



Department of Infrastructure,  
Local Government and Planning

Our ref: RPI16/002/RIOTINTO  
OUT16/5008

Your ref: Kestrel Extension #4 Strategic Cropping Land Protection Decision – Request Transitional RIDA

29 August 2016

Mr Anthony Russo  
Manager – Project Approvals  
Rio Tinto Coal Australia Pty Limited  
GPO Box 391  
BRISBANE QLD 4001

Dear Mr Russo

**DECISION NOTICE**  
**RPI16/002/RIO TINTO – Kestrel Extension #4 amended regional interests  
development approval (RIDA)**

(Given under the *Regional Planning Interests Act 2014* (RPI Act) section 53)

The Department of Local Government, Infrastructure and Planning (DILGP) advise that the amendment request that was made on 20 July 2016 for amendments to transitioned approval SCLRD2012/000090 - has been approved on 29 August 2016.

Under section 102(6) of the RPI Act, a new RIDA has been issued in the approved form (in accordance with section 53), and the conditions of the approval have been amended under section 55 of the RPI Act.

**Reasons for the decision**

The authorised delegate of the Chief Executive considers that the amendments would not adversely change the impact of the approved activities on the area of regional interest.

Advice was sought from the following departments under section 49(2) of the RPI Act:

Agency	Advice
Department of Natural Resources and Mines (DNRM)	Strategic Cropping Area (SCA)
Department of Agriculture and Fisheries (DAF)	Mitigation Fund

The maximum extent of permanent and temporary impacts on strategic cropping land (SCL) within the SCA as a result of resource activities carried out under the Environmental Authority EPML00693413 must be confined as follows.

Impacts on the SCA (permanent and temporary)	Extent of impact permissible
<b>Permanent impacts on SCA</b> Coal extraction and resultant impacts associated with longwall mine subsidence and remediation confined to the underground mining footprint on ML70481.	949.0ha
Disturbances associated with establishing and remediating mine surface infrastructure which must be confined within the longwall mining footprint.	71.0ha
Total area of disturbance	949.0ha
<b>Temporary impacts on SCA</b> Resource activities on ML70481 carried out under the Environmental Authority EPML00693413: Areas impacted by mining activities that comply with the <i>Strategic Cropping Land Standard conditions code for resource activities</i> .	As required

Regional interests conditions have been imposed; refer to the *Amended Regional Interests Development Approval*.

### 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 RPI Act. A copy of the relevant appeal provisions is provided in Attachment 1.
- The period in which any appeal under Part 5 of the RPI Act must be started is as set out in Attachment 1.
- How rights of appeal under Part 5 of the RPI Act 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 section 73 in Attachment 1).

The amended regional interests development approval is enclosed.

If you require any further information, please contact Mitzi Venn, Manager, Planning Group on 3452 7609 or [RPIAct@dilgp.qld.gov.au](mailto:RPIAct@dilgp.qld.gov.au), who will be pleased to assist you.

Yours sincerely



**Kerry Riethmuller**  
 Acting Executive Director  
 Regional and Spatial 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.