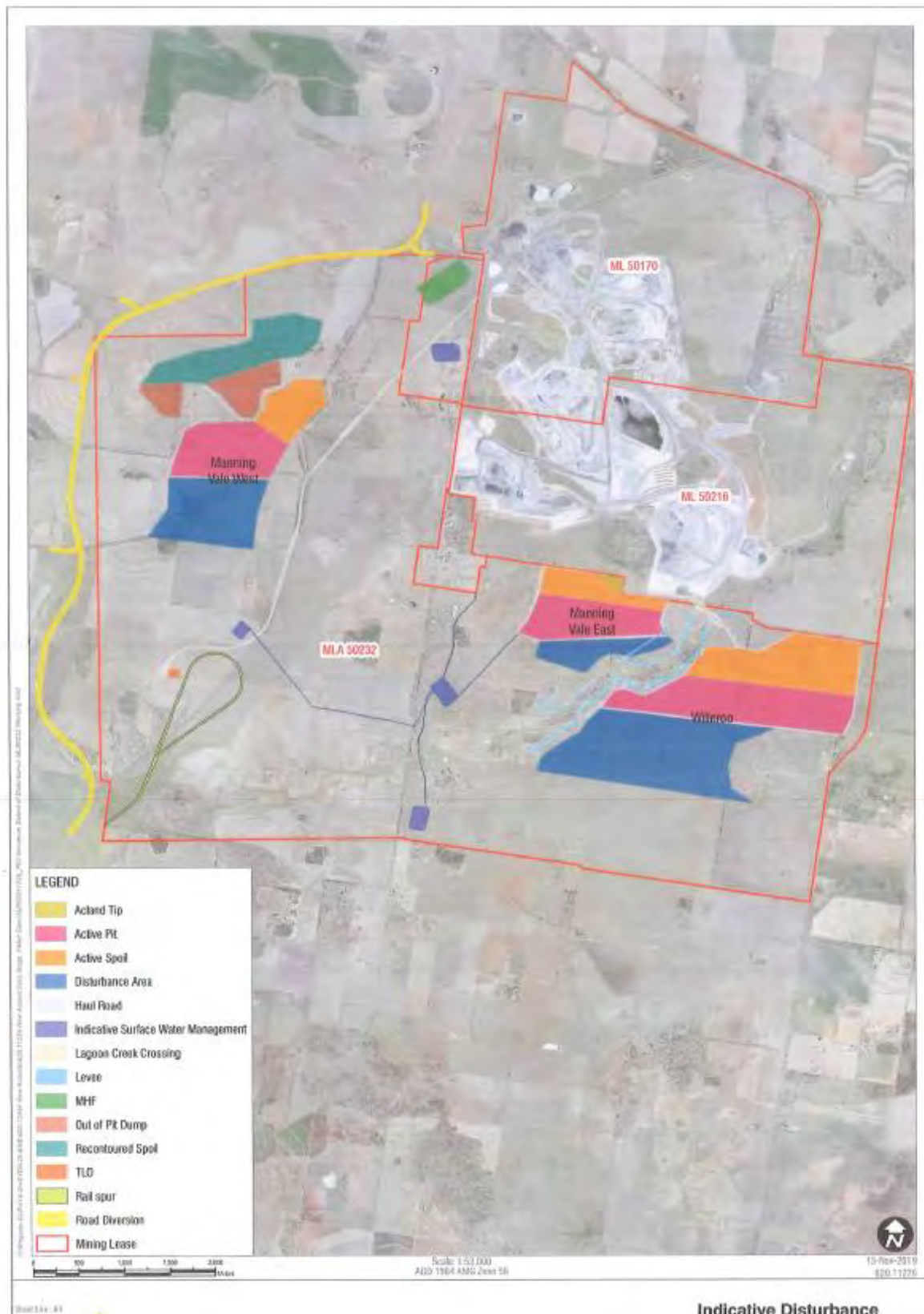
Contents

1.A five year timeframe for the development is inadequate	2
2.A larger area than MLA 50232 should be included	5
3.Impacts beyond the NAC site and the Regional Interests Planning Act	5
4. Agriculture, land use and soils	6
5. The Darling Downs Regional Plan (2013)	12
6. The impacts of Stage 3 mining on groundwater would not be in the Regional Interest	12
Conclusions from SECTIONS 1 and 2	13
References	13
ATTACHMENT A Cropping and a dairy farm in the Acland area	14

SECTION 1 – OVERVIEW

1. A five year timeframe for the development is inadequate

The Development Notice states that *Construction activities will be undertaken over an approximate 30 month period with operations continuing for up to approximately 12 years*. However, the Executive Summary (SLR 2019) refers only to the first 5 years of disturbance and on page 8 refers to *the extent of the pits to be developed in the first five years of operation*. This is a considerably smaller area than that for the 12 years - compare SLR Figure 2 'Indicative Disturbance' with Figures 1 and 2 from pages 63 and 64 of the Draft environmental authority Permit (EHP.009) – Figure 2 'Mine affected water release point' is reproduced here, it is clearer than Figure 1. Moreover, in SLR 2019 at 1.6.3 it states that New Acland Coal has already developed a *life-of-mine plan for the Project*. If the Permit covers the development of the Willeroo, Manning Vale East and Manning Vale West pits for the duration of the Stage 3 Project the RIDA should cover 12 years or more, not just 5.



[illegible]

2. A larger area than MLA 50232 should be included

The SLR Land Use Assessment only applies to MLA 52032. However, the Permit refers to four MLs, namely ML 50170, ML 50216, ML 700002 and ML 50232 (EHP.009 page 1). Also refer to the NAC RIDA Application- Requirement Notice response point 6. Surely all four MLs should be included in SLR 2019 .

3. Impacts beyond the NAC site and the Regional Planning Interests Act

No mention is made in SLR 2019 of the effect of drainage of aquifers into the three new pits. All three are further downslope of the Stage 1 and Stage 2 pits recently mined or being mined. *The maximum depths of the lakes that are predicted to form are around 33 m in the Manningvale depressed landform, 18 m in the Manningvale East depressed landform, 22 m in the Willeroo depressed landform* (Exhibit 0093 page 94). The impacts of this drainage will be far reaching beyond the boundaries of the NAC land and are detailed in SECTION 2 of my response.

Water issues are mentioned on several occasions, as well as land use, in the *Regional Planning Interests Act 2014 – Regional Planning Interests Regulation 2014 – current as from 1 July 2019*. Yet these water issues have been conveniently overlooked. Note that the Acland area includes Lagoon, Doctor and Myall Creeks, that are tributaries of the Condamine River downstream (and hence the Condamine Alluvium), which contribute to this regionally significant water source (page 5).

- *Schedule 1. Assessing agencies and their functions section 12 (page 17), under priority agricultural area that includes 1 or more regionally significant water sources includes the function the expected impact of the activity on land use for a priority agricultural land use because of the activity's impact on a regionally significant water source in the priority agricultural area.*

Although the aquifers around Acland are not specifically listed (see page 5 above) it is predicted that about 23 000 ha with farm bores will be affected by drawdown through seepage into the 3 pits. This is a serious impact.

- Further on page 18 in the same Table :-

an area in the strategic cropping area and the expected impact of the activity on strategic cropping land in the area. Certainly crop production and farm bores used for cattle will be affected by drawdown.

- Related in the same table is reference to *a strategic environmental area and the expected impact of the activity on the hydrodynamics of, and interactions with, the environmental attributes for the area that relate to hydrologic or geomorphic processes or beneficial flooding.*
- Water is also included in Schedule 2. *Schedule 2 Criteria for assessment or decision - section 14 in Part 2 Priority agricultural area*, turning to page 22 (2) (b) “if the activity is to be carried out under a mineral development licence or mining lease under the *Mineral Resources Act 1989* – the activity is likely to produce associated water” and (3) includes the wording “that provides for the net replenishment of the regionally significant water source”.

- Then follows (on page 23) (7) *In this section – **associated water** means underground water taken or interfered with, if the taking or interference happens during the course of, or results from, the carrying out of an activity authorised under a mineral development licence or mining lease.*

I conclude that the impacts of seepage of aquifers into the three pits should be considered in the RIDA assessment and a solution to replenishing the aquifers to ensure that farm bores in the surrounding area are not affected.

4. Agriculture, land use and soils

(a) Agricultural potential

In the closely settled areas around Acland a key to the success has been the combination of fertile soils, climate, seasonal rainfall and the availability of high quality groundwater. These have enabled the following crops to be grown in the past - wheat, barley, chickpeas, sorghum, sunflowers, mungbeans, millets and the forage crops oats, forage sorghum, lucerne and lab lab (confirmed by local farmer Noel Wieck). There were many dairy farms, also piggeries, using grain grown on the farms. Also consider horticultural crops and the potential for export via Toowoomba West Airport.

Examples of the cropping potential of much of the area are shown by the sorghum and mungbean crops and the black cracking clay soils ready for planting winter crops in JS.001 Exhibit 506. There are four dairy farms not far from the mining lease with a total of 1260 cows producing about 10 million litres of milk annually, of which there is an example in JS.006 Exhibit 831. Refer to Attachment A (pages 14 to 18). Note that cropping areas for fodder crops are an intricate part of the operation of dairy farms.

The Queensland Land Use Mapping Program map of the areas beyond the NAC land (SLR 2019 page 37) confirms the extensive cropping. Indeed, the Application Area land use was cropping (56.3%) and grazing (42.8%) (SLR 2019 page 23). The predominance of dryland cropping around the NAC land is highlighted in Figure 2 'Land Use outside of Revised Expansion Area' from Exhibit 416 page 49.

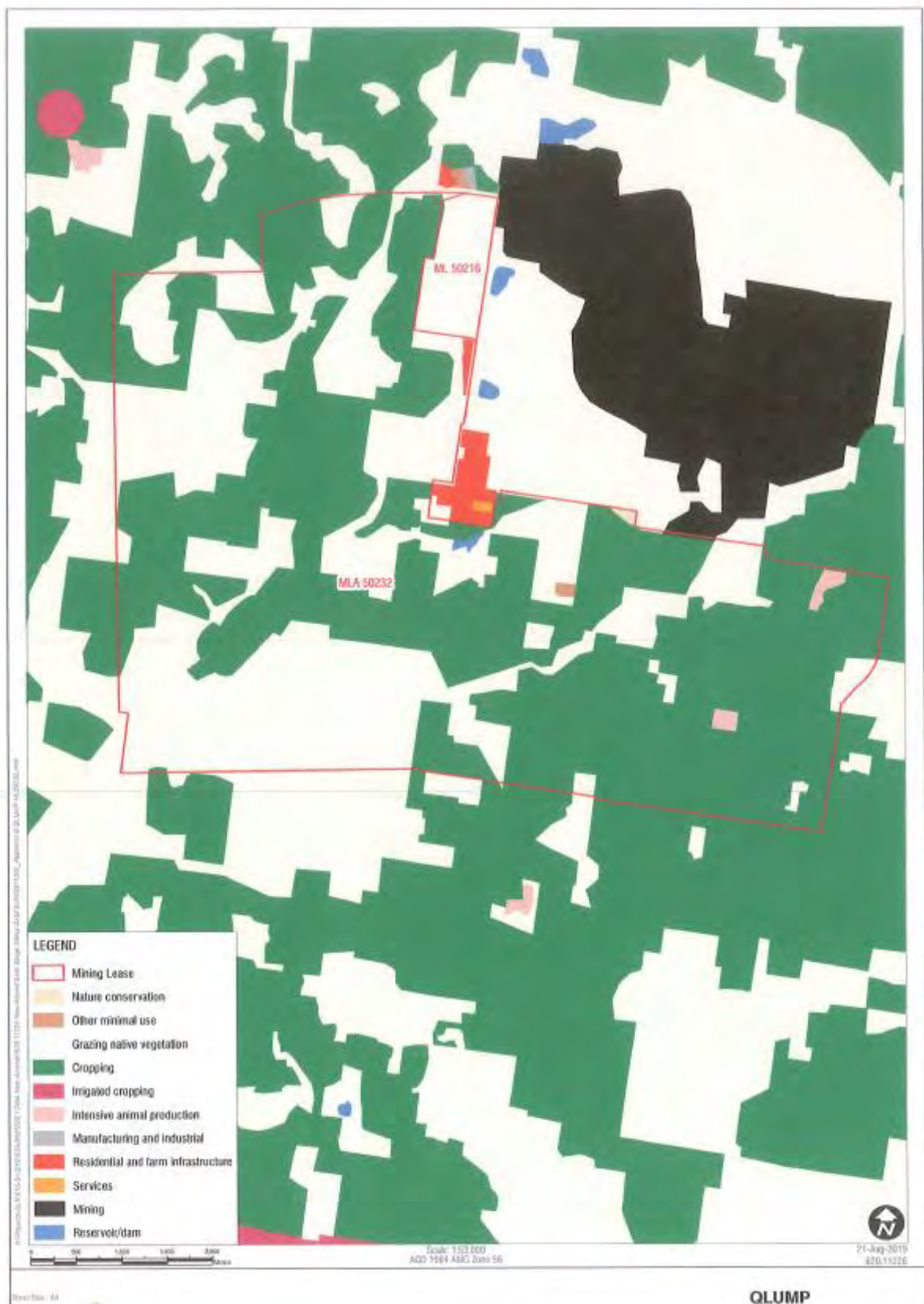
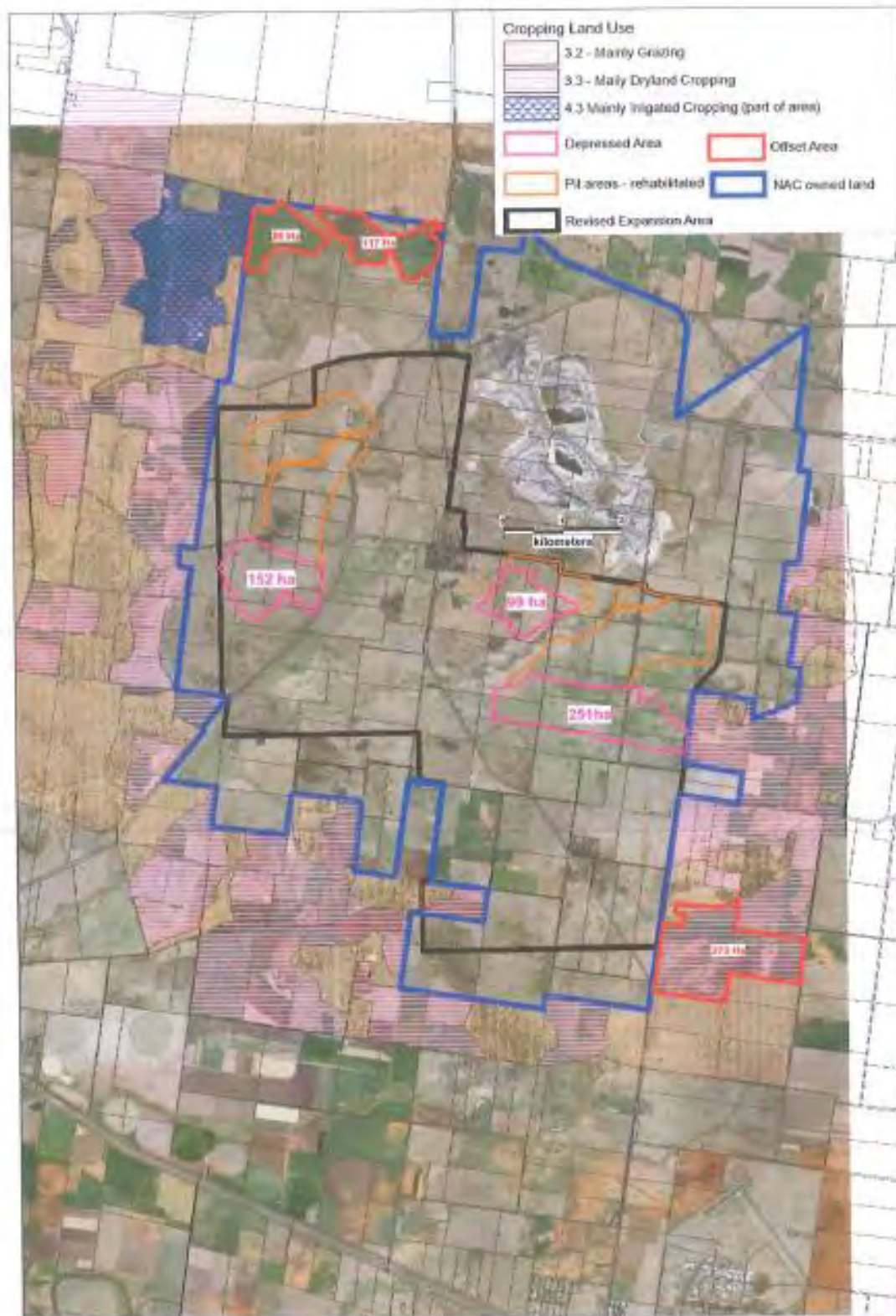


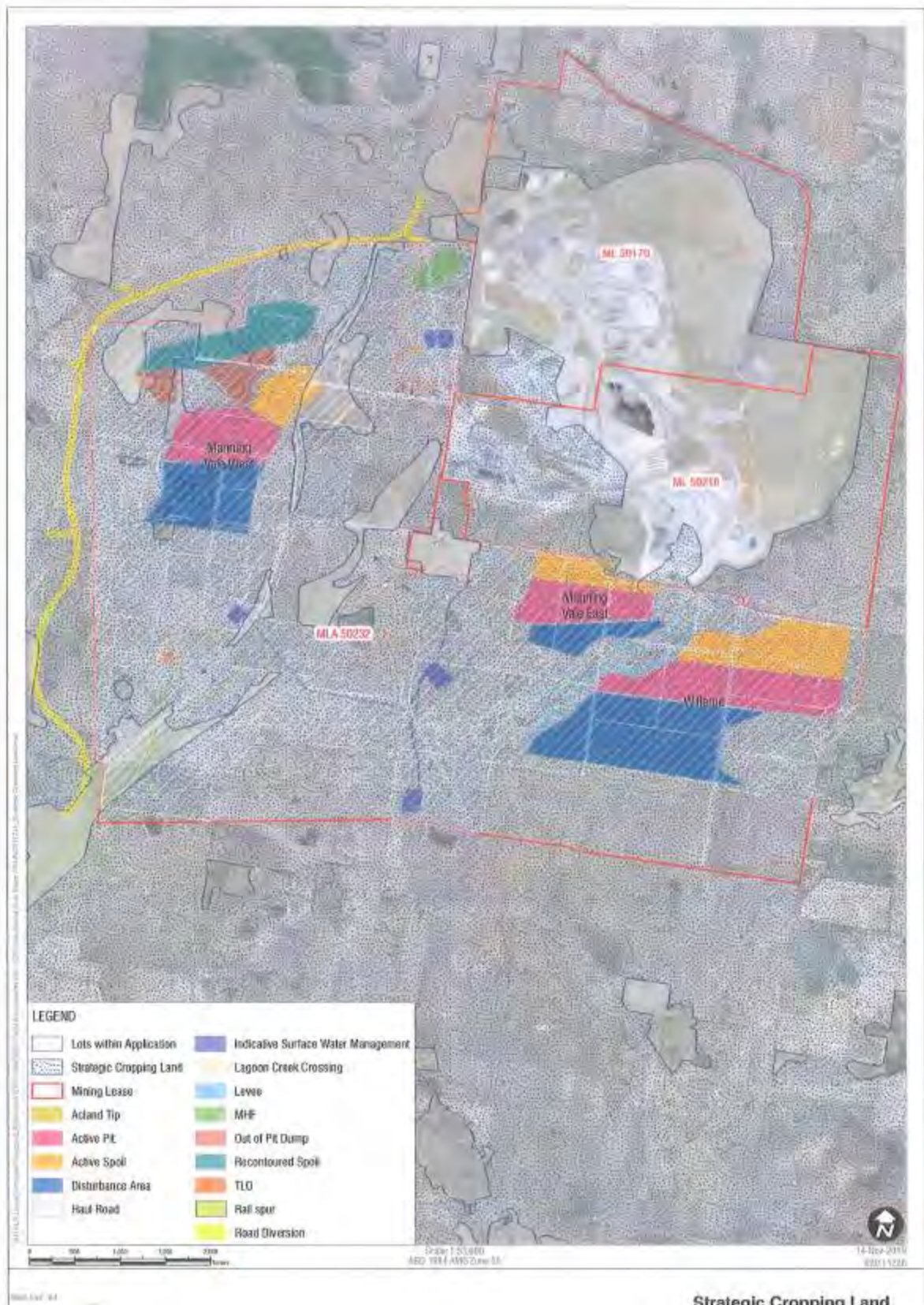
Figure 2 Land Use outside of Revised Expansion Area

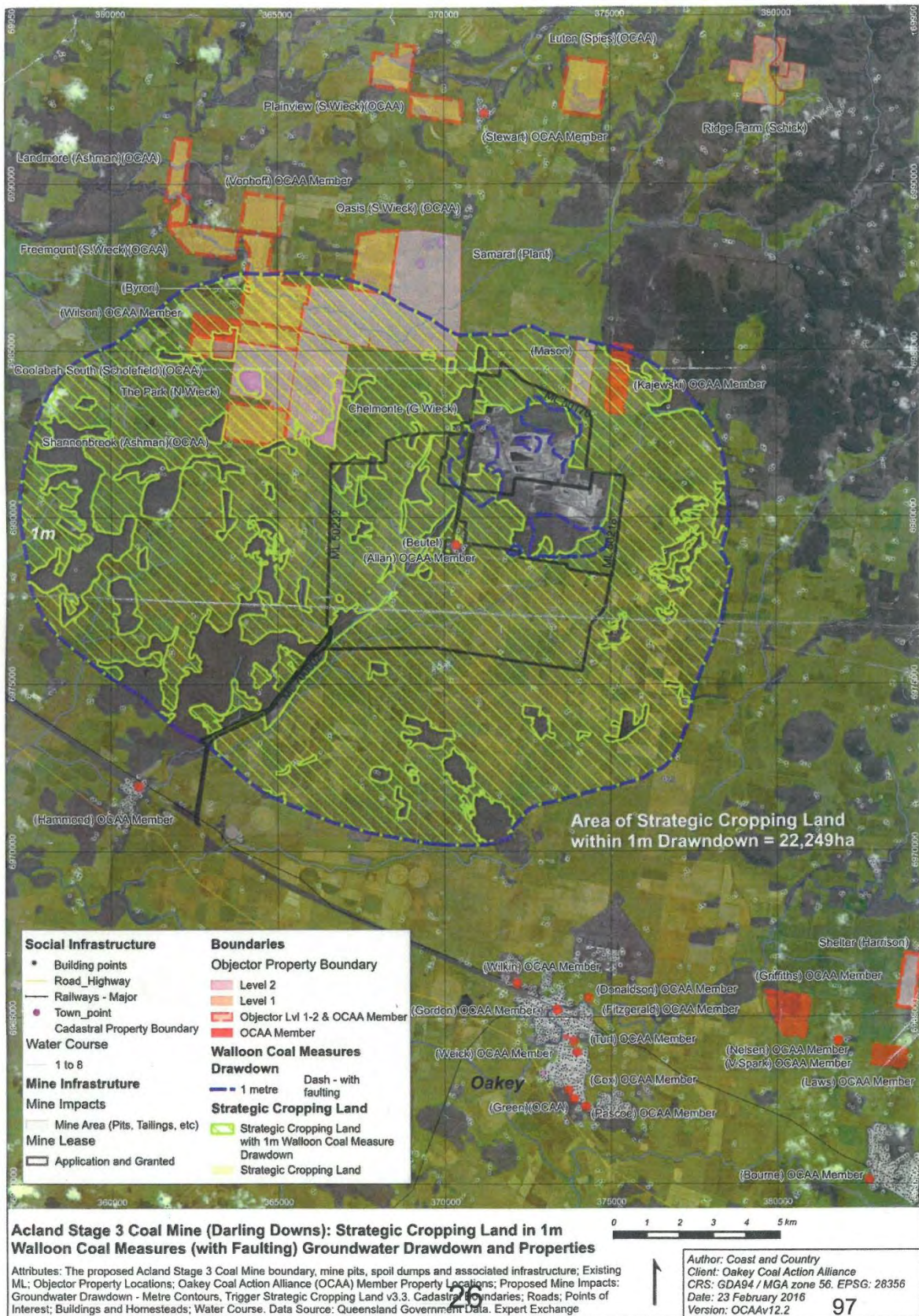


b) Strategic cropping land

The predominance of strategic cropping land in the Acland area is evident from the trigger map 'Strategic Cropping Land' reproduced from page 898 of SLR 2017. This predominance is further emphasised in the map 'Acland Stage 3 Coal Mine (Darling Downs) Strategic Cropping Land' of the area of 22,249 ha of SCL where drawdown of water of at least a metre attributable to Stage 3 mining is predicted (Exhibit 445, page 97).

Note that since mining and rehabilitation of the Stage 1 and Stage 2 areas began only pasture establishment has been achieved. In this so called Primary Agricultural Area, Primary Agricultural Land Use for cropping has been lost for the foreseeable future, as is indeed the case across all the land purchased by New Acland Coal.





c) Highly productive soils in the Acland area

The map in the Field Manual of the Central Darling Downs Land Management Manual (Harris *et al.*, 1999) includes the soil types in the Acland and surrounding areas. The Acland soil type has been specifically identified as *a very versatile soil and is well suited to most pastures, fodder and grain cropping. It is an excellent improved pasture soil* (an Associated soil in Land Resource Area 6a). The other main soil type is Purrawanda. *This soil is ideally suited to grain cropping with good nutrition and rotations for weed and disease control* (an Associated soil in Land Resource Areas 7b, 7c and 8a). The predominance of these and related soils again emphasises their versatility for cropping in particular.

Even within the Revised Expansion Area for Stage 3, in *Table 1 Regional land use and soils* of Exhibit 416 page 51) the Basaltic clay soils on sloping plains constitute 1447 ha (LRA : 7a,7b) , the Brigalow clay soils on Walloons 1578 ha (LRAs 6a, 6b, 6c and 6d), and the Poplar box clay soils on Walloons 1370 ha (LRA : 8a) of the total area of 5080 ha. These all could be productive soils.

5. The Darling Downs Regional Plan (2013)

Chapter 4 of this Plan lists three objectives :-

1. Supporting the long-term viability and growth of the agricultural sector
2. Maximising the productive use of key mining resources, and
3. Providing for liveable communities.

However, since the acquisition of the land by NAC, numerous farms have been lost, the associated agricultural production has been lost and people who were in liveable communities. Moreover, the drainage of aquifers supplying farm bores if Stage 3 proceeds will further deplete the agricultural sector. These developments **contravene** objectives 1 and 3 of the Plan. NAC can claim to meet all of these objectives BUT if the surrounding farms lose groundwater then their long-term viability is compromised, especially if more drought years are ahead of them.

It is NOT in the Regional Interest for agricultural production and rural communities to decline further.

6. **The impacts of Stage 3 mining on groundwater would not be in the Regional Interest - SEE SECTION 2.**

Conclusions from SECTIONS 1 and 2

The Applicant's application RP1 19/009 for a Regional Interests Development Approval should be rejected. The scope is too limited.

- It does not address operations for the lifetime of the proposed Stage 3 mining development and only includes MLA 52032.
- It does not address impacts on groundwater for the livelihoods of farmers far beyond the mine site.
- Conveniently it overlooks the water issues referred to in Schedules 1 and 2 of the Regional Planning Interest Act 2014- Regional Planning interests Regulation 2014.
- The ability to maintain cropping, dairying and livestock operations which require access to high quality bore water will be compromised in this Primary Agricultural Area of Strategic Cropping Land.
- The proposed Stage 3 expansion conflicts with a key objective of the Darling Downs Regional Plan to support the long-term viability and growth of the agricultural sector.
- It is not in the Regional Interest for agricultural production and communities to decline further.

References

EHP.009 Department of Environment and Heritage Protection - Permit number : EPML00335713 dated 28 August 2015

Exhibit 0093. From Additional Information to the EIS, New Acland Coal Mine Stage 3 Project

Exhibit 0445. Individual Expert Witness Report Economic Assessment: Agricultural Economics, Professor John Quiggin, 4 March 2016.

Exhibit 416 Statement of evidence to the Land Court by William Patrick Thompson, 1 March 2016 (NAC.0044) Expert Report – Land Use and Soils

Harris *et al.* (1999) - Harris, P.S., Biggs, A.J.W. and Coutts, A.J. (1999). Field Manual, in *Central Darling Downs Land Management Manual*. Department of Natural Resources, Queensland. DNRQ990102).

SLR (2019) Priority Agricultural Land Use Assessment MLA 50232 – New Acland Mine Stage 3 Project. SLR Ref:620.11226, November 2019.

ATTACHMENT A

Cropping in the Acland area – exhibits –



Figure 1: A sorghum crop at the southern end of Greenwood School Road (from Latitude 27° 20.024' S and Longitude 151° 43.058' E) on 27 February 2016.



Figure 2: Mungbeans on O'Shea's Road (from Latitude 27° 17.079' S and Longitude 151° 38.363' E) on 26 February 2016.



Figure 3: Land prepared for winter crops on O'Shea's Road (from Latitude 27° 17.511' S and Longitude 151° 83.936' E) on 27 February 2016.

Dairy farming in the area – exhibits -



Figure 1: Dairy farm by Radar Hill near Acland



Figure 2: 700 cows arriving for milking – annual production 5.5 million litres



Figure 3: The holding yard by the dairy



Figure 4: Lining up for milking

SECTION 2 The impacts of Stage 3 mining on groundwater would not be in the Regional Interest

The proposed Stage 3 expansion will have a major negative impact on groundwater. After assessing all of the evidence and interrogating numerous experts, the Land Court Judge concluded that there was *‘potential for groundwater impacts to adversely affect landholders in the vicinity of the mine for hundreds of years to come’*.

Although there has been a Supreme Court ruling since the Land Court and the Court of Appeal ruling, the scientific findings of the Land Court in relation to groundwater impacts and other matters have not been challenged, and New Acland have not disputed the factual findings.

This section of my RIDA Appeal response will highlight scientific findings which provide compelling evidence about the impacts a Stage 3 Mine expansion would have on groundwater in particular.

Contents

Introduction	1
An overview of the Acland area and drainage.....	2
The three new pits - inflows will be continuous and the pits will be deep	4
The extent of drawdown across the Acland area	5
Modelling of drawdowns	9
The certainty of drawdowns	11
Water flows through geologies may be greater than predicted	13
Connectivity between strata and the need for nested bore sites	13
Drainage of the basalt aquifers.....	13
Creek flow reductions.....	14
Recent criteria for decisions about water licences.....	14
Conclusion	15
References	15
Attachment B – Groundwater Model Predictions	20

Introduction

Recent droughts across eastern Australia and associated warmer than average summer seasons have drawn attention to shortages of water supplies and the critical need to conserve groundwater

reserves, especially for rural communities. There is no doubt that the NAC mining operations proposed for the Stage 3 expansion will interfere with underground water in the region and, indeed, Stage 2 operations may already be doing so. The impacts will be long lasting and affect a large area beyond the mine. Shortcomings with the modelling of the effects of mining may mean that the effects on groundwater may be greater than the present predictions.

An overview of the Acland area and drainage

Four aquifers have been identified, the Quaternary Alluvial aquifer (alluvial), the Tertiary Basalt aquifer (basalt) and below these the Walloon Coal Measures aquifer (WCM) and the Sandstone aquifer (sandstone). The high quality water for agriculture has a water table above the WCM in which water of poorer quality resides, water much less suitable for agriculture.

As mine pits are dug water from the geologies seeps out, drainage from the WCM then causing drainage from the basalt. The situation is described clearly in Figure 4 on page 11 from of the Expert Report by Dr Currell (Exhibit 0435). The impact could completely drain some of the basalt water on which farmers rely.

The conceptual hydrogeological model in Figure 3-1 (Exhibit 0103 page 5) also shows drainage patterns, including from the Tertiary Basalt into a pit.

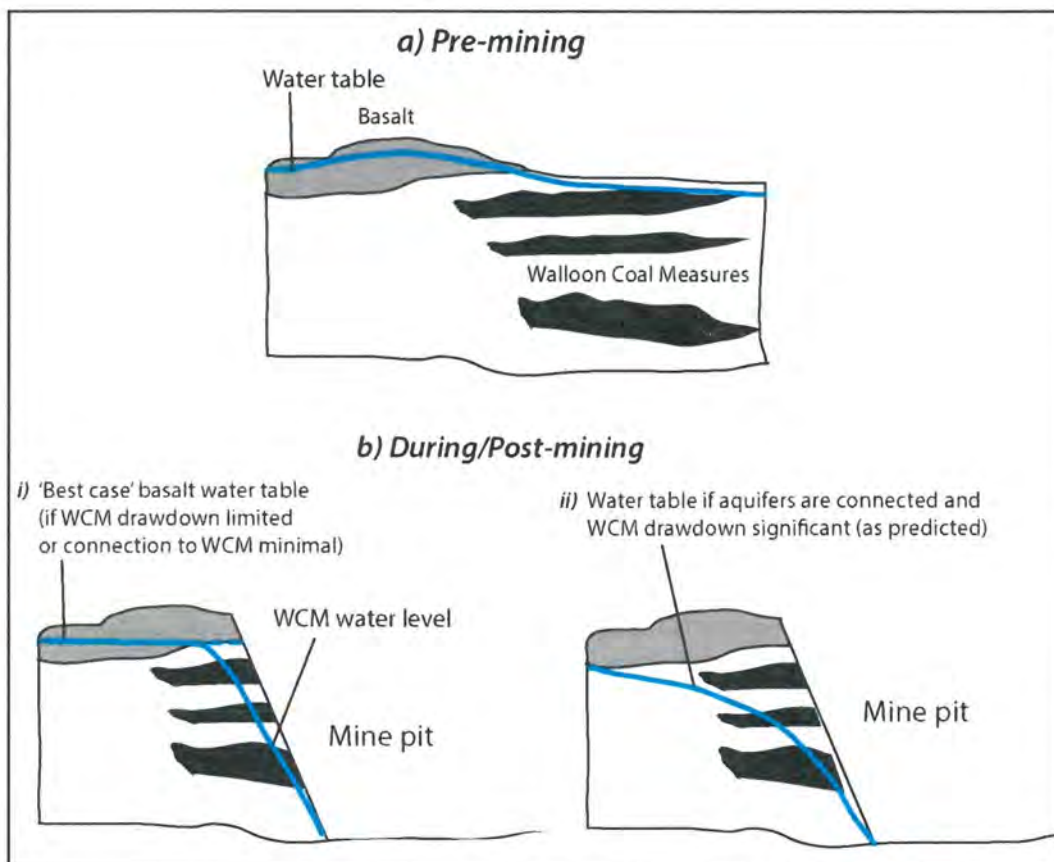


Figure 4 – Schematic figure showing possible impact of mining on water table in basalt aquifer, in areas where mine pit intersects basalt and/or causes significant drawdown in underlying coal measures

3. Hydrogeological Setting and Conceptual Model

A conceptual model is a simplified representation of the real system. It aims to identify the most important hydrogeologic processes and geological units, and to quantify them in a manner that can then be translated into a numerical model. Thus the conceptual model forms the basis for the numerical groundwater flow model. The EIS chapter for groundwater provides a comprehensive description on the background information available and the overall conceptualisation of the hydrogeological regime. A summary of the conceptual model that forms the basis for the groundwater model are described below.

The conceptual hydrogeological model describes the aquifers present within the revised Project site, how they interact with each other and surface waters, and their attributes such as groundwater depth, thickness, transmissivity, storativity and hydraulic conductivity. The aquifers present within the revised Project site include the following:

- Quaternary Alluvial aquifer;
- Tertiary Basalt aquifer;
- Walloon Coal Measures aquifer;
- Marburg Sandstone aquifer; and
- Helidon Sandstone aquifer.

These aquifers are described further in the following Sections. **Figure 3-1** presents a schematic of the conceptual hydrogeological model for the revised Project.

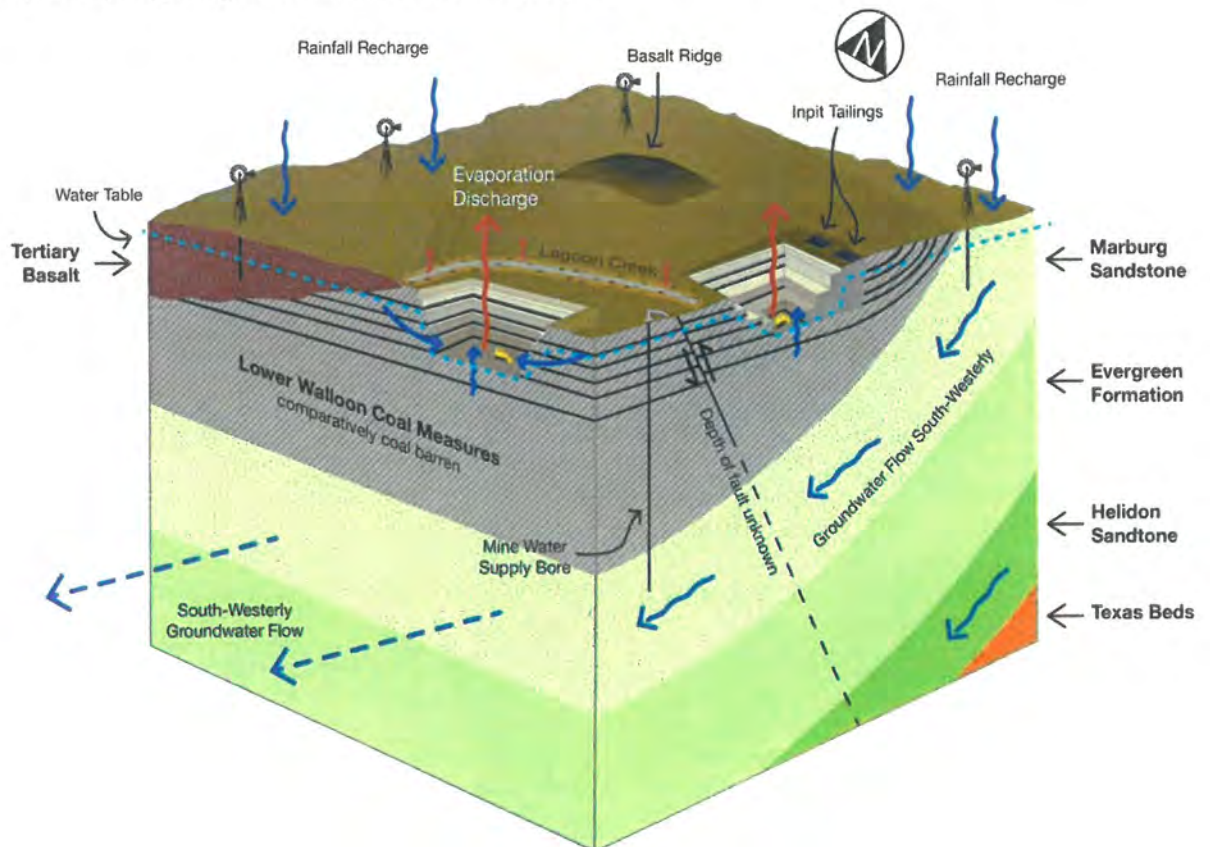


Figure 3-1 : Conceptual Hydrogeological Model

A conceptual hydrogeological model, reproduced in Figure 3-1 from the Groundwater Modelling Technical Addendum from Jacobs, also shows the water from the basalts draining into pits.

The three new pits - inflows will be continuous and the pits will be deep

The proposed mine expansion involves three new pits, Willeroo east of Lagoon Creek, and Manningvale East and Manningvale West, both west of Lagoon Creek. All three are further down slope of the Stage 1 and Stage 2 pits recently mined or being mined. *“The maximum depths of the lakes that are predicted to form are around 33m in the Manningvale West depressed landform, 18 m in the Manningvale East depressed landform, 22m in the Willeroo depressed landform”* (Exhibit 0093 page 94). The consequence will be further drainage of the aquifers and in particular of the basalt aquifer.

Information in Exhibit 0024 first raised concerns about the loss of groundwater. Figure 6-25 from page 62 shows increasing inflows of up to 1400 ML/year by 2029 and little diminution far into the future after that. Then on page 6-74 there is reference to the salinity of the pit lakes containing saline water from the Walloon Coal Measures which will be further concentrated by evaporation.

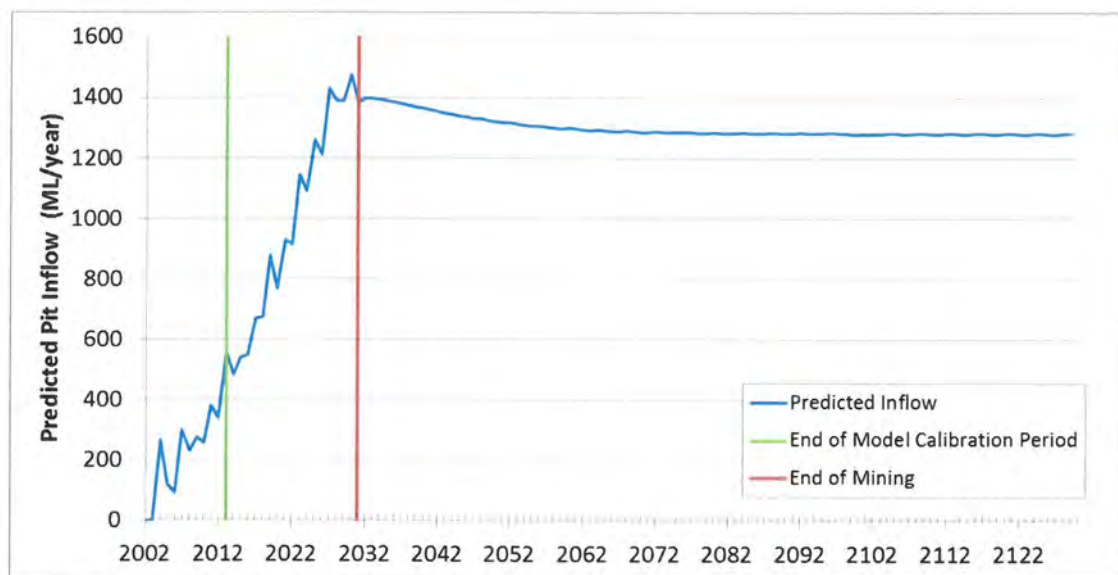


Figure 6-25 Predicted Inflow to revised Project Pits

A revised prediction of pit inflows documented on pages 91 and 92 of Exhibit 0093 details *“Inflows gradually increase during mining before peaking immediately prior to the completion of the mining phase (2030) at approximately 3.5 ML/day (median case), which will be spread variably across the three operational pits”*. The predicted mine pit inflows are presented in Figure 5.2-V on pages 92. One standard deviation above is 5.6 ML/day or 2044 ML/year. The median of 3.5ML/day gives 1277.5 ML/year.

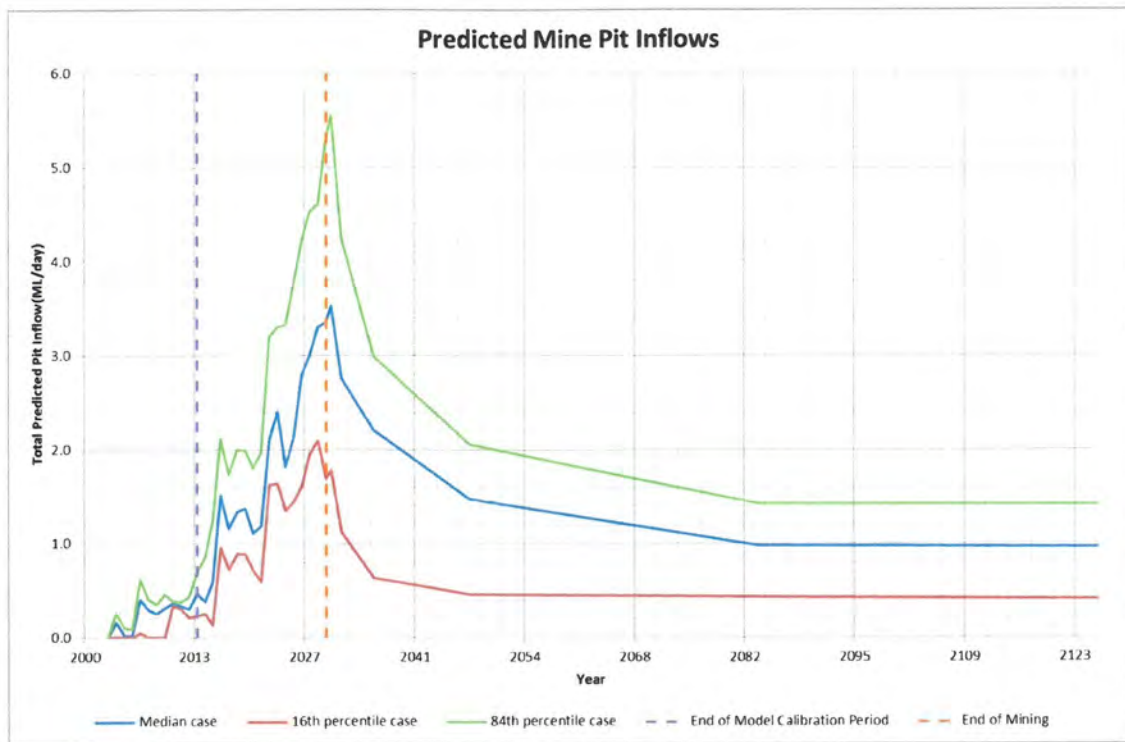
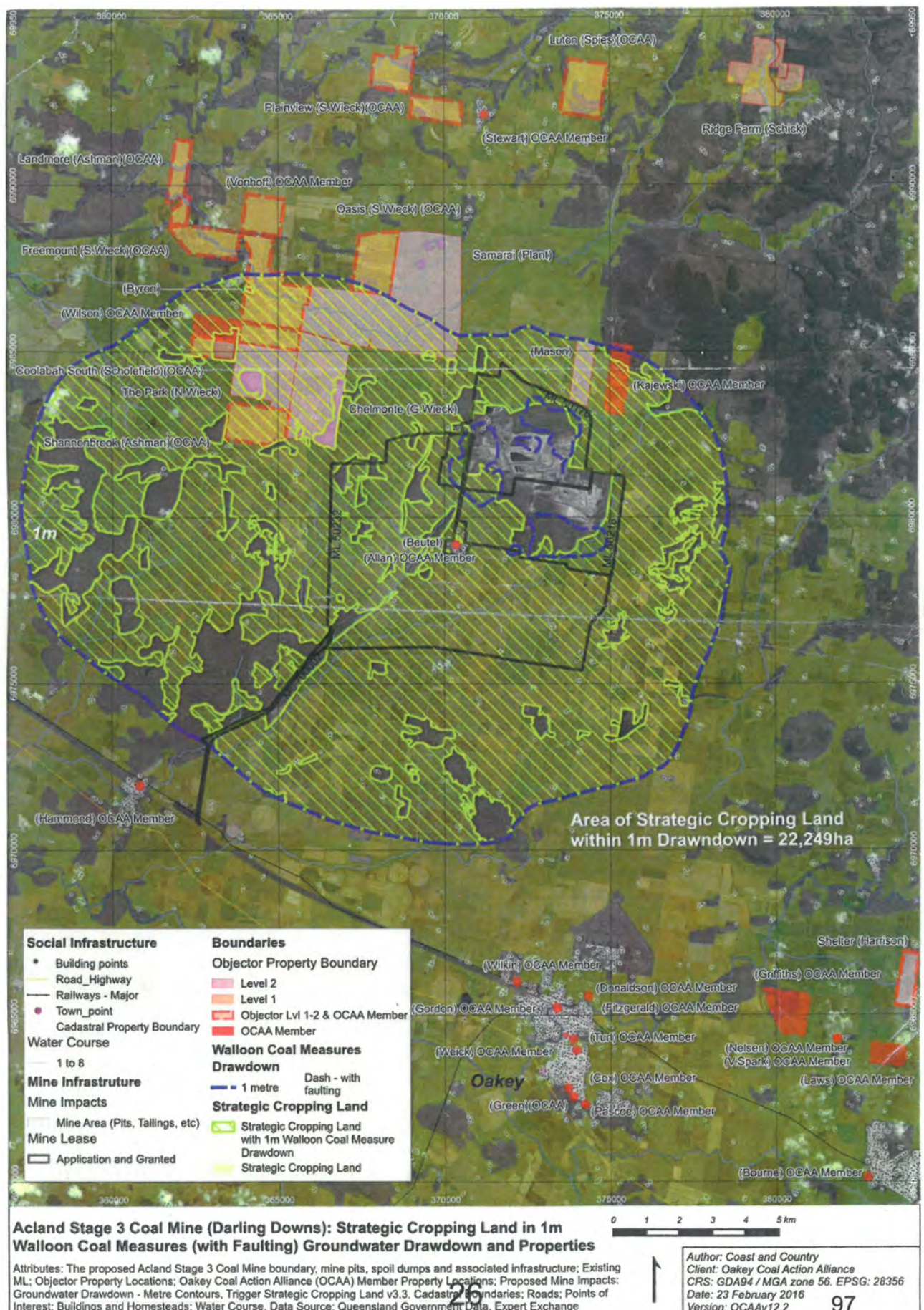


Figure 5.2-V Predicted Mine Pit Inflows (median value plus one standard deviation either side)

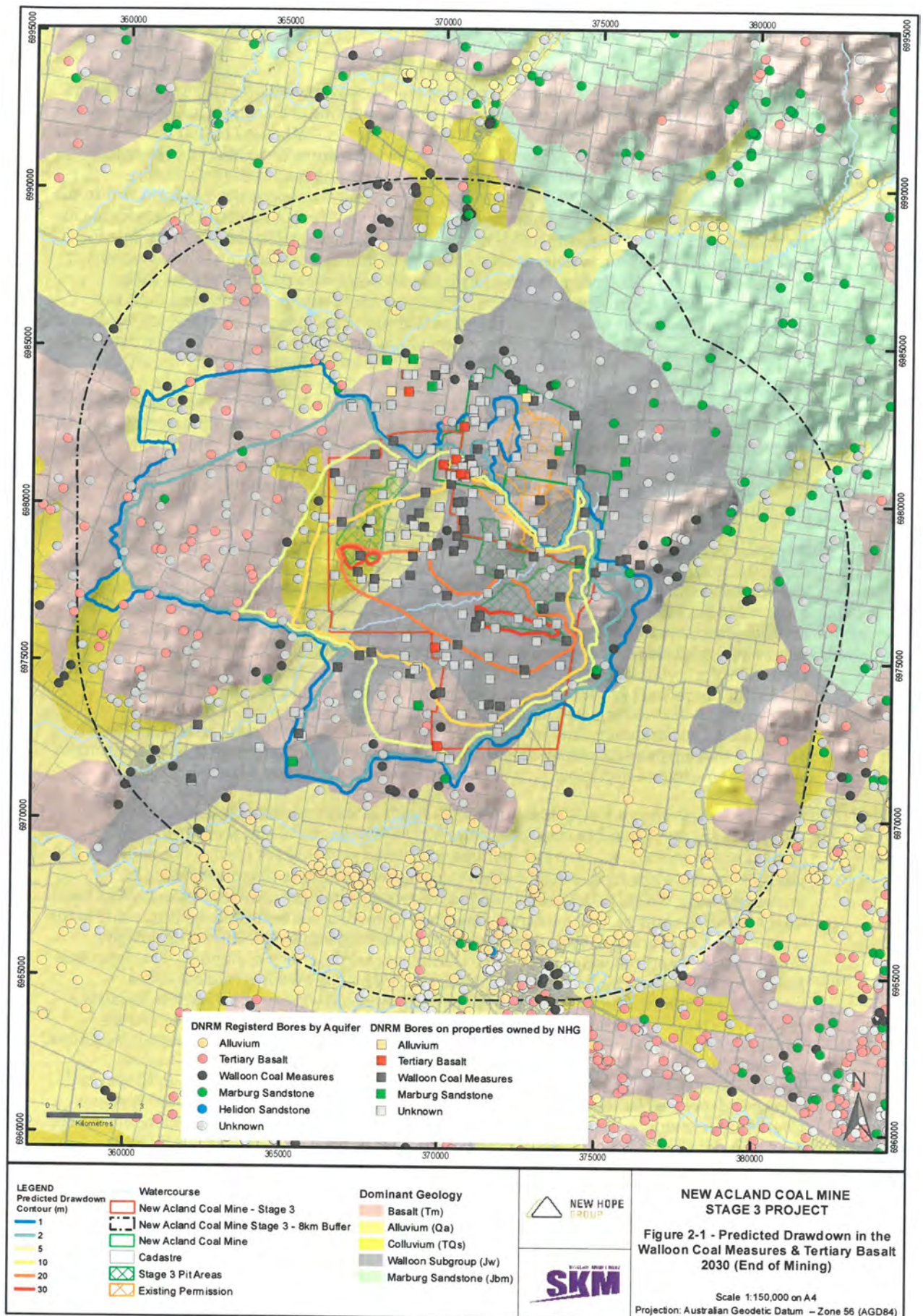
The extent of drawdown across the Acland area

The map reproduced from page 97 of Exhibit 445 is a helpful introduction to the wide area predicted to have drawdowns of at least a metre, which includes 22,249 ha of Strategic Cropping Land.



Moreover, the large number of registered and unregistered bores in the area shown in Figure 2-1 (Exhibit 0070 page 14) which is similar to Figure 6-4 (Exhibit 0024 page 17) indicates the closely settled agricultural locations. To quote from section 6.2.5 page 16 of EHP.0024 "*A search of the DNRM registered bores was conducted in relation to the revised Project site. The survey identified a total of 939 registered bores within an 8 km radius of the revised Project site.* Furthermore, for 447 of these bores the following number of aquifers was identified - Quaternary Alluvium 117, Tertiary Basalt 83, Walloon Coal measures 139, Marburg Sandstone 47 and Helidon Sandstone 1.

Reductions in bore levels resulting from mining operations would have widespread repercussions. Figure 2-1 from page 14 of EHP0070 refers to the predicted drawdown in the Walloon Coal Measures and Tertiary Basalts at the end of mining.

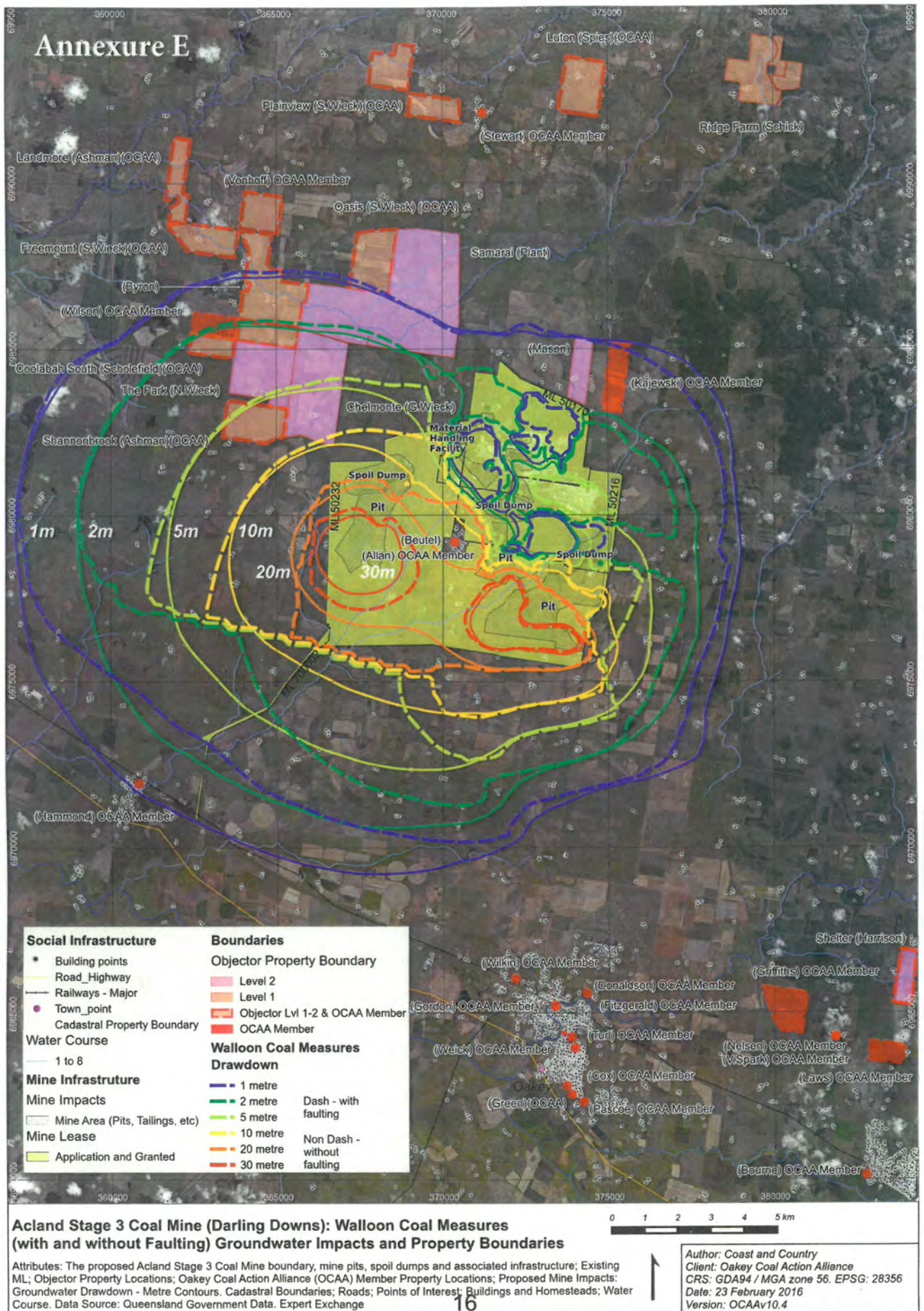


Modelling of drawdowns

An example of drawdowns predicted for the Walloon Coal Measures, this time to a depth of 30 m, is shown in Annexure E (Exhibit 0435, page 67). Note that this latest revision of predictions shows a larger area being affected than the area on the bore map. Also note that only members of the Oakey Coal Action Alliance are identified - there are many more landholders in the Acland area, some having Make Good Agreements with NAC which means that they cannot be included.

Maps of predicted drawdowns for the aquifers have been presented in various reports. For example in EHP.0024, Figures 6-26 to 6-30 on pages 63 to 67, and more recently in the NAC Fault Hydrogeological Investigation Program October 2016 Status Report SLR 2016(a) Attachment A Groundwater Model Predictions Figures A1 to A12. These have calculations using the AEIS Model (which attempts to incorporate the influence of faulting as it affects flows) for the Alluvium, Basalt, Upper Walloon Coal Measures and Marburg Sandstone with maximum 50th and 84th percentile drawdowns; then the results from a No Faults Model. The range of drawdowns is 1 to 2 m for the Alluvium, 1 to 10 m for the Basalt, 1 to 20 m for the Walloon Coal Measures and 1 to 20 m for the Marburg Sandstone. The extent is greatest for the Upper Walloon Coal Measures and for the Marburg Sandstone, reaching to Jondaryan and almost Oakey.

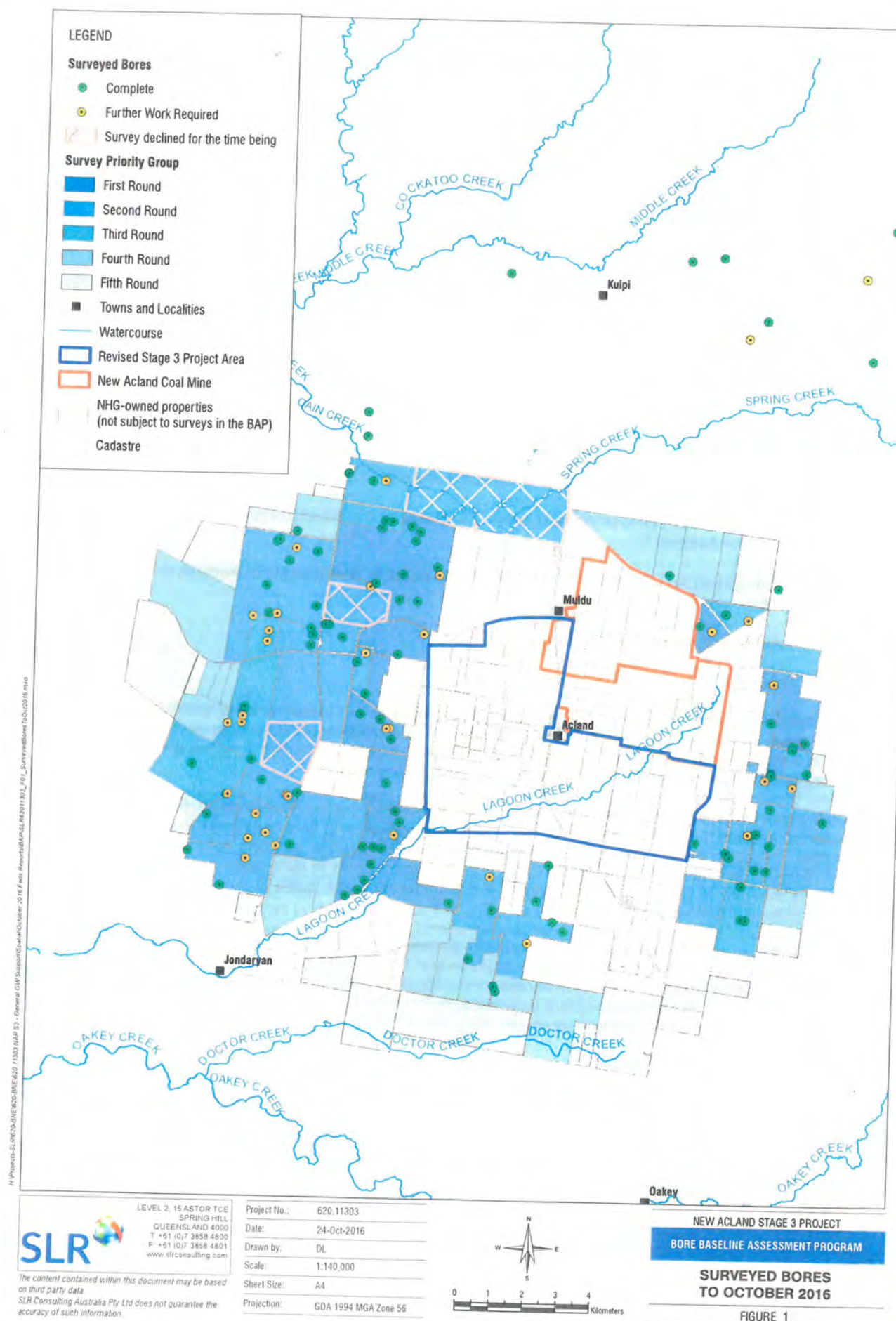
Figures A9 to A12 are reproduced in Attachment B.



The certainty of drawdowns

New Acland Coal accepts that bore levels will be affected. The Status Report for landholder bores (SLR 2016c) confirms in Section 2.1 on page 4, and in Figure 1 on page 5, Priority 1 to Priority 5 groups expected to experience drawdown greater than 2 m. Indeed, after mining commences, landholders are expected to experience drawdowns greater than 2 m within a year, two and four years, five and seven years, eight and ten years, eleven and twelve years. These new predictions are presumably based on the original groundwater model and so could be subject to revision when the results from the revised model are known. SLR Figure 1 (SLR 2016c, page 5) shows the bores surveyed to October 2016 which indicate the wide area where problems may be predicted.

Landholders therefore are offered Make Good Agreements if water levels decline. It is accepted that there will be drawdowns which will require rectification. The unknown is where other water will be found to compensate. Throughout the Land Court hearings no one could answer this question.



Water flows through the geologies may be greater than predicted

Key measurements to evaluate how rapidly water will move horizontally and vertically through the strata after mining begins are horizontal Kh and vertical Kv hydraulic conductivity from which the overall movement or transmissivity can be derived. Accurate measurements of these for the various strata in the Acland area are needed.

A weakness of the present groundwater model has been the lack of local on-site measurement of horizontal Kh and vertical hydraulic conductivity Kv and a dependence on values from the Office of Groundwater Impact Assessment Model for the Surat Basin which has deeper and more compressed strata than the Acland area. The Fault Hydrogeological Investigation Program Drilling and Testing Report SLR (2017) and detailed results following, includes a well designed 72 hour pumping test. This was for the Walloon Coal Measures in the vicinity of a major fault. Dr Currell, in Exhibit 1918 paragraph 23, indicates that *the values of hydraulic conductivity in the Walloon Coal Measures are significantly higher than estimates that were adopted as mean values for the stochastic model calibration in the AEIS groundwater modelling This may be significant, as higher values of horizontal hydraulic conductivity (and therefore transmissivity) would result in drawdown propagating for greater lateral distances.*

Connectivity between strata and the need for nested bore sites in the Acland area

Information from on-site testing for connectivity between the coal measures, Tertiary Basalts, Quaternary Alluvium or Marburg Sandstone is lacking. Dr Currell emphasised this in Exhibit 1918 paragraph 18 on page 5. Whilst being questioned during the Land Court hearings about the measurement of vertical connectivity between aquifers he commented (Transcript 95-137 lines 17 to 24), *if we're talking about vertical connectivity between aquifers, I would say by far the best data we're going to get on that vertical connectivity between aquifers is achieved by having nested monitoring sites. And I felt that that was something that was reflected in the federal conditions that recently came out. I mean, I suppose you could have a go at looking at vertical connectivity through other methods, but I don't see why you would, you know ignore probably – well, ignore what I would say is undeniably the best method to look at vertical connectivity between aquifers, and that is looking at a nested site that screens the different aquifers.*

Local on-site measurements of horizontal and vertical hydraulic conductivity are vital inputs for accurate modelling. If they are found to be higher than values in the present model then the impacts of drawdown may be greater than those presented in Exhibit 0024 and subsequent reports. I am not aware of a program to measure these using nested bores at locations within and beyond the Stage 3 area. The need for this is emphasised again by Dr Currell (Exhibit 1918 paragraph 83 on page 23).

Drainage of the basalt aquifers

Recent maps of predicted drawdown appear in Attachment A of the Fault Hydrogeological Investigation Program October 2016 Status report (SLR 2016a) in Figures A1 to A12 for the Alluvium, Basalt, Upper Walloon Coal Measures and the Marburg Sandstone. Figures 1 to 4 are from the AEIS Model, Figures 5 to 8 are for the No Faults Model and Figures 9 to 12 compare the areas delineated by both models. All Figures show the 50th and 84th percentiles. Dr Currell (Exhibit 435 section

10.2.10 on page 21) mentioned that local landholders *have stock bores that are in the Tertiary basalt aquiferIn some cases the bores are only accessing water from thin horizons within the basalt aquifer of less than 5m thickness*. Figures A2, A6 and A10 delineate areas where 5m drawdown may occur which could imply bores running dry, a very serious situation indeed, also a concern for landholders with bores in other strata. Indeed, in Figure 4 (see page 2 above) Dr Currell shows a possible complete drainage of basalt aquifers.

Creek flow reductions

A reduction in stream flows for the Myall and Oakey Creeks is another consequence of mining shown in Figure 6-31 (EHP.0024, page 6- 68). Already the flows of these Creeks towards the Condamine River have been greatly reduced during recent droughts, flows that have environmental consequences for the health of the waterways. To quote from the report on page 6-62 *“The impact of predicted groundwater drawdown associated with the revised Project mining activities on the alluvium of Oakey and Myall Creeks including their tributaries of Doctors, Lagoon and Spring Creeks) is best represented by the predicted change in flows in the Oakey and Myall Creeks as shown in Figure 6-31. These indicate a maximum predicted loss of flow of around 0.35 and 0.2 ML/d for Oakey and Myall Creeks respectively.*

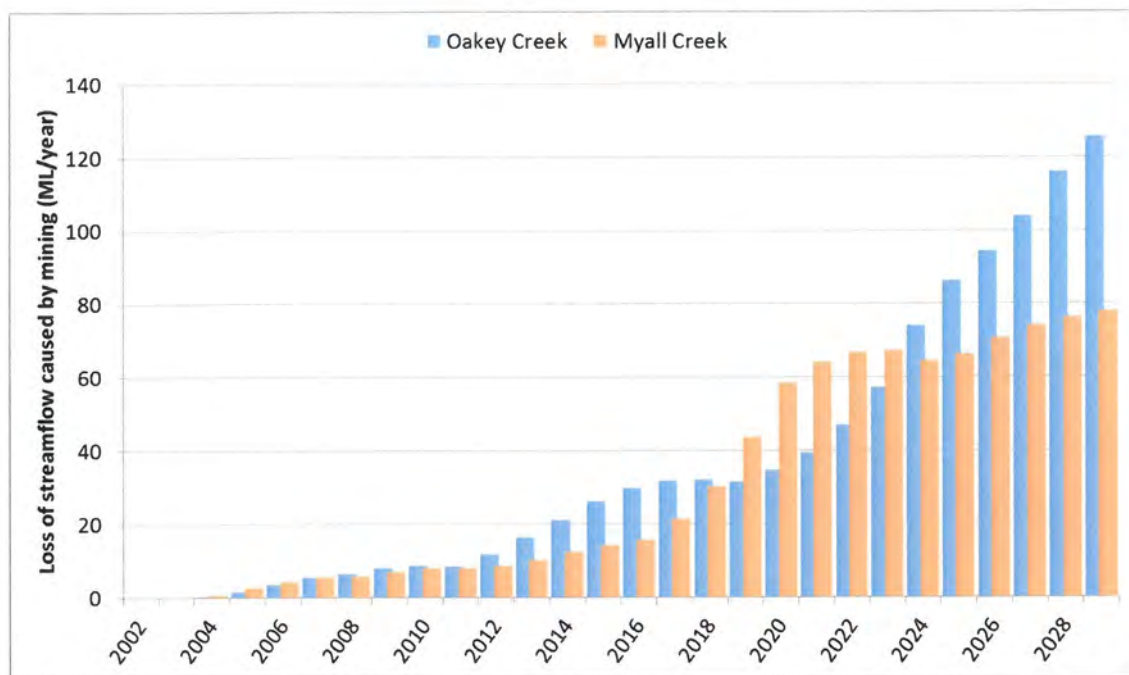


Figure 6-31 Predicted loss of stream flow in Myall and Oakey Creeks

Recent criteria for decisions about water licences

The Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016 includes in Section 1250E the need to address the following criteria for decisions about water licences:-

- *any information about the effects of taking, or interfering with water on natural*

ecosystems

- *any information about the effects of taking, or interfering with, water on the physical integrity of watercourses, lakes, springs or aquifers*
- *strategies for the management of impacts on underground water, including the impacts caused by dewatering.*

The natural landscape and beds of watercourses have numerous pathways for rainwater to seep into, and recharge, the local aquifers. These pathways will be destroyed during the excavation of overburden to reach the coal measures and the relocation of the overburden, ultimately to be covered with topsoil and grassed except in the three pits which will become lakes. Afterwards who knows whether there will, or will no longer be, pathways for seepage to recharge the aquifers? This information is needed to address the three criteria listed above in Section 1250E.

Conclusion

Taking into account the interference of proposed mining operations on groundwater, creek flows and agricultural enterprises in the Acland area and beyond provides compelling evidence for refusing the application by NAC for an RPIA Permit. Moreover, the extensive scrutiny of the evidence by experts during the Land Court hearings in 2016 and 2017 led His Honour Member Smith to conclude that groundwater concerns, and the legacy left after mine closure, were major reasons for recommending that Stage 3 mining operations should not proceed.

In his summary of the Land Court findings on 31 May 2016 his Honour Member Smith, in point 16, stated *“As regarding groundwater, a huge amount of evidence was before the Court. In key areas NAC’s own experts agreed with the major shortcomings of the current model. I was also highly concerned regarding the modelling of faulting and other aspects of the groundwater studies undertaken to date. These issues have not been answered by the 2016 IESC Advice for reasons including the unfortunate fact that the IESC did not have the advantage of the material before the Court on groundwater. Groundwater considerations are such that the revised Stage 3 project should not proceed given the risks to the surrounding landholders and the poor state of the current model”*.

References

(Nomenclature as adopted for the Land Court proceedings)

Exhibit 0024. 6. Groundwater Resources, New Acland Coal Mine Stage 3 Project – Environmental Impact Statement.

Exhibit 0070. Appendix J.5 - Groundwater monitoring and impact management plan, New Acland Coal Mine Stage 3 Project, January 2014.

Exhibit 0093. From Additional Information to the EIS, New Acland Coal Mine Stage 3 Project.

Exhibit 0103 New Hope Group, Appendix F IESC Report Groundwater Modelling Technical Addendum, New Acland revised Stage 3 Project AEIS, Jacobs, 13 August 2014

Exhibit 0435. Individual Expert Witness Report: Groundwater Conceptualisation and Quality, Dr Matthew Currell, 24 February 2016.

Exhibit 0445. Individual Expert Witness Report Economic Assessment: Agricultural Economics, Professor John Quiggin, 4 March 2016.

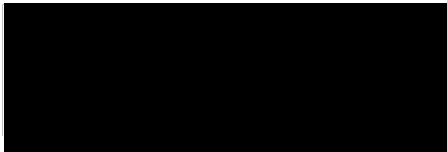
Exhibit 0824. Supplementary Individual Expert Witness Report: Groundwater Conceptualisation and Quality, Dr Matthew Currell, 26 April 2016.

Exhibit 1918. Further Supplementary Individual Expert Report: Groundwater Conceptualisation and Quality, Dr Matthew Currell, 9 March 2017.

SLR 2016a. *NAC03 Fault Hydrogeological Investigation Program, October 2016 Status Report*. Report for the New Hope Group 24, October 2016

SLR 2016c. *NAC03 Landholder Make Good, October 2016 Status Report*. Report for New Hope Group, 24 October 2016

SLR 2017. *New Acland Stage 3 Project Fault Hydrogeological Program Drilling and Testing Report*, 9 January 2017



17 January 2020.

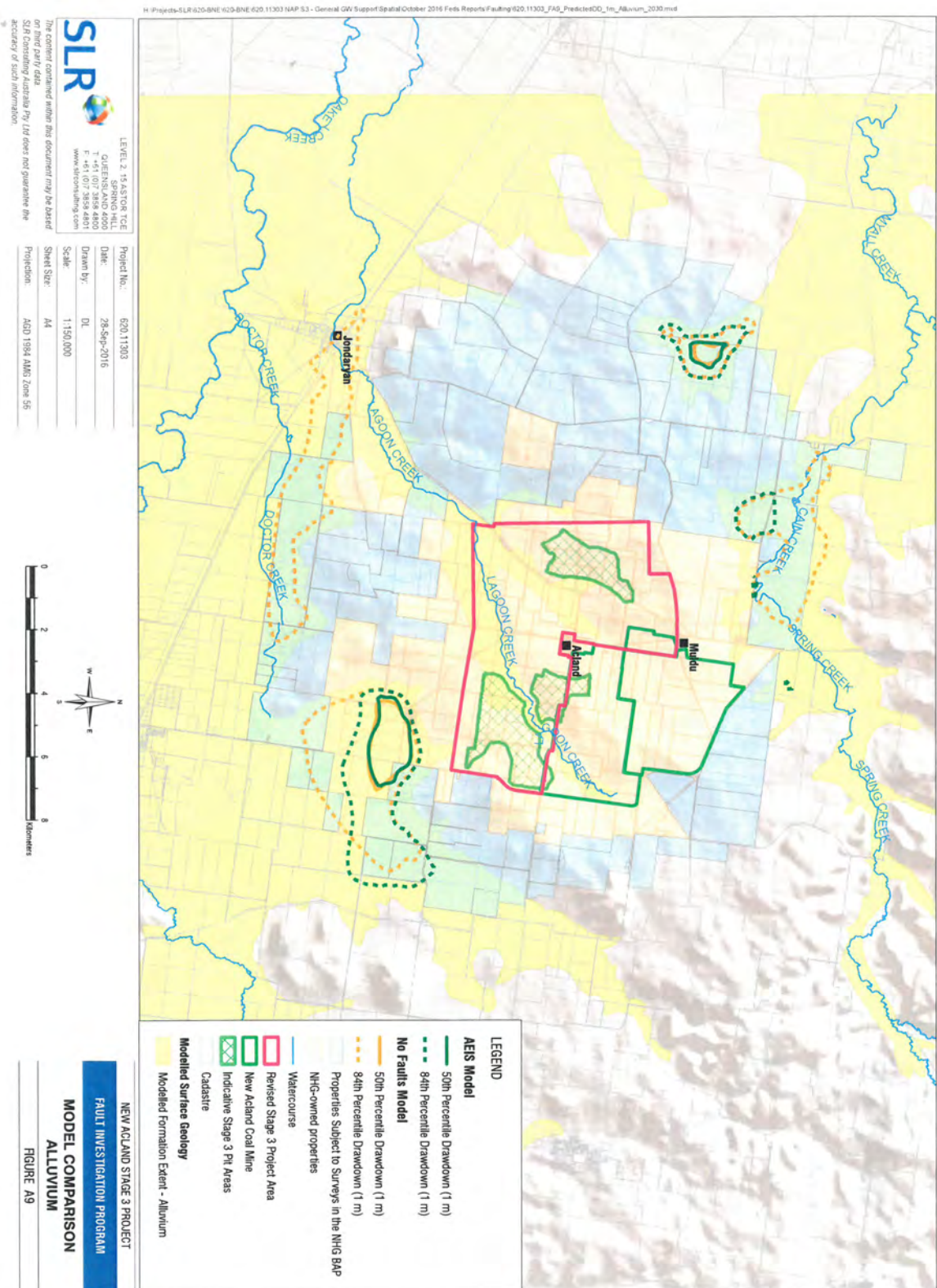
██████████ RIDA submission ██████████

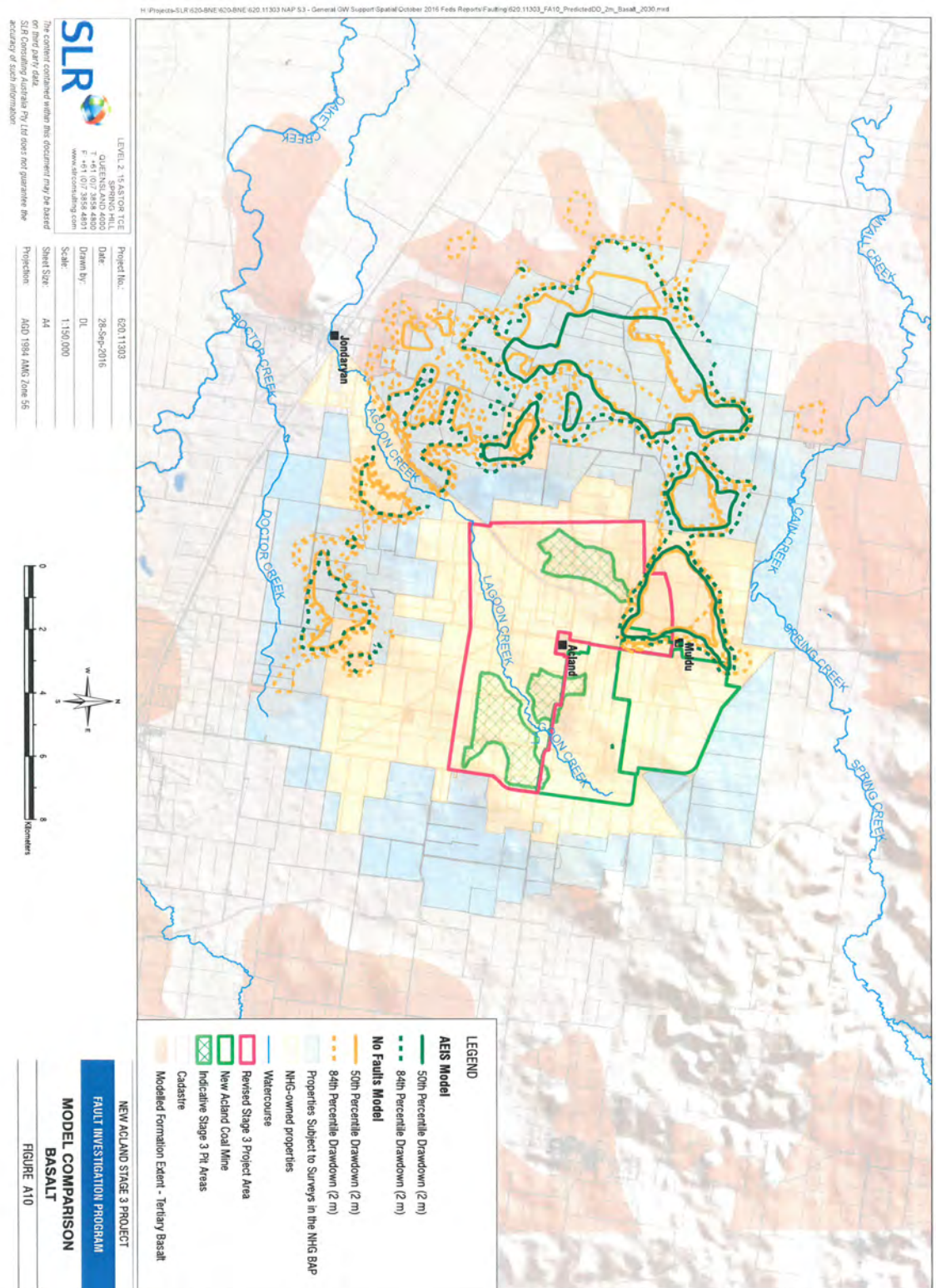
Attachment B – Groundwater Model Predictions

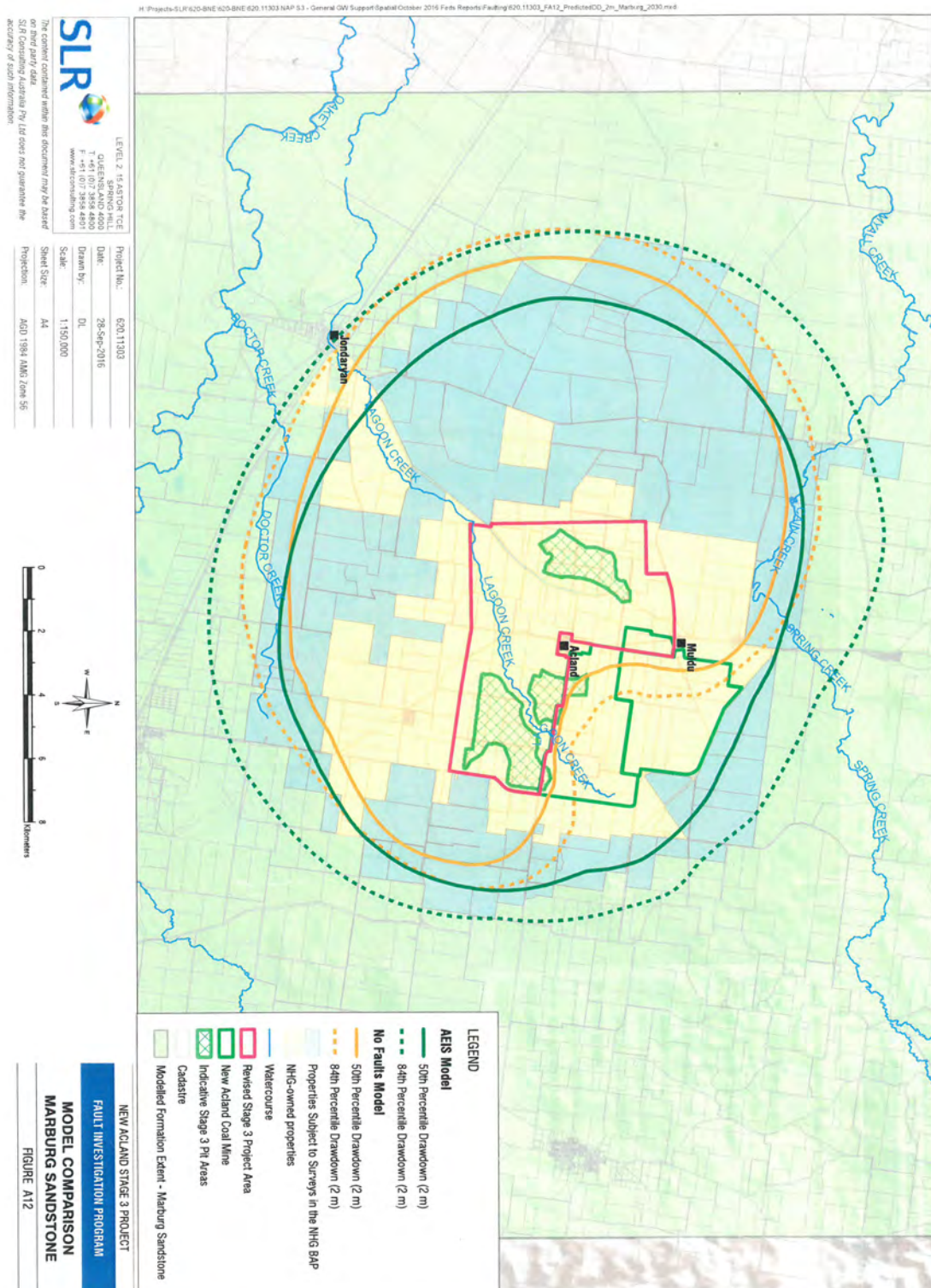
Figures A9 to A12

Drawdown Maps for Alluvium, Basalt, Upper Walloon Coal Measures and Marburg Sandstone

from SLR 2016a. *NAC03 Fault Hydrogeological Investigation Program, October 2016 Status Report.*
Report for the New Hope Group 24, October 2016







State Development, Manufacturing
Infrastructure and Planning
17 01 2020

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re New Acland Coal

Submission in reply to application by New Hope Coal

Please accept this submission on the application for a regional interests development approval (RIDA) for the New Acland Coal Stage 3 project (Ref RPI19/009).

I encourage you in the strongest terms to reject this application. The Darling Downs is widely recognised as being the food bowl of Queensland. The original Land Court judgement on this issue recognised the area as being amongst the best 1.5% of agricultural land in Queensland.

I have lived my entire life in this district and have always been involved in agriculture. The cropping land in the prescribed area under application was always regarded as some of the most productive land in this district supporting grain growing, dairies, feedlots and piggeries.

The land under application is owned by Acland Pastoral Company a wholly owned subsidiary of New Hope who also own New Acland Coal. Since taking ownership there has been a deliberate management strategy put into place to ensure the land is no longer classed as PALU.

Since being run as a grazing enterprise the land has been overgrazed, and overrun with WONS such as boxthorn and sally wattle, giving the appearance of, and fodder tests of degraded worthless land.

The fodder report states there has been no cropping activities since 2013. This was purely a management decision to produce the required results so the land is open to mining.. When doing a report on such a large tract of land one would think it would be more comprehensive to also do a comparison report on adjacent farming land.

Land directly across the road from paddock 11 has consistently grown fodder for an intensive dairy over the last 10 years. Acland Pastoral has also been cropping land in close proximity on the same soil types.[see attachment 1]

Paddocks 18 and 19. Acland Pastoral is cropping under pivot irrigators in close proximity on similar soil types, as shown on figure 4 [see attachment 1]

New Hope uses these cropping activities in their propaganda in the media to show what a wonderful job they are supposed to be doing.

By NACs own admission this mine will effectively destroy the cropping potential of this Priority Agricultural Area - in future it will only be able to be used for grazing at best, and there is much conjecture as to whether even that will be possible over large areas. The rehabilitated land on stage 1 and 2 definitely is not producing the grazing results claimed by the company. Local people know there are rarely cattle on this land. If rehabilitation on stage 3 cannot even meet these standards it will be nothing but wasteland.

Therefore, if you do approve this application, you will effectively rubber-stamp the deliberate degradation of mapped high quality cropping land to very marginal grazing land, which is clearly in breach of the purposes of the Regional Planning Interests Act 2014 and contravenes the Darling Downs Regional Plan. You should not approve this application.

I would like to raise the following specific points in relation to NAC's application:

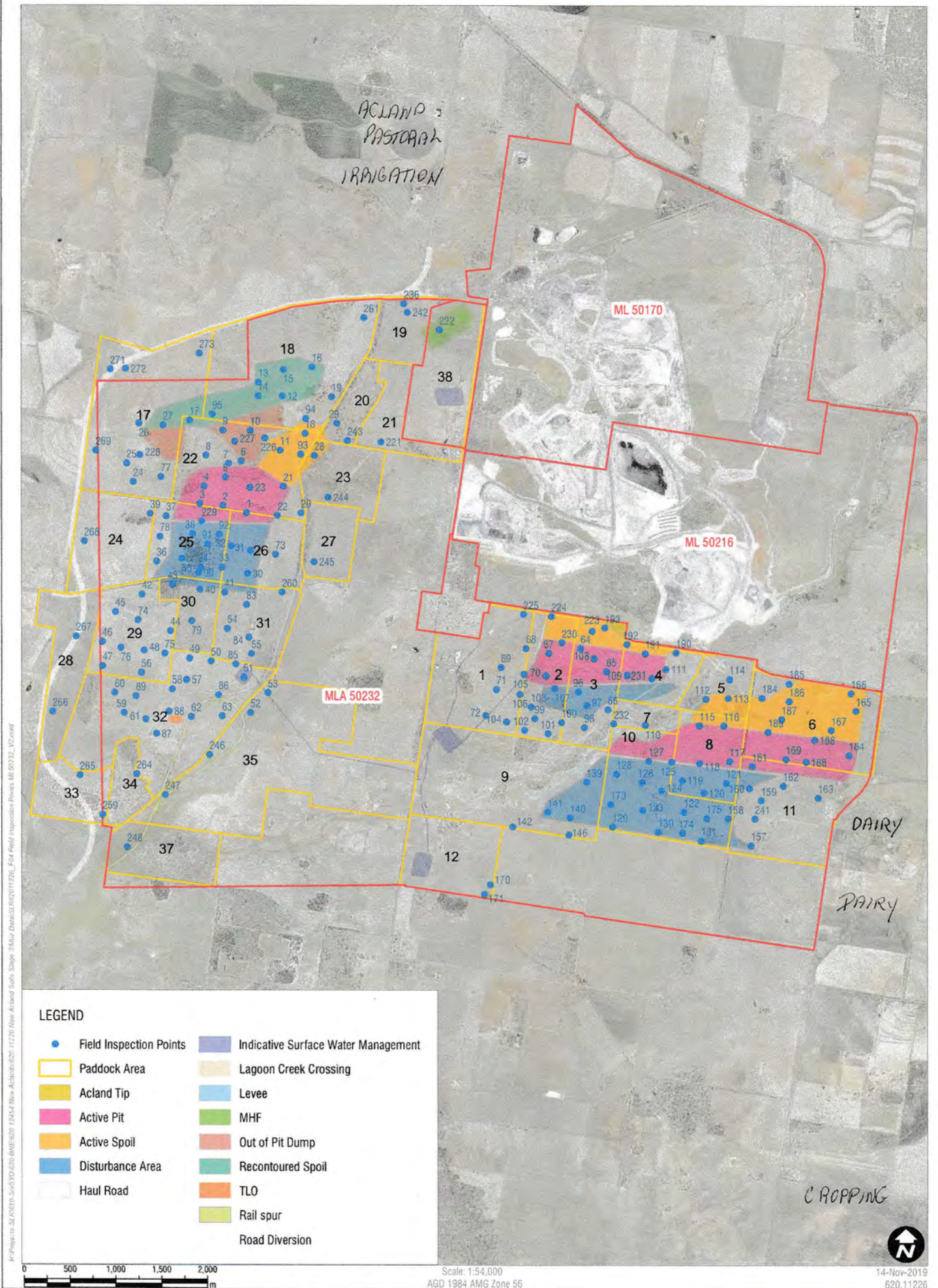
- 1) I believe it is misleading in the application documents that the Acland Pastoral Company provided a letter of 'support' without stating clearly that it is also a wholly-owned subsidiary of the New Hope group, and hence the landowner and the proponent are effectively one and the same. I also note that NAC claim they should be exempt from s22 of the Regional Planning Interests Act 2014 (RPIA) because they have approval from the landholder, but the Act specifies that only applies if the resource authority holder is not the owner of the land. In this case, it is clear that they are one and the same.
- 2) NAC should not be allowed to apply only for the area that is the subject of the first five years of mining. They should be required to apply for a RIDA for the full extent of the area of regional interest they are expected to impact on all MLs and areas where associated infrastructure will be located. We are concerned that NAC have only applied for a subset of the area because they would not pass the relevant tests under the RPIA on the lands that have been excluded from the application. This approach of carving up the application appears inconsistent with s 16 1) of the RPIA and should not be allowed. NAC has already applied not to construct the rail loop for 5 years so are displaying their total disregard for covenants placed upon them
- 3) The application is inconsistent with the Darling Downs Regional Plan which says that *"Priority Agricultural Land Uses (PALU) are the land use priority. PALUs within the PAA will be recognised as the primary land use and given priority over any other proposed land use."* The DDRP defines a PALU as *'a land use included in class 3.3, 3.4, 3.5, 4 or 5.1 under the Australian Land Use and Management Classification Version 7'*. The vast majority of the area applied for by NAC is mapped as class 3.3 under the ALUM and therefore qualifies as a PALU under the DDRP. Therefore, the only way to give priority to the cropping land use in this assessment as required by the DDRP is to prevent it being mined, because NACs own assessment document indicates that the post-mine land use quality will be largely limited to grazing.
- 4) The application is inconsistent with the purposes of the RPIA, which requires that policies in regional plans are given effect and that the impact of resource activities on areas of regional interest is managed. By deliberately converting high quality cropping

land to grazing land at best, NAC is contravening the requirements of the DDRP and hence the purpose of the RPIA.

- 5) NAC are relying on the wrong 'Required Outcome' from the Regional Planning Interests Regulation to argue that the activity will not result in a material impact of the use of the property for a Priority Agricultural Land use. Statutory guideline 02/14 for carrying out resource activities in a PAA specifies that "*Required outcome 1 applies where the application is over one property. Required outcome 2 applies where the application is over more than one property*". It is clear that this application stretches across multiple lots which constitute different properties. Therefore, Required Outcome 2 should apply.
- 6) However, it is clear that the application does not meet the prescribed solution for Required Outcome 2, because the NAC cannot demonstrate that the activity will not result in widespread or irreversible impacts on the future use of the area. In fact, their own application indicates that the future use of the area will be limited to grazing at best. The impact of the activity is all likely to have an impact over a large area where groundwater drawdown is predicted to occur, which is a second consideration under Required Outcome 2. In addition, the proliferation of weeds and feral animals on the site due to an absence of agricultural management is likely to lead to the spread of those weeds and animals onto adjoining PALUs.

7) The effect stage 3 will have on overland and ground water in the local district. Farmers rely on groundwater to remain viable. There are already properties who have either had bores go dry or drop production up to 80% before the drought. NAC's EIS states the mine will use 24ML per day to wash coal and 3.5 ML per day will drain into the mine pits from local aquifers. This is irreparable damage to the groundwater system feeding this district potentially making many farming enterprises unviable. The town of Stanthorpe is at present being supplied with 1ML per day to keep water supplies to the residents. There will be 3 times this amount leak into the mine every day while the mine is in operation, and 1ml per day after mining ceases for up to 80 years . NAC have already been fined for sinking unlicensed bores again displaying total contempt for government regulations.





[REDACTED]

RPI Act Development Assessment Division
Department of State Development, Manufacturing, Infrastructure and Planning
PO Box 15009
City East QLD 4002
By Email: RPIAct@dsdmip.qld.gov.au

Response to Application no.: RPI 119/009 for the proposed New Acland Coal Mine Stage 3 development – [REDACTED]

[REDACTED] is a peak regional environment group dedicated to the preservation and protection of the environment, (natural, built, and managed), and the enhancement of values which promote sustainability. We are concerned in particular about diminishing land and water resources on the Darling Downs, and are driven by the principles of intergenerational equity.

LAND CLASSIFICATION

Based [REDACTED] values, we submit that the RPI approval sought by New Acland Mine should not be granted. We are aware that the land subject to the PALU assessment has been characterised by New Aclands agriculture expert, Mr Bill Thompson as amongst the best 1.5% of farming land in the State.¹ We are also aware that the requirements rehabilitation, if the area is mined, is for cropping land to be reduced to class 3 or 4 grazing, and in the voids class 5 land.

We note the intention of NAC in this regard. *NAC intends to progressively rehabilitate the majority of the land disturbed by mining back to grazing (beef production), which is a common land use practice in the Acland area. This form of agricultural production will be incorporated into the Acland Pastoral Company (APC)'s farming business*²

[REDACTED] notes that this represents a diminution of capacity which represents a permanent loss to the State. APC owns around 11,000 ha of land, including SCL. It is to be presumed that the stated uses will be pursued over its entirety. SCL is defined in the RPI Act as:

land that is highly suitable for cropping, or likely to be highly suitable for cropping, based on a particular combination of soil, climate and landscape features

[REDACTED] submits that the presence of substantial areas of SCL in the area to be impacted is indisputable. There presence has previously been acknowledged by the Applicant.

1 *New Acland v Ashman* tt 35-30 lines 41-45 “Your figure – your top-line figure of – of four per cent comes back to somewhere between 1.2 and 2 per cent. Now, that’s only in our rainfall zones above 650 millilitres, so let’s say somewhere between 1.5 and 4 per cent in our rainfall zones above 600-odd millilitres. And the Acland district falls within that 1.5, 1 per cent?--- Yeah, 1.5 per cent of the land area.”



AREA

The Applicant has applied for an RDIA over some 2,700 ha, despite the fact that it owns nearly 11000 ha, and a further 11,000 is expected to be impacted by resource activities. The applicant has not approached landholders with conduct and compensation agreements, and the application should be refused on that basis alone.

It should be noted that the lease area is more than 3,600 ha, as reported by the Co ordinator General. If a lease is granted, resource activities will be authorised over the entire lease, and so the PALU assessment must cover the entire area. It must also cover the Rail loop, as it is a mandatory requirement that this be built at the outset of Stage 3. For these reasons the application should not be considered, but if it is, should be rejected.

TERM OF RIDA

The 5 years applied for does not coincide with the time frame of the proposed leases. All resource activities at all authorised times require a RIDA and therefore the application must be rejected.

OWNERSHIP

The applicant has sought agreement from Acland Pastoral Company, arguing that this provides an exemption under s22 of the *RPI Act*. They acknowledge, however that the Applicant is the real owner '*The APC is also a subsidiary company of the NHG*'³

It is clear that the exemption cannot apply.

PALU REPORT

The report provided by the applicant is inconsistent with both State mapping and previous assessments carried out by various parties, including the applicant. These inconsistencies are not explained or justified, and therefore the findings of the report should be rejected.



CONCLUSION

The application should be rejected because it is deficient.

The application contains inaccurate data relating to the PALU assessment and so should be rejected.

The application does not cover the full period of operations, as required, so should be rejected.

The application does not cover all areas to be impacted, so it should be rejected.

The application does not acknowledge other affected landholders and mandatory processes relating to them have not been applied.

An exemption under s22 cannot apply because the beneficial ownership of the land is with the applicant themselves.



17.01.2020

**Proposed New Acland Coal Mine Stage 3 - Regional Interests
Development Application over 2,787 hectares of Mining Lease
Application 50232**

Queensland Government
State Development, Manufacturing,
Infrastructure and Planning
By email RPIAct@dsdmip.qld.gov.au

Submission against degrading cropping land to 3rd grade grazing

I am a farmer and have been all of my life. At one stage, our family farmed land at Brymaroo. That land currently supports a Dairy operation run by David Vonhoff that consistently produces good returns, and milk which has won many awards for quality, against Australia wide competition. The land is cropped annually with excellent results.

The Acland land owned by New Hope Acland mining and pastrol company is of a similar quality and should not be down graded to poor grade grazing.

Most of the 2,787 hectares of surrounding area has been successfully cropped for many years producing high yeilding grain crops with many crops winning grain success against crops from all over Queensland at shows and the Brisbane Ekka. This ceased when the farming families were bought out by NAC.

Properties used for dairying ,commercial or stud stock such as Alpacas, Sheep, Cattle or horses grew crops for grazing and fattening stock. [Many crops were also bailed for hay producing yielding high bail numbers per Acre.]

We had cropped for grain, grazing, bailing of hay from Sorghum, Millet and Oates. We harvested many crops for grain from Sorghum, Oates and Millet on lots RP111150, 2 RP111150, 1 RP 93627, RP 93627 all were in the high yield status. The crops bailed for hay were impressive.

From memory, grain harvests for Sorghum at Highland Plains were around the 2+ tons to the acre.

By 2007/8, because of the terrible health problems for both humans and animals, (Alpacas, Cattle and Horses), we were forced to sell out. All agents we contacted about selling made the comment that there was no one who would look at a property so close to a mine.

In 2009 one of our bores on our property went dry. We suspected the mine was responsible, because there was no other apparent reason. Our neighbour, who signed a confidential make good agreement, was not allowed to comment.

These confidential agreements have helped keep the truth about bore levels away from the public and the Government. In Mt Darry, a number of bores suddenly went dry, and a report by Associate Professor Matthew Campbell, a respected hydrologist, said the mine could not be ruled out as a cause.

The health and water issues left our family with no alternative but to sell to New Hope Group, which we did in 2010. Because of the mining all the property values by this time had dropped around Acland, but because the health of our family, animals and stock was so badly affected, we had to sell to New Hope Group, at a deflated price. There were no other buyers. Our land was good quality farmland, with good returns from cropping.

Since we sold our land, and on other farms New Hope bought, the suckers, tree pear, weeds and feral animals have been allowed to degrade the whole area. Any one who knows any thing about the land knows that if cropped country or even grazing land is not maintained it very quickly falls into ruin. For a long time, the country has not even been stocked near the mining area. No doubt this is because they found, as we did, that the mining affected the animals health in the same way as for humans.

The only reason that New Hope want to change the level from cropping to 3rd grade Grazing is to try to convince the minister that they are only mining rubbish country, even though it is confirmed that it is part of the top 1.5% of Queensland strategic cropping land. New Hope are a mining company, and seem to only have an interest in having the land they wish to mine classified as 3rd rate grazing country, when in fact it is 1st class farming land with lots of cropping potential.

There are many farming operations in the district that may be affected if approval is given. About 10 million litres of milk annually comes off just 3 dairy farms. I am aware that the Vonhoffs are very concerned about their milk quality, which has been acknowledged with prizes many times. It will drop to unacceptable levels from the dust, blasting and noise of the mine if it proceeds. They would have to euthenase their entire herd if water supply was interrupted for more than one day.

New Hopes application does not reflect the true prodctive capacity of the land, and any future operations will definitely threaten the ability of anyone to make a living. The Regional Interest Development approval should be refused.



Aerial photo of our former farm at Highland Plains (sold 2010) taken in 2014. Note that there is still cropping in the area.



Aerial photo of our former neighbours Farm [REDACTED] taken in 2014. Cropping is shown as being extensive

Submission to RPI 19/009

Please accept this submission on behalf of [REDACTED] to the application by New Acland Coal for a Regional Interest Development approval for the New Acland Coal Stage 3 project (Ref RPI19/009).

I encourage you in the strongest terms to reject this application. The Darling Downs is widely recognised as being the food bowl of Queensland. NAC experts in the original Land Court hearing on this issue recognised the area as being amongst the best 1.5% of agricultural land in Queensland.

By NACs own admission this mine will effectively destroy the cropping potential of this Priority Agricultural Area - in future it will only be able to be used for grazing at best, and there is much conjecture as to whether even that will be possible over large areas.

It seems clear from NACs submission that since purchasing the land over which the application is sought, New Acland Pastoral have deliberately stopped cropping it so that it would no longer be classified as a land 'used for a priority agricultural land use' under the Regional Planning Interests regulation, in order for it to then become available for mining.

Therefore, if you were to approve this application, you will effectively rubber-stamp the deliberate degradation of mapped high quality cropping land to very marginal grazing land, which is clearly in breach of the purposes of the Regional Planning Interests Act 2014 and contravenes the Darling Downs Regional Plan. You should not approve this application.

I would like to raise the following specific points in relation to NAC's application:

- 1) NAC should not be allowed to apply only for the area that is apparently the subject of the first five years of mining. They should be required to apply for a RIDA for the full extent of the area of regional interest they are expected to impact on all MLs and areas where associated infrastructure will be located. We are concerned that NAC have only applied for a subset of the area because they would not pass the relevant tests under the RPIA on the lands that have been excluded from the application. This approach of carving up the application appears inconsistent with s 16 1) of the RPIA and should not be allowed.

Section 16 1) of the RPIA specifies that '*a regional interests development approval is an approval issued under section 53 that approves the carrying out of a resource activity or regulated activity in an area of regional interest following an assessment of the extent of the expected impact of the activity on the area*'. Notably, the New Acland Coal application does not provide an assessment of the full extent of the impact on the PAA, but instead restricts it to a subset of the PAA which will be impacted in the first five years.

- 2) NAC are relying on the wrong 'Required Outcome' from the Regional Planning Interests Regulation to argue that the activity will not result in a material impact of the use of the property for a Priority Agricultural Land use. Statutory guideline 02/14 for carrying out resource activities in a PAA specifies that "*Required outcome 1 applies where the*

application is over one property. Required outcome 2 applies where the application is over more than one property". It is clear that this application stretches across multiple lots which constitute different properties. I note in particular that page 5 of the application lists 7 different landowners. Even were New Acland Pastoral the sole landholder, they are a separate legal entity from New Acland Coal and it's clear the area is going to be managed as multiple properties, as it always has been, with the companies having purchased numerous properties in the area over the last two decades. Therefore, for all of the above reasons, Required Outcome 2 must apply, not Required outcome 1.

The reason why NAC appear to have applied Required Outcome 1 rather than 2 is because the threshold for allowing activities relating to Required Outcome 1 is far lower than that for 2. Required Outcome 1 simply requires that *'The application demonstrates the activity will not be located on land that is used for a priority agricultural land use'* and this is the test which NAC rely on to argue that a RIDA should be granted by claiming that the land subject to the application does not qualify as PALU because it has not been cropped in 3 or more years in the last 10.

- 3) Therefore, NAC has failed to assess the application against Required Outcome 2 and instead relies on an assessment only against Required Outcome 1. However, if the correct Required Outcome is considered, it is clear that the application does not meet the prescribed solution for Required Outcome 2.

Schedule 2 of the RPIR defines Required outcome 2 as follows:

"4 Required outcome 2—managing impacts on a region in relation to use of an area in the region for a priority agricultural land use

(1) This section applies if the activity is to be carried out on 2 or more properties in a priority agricultural area in a region.

(2) The activity will not result in a material impact on the region because of the activity's impact on the use of land in the priority agricultural area for 1 or more priority agricultural land uses".

Section 5 of Schedule 2 specifies the prescribed outcome for meeting required outcome 2 as follows:

5 Prescribed solution for required outcome 2

(1) The application demonstrates all of the following—

(a) if the activity is to be carried out in a priority agricultural area identified in a regional plan—the activity will contribute to the regional outcomes, and be consistent with the regional policies, stated in the regional plan;

(b) the activity can not be carried out on other land in the region that is not used for a priority agricultural land use, including, for example, land elsewhere on a property, on an adjacent property or at another nearby location;

(c) the construction and operation footprint of the activity on the area in the region used for a priority agricultural land use is minimised to the greatest extent possible;

(d) the activity will not result in widespread or irreversible impacts on the future use of an area in the region for 1 or more priority agricultural land uses;

(e) the activity will not constrain, restrict or prevent the ongoing use of an area in the region for 1 or more priority agricultural land uses, including, for example, infrastructure essential to the operation of a priority agricultural land use.

It is clear that the application by New Acland Coal has failed to demonstrate that the activity will meet the solution set out above, and has in fact failed to even assess the application against Required Outcome 2. We can see no grounds on which NAC can argue that Required Outcome 2 does NOT apply, given that by their own admission in their application there are multiple properties in question.

In relation to the specific points in the prescribed solution, it is clear that the NAC proposal does NOT contribute to the regional outcomes of the DDRP, and in fact, as highlighted below, it is inconsistent with the DDRP. NAC's sweeping statement that the proportion of PAA in the Darling Downs within the application is only relatively small, is not a valid argument in relation to its significance. As discussed above, NACs own expert admitted in the Land Court that the value of the agricultural land in the project area was within the best 1.5% of farmland in Queensland. There is no doubt that the cropping land in the application is of outstanding importance to both the Darling Downs and Queensland, and this has not been properly considered or assessed in the application.

Furthermore, NAC have failed to demonstrate that the activity will not result in widespread or irreversible impacts on the future use of an area in the region for 1 or more priority agricultural land uses as per 5) 1d) above. On the contrary, New Acland Coal themselves and the Coordinator General have acknowledged that they will only be restoring land to grazing quality at best, thus leading to significant permanent degradation in the agricultural value of the land.

The impact of the activity is also likely to have an impact over a large area where groundwater drawdown is predicted to occur, which is a second consideration under Required Outcome 2. The Coordinator General in his evaluation report for the Acland Stage 3 project concluded that up to 357 water bores could be affected by the proposal. In addition, the proliferation of weeds and feral animals on the site due to an absence of agricultural management is likely to lead to the spread of those weeds and animals onto adjoining PALUs.

- 4) The application is inconsistent with the Darling Downs Regional Plan which says that *"Priority Agricultural Land Uses (PALU) are the land use priority. PALUs within the PAA will be recognised as the primary land use and given priority over any other proposed land use."* Notably, the DDRP defines a PALU as *'a land use included in class 3.3, 3.4, 3.5, 4 or 5.1 under the Australian Land Use and Management Classification Version 7'.* The vast majority of the area applied for by NAC is mapped as class 3.3 under the ALUM and therefore qualifies as a PALU under the DDRP. Therefore, the only way to give

priority to the cropping land use in this assessment as required by the DDRP is to prevent it being mined, because NACs own assessment document indicates that the post-mine land use quality will be largely limited to grazing.

- 5) The application is also, in our view, inconsistent with the purposes of the RPIA, which requires that policies in regional plans are given effect and that the impact of resource activities on areas of regional interest is managed. By deliberately converting high quality cropping land to grazing land at best, NAC is contravening the requirements of the DDRP and hence the purpose of the RPIA. In 2014, when introducing the RPIA, the Newman LNP Government said that it would '*address the power imbalance between farmers and resource proponents*' and prioritise '*agricultural activity on what is a finite and critical resource for Queensland*'¹. These promises will not be delivered and the RPIA purposes will not be met if NAC are granted a RIDA over some of the most precious farming assets in Queensland.
- 6) I believe it is misleading in the application documents that the Acland Pastoral Company provided a letter of 'support' without stating clearly that it is also a wholly-owned subsidiary of the New Hope group, as is NAC, and hence the landowner and the proponent are closely related entities. I note in the application that NAC have ticked the box stating that 'none of the land is owned by the applicant'. I also note that NAC claim they should be exempt from s22 of the Regional Planning Interests Act 2014 (RPIA) because they have approval from the landholder, but the Act specifies that only applies if the resource authority holder is not the owner of the land. In this case, it is clear that they are one and the same for substantial portions of the proposal.
- 7) It is apparent that NAC are seeking some sort of exemption for Strategic Cropping Areas, as they make no attempt to address SCA despite extensive areas being mapped across the proposed area. It seems that the Department has allowed NAC an exemption for Strategic Cropping Areas under s 99b) of the RPIA, which relates to the repealed Strategic Cropping Land Act, but the grounds for this exemption have not been spelt out. We believe that any exemption relied on should be set out clearly, and furthermore, that exemptions should not be available for mining in such large areas of SCA in a significant farming region like the Darling Downs.

We appreciate your consideration of this submission, and urge you to act in the interests of all Queenslanders and properly protect the long-term farming future of the state by rejecting this ill-considered application.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

¹ <http://statements.qld.gov.au/Statement/2014/3/20/landmark-laws-deliver-revolution-in-regional-planning>

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

16 January 2020

Dear Sir/Madam,

I write this with anger, that after 100 days in the land court where people took time out of their business and family life to appear in a Brisbane court another court that didn't read the evidence could overturn the judgment to reject stage three. This was out of a couple of hours of court time. To say that new hope have destroyed, not only the land but health and wellbeing of the people involved would be an understatement. I write this with authority as an immediate neighbour, who has had 20 long years to see and feel the effects of this mine. Stage one should never have been approved on very productive and fertile land. Having said that, we are all wise in hind sight, but we mustn't let the past become a blue print for the future..

After 20 years of watching fertile land destroyed, I still believe that some one will find some common sense and reject all the mine's PR spin and realize that this mine has destroyed the land, its people, animals and plants. Stage three must not be approved.

It seems to me that all the scientific evidence, visual evidence and on the ground truth is not accepted as the mine continue to get approvals and exemptions. We have fought through all the legal avenues available in a rational and respective manner to what seem to be no avail.

Our Prime Minister seems to think that God controls all so with this in mind I quote some bible readings that relate to this issue.

- The earth and all life within it are creations of God, and he has pronounced them sacred and good. (Genesis 1)
- His works of nature are praised everywhere as wonderful. (Psalms 104:24-30, Psalms 145:9,16-17, Psalms 148, Job 12:7-10)
- He loves and cares for all that he has made, even noticing when each sparrow falls. (Matthew 10:29)
- Abuse of nature can be seen as abuse of God's handiwork, especially since God empathizes with even the least of his creations. (Matthew 25:40,45)

- Israel was told that defiling the land was considered a sin, because God resided in the land with his people. (Numbers 35:33-34, Numbers 5:1-5, Leviticus 15:31, Deuteronomy 23:9-14)
- God repeatedly promised to take care of the land's fruitfulness, prosperity, and abundance --. (Leviticus 26:3-45)
- In fact, God promised to destroy those who destroyed the earth. (Revelations 11:18)

And from the Muslim side some thoughts

“Finding a band-aid

God has wrapped the earth with atmosphere and people have burned it away. Restoring it requires global diligence and commitment to neutralising toxic gases/radiation. It is asking a lot from billions of people yet I believe it is the only way to go about it.

Fight existing organisations that pollute the most and get politically involved to shake up government awareness. Environmental action is always on the agenda but not many have the courage to follow-through. .”¹

Guidance from the Buddhists

“Karma. If a person has a right mindset, *Buddhists believe* that the actions they perform will be beneficial not just to themselves but to the whole world, including the *environment*. They *believe* that our actions affect the planet in a harmful way because we are selfish and we crave things.

The Buddhist declaration at Assisi stresses the need for all people to have respect for wildlife and for the environment. The main threat to the world so far has been that human beings have been indifferent to the effects of their actions on other creatures....

The Dalai Lama said: We are the generation with the awareness of a great danger. We are the ones with the responsibility and the ability to take steps of concrete action, before it is too late. This means Buddhists have to make themselves aware of the damage they do to the environment so that they can then act to change it.”²

All of the spiritual side is backed up with science and on the ground local knowledge.

¹ <https://muslims4peace.org/10-quran-verses-on-the-environment-and-do-able-action-plans/>

² See <https://www.bbc.co.uk/bitesize/guides/z4b42hv/revision/3>

All Australians believe that caring for the land, its people and its wild life is very important as we have seen from the response to the fires.

All people believe that water is important for all life

From the first settlement of this area I quote from the book “The Genesis of Queensland” published in 1888 and written by Henry Stewart Russell.

“Henry was not uneducated, a distant cousin of Hodgson’s, was the son of an East India Company official, attended Harrow and Oxford before coming to Australia. He would not have bought land here if he thought the land was not fertile. He described **“jewel in the diadem of squatterdom”** on the Darling Downs. The seizure of this ‘fertile crescent’ was essentially a massive land grab violating both Indigenous owners and Crown rights – and it continued apace from 1840.”

This area is on good farming land and has been for generations. I quote from Fox’s “History of Queensland” written by M. J. Fox in 1923

“the surrounding country is typical of the Darling Downs, volcanic soil of great depth”

(please note this is what farmers today are saying today. It is the best farming land.)

“A fertility continues year after year without the aid of artificial fertilization and producing high yields from a wide variety of crops.”

“Return for 1914 are the latest available at the time. All this was in 1914 when people were worried about war”

“The present prosperity of the company is chiefly due to the extensive use of artesian waters through out, the dry areas of Australia, the OAKEY TO COOYAR.

Oakey is easily the most important of the towns in the district under review. The surrounding country is typical of the Darling Downs, volcanic soil of great depth giving a fertility which continues year after year without the aid of artificial fertilization, and producing high yields from a wide variety of crops. The official returns for 1914, which at the time of writing are the latest available, as well as the last to be uninfluenced by the abnormal conditions arising from the war, show a total of 50,587 acres under cultivation within the petty sessions district of Oakey. The significance of these figures become apparent only when considered in relation to the aggregate area of land farmed in the State as a whole.

In the same year as has already been taken for illustration, the total acreage under cultivation in Queensland was 981,218. The most favoured form of farming at Oakey consists in the production of green crops, most of which are used for feeding to dairy cattle. In 1914 30,950 acres were turned to this purpose. Maize is so well suited to the natural conditions of the district that a greater area is sown with this seed than with any other single form of crop, the area devoted to the purpose in 1914 being 10,582 acres, a figure to be rivalled by but few districts north of New South Wales. A good deal of attention is also bestowed on wheat, and in the year all ready quoted this form of cereal was produced from 5,993 acres, from which the yield was 33,000 bushels. It is but fair to mention that the seasonal circumstances of that particular period proved far from normal, and the average acreage production of grain was much below that which the farmer is justified to expect in ordinary times. The most important source of revenue to the population”



“From the property of Mr A. D Henry west of Toowoomba – note he got rid of his mining interests to farm on the Darling Downs.”

“solid graft necessary to the equipment of the young Australian who is preparing to make stock-raising and kindred pursuits the serious business of his life. Upon the disposal of the Cloncurry mining properties by his father, Mr. A. D. Henry returned to the locality where he had spent his boyhood, and shortly afterwards was fortunate in securing as a home one of the earliest-established properties in the district, (he had) horses for the local markets and for use on the farm. Situated west of Toowoomba, about six miles by road, and within a mile and a half of the Wellcamp railway station, the "Nemyle" property embraces about 500 acres of undulating Downs country, rich in the character of its soils, which yield prolific crops of Lucerne and other fodder grasses, and have proved in every way suitable for cultivation. An abundant water supply is secured by means of bores and well, the latter ranging in depth from 40 to 60 feet. The water obtained is of excellent quality, and can be freely used for domestic purposes as the house, which is surrounded by shrubs and pepperina trees, with a luxuriant growth of creepers, and in the front a bright garden of flowers. Mr. Henry's chief hobby is his home, which, together with the deep interest he takes in his stud stock, especially the Ayrshire cattle, provides him with sufficient recreation without going farther afield. Mr. Henry, who has utilized it as a mixed-farming proposition, with the ultimate intention of developing it more particularly as a stud station. He has already inaugurated operations in this direction with a small herd of Ayrshire cattle, which will be enlarged as opportunity allows, and has met with success in the breeding of Clydesdale well as for the stock, the means of raising it being chiefly by windmills, of which there are several on the property.”

“John Mc Clure Chesney was the owner of Rosalie Plains (near Acland) and our immediate neighbour to the east.”

“The family connection of the Chesneys is one of the oldest in the United Kingdom, where it dates back in an unbroken line for several centuries. The Chesneys belong to the Normanstock of De Camilo, or De Chesnaye, whose services William the Conqueror rewarded with large possessions in the North of England.”

“Mr Chesney owned 26,000 acres of which 1000 acres of wheat, barley and oates and 300 acres of Lucerne A important point is that a record wheat crop for Queensland of 64 bushels to the acre came from Rosalie Plains His garden had decorative scrubs , with fruit trees laden with rinded treasure.”

“He has devoted to the grazing of sheep and cattle, in addition to which he cultivates a farm.”

“The property is situated on the railway line to Cooyar, at a distance of 35 miles from the city of Toowoomba, and the railways station, Rosalie Plains, with trucking yards, is only a few hundred yards from the homestead, a convenience not lightly to be estimated. The country is typical of the district the soil being a brown loam, with patches of black soil here and there, and on the ridges approaching to a sandy character. Clumps of box, brigalow, myall, appletree, and iron-bark constitute the chief timber of the region, and a bounteous water supply is secured by means of wells, dams, and bores, while there are also various creeks which flow readily after a few showers of rain, and fill up the deep waterholes that occur in their courses.

Windmills, which pump up the water for service to the stock, and every arrangement has been made to render this important part of the station operations faultless. Every portion of the holding is well adapted for wool growing or stock fattening, while its value as a cultivation proposition is well demonstrated by the fact that the record wheat yield for Queensland (64bushels to the acre) has been taken off Rosalie Plains country by a neighbouring farmer. The main property of 25,000 acres, known as "Rosalie Plains" Station, which was methods being rewarded with well-merited success.”

“HISTORY OF QUEENSLAND AND ITS PEOPLE AND INDUSTRIES.

Important advantages would accrue from linking up the whole three lines. Oakey is easily the most important of the town sin the district under review. The surrounding country is typical of the Darling Downs, volcanic soil of great depth giving a fertility which continues year after year without the aid of artificial fertilization, and producing high yields from a wide variety of crops. The official returns for 1914, which at the time of writing are the latest available, as well as the last to be un influenced by the abnormal conditions arising from the war, show a total of 50,587 acres under cultivation within the petty sessions district of Oakey. The significance of these figures become apparent only when considered in relation to the aggregate area of land farmed in the State as a whole. In the same year as has already been taken for illustration, the total acreage under cultivation in Queensland was 981,218. The most favoured form of farming at Oakey consists in the production of green crops, most of which are used for feeding to dairy cattle. In 1914 30,950acres were turned to this purpose. Maize is so well suited to the natural conditions of the district that a greater area is sown with this seed than with any other single form of crop, the area devoted to the purpose in1914 being 10,582 acres, a figure to be rivalled by but few districts north of New South Wales. A good deal of attention is also bestowed on wheat, and in

the year already quoted this form of cereal was produced from 5,993 acres, from which the yield was 33,000 bushels .It is but fair to mention that the seasonal circumstances of that particular period proved far from normal, and the average acreage production of grain was much below that which the farmer is justified to expect in ordinary times. The most important source of revenue to the population of the Oakey country is provided by the dairying industry, and the petty sessions district contains 376dairying establishments, together with one butter and one cheese factories. The farms contained on December 31, 1914, 5,326 cows in milk, and 1,003 head of dry dairy cattle. For the twelve months the production of butter was 614,467 lbs., and of cheese 271,750 lbs. Substantial as is the agricultural industry in this district, as shown by the foregoing statistics, Oakey is but on the threshold of its real progress. **The centre is surrounded by hundreds of thousands of acres of first-class agricultural land of deep, rich soil,** thoroughly adapted to return heavy yields from a wide variety of crops and artificial grasses. The stock-carrying capacity of the country is naturally high, and it is increasing every year as a result of the extension of the cultivation of green crops, permanent prolific fodder plants, such as lucerne, and intense culture generally. A review of the peculiarities of the local soil and climate, together with other natural characteristics, go to confirm the views formed •of other parts of the Darling Downs, and expressed in this volume in descriptions of other centres in that garden of Queensland. When the seasonal rains appear in normal volume farming in that well-favoured region becomes an easy task, for where others are dependent on artificial and other forms of manure, the agriculturist of the Downs desiring to make his field richer than it proved the year before, and perhaps following a series of seasons of continuous cropping, may achieve his purpose by the simple operation of ploughing an inch or two deeper, for many feet of homogeneous fertility extend from the surface downwards without diminution or variation.”

“the Darling Downs district forms what probably is the largest extent of uniformly first-class land in the continent.”

There is more information on the fertile, productive land in the area around Acland and how past land owners shifted to the area and thrived. Many of them have their names now recorded in history for parks, buildings and streets have been named in their honour.

It is hard to imagine that short term mining trumps farming as people wish to eat everyday and can survive without energy but not without food.

It is short term gain for long term pain

As time moved on the areas of land became smaller but people were still able to make a good living and in fact bring up large families on these farms. The fact that there are so many lots involved in this proposed application gives testament to the number of families, businesses, eco systems and wild life that are displaced by open cut mining

new hope themselves seem to have very flexible figures for their impact on strategic cropping land but note they say they have 2.400 hectares of crops.

“Acland Pastoral Company (APC), established in 2006, is a farming, grazing and ... including grazing 2,000 head of cattle, and manages 2,400 hectares of crops, ...”³

“NEW Hope Group cannot verify its claim the New Acland expansion will impact less than half the strategic cropping land initially expected. Nor can the Department of Agriculture and Fisheries verify the claim. The company's claim that DAF has data showing the New Acland Coal Mine stage three project could impact 509ha of strategic cropping land has come as a surprise to the department. New Hope said the information was in DAF's possession. But it is understood DAF does not assess strategic cropping land and DAF referred APN Newsdesk to the Coordinator-General's office and the Department of Natural Resources and Mines. New Hope claims the figure in the Department of State Development Coordinator-General's report is incorrect. The report states project works would impact about 1361ha of strategic cropping land. This was also the figure submitted to the department in the project's environmental impact statement. A spokesman for the Coordinator-General's office maintained 1361ha of strategic cropping land would be impacted. "The estimated (strategic cropping land) amount was provided by the proponent in public documents released during the EIS process," he said. "The project's actual impacts on (strategic cropping land) would be further assessed by the Department of Local Government, Infrastructure and Planning as part of a Regional Interests Development Application under the Regional Planning Interests Act 2014.”⁴

The land around the Acland mine is well noted for its prize winning crops, stud cattle, beef cattle and dairy cattle and prizes have been won in local shows and at federal level. Some have acquired international acclaim and visitors from all over the world come to visit these places.

The competition for Champion Rural Garden was fiercely fought between Mrs Lorette Reynolds, Rosalie Plains and Mrs Lorna Densley. Acland (now part of the mine office area) her garden destroyed but a tribute to both ladies for their prize winning gardens that people came from all over to enjoy.

The Lange family grew native trees that became famous during the Sydney Olympics. It is amazing what can be grown in this area. How sad this enterprise no longer exists.

Even small children can see and note that good crops are replaced with black holes. Do not be fooled by the rehab PR spin that mining land can somehow be better than before that first class cropping land with metres of top soil and generations of soil microbes and nutrients can become magically better with mining it. That the mine only have to return 1st class cropping to second class grazing is ludicrous.

³ <http://www.newhopegroup.com.au/content/projects/operations/agriculture>

⁴ <https://www.thechronicle.com.au/news/cropping-land-figures-clash/2689986/>

It is interesting to note that while the pastoral arm of the mine brag that “they are farmers to” have allowed the land that once grew prized winning crops is now going back to unfarmed land. This in no way actually change the soil or the ability to farm in the future.

Just as the royalties from mining go back to the company as the coal mining company own Acland Pastoral Company saying that they have permission from the owners of the land is just smoke and mirrors and shifting the deck chairs.

Agforce

The below resolution was endorsed at a well attended AgForce South East meeting in March 2012 where, as was the process then, AgForce branches had delegates voting.

“1715 SE Regional Meeting 8-Mar-2012 Status: Active “THAT AGFORCE QUEENSLAND OPPOSES ANY EXPANSION OF NEW ACLAND COAL (SUCH AS THE PROPOSED STAGE 3 EXPANSION OR AN AMENDED PROPOSAL).”

Also

“Good Quality Agricultural Land as “land which is capable of sustainable use for agriculture, with a reasonable level of inputs, and without causing degradation of land or other natural resources”. Good quality agricultural land is a finite resource in Australia that must be conserved and managed for the longer term. The conversion of agricultural land to urban development and mining interests not only takes land out of production but also places at risk the viability of remaining land as a result of reduced area and land use conflict issues. Primary industries directly contribute over \$13 billion per annum to the Queensland economy and are a sustainable and renewable resource. Agricultural land in Queensland is now being consumed by the resources sector at an unprecedented rate with a permanent reduction in agricultural capacity. With over 82% of the State now under exploration permits and the growing impact of the resource sector on more intensively farmed agricultural land, the conflict between the two sectors is also increasing. Good quality agricultural land must be identified, using factors such as climatic conditions, soil types and structures, slope and capacity for continual production to set a benchmark to easily identify ‘iconic’ farming areas, and the appropriate policy framework to protect them. rehabilitation of areas defined as Good Quality Agricultural Land so that its productive capabilities are preserved in perpetuity. AgForce also believes there needs to be changes to exploration and mining permits to reflect this.

As a core goal, AgForce believes that these policy and planning mechanisms must prioritize the protection of good quality agricultural land to ensure the future security of food and fibre production in Queensland. It must ensure that degradation of land as a result of mining activities is completely rehabilitated to the same productive potential it had before the mining took place.”⁵

From Jeff Seeney

⁵ <https://agforceqld.org.au/file.php?id=620&open=yes>

“spokesman for Mr Seeney's office said the LNP made it clear during the election that it would not support the mine's expansion plans as then proposed because it would impact on good agricultural land and was too close to communities.”⁶

Mr Seeney was not the only member who stated these words.

new hope promise but delivering is another matter

“New plans provide chance to restore historic site

THE opportunity to restore the historic site they owned for more than 30 years is an exciting prospect for John and Kath Greenhalgh. Mr and Mrs Greenhalgh lived on an Acland farm for 33 years until 2006 when they sold their property to New Hope Group and moved to Oakey. About half of their time on the farm was dedicated to the creation and maintenance of a museum in the old Acland Coal Company mine situated on their property. Mrs Greenhalgh said she would love to reform the Acland Historic Coal Mine Association. "I want to know from the company, what is going to happen now? "Can we go back and start up our organisation?"⁷

“Reader poll

Now that the plans have been changed, should the third stage of the Acland coal mine be allowed to go ahead?

This poll ended on 07 January 2013.

Current Results

Yes

37%

No

62%

This is not a scientific poll. The results reflect only the opinions of those who chose to participate.”⁸

Comments from new hope mine

Note they admit that they are on “strategic cropping land”

“Changes include:

- **Relocating the Jondaryan Rail Loading Facility eight kilometres further away from the township**
- **No diversion of Lagoon Ck**
- **Reduction in potential strategic cropping land impact by 446 hectares, with 427 ha of potential strategic cropping land to be disturbed rather than 873 ha”⁹**

⁶ press release dated Wednesday, November 14, 2012

⁷ <https://www.thechronicle.com.au/news/opponents-instill-new-hope-coal-mine-toowoomba/1651833/>

⁸ <https://www.thechronicle.com.au/news/opponents-instill-new-hope-coal-mine-toowoomba/1651833/>

⁹ <https://www.thechronicle.com.au/news/opponents-instill-new-hope-coal-mine-toowoomba/1651833/>

“New Hope Group chief operating officer Brian Denney said the Environmental Impact Statement process would **investigate** surface water management, including during extreme weather conditions.

The regulations we operate under state that no discharge of water is allowed from the mine”¹⁰

Land management

Over the 20 years we have watched land managers, pastoral contractors and environmental officers come and go and some times the mine manager became the overseer for the farming enterprise.

What is of note is that in 2019 the pastoral arm of new hope coal were one of the very few land managers with cattle on the road. What is important is that they even had cattle on the Oakey/ Cooyar Road which is a main road. I was very worried about this as they had only one horse person and not fenced in on the road side.

One has to ask the question “if Acland pastoral /new hope coal are such great “farmers” why did this even happen?”

As this land has produced bounteous crops one does wonder why new hope allowed all their great cropping land to return to unfarmed land except to try to prove that land is worthless. Do not be fooled by legal loop holes and PR media spin.

This area is the best and as we have seen the fires else where we all know that farming land and water security is the life blood of the nation and must be preserved at all costs.

¹⁰ <https://www.thechronicle.com.au/news/opponents-instill-new-hope-coal-mine-toowoomba/1651833/>



A bird's eye view of the Acland coal mine. Jacinta Cummins\Dalby Herald

2019 was the year we all learnt what it is like to see so much devastation with flood and now with the fires, along with the prolonged drought. From these absolutely heart wrenching events it is to be hoped that lessons can be learnt for the future. Now in 2020 with 2020 vision we know that in stressed times safety is top of the list followed by clean air, water and then food. I have listened to the fire information and at no stage have I heard people say "we have no lights". Communications are an issue but I think that these terrible events highlight what is really important to people and food security is sure up there. The United Nations put food security as a serious issue.

As we are now in 2020 we must protect our best farming land not only for our selves as we now know we can be in crisis in our own time but for our children and grandchildren to survive in Australia.

Milk had a history before it arrived on the supermarket shelves as did our grains and meats.

S O S – save our soils now

Reject mining on the best of our lands and that is Acland and district.





Trying to pretend the land is not the best cropping land (compare the above with the photos immediately above it)

More photos available but hopefully you will get the idea that the best farming land is being turned into a black waste land.

Just say NO NO NO to new hope

There are solutions. See for example (only about 3 minutes)

https://www.youtube.com/watch?v=aUCD_24cygQ&feature=youtu.be



Please accept this submission on the application for a regional interests development approval (RIDA) for the New Acland Coal Stage 3 project (Ref RPI19/009).

Please reject this application.

The Darling Downs is the food bowl of Queensland.

This mine will effectively destroy the cropping potential of this Priority Agricultural Area – in future it will only be suitable for grazing at best, and even that is highly questionable.

If you do approve this application, you will effectively rubber-stamp the deliberate degradation of mapped high quality cropping land to very marginal grazing land, which is clearly in breach of the purposes of the Regional Planning Interests Act 2014 and contravenes the Darling Downs Regional Plan. You should not approve this application.

I make the following additional points:

- 1) NAC should be required to apply for the full area of the mine site, rather than just the area they are seeking to mine in the first five years. The full impact of their mine proposal on agricultural land should be considered.
- 2) The application is inconsistent with the Darling Downs Regional Plan which says that land mapped as cropping land under the Australian Land Use and Management Classification should be given priority for agriculture over other land uses.
- 3) It appears misleading that it is not clearly stated in the letter provided by Acland Pastoral Company that they are a wholly-owned subsidiary of New Hope group, as are New Acland Coal. They are related entities and this should be made clear.
- 4) The application is inconsistent with the purposes of the RPIA, which requires that policies in regional plans are given effect and that the impact of resource activities on areas of regional interest is managed. This would be contravened if NAC are allowed to deliberately convert high quality cropping land to grazing land at best.
- 5) The application stretches across multiple lots of land which constitute numerous different properties, and therefore Required Outcome 2 of the Regional Planning Interests Regulation should apply, not the Required Outcome 1 applied by NAC.
- 6) It is clear that NAC cannot meet the prescribed solution for Required Outcome 2 because of the widespread and irreversible impacts it will have on the future use of the area, and the application should therefore be rejected.

Yours sincerely,

[Redacted signature]

[Redacted name]

Please accept this submission on the application for a regional interests development approval (RIDA) for the New Acland Coal Stage 3 project (Ref RPI19/009).

Please reject this application.

The Darling Downs is the food bowl of Queensland.

This mine will effectively destroy the cropping potential of this Priority Agricultural Area – in future it will only be suitable for grazing at best, and even that is highly questionable.

If you do approve this application, you will effectively rubber-stamp the deliberate degradation of mapped high quality cropping land to very marginal grazing land, which is clearly in breach of the purposes of the Regional Planning Interests Act 2014 and contravenes the Darling Downs Regional Plan. You should not approve this application.

I make the following additional points:

- 1) NAC should be required to apply for the full area of the mine site, rather than just the area they are seeking to mine in the first five years. The full impact of their mine proposal on agricultural land should be considered.
- 2) The application is inconsistent with the Darling Downs Regional Plan which says that land mapped as cropping land under the Australian Land Use and Management Classification should be given priority for agriculture over other land uses.
- 3) It appears misleading that it is not clearly stated in the letter provided by Acland Pastoral Company that they are a wholly-owned subsidiary of New Hope group, as are New Acland Coal. They are related entities and this should be made clear.
- 4) The application is inconsistent with the purposes of the RPIA, which requires that policies in regional plans are given effect and that the impact of resource activities on areas of regional interest is managed. This would be contravened if NAC are allowed to deliberately convert high quality cropping land to grazing land at best.
- 5) The application stretches across multiple lots of land which constitute numerous different properties, and therefore Required Outcome 2 of the Regional Planning Interests Regulation should apply, not the Required Outcome 1 applied by NAC.
- 6) It is clear that NAC cannot meet the prescribed solution for Required Outcome 2 because of the widespread and irreversible impacts it will have on the future use of the area, and the application should therefore be rejected.

Yours sincerely,

[REDACTED]

[REDACTED]

Please accept this submission on the application for a regional interests development approval (RIDA) for the New Acland Coal Stage 3 project (Ref RPI19/009).

Please reject this application.

The Darling Downs is the food bowl of Queensland.

This mine will effectively destroy the cropping potential of this Priority Agricultural Area – in future it will only be suitable for grazing at best, and even that is highly questionable.

If you do approve this application, you will effectively rubber-stamp the deliberate degradation of mapped high quality cropping land to very marginal grazing land, which is clearly in breach of the purposes of the Regional Planning Interests Act 2014 and contravenes the Darling Downs Regional Plan. You should not approve this application.

I make the following additional points:

- 1) NAC should be required to apply for the full area of the mine site, rather than just the area they are seeking to mine in the first five years. The full impact of their mine proposal on agricultural land should be considered.
- 2) The application is inconsistent with the Darling Downs Regional Plan which says that land mapped as cropping land under the Australian Land Use and Management Classification should be given priority for agriculture over other land uses.
- 3) It appears misleading that it is not clearly stated in the letter provided by Acland Pastoral Company that they are a wholly-owned subsidiary of New Hope group, as are New Acland Coal. They are related entities and this should be made clear.
- 4) The application is inconsistent with the purposes of the RPIA, which requires that policies in regional plans are given effect and that the impact of resource activities on areas of regional interest is managed. This would be contravened if NAC are allowed to deliberately convert high quality cropping land to grazing land at best.
- 5) The application stretches across multiple lots of land which constitute numerous different properties, and therefore Required Outcome 2 of the Regional Planning Interests Regulation should apply, not the Required Outcome 1 applied by NAC.
- 6) It is clear that NAC cannot meet the prescribed solution for Required Outcome 2 because of the widespread and irreversible impacts it will have on the future use of the area, and the application should therefore be rejected.

Yours sincerely,

[REDACTED]

[REDACTED]

Please accept this submission on the application for a regional interests development approval (RIDA) for the New Acland Coal Stage 3 project (Ref RPI19/009).

Please reject this application.

The Darling Downs is the food bowl of Queensland.

This mine will effectively destroy the cropping potential of this Priority Agricultural Area – in future it will only be suitable for grazing at best, and even that is highly questionable.

If you do approve this application, you will effectively rubber-stamp the deliberate degradation of mapped high quality cropping land to very marginal grazing land, which is clearly in breach of the purposes of the Regional Planning Interests Act 2014 and contravenes the Darling Downs Regional Plan. You should not approve this application.

I make the following additional points:

- 1) NAC should be required to apply for the full area of the mine site, rather than just the area they are seeking to mine in the first five years. The full impact of their mine proposal on agricultural land should be considered.
- 2) The application is inconsistent with the Darling Downs Regional Plan which says that land mapped as cropping land under the Australian Land Use and Management Classification should be given priority for agriculture over other land uses.
- 3) It appears misleading that it is not clearly stated in the letter provided by Acland Pastoral Company that they are a wholly-owned subsidiary of New Hope group, as are New Acland Coal. They are related entities and this should be made clear.
- 4) The application is inconsistent with the purposes of the RPIA, which requires that policies in regional plans are given effect and that the impact of resource activities on areas of regional interest is managed. This would be contravened if NAC are allowed to deliberately convert high quality cropping land to grazing land at best.
- 5) The application stretches across multiple lots of land which constitute numerous different properties, and therefore Required Outcome 2 of the Regional Planning Interests Regulation should apply, not the Required Outcome 1 applied by NAC.
- 6) It is clear that NAC cannot meet the prescribed solution for Required Outcome 2 because of the widespread and irreversible impacts it will have on the future use of the area, and the application should therefore be rejected.

Yours sincerely,

[REDACTED]

[REDACTED]

Please accept this submission on the application for a regional interests development approval (RIDA) for the New Acland Coal Stage 3 project (Ref RPI19/009).

Please reject this application.

The Darling Downs is the food bowl of Queensland.

This mine will effectively destroy the cropping potential of this Priority Agricultural Area – in future it will only be suitable for grazing at best, and even that is highly questionable.

If you do approve this application, you will effectively rubber-stamp the deliberate degradation of mapped high quality cropping land to very marginal grazing land, which is clearly in breach of the purposes of the Regional Planning Interests Act 2014 and contravenes the Darling Downs Regional Plan. You should not approve this application.

I make the following additional points:

- 1) NAC should be required to apply for the full area of the mine site, rather than just the area they are seeking to mine in the first five years. The full impact of their mine proposal on agricultural land should be considered.
- 2) The application is inconsistent with the Darling Downs Regional Plan which says that land mapped as cropping land under the Australian Land Use and Management Classification should be given priority for agriculture over other land uses.
- 3) It appears misleading that it is not clearly stated in the letter provided by Acland Pastoral Company that they are a wholly-owned subsidiary of New Hope group, as are New Acland Coal. They are related entities and this should be made clear.
- 4) The application is inconsistent with the purposes of the RPIA, which requires that policies in regional plans are given effect and that the impact of resource activities on areas of regional interest is managed. This would be contravened if NAC are allowed to deliberately convert high quality cropping land to grazing land at best.
- 5) The application stretches across multiple lots of land which constitute numerous different properties, and therefore Required Outcome 2 of the Regional Planning Interests Regulation should apply, not the Required Outcome 1 applied by NAC.
- 6) It is clear that NAC cannot meet the prescribed solution for Required Outcome 2 because of the widespread and irreversible impacts it will have on the future use of the area, and the application should therefore be rejected.

Yours sincerely,



Please accept this submission on the application for a regional interests development approval (RIDA) for the New Acland Coal Stage 3 project (Ref RPI19/009).

Please reject this application.

The Darling Downs is the food bowl of Queensland.

This mine will effectively destroy the cropping potential of this Priority Agricultural Area – in future it will only be suitable for grazing at best, and even that is highly questionable.

If you do approve this application, you will effectively rubber-stamp the deliberate degradation of mapped high quality cropping land to very marginal grazing land, which is clearly in breach of the purposes of the Regional Planning Interests Act 2014 and contravenes the Darling Downs Regional Plan. You should not approve this application.

I make the following additional points:

- 1) NAC should be required to apply for the full area of the mine site, rather than just the area they are seeking to mine in the first five years. The full impact of their mine proposal on agricultural land should be considered.
- 2) The application is inconsistent with the Darling Downs Regional Plan which says that land mapped as cropping land under the Australian Land Use and Management Classification should be given priority for agriculture over other land uses.
- 3) It appears misleading that it is not clearly stated in the letter provided by Acland Pastoral Company that they are a wholly-owned subsidiary of New Hope group, as are New Acland Coal. They are related entities and this should be made clear.
- 4) The application is inconsistent with the purposes of the RPIA, which requires that policies in regional plans are given effect and that the impact of resource activities on areas of regional interest is managed. This would be contravened if NAC are allowed to deliberately convert high quality cropping land to grazing land at best.
- 5) The application stretches across multiple lots of land which constitute numerous different properties, and therefore Required Outcome 2 of the Regional Planning Interests Regulation should apply, not the Required Outcome 1 applied by NAC.
- 6) It is clear that NAC cannot meet the prescribed solution for Required Outcome 2 because of the widespread and irreversible impacts it will have on the future use of the area, and the application should therefore be rejected.

Yours sincerely,



Please accept this submission on the application for a regional interests development approval (RIDA) for the New Acland Coal Stage 3 project (Ref RPI19/009).

Please reject this application.

The Darling Downs is the food bowl of Queensland.

This mine will effectively destroy the cropping potential of this Priority Agricultural Area – in future it will only be suitable for grazing at best, and even that is highly questionable.

If you do approve this application, you will effectively rubber-stamp the deliberate degradation of mapped high quality cropping land to very marginal grazing land, which is clearly in breach of the purposes of the Regional Planning Interests Act 2014 and contravenes the Darling Downs Regional Plan. You should not approve this application.

I make the following additional points:

- 1) NAC should be required to apply for the full area of the mine site, rather than just the area they are seeking to mine in the first five years. The full impact of their mine proposal on agricultural land should be considered.
- 2) The application is inconsistent with the Darling Downs Regional Plan which says that land mapped as cropping land under the Australian Land Use and Management Classification should be given priority for agriculture over other land uses.
- 3) It appears misleading that it is not clearly stated in the letter provided by Acland Pastoral Company that they are a wholly-owned subsidiary of New Hope group, as are New Acland Coal. They are related entities and this should be made clear.
- 4) The application is inconsistent with the purposes of the RPIA, which requires that policies in regional plans are given effect and that the impact of resource activities on areas of regional interest is managed. This would be contravened if NAC are allowed to deliberately convert high quality cropping land to grazing land at best.
- 5) The application stretches across multiple lots of land which constitute numerous different properties, and therefore Required Outcome 2 of the Regional Planning Interests Regulation should apply, not the Required Outcome 1 applied by NAC.
- 6) It is clear that NAC cannot meet the prescribed solution for Required Outcome 2 because of the widespread and irreversible impacts it will have on the future use of the area, and the application should therefore be rejected.

Yours sincerely,

[Redacted signature]

[Redacted name]