



Department of  
**State Development,  
Infrastructure and Planning**

Our reference: WR14/12255

Date: 27 October 2014

**Mr Brendan Dillon  
Cockatoo Coal Limited  
Level 4 10 Eagle Street  
BRISBANE QLD 4000**

Dear Mr Dillon

### **DECISION NOTICE**

#### **RPI14/001 COCKATOO – Baralaba North Continued Operations Project (BNCOP)** (given under the *Regional Planning Interests Act 2014* section 51)

The Department of State Development, Infrastructure and Planning (DSDIP) advises that the assessment application that was correctly made on 30 June 2014 for an open cut coal mine and processing facilities has been approved, subject to regional interests conditions, on 27 October 2014.

#### **Reasons for the decision**

DSDIP considers that by imposing conditions, proposed activities meet the applicable Required Outcomes in the priority agricultural area assessment criteria.

DSDIP considers that by imposing a mitigation condition, proposed activities meet the applicable Required Outcomes of the strategic cropping area assessment criteria.

#### **Assessing Agencies**

<b>Agency</b>	<b>Area of Regional Interest</b>	<b>Date of assessing agency response</b>
Department of Agriculture, Fisheries and Forestry	Priority Agricultural Area	29 August 2014
Department of Natural Resources and Mines	Strategic Cropping Area	1 September 2014

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100 George Street Brisbane  
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**Website [www.dsdip.qld.gov.au](http://www.dsdip.qld.gov.au)**  
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## Appeals

- The rights to appeal to the Planning and Environment Court against a decision about an assessment application for a regional interests development approval are set out in Part 5 of the *Regional Planning Interests Act 2014*. A copy of the relevant appeal provisions is provided in Attachment 1.
- The period in which any appeal under Part 5 of the *Regional Planning Interests Act 2014* must be started is as set out in Attachment 1.
- How rights of appeal under Part 5 of the *Regional Planning Interests Act 2014* are to be exercised are as set out in Attachment 1.

This decision takes effect when the “appeal period” for the decision ends. The “appeal period” means the period ending on the last day on which an appeal against the decision may be started (see s73 in Attachment 1).

The regional interests development approval is enclosed.

If you require any further information, please contact Kylie Williams, Executive Director, Regional Planning on 3452 7602 or [RPIAct@dsdip.qld.gov.au](mailto:RPIAct@dsdip.qld.gov.au) who will be pleased to assist.

Yours sincerely



**Kylie Williams**  
**Executive Director**  
**Regional Planning**

enc.      Regional interests development approval

# Attachment 1 - Extract from the *Regional Planning Interests Act 2014*

## Part 5 Appeals and declarations

### 71 Definitions for pt 5

In this part—

**affected land owner**, for a regional interests decision, means an owner of land (**affected land**) that may be adversely affected by the resource activity or regulated activity because of—

- (a) the proximity of the affected land to the land the subject of the decision; and
- (b) the impact the activity may have on an area of regional interest.

**court** means the Planning and Environment Court under the *Sustainable Planning Act 2009*.

**regional interests decision** means each of the following decisions—

- (a) a decision to grant a regional interests development approval;
- (b) a decision to impose a condition on a regional interests development approval;
- (c) a decision to refuse all or part of an assessment application;
- (d) a decision to make, or refuse to make, a requested amendment to a regional interests development approval.

### 72 Appeal to Planning and Environment Court

The following may appeal (an **appeal**) against a regional interests decision to the court—

- (a) the applicant;
- (b) if the applicant is not the owner of the land—the owner of the land;
- (c) an affected land owner.

*Note—*

See the *Sustainable Planning Act 2009*, chapter 7, part 1 for provisions about the powers, processes and procedures of the court, including, for example—

- section 457 (Costs);
- section 495 (Appeal by way of hearing anew);
- division 12 (Alternative dispute resolution).

### 73 Appeal period

- (1) An appeal may be started only within 20 business days after—
  - (a) for a person who received a decision notice, or a copy of a decision notice, for the decision—the notice was received; or
  - (b) for an affected land owner for a regional interests decision—notice of the decision was published under section 52.
- (2) However, the court may at any time extend the time for starting the appeal.

#### **74 Respondent for appeal**

- (1) The chief executive is the respondent for the appeal.
- (2) If the appellant is not the applicant for the decision, the applicant is a co-respondent for the appeal.
- (3) If the appellant is not the owner of the land for the decision, the owner of the land may apply to the court to be a co-respondent for the appeal.
- (4) If the appeal is about an assessing agency's response, the assessing agency is a co-respondent for the appeal.
- (5) If the appeal is only about an assessing agency's response, the chief executive may apply to the court to withdraw from the appeal.

#### **75 Notice of appeal to other parties**

- (1) An appellant must, within 10 business days after starting an appeal, give notice of the appeal to each of the following—
  - (a) a respondent or co-respondent for the appeal;
  - (b) if the appellant is not the owner of land for the regional interests decision—the owner of the land.
- (2) The notice must state—
  - (a) the grounds of the appeal; and
  - (b) if the person given the notice is the owner of the land—that the person may apply to the court to be a co-respondent for the appeal.

#### **76 Stay of operation of decision**

- (1) The starting of an appeal does not stay the operation of the decision appealed against.
- (2) However, the court may stay the operation of the decision to secure the effectiveness of the appeal.
- (3) A stay—
  - (a) may be given on reasonable conditions as the court considers appropriate; and
  - (b) operates until the first of the following happens—
    - (i) the period fixed by the court ends;
    - (ii) the appeal is decided, withdrawn or dismissed; and
  - (c) may be revoked or amended by the court.

#### **77 Who must prove case for appeal**

- (1) In an appeal by the applicant for a regional interests decision, it is for the appellant to establish the appeal should be upheld.
- (2) In an appeal by either of the following, it is for the applicant for a regional interests decision to establish the appeal should be dismissed—
  - (a) if the applicant is not the owner of the land—the owner of the land;
  - (b) an affected land owner.