

Assessment level decision

This notice is issued by the administering authority¹, pursuant to section 229 of the Environmental Protection Act 1994 to advise whether a proposed amendment to an environmental authority is a major or minor amendment.

To: New Acland Coal Pty Ltd
PO Box 47
IPSWICH QLD 4305
Email: kgomezgane@newhopegroup.com.au

Cc: The Mining Register
Coal Assessment Hub
Department of Natural Resources and Mines
Po Box 3679
Red Hill QLD 4701

Your reference: EPML00335713 New Acland Mine
Our reference: 192294

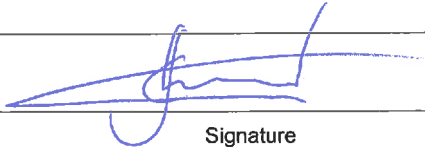
Assessment level decision for an application to amend an environmental authority

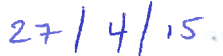
- Application details** The application to amend the environmental authority (reference EPML00335713) was received by the administering authority on 14-Apr-2015.
Land description: ML50170; ML50216; MLA50232; MLA700002.
- Decision**
The assessment level decision for this application is that the proposed amendment to the environmental authority is a major amendment.
- Grounds for the decision**
The proposed amendment of the environmental authority will:
 - Significantly increase the level of environmental harm caused by the relevant activity.
 - Change rehabilitation objectives stated in the environmental authority in a way likely to result in significantly different impacts on environmental values than the impacts currently permitted under the environmental authority.
 - Significantly increase the scale or intensity of the relevant activity.
- Public notification required**
The administering authority has determined that you must publicly notify your application to amend the environmental authority. You must comply with the public notification requirements stated in section 152 of the *Environmental Protection Act 1994*. The reasons for this determination are set out below:
There will be a Certificate of public notice under the *Minerals Resources Act*, section 252A, for the relevant mining lease for the amendment application.
- Review and appeal rights**

¹ The Department of Environment and Heritage Protection is the administering authority under the *Environmental Protection Act 1994*.

Notice
Assessment level decision

You may apply to the administering authority for a review of this decision (parts 2 and 4 of this notice) within 10 business days after receiving this notice. You may also appeal against this decision to the Land Court. Information about your review and appeal rights is attached to this notice. This information is guidance only and you may have other legal rights and obligations.


Signature


Date

Christopher Loveday
Department of Environment and Heritage Protection
Delegate of the administering authority
Environmental Protection Act 1994

Enquiries:
Business Centre (Coal)
Department of Environment Heritage
Protection
PO Box 3028
EMERALD QLD 4720
Phone: (07) 4987 9320
Email: CRMining@ehp.qld.gov.au

Attachments

Information sheet: Internal Review and Appeal to Land Court (EM1157)



Information sheet

Environmental Protection Act 1994

Internal review and appeal to Land Court

This information sheet forms part of an information notice under the Environmental Protection Act 1994. It gives a summary of the process for review and appeal under the Environmental Protection Act and subordinate legislation. Refer to ss. 519 to 530 and Part 1 of Schedule 2 of the Environmental Protection Act for complete information about the process for internal review and appeal to the Land Court.

Introduction

The *Environmental Protection Act 1994* (EP Act) provides for a right of internal review of certain decisions made under the EP Act. Decisions that can be reviewed are listed in Schedule 2 of the EP Act. The EP Act also provides that a dissatisfied person for a review decision listed in Part 1 of Schedule 2 of the EP Act may appeal against the original decision or the review decision to the Land Court.

Summary of the process for internal review and appeal to the Land Court

Chapter 11, Part 3 of the EP Act

Division 1—Interpretation

Section 519 Original decisions

- 1) A decision mentioned in schedule 2 is an 'original decision'.
- 2) A decision under an environmental protection policy or regulation that the policy or regulation declares to be a decision to which this part applies is also an original decision.

Section 520 Dissatisfied person

This section nominates the dissatisfied person for an original or review decision.

Division 2—Internal review of decisions

Section 521 Procedure for review

- 1) A dissatisfied person may apply for a review of an original decision.
- 2) The application must—
 - a) be made in the approved form to the administering authority within—
 - i) 10 business days¹ after the day on which the person receives notice of the original decision or the administering authority is taken to have made the decision (the 'review date'); or
 - ii) the longer period the authority in special circumstances allows; and
 - b) be supported by enough information to enable the authority to decide the application.
- 3) On or before making the application, the applicant must send the following documents to the other persons who were given notice of the original decision—
 - a) notice of the application (the 'review notice');

- b) a copy of the application and supporting documents.
- 4) The review notice must inform the recipient that submission on the application may be made to the administering authority within 5 business days after the application is made to the authority.
- 5) If the administering authority is satisfied the applicant has complied with subsections (2) and (3), the authority must, within 10 business days after receiving the application—
 - a) review the original decision;
 - b) consider any submissions properly made by a recipient of the review notice; and
 - c) make a decision (the 'review decision') to—
 - i) confirm or revoke the original decision; or
 - ii) vary the original decision in a way the administering authority considers appropriate.
- 6) The application does not stay (i.e. suspend or stop) the original decision.
- 7) The application must not be dealt with by—
 - a) the person who made the original decision; or
 - b) a person in a less senior office than the person who made the original decision.
- 8) Within 10 business days after making the review decision, the administering authority must give written notice of the decision to the applicant and persons who were given notice of the original decision.
- 9) The notice must—
 - a) include the reasons for the review decision; and
 - b) inform the person of their right of appeal against the decision.
- 10) If the administering authority does not comply with subsection (5) or (8), the authority is taken to have made a decision confirming the original decision.
- 11) Subsection (7) applies despite the *Acts Interpretation Act 1954*, s. 27A.
- 12) This section does not apply to an original decision made by—
 - a) for a matter, the administration and enforcement of which has been devolved to a local government—the local government itself or the chief executive officer of the local government personally; or
 - b) for another matter—the chief executive personally.
- 13) Also, this section does not apply to an original decision to issue a clean-up notice.

Section 522 Stay of operation of particular original decisions

- 1) If an application is made for review of an original decision mentioned in schedule 2, part 1 or 2, the applicant may immediately apply for a stay of the decision to—
 - a) for an original decision mentioned in schedule 2, part 1—the Land Court; or
 - b) for an original decision mentioned in schedule 2, part 2—the Court.
- 2) The Land Court or the Court may stay the decision to secure the effectiveness of the review and any later appeal to the Land Court or the Court.

- 3) A stay may be given on conditions the Land Court or the Court considers appropriate and has effect for the period stated by the Land Court or the Court.
- 4) The period of a stay must not extend past the time when the administering authority reviews the decision and any later period the Land Court or the Court allows the applicant to enable the applicant to appeal against the review decision.

Division 3—Appeals

Subdivision 1—Appeals to Land Court

Section 523 Review decisions subject to Land Court appeal

This subdivision applies to original decisions mentioned in Schedule 2, Part 1 of the EP Act.

Section 524 Right of appeal

A dissatisfied person who is dissatisfied with the decision may appeal against the decision to the Land Court.

Section 525 Appeal period

- 1) The appeal must be started within 22 business days after the appellant receives notice of the decision.
- 2) However, the Land Court may at any time extend the time for starting the appeal.

Section 526 Land Court mediation

- 1) Any party to the appeal may, at any time before the appeal is decided, ask the Land Court to conduct or provide mediation for the appeal.
- 2) The mediation must be conducted by the Land Court or a mediator chosen by the Land Court².

Section 527 Nature of appeal

The appeal is by way of rehearing, unaffected by the review decision.

Section 528 Land Court's powers for appeal

In deciding the appeal, the Land Court has the same powers as the administering authority.

Section 529 Decision for appeals against refusals under s. 207

- 1) This section applies if the decision appealed against is a decision under s. 207 to refuse to allow an application for environmental authority (mining lease) to proceed.
- 2) In deciding the appeal the Land Court must confirm the decision or allow the appeal.
- 3) If the appeal is allowed—
 - a) the relevant period for the administering authority to make the decision is taken to have been extended to when the decision on the appeal is made; and
 - b) the authority is taken, at the end of the period, not to have made the decision.

Section 530 Decision for other appeals

- 1) This section applies if the decision appealed against is not a decision mentioned in s. 529(1).
- 2) In deciding the appeal, the Land Court may—
 - a) confirm the decision;
 - b) set aside the decision and substitute another decision; or

- c) set aside the decision and return the matter to the administering authority who made the decision, with directions the Land Court considers appropriate.
- 3) In setting aside or substituting the decision, the Land Court has the same powers as the authority.
- 4) However, this part does not apply to a power exercised under subsection (3).
- 5) If the Land Court substitutes another decision, the substituted decision is taken for this Act, other than this subdivision, to be the authority's decision.

¹ Under the *Environmental Protection Act 1994* business days—'generally, does not include a day between 26 December and 1 January in the following year'.

² For information on how to start the appeal, see the *Land and Court Rules 2000*. For information on the conduct of the mediation, see the *Land Court Act 2000*. Information is also available on the Land Court website at <www.landcourt.qld.gov.au>.